April 30, 2020

Temporary Regulatory Suspension of Requirements for Emergency Oral Prescriptions

On March 27, 2020, the Drug Enforcement Agency (DEA) issued guidance in which it granted practitioners 15 days to provide the written prescription to the pharmacy following an emergency oral prescription for a Schedule II controlled substance, thereby granting an exception to the regulatory requirement at 21 C.F.R. § 1306.11(d)(4) that such prescriptions be delivered within 7 days. Further, the DEA has allowed practitioners to send the follow-up prescription to the pharmacy via facsimile, or to take a photograph or scan of the prescription and send the photograph or scan to the pharmacy in place of the paper prescription.

Per DEA guidance, these two exceptions to the requirements at 21 C.F.R. § 1306.11(d)(4) are granted from March 16, 2020, through the duration of the Public Health Emergency declared by the Secretary of the U.S. Department of Health and Human Services on January 31, 2020 (unless modified or withdrawn by the DEA).

To enable Pennsylvania practitioners to benefit from the relaxation of the DEA’s regulations, with Governor Wolf’s authorization as conferred in the March 6, 2020 Proclamation of Disaster Emergency, the Department of Health is temporarily suspending the regulation at 28 Pa. Code § 25.45, which requires that a prescribing practitioner deliver a written prescription to the pharmacist within 72 hours after authorizing an emergency oral prescription for a Schedule II drug. This temporary suspension is in effect through the duration of the emergency disaster proclamation signed by Governor Wolf.

Prescribers must comply with the DEA regulations pertaining to emergency oral prescribing of Schedule II drugs.

For more information on the Commonwealth’s response to COVID-19, please visit the Department of Health’s COVID-19 webpage.