

Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

Approved by the Board at its November 5, 2012 meeting and revised at its meetings on February 5, 2013, August 3, 2015, and August 3, 2016

Service Area: Medical

Subject: Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

In accordance with S.C. Code Ann. § 40-47-113 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Board of Medical Examiners has adopted the following statement as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board.

Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs

S.C. Code of Laws Section 40-47-113 (1976, as amended), provides:

(A) It is unprofessional conduct for a licensee initially to prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the licensee make an informed medical judgment based on the circumstances of the situation and on the licensee's training and experience and that the licensee: (1) personally perform and document an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan; (2) discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and (3) ensure the availability of the licensee or coverage for the patient for appropriate follow-up care.

(B) Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, continuing medication on a short-term basis for a new patient prior to the patient's first appointment, or prescribing for a patient for whom the licensee has established a physician-patient relationship solely via telemedicine so long as the licensee complies with Section 40-47-37 of this act.

(C) Prescribing drugs to individuals the licensee has never personally examined based solely on answers to a set of questions is unprofessional.

It is mandatory that physicians review and comply with the South Carolina Telemedicine

Act prior to establishing the physician-patient relationship solely via telemedicine. A copy of the Act can be located at: http://www.scstatehouse.gov/sess121_2015-2016/bills/1035.htm.

With regard to the exceptions set forth in S.C. Code Ann. § 40-47-113 (B), the South Carolina Board of Medical Examiners has adopted the definition of “on-call” as the temporary assumption of responsibility for an established doctor-patient relationship. An “on-call” physician is a South Carolina licensed physician who is available to physically attend, if necessary, to urgent and follow up care needs of a patient for whom he has temporarily assumed responsibility with the acknowledgment of the patient’s primary provider of care. The “on-call” relationship must be confirmed via follow-up communication with the patient’s primary provider of care wherein all relevant information relating to the “on-call” encounter is fully disclosed to the primary provider of care and incorporated into the patient’s medical record.

A physician who prescribes drugs to an individual he has never personally examined and for whom he has not assumed responsibility with the acknowledgment of the patient’s primary provider of care has engaged in professional misconduct **unless** he is writing admission orders for a newly hospitalized patient, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, continuing medication on a short-term basis for a new patient prior to the patient’s first appointment, or prescribing for a patient for whom the licensee has established a physician-patient relationship solely via telemedicine so long as the licensee complies with S.C. Code Ann. § 40-47-37. A physician prescribing in a telemedicine encounter as described herein may not prescribe any controlled substances not specifically approved by the Board pursuant to § 40-47-37(C)(6) or “lifestyle” medications, such as, but not limited to, erectile dysfunction therapies. Prescribing abortion-inducing drugs is not permitted via telemedicine.

Telemedicine providers are expected to adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing this information upon

request. Section 40-47-37 (C)(8) requires that a physician providing services via telemedicine shall “maintain the patient’s records’ confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider’s medical record and the telemedicine provider’s record constitute one complete medical record.”

Specifically, a physician who prescribes drugs for an individual with whom he has only had telephonic and/or electronic communication and for whom he has not assumed responsibility with the acknowledgment of the patient’s primary provider of care has engaged in professional misconduct **unless** he is writing admission orders for a newly hospitalized patient, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, continuing medication on a short-term basis for a new patient prior to the patient's first appointment, or prescribing for a patient for whom the licensee has established a physician-patient relationship solely via telemedicine so long as the licensee complies with Section 40-47-37. A physician prescribing in a telemedicine encounter as described herein may not prescribe any controlled substances except as approved by the Board pursuant to §40-47-37(C)(6) or “lifestyle” medications, such as, but not limited to, erectile dysfunction therapies. Prescribing abortion-inducing drugs is not permitted via telemedicine.

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