

# The Future of Prescribing Medications in Telemedicine

Beju Shah, PharmD, MBA

# Disclosure

Any information provided in today's talk is solely for informational purposes and not to be regarded as legal advice.

# Get the most out of this session



Take notes

Download a copy of the slides



Ask questions

Q&A at the end of session



Stay present

Take a deep breath

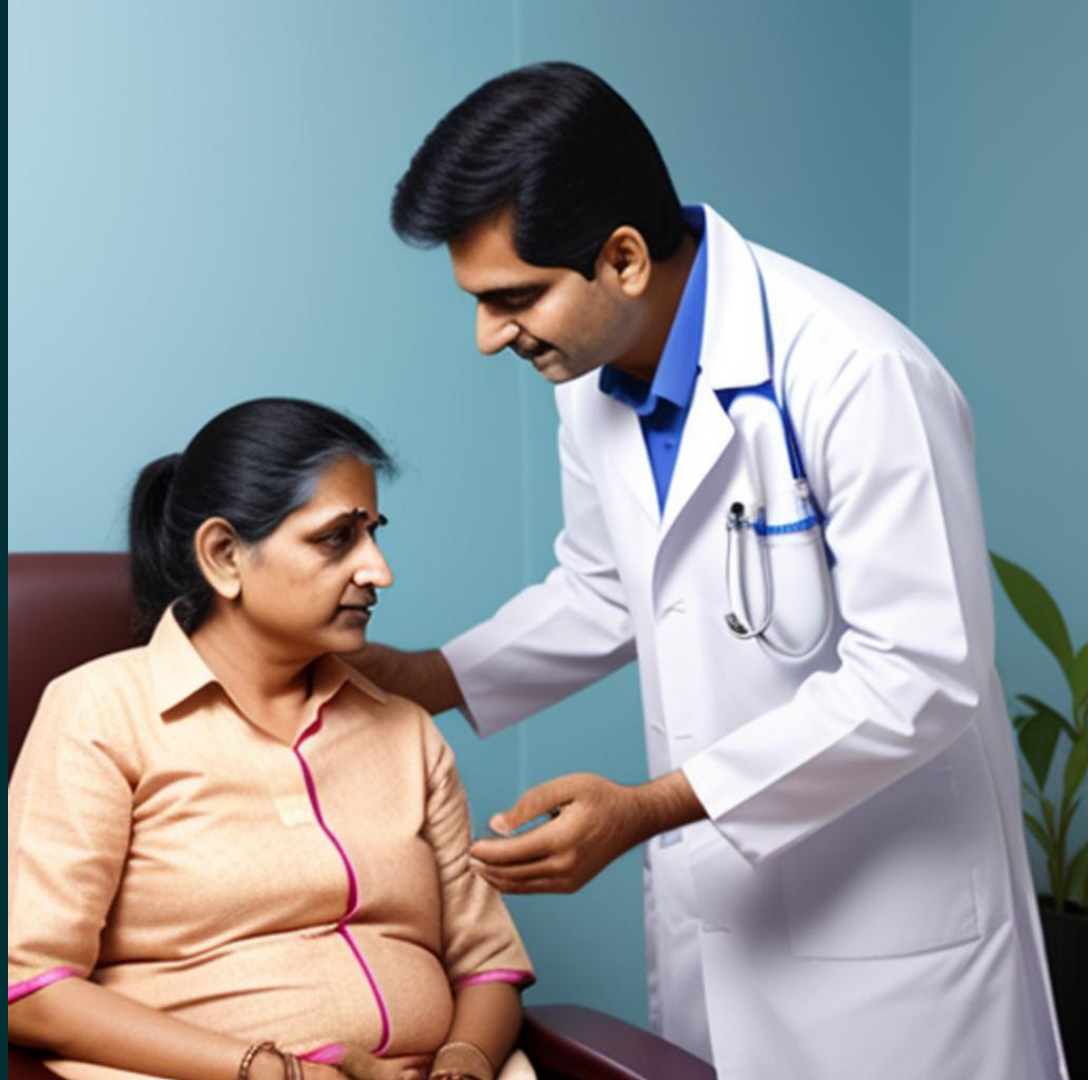
# Today's objectives

1. **Understand the current landscape** of prescribing medications in telemedicine, including relevant regulations and guidelines.
2. **Identify emerging trends and barriers** in telemedicine that are influencing the prescription and management of medications.
3. **Discuss potential technologies** in prescribing medications via telemedicine.

