

## Texas Medical Board Press Release

### FOR IMMEDIATE RELEASE

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### TMB Adopts Emergency Rule Related to Issuance of Prescriptions

The Texas Medical Board's Executive Committee, with advice and direction from the Governor's Office, today adopted rules on an emergency basis related to the issuance of certain prescriptions during the COVID-19 disaster.

The Governor previously extended the [waiver](#) to temporarily suspend Title 22, [Chapter 174.5 \(e\) \(2\)\(A\)](#) of the Texas Administrative Code. That waiver is set to expire later today.

Accordingly, emergency amendments to §174.5 are necessary to help the state's physicians, physician assistants and other health care professionals continue to mitigate the risk of exposure to COVID-19 and provide necessary medical services related to chronic pain management with controlled substances for patients.

The adopted rule amends 22 TAC Chapter 174.5, Issuance of Prescriptions, adding the following under §174.5(e):

(1) Treatment for Chronic Pain. For purposes of this rule, chronic pain has the same definition as used in §170.2(4) of this title (relating to Definitions).

(A) Treatment of chronic pain with scheduled drugs through use of telemedicine medical services is prohibited, unless:

- i) a patient is an established chronic pain patient of the physician and is seeking telephone refill of an existing prescription, and the physician determines that such telemedicine treatment is needed due to the COVID-19 pandemic; or
- ii) the treatment is otherwise allowed under federal and state law.

(B) If a patient is treated for chronic pain with scheduled drugs through the use of telemedicine medical services as permitted by (A)(i) or (ii) above, the patient's medical records must document the exception and the reason that a telemedicine visit was conducted instead of an in-person visit.

(C) A physician, when determining whether to utilize telemedicine medical services for the treatment of chronic pain with controlled substances as permitted by (A)(i) or (ii) above, shall give due consideration to factors that include: date of the patient's last in-person visit, patient co-morbidities, and occupational-related COVID risks. These are not the sole, exclusive, or exhaustive factors a physician should consider under this rule.

(D) The emergency amendment of this rule effective June 5, 2020 shall be in effect for only 30 days or the duration of the time period that the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic is in effect, whichever is shorter.

(2) Treatment for Acute Pain. For purposes of this rule, acute pain has the same definition as used in §170.2(2) of this title. Treatment of acute pain with scheduled drugs through use of telemedicine medical services is allowed, unless otherwise prohibited under federal and state law.

The emergency amendments shall be in effect for only 30 days or the duration of the time period that the Governor's disaster declaration of March 13, 2020 in response to the COVID-19 pandemic is in effect, whichever is shorter, pursuant to Section 2001.034 of the Texas Government Code.

For further guidance, please review the TMB's telemedicine FAQs on its [COVID-19 website](#), as well as the [Drug Enforcement Administration's COVID-19 website](#) for federal requirements.

TMB will continue to provide any updates on COVID-19 issues on the TMB website at [www.tmb.state.tx.us/page/coronavirus](http://www.tmb.state.tx.us/page/coronavirus).

For the latest COVID-19 information for health providers and the public, visit the Department of State Health Services (DSHS) COVID-19 web page at [dshs.texas.gov/coronavirus/](https://dshs.texas.gov/coronavirus/).

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