Casual Care, Serious Consequences: How Informal Prescribing Can Trigger Medical Board Scrutiny

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Consider the following scenario: in December 2025, a medical provider renewed a prescription fora long-standing telemedicine patient receiving a Schedule II controlled dangerous substance. This was not a violation of the New Jersey Administrative Code. Another provider doing the same action for an equally situated patient in March 2026 would be in violation. The casual prescriber who is not aware of newer regulatory requirements may have a more difficult time responding to a medical board complaint.

Medicine is a highly-regulated helping profession. Without addressing the merits of this regulatory burden, the practice of medicine continues to see drastic changes impacting the everyday life of patient and provider. Telemedicine, COVID-19, and other advances and roadblocks, present a challenge to those saving lives while attempting to comply with the rules of practice. Physicians often discover—through real cases and the lens of regulatory expectations—that even well-intentioned informal help can be reinterpreted as stepping outside mandated professional boundaries, and seemingly harmless actions can be construed as deviations from required practice standards specifically outlined in Title 13, Chapter 35, Subchapters 7.1A of the New Jersey Administrative Code.

Title 45, "Professions and Occupations," of the New Jersey code governs the practice of medicine, nursing, optometry, pharmacy, and many other professional occupations. Section 9 specifically addresses the state board of medical examiners and allows for the creation of rules and regulations in Section 45:9-5.3. These regulations can be found in the New Jersey Administrative Code Title 13, Chapter 35. While broad in scope, Chapter 35 contains a subchapter dedicated to the administration and dispensing of prescription drugs. Such knowledge will arm physicians with the tools they need to prevent a negative outcome if a medical board complaint is filed. Likewise, attorneys must be familiar with these regulatory requirements when advising and defending providers.

In New Jersey, N.J.A.C. Section 13:35-7.1A(a) requires that a practitioner conduct an examination and appropriately document the same within the medical record before dispensing drugs or issuing prescriptions. The examination must include an "appropriate history and physical examination," a diagnosis based upon the examination and any testing consistent with

good medical care, the formulation of a therapeutic plan discussed with the patient, and the availability of appropriate follow-up care. There are only six exceptions to this requirement:

1. In admission orders for a newly hospitalized patient
2. For a patient of another physician for whom the practitioner is taking calls
3. For continuation medications on a short-term basis for a new patient prior to the patient's first appointment
4. For an established patient who, based on sound medical practice, the physician believes does not require a new examination before issuing a new prescription
5. For a patient examined by a healthcare professional who is in collaborative practice with the practitioner
6. When treatment is provided by a practitioner for an emergency medical condition

Emergencies are also limited to situations where someone's health is in serious jeopardy, there is serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

During the COVID-19 pandemic, then New Jersey Governor Phil Murphy issued an executive order declaring a public health emergency and a state of emergency that allowed authorized prescribers to prescribe Schedule II controlled dangerous substances via telemedicine. The order was terminated when he left office earlier this year and the state reverted to the requirement of an initial in-person examination and quarterly in-person visits. With this return to prior regulatory requirements, practitioners subject to the jurisdiction of the board of medical examiners may benefit from a refresher on the regulatory limitations on their practice now that the pandemic-era flexibilities have ended.

This new requirement may create confusion for prescribers and lead to casual prescribing of medication in violation of the regulations, even in the setting of recurrent telemedicine appointments as noted in the example above. Casual prescribing can take many forms: filling a prescription request from a friend or family member without an examination or contemporary medical record; using telemedicine to expand your practice without proper in-person appointments or documentation in the medical record; failing to ensure appropriate follow-up care for a "one time" prescription; etc.

Although not all board complaints end in a publicly available opinion, serious deviations from regulatory requirements can shine a light on practices that will require action by the board if a complaint is received. Consider the following cases:

- In October 2025, the board issued a final consent order in an administrative action where a doctor provided opioids without examination and his license was permanently revoked. *In re Robert Dela Gente, D.O.*, N.J. State Bd. of Med. Exam'rs Oct. 21, 2025. Criminal charges were filed (though that is not always the case).
- In a September 2025 consent order, a physician was reprimanded for "prescribing opioids several months in advance without the proper patient follow-up…" and explained

that they did so for "patients who can not pay for multiple visits to refill medications." *In re Alan E. Schultz, M.D., N.J.* State Bd. of Med. Exam'rs Sept. 25, 2025.

- Another physician was suspended and placed on probation in a consent order for prescribing three patients the weight-loss medication "Ozempic" via text messages through a website called "Push Health" and without any further communication with the patients or taking a medical history. *In re Laura E. Purdy, M.D.*, N.J. State Bd. of Med. Exam'rs Aug. 29, 2025.
- A June 2025 interim consent order required a "full evaluation and assessment of [a physician's] general knowledge and skill, with specific emphasis on his knowledge of and ability to safely prescribe [controlled dangerous substances]" due to his failure to review a patient's prior medical history and medical record, assess and review the prescription monitoring program before prescribing CDS, and conduct random urine screens on a patient that tested positive for CDS upon admission to his practice because "he trusted the patient." *In re Donald Oh, M.D.*, N.J. State Bd. of Med. Exam'rs June 2, 2025.

Each of these examples demonstrate a failure to follow strict procedure regardless of the intention. Failing to follow procedure secondary to good intentions, such as considering a patient's financial constraints, trust in the patient, or utilizing a new telemedicine service platform, will not be a defense to a board complaint. Especially when practicing via telemedicine, practitioners must ensure they are adhering to the appropriate regulatory standard.

A provider who calls in a prescription for a traveling friend or family member or agrees to prescribe medication for individuals using the newest phone app will have a hard time meeting the requirements of N.J.A.C. Section 13:35-7.1A. Even if a history was taken, a "therapeutic plan" was created, and "follow up care" was provided, the prescriber would still not be in compliance with the regulation without an in-person examination. In our opening hypothetical, the prescriber's behavior did not change between December and March; however, the legal shift in the regulatory landscape made once acceptable behavior a violation as a required examination did not occur.

When complaints are made with regard to informal prescribing, the board has discretion to employ measures to encourage compliance in lieu of formal proceedings such as a private, written warning; suspending fines subject to continuing compliance; medical or professional treatment as may be necessary; medical or diagnostic testing and monitoring; skills assessment; corrective training; participation in outreach programming; or contribution to the consumer fraud protection fund.

The lesson for health care practitioners is that regular review of the regulatory requirements can ensure compliance and that casual prescribing may be in violation of state regulations if the necessary components are not met. Even compliant providers who had not conducted an in-person examination for telemedicine patients during the COVID-19 emergency

would be in violation of the regulations as of January 2026 for the same practice. Practitioners should be diligent in adhering to the prescribing rules to avoid sanctions related to casual care. Likewise, attorneys advising or defending practitioners before the board must be aware of the in-person examination requirements for prescribing in New Jersey whether the care in question took place in-person or in a telemedicine setting.

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