# House call

Question:

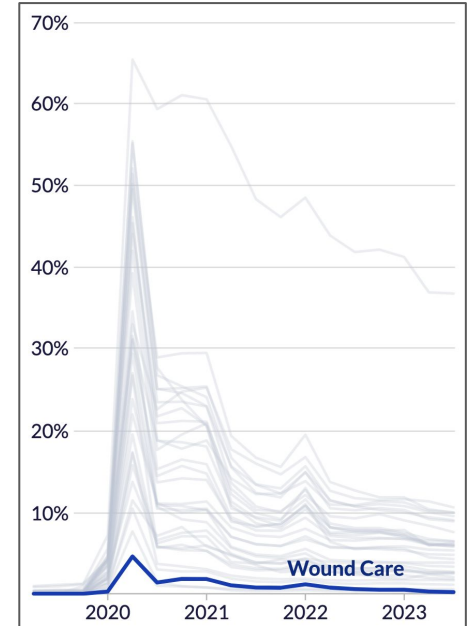
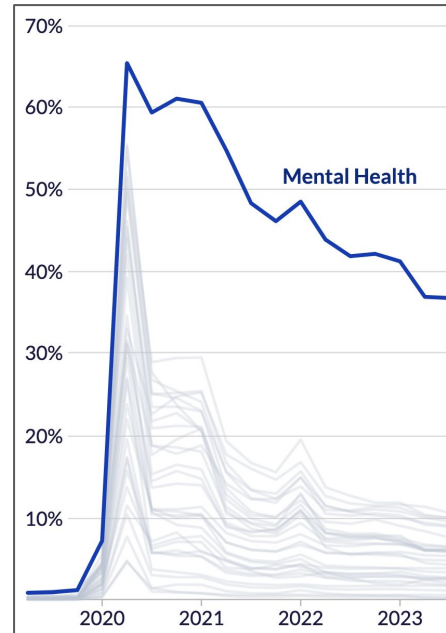
When you hear this term,  
what comes to mind?



# Adoption of telemedicine

- Telemedicine as a "house call"
  - Synchronous
  - Asynchronous
  - Store and forward
- Hockey stick growth curve
  - Mental health (65.5%)
  - Endocrinology (55.5%)
  - Geriatrics (55.2%)
  - Transplant (52.2%)
  - GI (51.5%)

Percentage of Encounters Conducted Using Telehealth



Bartelt K, Piff A, Allen S, Barkley E. Telehealth Utilization Higher Than Pre-Pandemic Levels, but Down from Pandemic Highs. Epic Research.

