

Georgia Composite Medical Board

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2 Peachtree Street, NW • 6th Floor • Atlanta, Georgia 30303 • (404) 656-3913 •
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UPDATE ON COVID-19 March 18, 2020

In response to the State of Emergency that has been declared by the Federal and Georgia legislatures, the Georgia Composite Medical Board encourages licensed prescribers to follow [CDC guidelines](#) in leveraging telemedicine technologies in order to protect patients and the healthcare workforce. In general, prescribers should adhere to the state rule on Practice Through Electronic or Other Such Means as amended at the March 5, 2020 meeting, which can be found [here](#).

On January 31, 2020 the Secretary of the Department of Health and Human Services issued an emergency declaration allowing DEA registered practitioners to issue prescriptions during a public health emergency for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice

The telemedicine communication is conducted using an audio-visual, real time, two-way interactive communication system

The practitioner is acting with Federal and State law

Today the Medical Board passed an emergency rule change that allows licensed prescribers to follow the HHS guidelines referenced above. Provided the practitioner satisfies the these requirements, the practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy.

On March 17th, 2020, the Department of Health and Human Services announced that physicians may use Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype to provide telehealth services “without risk that [its Office for Civil Rights] might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID-19 nationwide public health emergency.”

HHS is also stressing that public-facing applications like Facebook Live, Twitch, TikTok, and similar video communication applications should not be used to provide telehealth services. HHS explains that, “Covered health care providers that seek additional privacy protections for telehealth while using video communication products should provide such services through

technology vendors that are HIPAA-compliant and will enter into HIPAA business associate agreements (BAAs) in connection with the provision of their video communication products.” The following vendors have indicated that they offer HIPAA-compliant video communications products and will enter into HIPAA BAAs...

- Skype for Business
- Updox
- VSee
- Zoom for Healthcare
- [Doxy.me](#)
- Google G Suite Hangouts Meet

The Board is now issuing Emergency Practice Permits. During an event for which the Governor of the State of Georgia has issued an executive order declaring a disaster or a state of emergency, the Board may waive some of the licensure requirements in order to permit the provision of emergency health services to the public. Before practicing medicine in Georgia under this provision, the applicant must receive the Board's approval of the following:

- (a) an application for the emergency permit;
- (b) proof of current and unrestricted license in another state;
- (c) a current National Practitioner's Data bank ("NPDB") report;
- (d) a copy of a government issued photo ID

All permits issued under this provision are valid for 90 days or until the statement of emergency or disaster has been lifted by the Governor of the State of Georgia, whichever comes first. Applications for Emergency Practice permits can be accessed at the [GCMB Website](#).

The COVID-19 crisis and governmental response is evolving rapidly. The Georgia Composite Medical Board will continue to work diligently in providing updates on regulations to insure health care services can be provided effectively, safely and appropriately to the citizens of our state in a timely manner.

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NOTICE OF INTENT TO AMEND AND ADOPT RULES

TO ALL INTERESTED PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia Composite Medical Board (hereinafter "Board") proposes amendments to the Georgia Composite Medical Board Rules by amending **Rule 360-3-.07 "Practice Through Electronic or Other Such Means."** An exact copy of the proposed rule is attached to this Notice. This notice, together with an exact copy of the proposed rules and a synopsis of the proposed amendments may be reviewed between 8:00 a.m. and 4:00 p.m., Monday through Friday, except official State holidays, at 2 Peachtree Street, N.W., 6th Floor, Atlanta, Georgia 30303. These documents can also be reviewed online at <http://medicalboard.georgia.gov/notice-intent-amendadopt-rules>.

A public hearing is scheduled to begin at **8:00 a.m.** on **March 5, 2020** at the Board offices, 2 Peachtree Street, NW, 6th Floor, Atlanta, GA 30303 to provide the public an opportunity to comment upon and provide input into the proposed rules. At the public hearing, any interested person may present data, make a statement or comment, or offer a viewpoint or argument orally or in writing. Lengthy statements and statements of a considerable technical or economic nature, as well as previously recorded messages, must be submitted for the official record. Oral statements should be concise and will be limited to five minutes per person. Additional comments should be presented in writing. To ensure their consideration, submit all written comments by **February 27, 2020 to lhughes@dch.ga.gov** or via mail to the Georgia Composite Medical Board Rule Committee at 2 Peachtree Street, N.W., 6th Floor, Atlanta, Georgia 30303.

The Board voted to adopt this Notice of Intent on **January 9, 2020**. Upon conclusion of the public hearing on **March 5, 2020**, the Board will consider whether the formulation and adoption of these proposed rule amendments imposes excessive regulatory costs on any license or entity, and whether any cost to comply with the proposed rule amendments could be reduced by a less expensive alternative that accomplishes the objectives of the statutes which are the basis of the proposed rule. Additionally, the Board will consider whether it is legal or feasible in meeting the objectives of the applicable laws to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(3)(A),(B),(C), and (D).

This Notice is adopted and posted in compliance with O.C.G.A. § 50-13-4 of the Georgia Administrative Procedures Act. A synopsis of the proposed rules and an economic impact statement are attached to this Notice. The authority for promulgation of these rules is O.C.G.A. §§ 43-1-19, 43-34-5(c), 43-34-8, 43-34-23, 43-34-25, 43-34-31, 43-34-103, 43-34-105 and 50-13-3.

Issued this day, January 10, 2020.


