



## ALABAMA STATE BOARD OF MEDICAL EXAMINERS

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June 22, 2023

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Dear Dr. Sellers and Dr. Kukoyi:

On June 15, 2023, the Alabama State Board of Medical Examiners (the Board) considered your correspondence of May 17, 2023, wherein you requested the Board's opinion on whether the Clinical Video Telehealth (CVT) protocol utilized by the Birmingham VA Health Care System (BVAHCS) meets the "in-person" requirement found under Ala. Code § 34-24-704(b)(1)b. This provision governs when a controlled substance may be prescribed following a telehealth visit and requires, in pertinent part, the prescriber to have had "at least one in-person encounter with the patient within the preceding 12 months." Ala. Code § 34-24-704(b)(1)b.

In your correspondence, you described the CVT protocol, stating that a patient encounter begins when a patient physically presents at a Community Based Outpatient Clinic (CBOC); the patient is checked-in by an onsite staff member who documents the appointment in the patient record; the patient is then seated in a telehealth equipped room to be seen virtually by the mental health provider who then documents their portion of the exam in the patient's record; necessary medications are prescribed electronically and are filled through the BVAHCS pharmacy; and, at the conclusion of the visit, the patient is checked-out by an on-site staff member.

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Under Ala. Code § 34-24-704(b)(1)b, a prescriber must have had “at least one in-person encounter with the patient within the preceding 12 months” before prescribing a controlled substance following a telehealth visit. This provision must be read in conjunction with Ala. Code § 34-24-703(f)(3), which states:

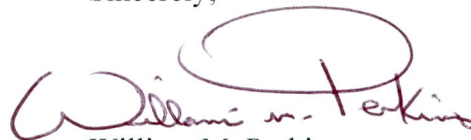
The provision of telehealth medical services that includes video communication to a patient at an originating site with the in-person assistance of a person licensed by the Board of Medical Examiners or by the Board of Nursing pursuant to Chapter 21 of Title 34 of the Code of Alabama 1975, shall constitute an in-person visit for the purposes of this subsection.

Consequently, the “in-person” requirement found at Ala. Code § 34-24-704(b)(1)b may be satisfied by the in-person assistance of personnel licensed by the Board of Medical Examiners or the Board of Nursing at the originating site when the prescriber is evaluating the patient from a distant site using video communication.

Therefore, the Board opines that the CVT protocol is an acceptable approach to meeting the requirement, as stated in Ala. Code § 34-24-704(b)(1)b, for an in-person encounter between a prescriber and the patient to whom a controlled substance is being prescribed if the staff member who is physically present with the patient for the appointment check-in and check-out is a licensee of the Board of Medical Examiners or the Board of Nursing.

Please contact me if you have any questions or if this agency can be of further assistance.

Sincerely,



William M. Perkins  
Executive Director

WMP/atd