# Prescribing in telemedicine

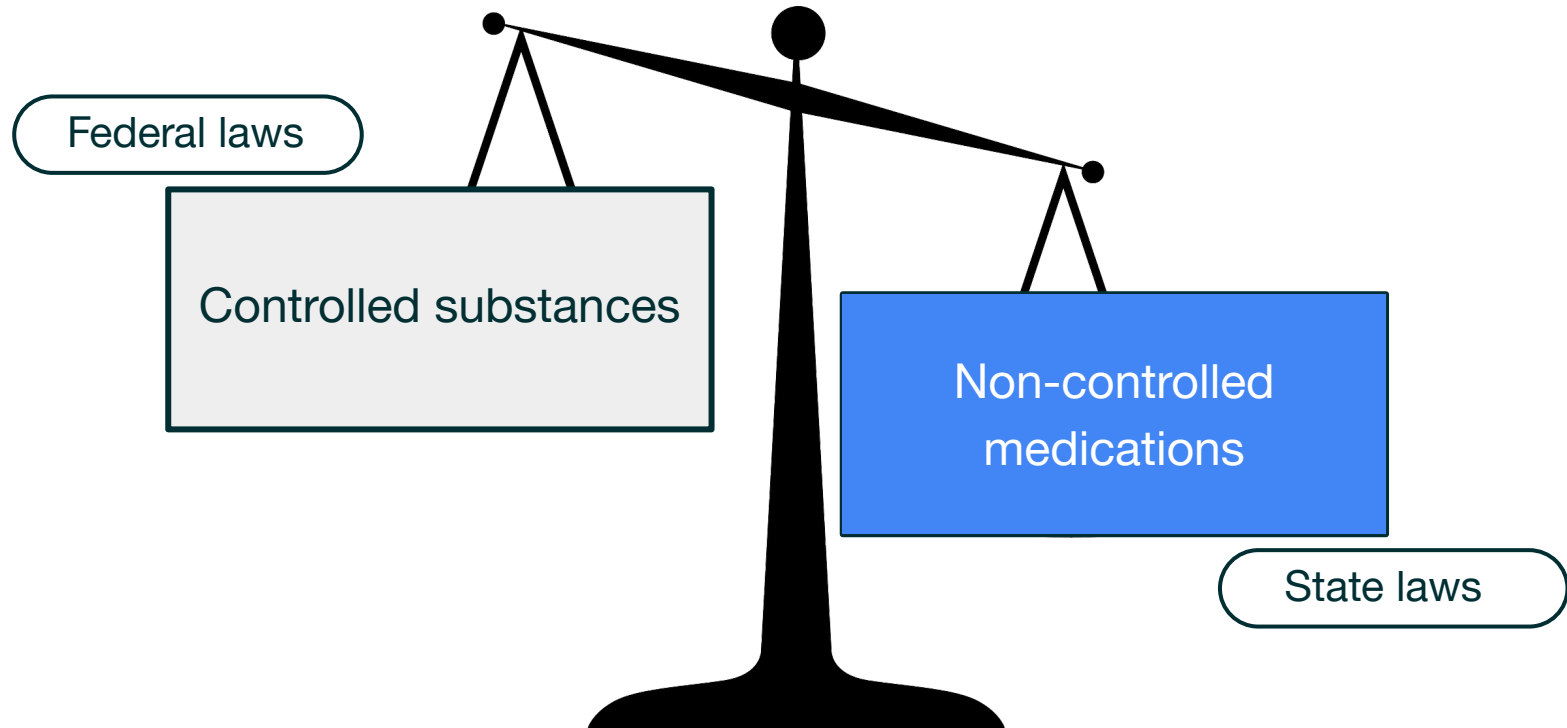
- Slow integration of services
- Hospitals as early entrants
- Provident/patient perceptions
- Other barriers
  - Reimbursement
  - Regulatory and policy