LaSharn Hughes, MBA, Executive Director
Georgia Composite Medical Board

ECONOMIC IMPACT AND SYNOPSIS FOR

RULE CHAPTER 360-3
Investigations and Discipline

ECONOMIC IMPACT:

The attached rules are promulgated under the authority of the Medical Practice Act, Title 43, Chapter 34. The Georgia Composite Medical Board licenses and regulates nine professions. The formulation and adoption of these rules do not impose excessive regulatory cost on any licensee, and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated. Additionally, it is not legal or feasible to meet the objectives of the Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated to adopt or implement differing actions for businesses listed in O.C.G.A. §50-13-4(a)(3)(A), (B), (C) and (D).

RULE SYNOPSIS:

Rule 360-3-.07 “Practice Through Electronic or Other Such Means”

Purpose/Main Features: The purpose of the proposed rule changes is to address the use of technology as it relates to telemedicine.

O.C.G.A. §§ 43-1-19, 43-34-5(c), 43-34-8, 43-34-23, 43-34-25, 43-34-31, 43-34-103, 43-34-105 and 50-13-3.

Rule 360-3-.07. Practice Through Electronic or Other Such Means

- (a) Under O.C.G.A. §§ 43-34-8 and 43-1-19, the Board is authorized to take disciplinary action against licensees for unprofessional conduct, and in connection therewith, to establish standards of practice. Except as otherwise provided, in order for a physician to practice within the minimum standards of practice while providing treatment and/or consultation recommendations by electronic or other such means, all the following conditions must be met:
- (1) All treatment and/or consultations must be done by Georgia licensed practitioners;
 - (2) A history of the patient shall be available to the Georgia licensed physician, physician assistant or advanced practice registered nurse who is providing treatment or consultation via electronic or other such means;
 - (3) A Georgia licensed physician, physician assistant or advanced practice registered nurse either:
 - 3.a. Has personally seen and examined the patient and provides ongoing or intermittent care by electronic or other such means; or
 - 3.b. Is providing medical care by electronic or other such means at the request of a physician, physician assistant or advanced practice registered nurse licensed in Georgia who has personally seen and examined the patient; or
 - 3.c. Is providing medical care by electronic or other such means at the request of a Public Health Nurse, a Public School Nurse, the Department of Family and Children's Services, law enforcement, community mental health center or through an established child advocacy center for the protection for a minor, and the physician, physician assistant or advanced practice registered nurse is able to examine the patient using technology and peripherals that are equal or superior to an examination done personally by a provider within that provider's standard of care; or
 - 3.d. Is able to examine the patient using technology or and peripherals that are equal or superior to an examination done personally by a provider within that provider's standard of care.
 - (4) The Georgia licensed physician, physician assistant or advanced practice registered nurse providing treatment or consultations by electronic or other means must maintain patient records on the patient and must document the evaluation and treatment along with the identity of the practitioners providing the service by electronic or other means, and if there is a referring practitioner, a copy of this record must also be provided to the referring physician, physician assistant or advanced practice registered nurse;
 - (5) To delegate to a nurse practitioner or to supervise a physician assistant doing telemedicine, the physician must document to the board that that the provision of care by telemedicine is in his or her scope of practice and that the NP or PA has demonstrated competence in the provision of care by telemedicine. (6) Patients treated by electronic or other such means or patient's agent must be given the name, credentials and emergency contact information for the Georgia licensed physician, physician assistant and/or advanced practice registered nurse providing the treatment or consultation. Emergency contact information does not need to be provided to those treated within the prison system while incarcerated but should be provided to the referring provider. For the purposes of this rule, "credentials" is

defined as the area of practice and training for physicians, and for physician assistants and advanced practice registered nurses, "credentials" shall mean the area of licensure and must include the name of the delegating physician or supervising physician;

- (7) The patient being treated via electronic or other means or the patient's agent must be provided with clear, appropriate, accurate instructions on follow-up in the event of needed emergent care related to the treatment. In the case of prison patients, prison staff will be provided this information if the consult is provided to an inmate; and
 - (8) The physician, physician assistant or nurse practitioner who provides care or treatment for a patient by electronic or other such means must make diligent efforts to have the patient seen and examined in person by a Georgia licensed physician, physician assistant or nurse practitioner at least annually.
- (b) This rule should not be interpreted to interfere with care and treatment by telephonic communication in an established physician-patient relationship, call coverage for established physician-patients relationships, or telephone and internet consultations between physicians, nurse practitioners, physician assistants, other healthcare providers or child protection agencies.
 - (c) This rule does not authorize the prescription of controlled substances for the treatment of pain or chronic pain by electronic or other such means. All treatment of pain or chronic pain must be in compliance with Rule 360-3-.06.
 - (d) Nothing in this rule shall excuse a physician, nurse practitioner or physician assistant from ordering appropriate laboratory or other diagnostic tests needed to make diagnoses within the minimum standard of care.
 - (e) Nothing in this rule shall supersede any requirements provided for by other rules or laws.
 - (f) Licensees practicing by electronic or other means will be held to the same standard of care as licensees employing more traditional in-person medical care. A failure to conform to the appropriate standard of care, whether that care is rendered in person or via electronic or other such means, may subject the licensee to disciplinary action by the Board.

Authority: O.C.G.A. §§ 43-1-19, 43-34-5(c), 43-34-8, 43-34-23, 43-34-25, 43-34-31, 43-34-103, 43-34-105.