

# Navigating Telehealth and the Prescribing of Controlled Substances

MATRC Panel



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# Ryan Haight Act

- Ryan Haight Online Pharmacy Consumer Protection Act
- 2008 law intended to crack down on “rogue internet pharmacies”
- Prohibits prescribing controlled substances “by means of the internet” without a prior in-person medical evaluation
  - Or without one of seven exemptions being met

# Ryan Haight Act: Seven Exemptions

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- Patient located within a DEA registered facility
  - Patient in physical presence of another DEA registered prescriber
  - Prescriber is a member of Indian Health Services
  - Prescribing occurring during a public health emergency
  - Prescribing in the course of a medical emergency
  - Prescribing occurs in special circumstances outlined by Attorney General
  - Prescriber has obtained special registration

# Ryan Haight Act

- DEA has published a formal agenda item in the Federal Register on multiple occasions that expressing its intent to create a special registration process for telemedicine prescribing
  - No such special registration exists

# Ryan Haight Act: Advocacy

- Largely focused on impact on child psychiatry and substance abuse services
- Advocacy efforts from...
  - National: ATA, CTeL, National Council for Behavioral Health
  - State: Multiple academic medical centers, state and local mental health advocacy groups, local professional associations.

# Advocacy

## American Telemedicine Association (ATA)

- American Telemedicine Association's Mental Health Special Interest Group sent a letter to the DEA
  - Urged DEA to open a special registration process for prescribers OR sites to register to conduct telepsychiatry
  - Suggested a option to distinguish between which classes and types of drugs that would be permitted under the telemedicine registration

# Advocacy

## National Council for Behavioral Health (NatCon)

- Sent letter, along with 30 community mental health clinics, to the DEA
  - Asked to move forward with creating a regulatory pathway to enable telepsychiatry
  - Recommend that the DEA allow registration of health care centers that are not hospitals or clinics and authorize remote prescribing of controlled substances without a prior in-person medical evaluation
  - Promotes registration of both the site AND the prescriber

# Advocacy

## Center for Telehealth and e-Health Law (CTeL)

- Behavioral Health Regulatory Reform Coalition
  - Worked on developing potential improvements to the Act to be submitted to the DEA
- Sent a letter to the DEA with suggestions for change (March 2018)
  - **Permit a telemedicine exam** to establish the provider-patient relationship
  - **Expand originating sites** to include CMS originating sites, schools and state/federal sites
  - **Create a special registration** for telemedicine providers to permit prescribing of controlled substances without first conducting an in-person exam



# Advocacy

## Senate HELP (Health, Education, Labor & Pensions) Committee

- 23 member committee unveiled a bill designed to attack the opioid crisis from multiple angles
  - **Opioid Crisis Response Act of 2018**
    - Includes provisions to enable the U.S. Drug Enforcement Administration create a rule allowing qualified healthcare providers to administer controlled substances via telemedicine
    - Would expand the list of qualified providers able to use telemedicine to include community mental health and addiction treatment centers, and it would give providers more leeway to prescribe medication-assisted therapy (MAT) treatment

# Advocacy

## Congress

- Congress just released a pair of draft discussion bills to amend the federal Ryan Haight Act
  - **Improving Access to Remote Behavioral Health Treatment Act**
    - Reps. Gregg Harper (R-Miss.) & Doris Matsui (D-Calif.)
      - Would allow certain addiction treatment centers and community mental health centers to register with the U.S. Drug Enforcement Agency as clinics
  - **Special Registration for Telemedicine Clarification Act**
    - Reps. Earl L. “Buddy” Carter (R-Ga.) & Cheri Bustos (D-Ill.)
      - Would direct the HHS Secretary and Attorney General develop interim final regulations within 30 days enabling healthcare practitioners to apply for a special registration

# Questions?



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