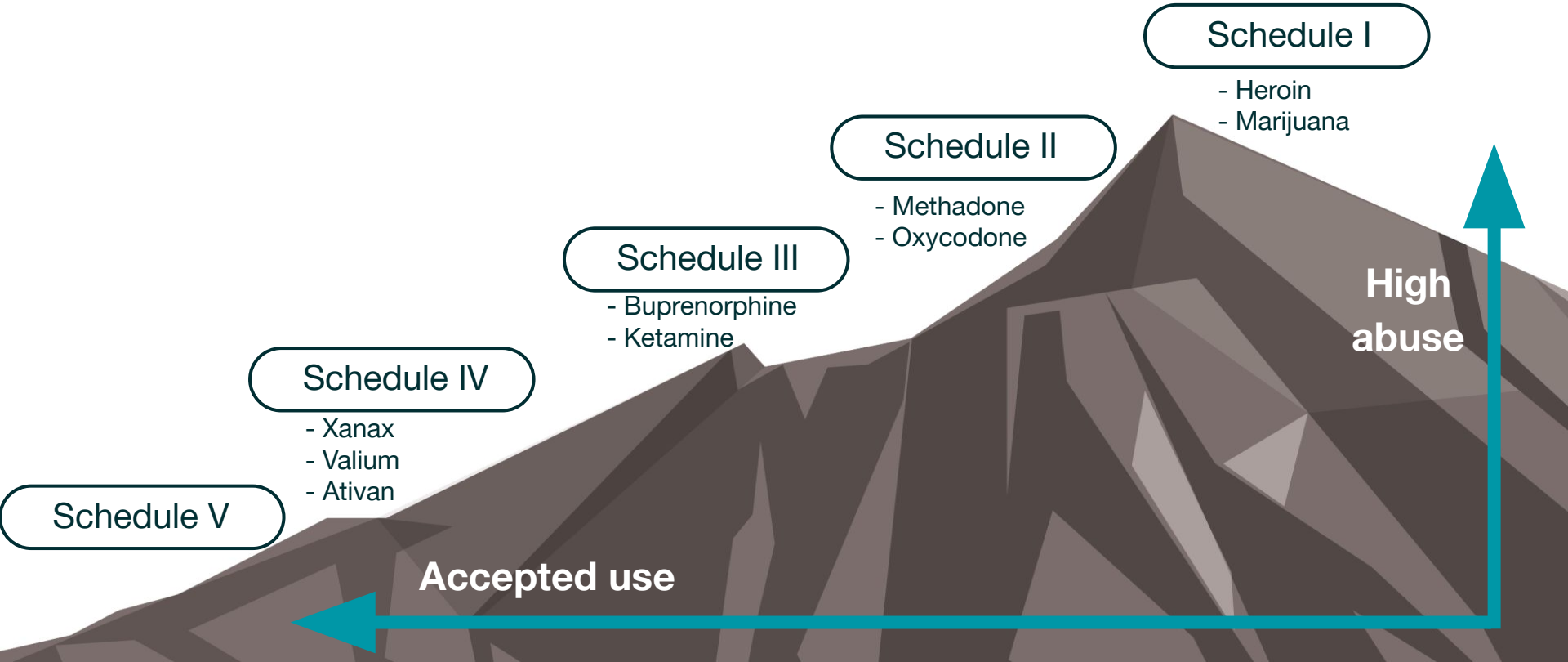
# Review of rules and regulations



# Prescribing rules and regulations



# The Controlled Substance Act



# The Ryan Haight Act

In 2008, The Ryan Haight Online Pharmacy Consumer Protection Act was enacted to curb “pill mills”.

## Exceptions:

- DEA-registered hospital or clinic
- DEA-registered practitioner
- Indian Health Services
- Special DEA registration
- During a Public Health Emergency

## An Act

To amend the Controlled Substances Act to address online pharmacies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Ryan Haight Online Pharmacy Consumer Protection Act of 2008”.

### SEC. 2. REQUIREMENT OF A VALID PRESCRIPTION FOR CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.

Section 309 of the Controlled Substances Act (21 U.S.C. 829) is amended by adding at the end the following:

