



WEST VIRGINIA BOARD OF MEDICINE RESPONDING TO ADDRESS COVID-19 CRISIS

Alert March 2020

In response to the COVID-19 pandemic and in anticipation of the challenges to come, the West Virginia Board of Medicine (the "Board") this week has taken specific measures to prepare and assist healthcare providers during this unprecedented time.

First, the Board has announced that it recognizes the need to facilitate the influx of available health care practitioners into West Virginia and is taking efforts to try to expedite the process. The Board has announced that it is working to streamline the licensure approval process for COVID-19 providers and to maximize practice authorizations for physician assistants. However, the Board has not yet released specific details regarding its anticipated changes.

Likewise, the West Virginia Board of Osteopathic Medicine has indicated that it is in the process of reviewing its licensing and renewal requirements and its authority to make changes to those requirements in emergencies. While specific measures have not been announced, the Board has stated it will initiate every possible action to ensure that qualified individuals can efficiently obtain a license so that they can assist in responding to this unfolding health care challenge.

In addition, the Board has encouraged the use of telemedicine technologies, to provide flexibility for licensed health care professionals to respond to this emergency and expected patient volume surges. Specifically, the Board has stated that physicians who are evaluating and/or triaging COVID-19 patients are providing emergency care that falls within a statutory exception to the requirement for a face-to-face (in person or video) initial encounter to establish a physician/patient relationship. These providers may, consistent with the standard of care, conduct such evaluations through an audio-only encounter. The Board cautioned, however, that all non-COVID-19 telemedicine practice must continue to comply with the requirements prohibiting the establishment of a physician/patient relationship via audio-only communication.

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Finally, the Board has stated that physician assistants with authorized Practice Agreements and/or active Practice Notifications may practice via telemedicine in collaboration with physicians even if the Practice Agreement and/or Practice Notification does not specifically identify telemedicine as an authorized practice modality. The Board further stated that physician assistants who are likewise evaluating and/or triaging COVID-19 patients may similarly conduct initial patient encounters through audio-only measures even though the establishment of a physician/patient ordinarily must occur via a face-to-face (in person or by video) initial encounter. Again, regular practice requirements continue to govern in situations not involving the treatment of COVID-19 patients.

We stand ready to help you navigate legal and regulatory issues you may encounter in these uncertain times. For more information, please contact **Luke Schmitt** at 304.230.6632 or lschmitt@flahertylegal.com.