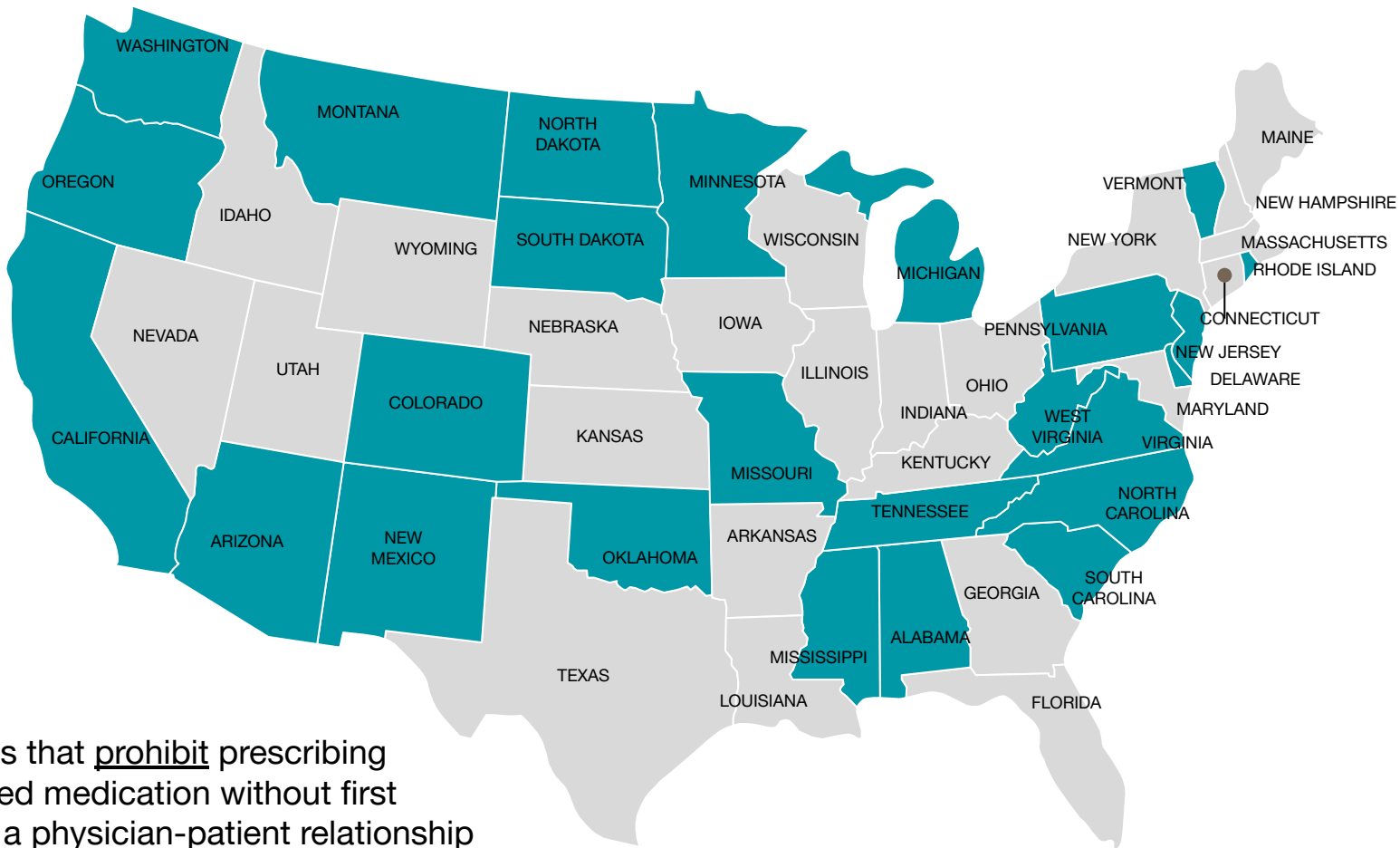
“(e) CONTROLLED SUBSTANCES DISPENSED BY MEANS OF THE INTERNET.—

“(1) No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

# Federal and state laws

- Federal laws set the baseline
- State medical boards govern and enforce federal laws and can also extend laws using the following criteria:
  1. Is a pre-existing provider-patient relationship required?
  2. How is a provider-patient relationship established?
  3. Is a physical examination required?
  4. Can a physical examination be conducted via telehealth?
  5. What are the requirements for a physical examination?

*\* State law exceptions to the above requirements/prohibitions*



25 states that prohibit prescribing non-controlled medication without first establishing a physician-patient relationship and/or conducting a physical examination.

Accessed on 9/15/2023

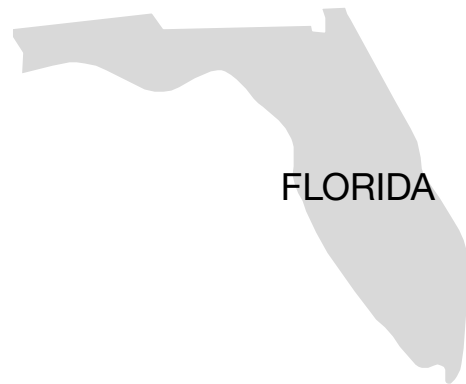
Adapted from CTel presentation. 50-State Survey: Prescribing of Non-Controlled Substances via Telemedicine.



ARIZONA



SOUTH  
CAROLINA



FLORIDA

**More restrictive**



**Less restrictive**

It is unprofessional conduct to prescribe medication to a patient “unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship.” Ariz. Rev. Stat. § 32-1401.

“A licensee shall not establish a physician-patient relationship by telemedicine for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis.” S. Carolina SC Code Annotated Sec. 40-47-37.

“If a telehealth provider conducts a patient evaluation [via telehealth] sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.” Fla. Stat. § 456.47

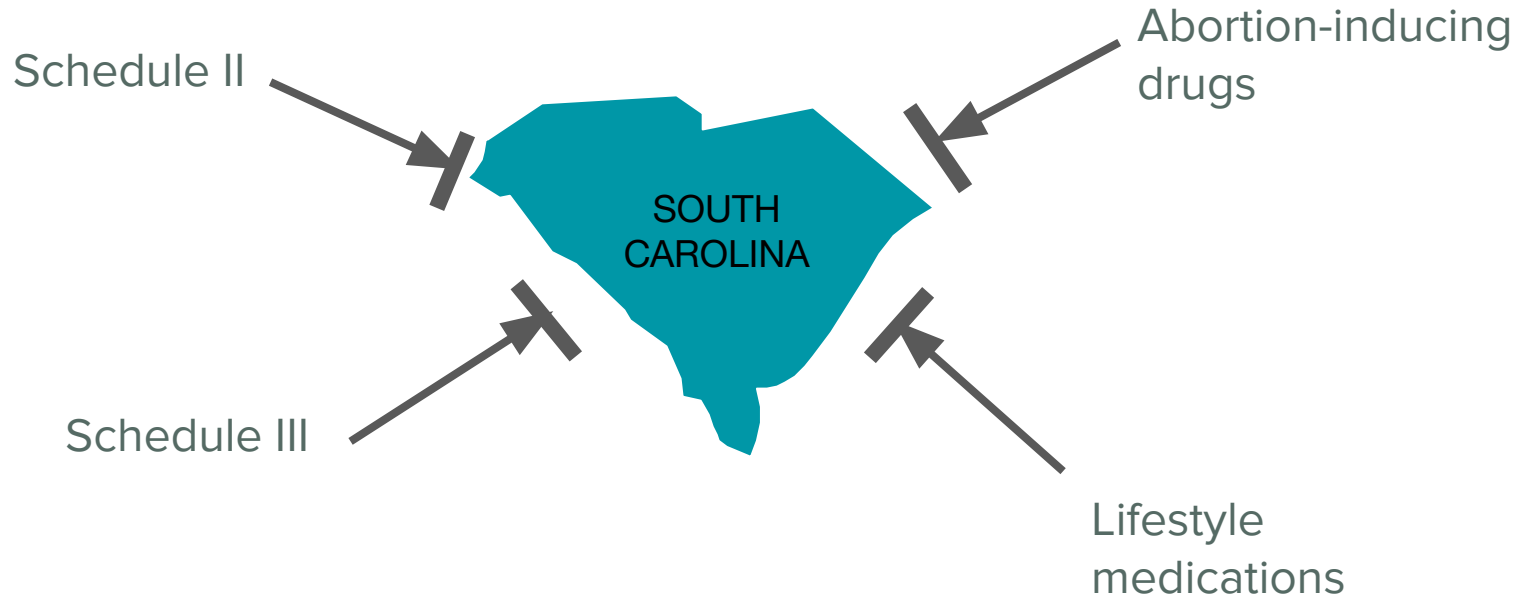
# Examination requirements

In states require that an exam, most say the evaluation should include some combination of:

- a medical history,
- a diagnosis,
- a therapeutic plan, and/or
- the availability of follow-up care



# Other state law exceptions: medications

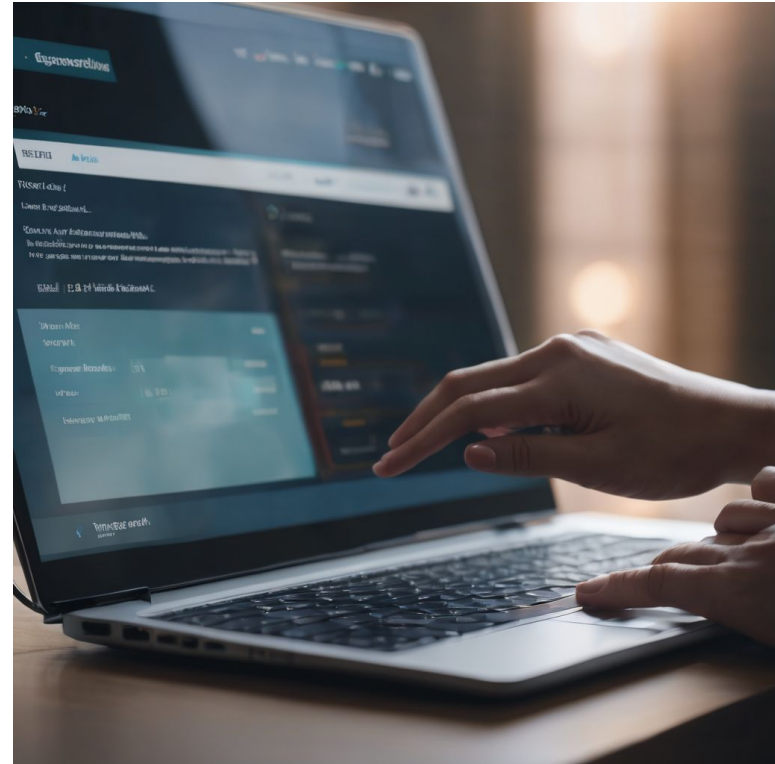




# Other state law exceptions: questionnaire

There are 36 states that specifically prohibit prescribing non-controlled medication based solely on a medical questionnaire or a patient-supplied history.

**South Carolina:** “[P]rescribing drugs to individuals the licensee has never personally examined based solely on answers to a set of questions is unprofessional.” S.C. Code § 40-47-113.



# Provider licensure and registration

- State-based licensing regimes
- Licensing compacts and registrations
- Challenges of interstate prescribing
- Prescribing increases complexity



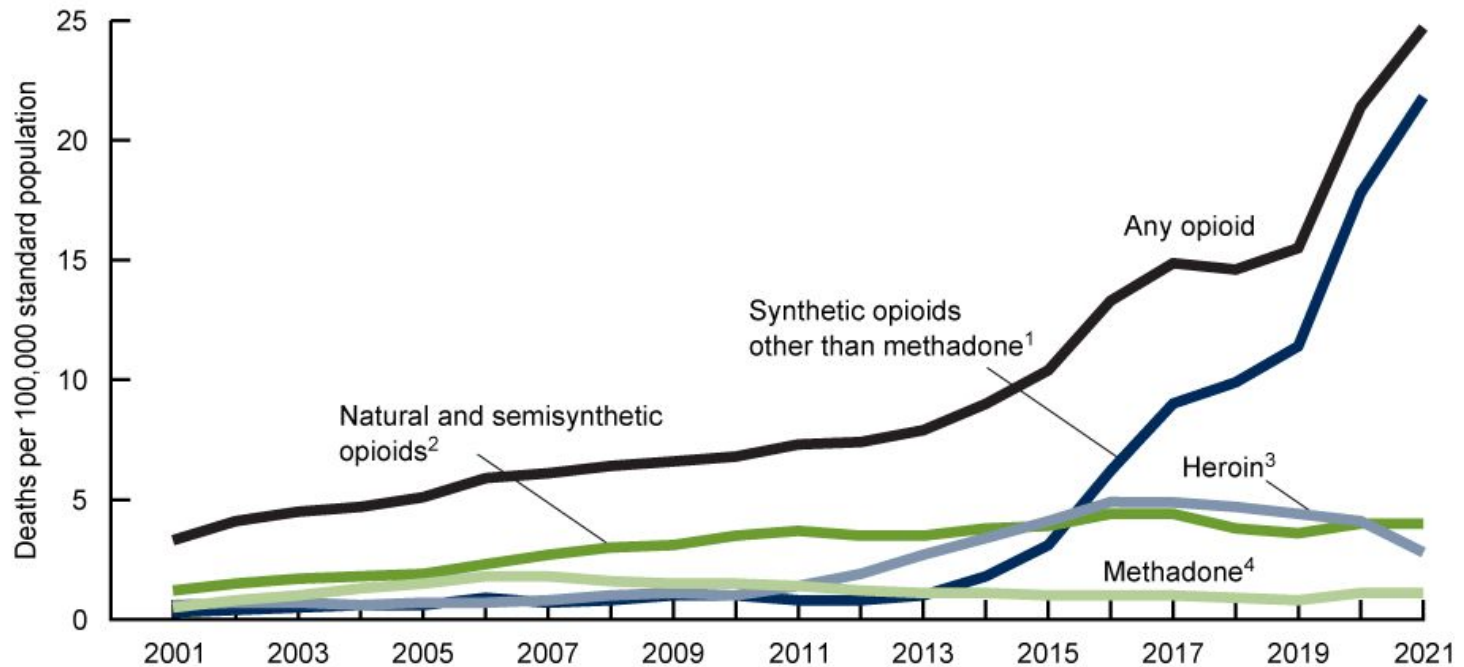
# Emerging trends and barriers

# Pandemic shifts telemedicine

- Flexibilities were enacted in March 2020
- Waived **in-person** requirements
- COVID-19 prompted temporary flexibilities
- Rise of telehealth startups



# Addiction and the public health crisis



Spencer MR, Miniño AM, Warner M. Drug overdose deaths in the United States, 2001–2021. NCHS Data Brief, no 457. Hyattsville, MD: National Center for Health Statistics. 2022. DOI: <https://dx.doi.org/10.15620/cdc:122556>

Case report

# Alabama airdrop

## Bicycle Health Doctors Fly to Alabama for a Second Year to Ensure Opioid Treatment Continuity for Patients

A lack of in-state treatment options, combined with the state's in-person requirement, forces extreme measures from virtual OUD treatment providers to protect patient access to care

July 25, 2023 09:00 ET| Source: [Bicycle Health](#)

# Post-PHE: state of prescribing

- Proposed rules announced on March 1, 2023
- DEA, jointly with SAMHSA, issued temporary rules
- Providers may use telehealth visits to prescribe controlled substances through December 31, 2024



# Post-PHE: state of prescribing

<b>Telehealth visit <u>without</u>:</b>	<b>Non-controlled medication</b>	<b>Buprenorphine for opioid use disorder</b>	<b>Schedule III-V controlled substance</b>	<b>Schedule II controlled substance</b>
Prior in-person medical evaluation	Permitted	Initial 30-day prescription	Initial 30-day prescription	Not permitted
Referral from medical practitioner who conducted prior in-person evaluation	Permitted	Initial 30-day prescription	Initial 30-day prescription	Not permitted



# The TREATS Act

Introduced in 2020, the Telehealth Response for E-prescribing Addiction Therapy Services (TREATS) Act was reintroduced this year to remove barriers to substance use disorder.

## A BILL

To amend title XVIII of the Social Security Act to increase the use of telehealth for substance use disorder treatment, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Telehealth Response for E-prescribing Addiction Therapy Services Act” or “TREATS Act”.

### SEC. 2. TELEHEALTH FOR SUBSTANCE USE DISORDER TREATMENT.

(a) **SUBSTANCE USE DISORDER SERVICES FURNISHED THROUGH TELEHEALTH UNDER MEDICARE.**—Section 1834(m)(7) of the Social Security Act ([42 U.S.C. 1395m\(m\)\(7\)](#)) is amended by adding at the end the following: “With respect to telehealth services described in the preceding sentence that are furnished on or after January 1, 2020, nothing shall preclude the furnishing of such services through audio or telephone only technologies in the case where a physician or practitioner has already conducted an in-person medical evaluation or a telehealth evaluation that utilizes both audio and visual capabilities with the eligible telehealth individual.”

# Potential technologies and opportunities

# Electronic prescribing requirements

HITECH Act of 2009: The Health Information Technology for Economic and Clinical Health (HITECH) Act

- Incentivized the adoption of electronic health records (EHRs)
- Paved the way for the integration of telemedicine technologies into existing healthcare systems

Legislation such as South Carolina House Bill 3728

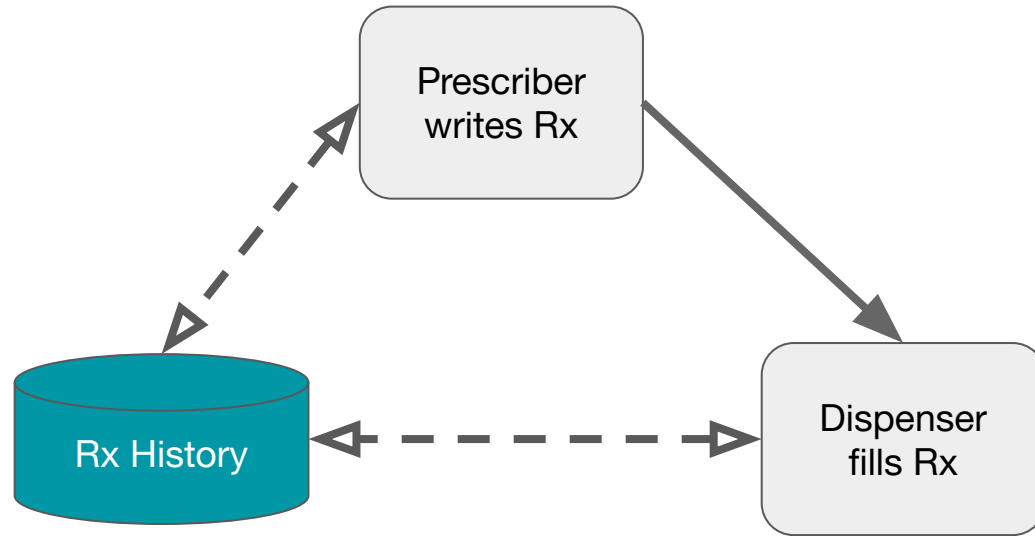
- Effective on January 1, 2021
- State law requires practitioners to electronically prescribe controlled substances
- Facilitated secure and efficient transmission of prescription data



# Prescription drug monitoring programs (PDMP)

- Support access to legitimate medical use of controlled substances
- Identify, deter, or prevent drug abuse and diversion
- Facilitate the identification of persons addicted to prescription drugs,
- Limitations do exist
  - Proactive vs reactive auditing
  - Inter-state review by providers
  - Integration into EHR and pharmacy systems

# How does the PDMP system work?



# Limitations of PDMPs

- Proactive vs reactive auditing
- Inter-state review by providers
- Integration into EHR and pharmacy systems
- Other factors

What is the  
future outlook?





# Thank you for attending today

Share any insights or have further  
questions?

[Connect with me on LinkedIn](#)

