

March 3, 2022

Anne Milgram  
Administrator  
Drug Enforcement Administration  
Department of Justice  
8701 Morrisette Drive  
Springfield, VA 22152

Xavier Becerra  
Secretary  
Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

Dear Administrator Milgram and Secretary Becerra:

On behalf of the undersigned organizations focused on health care access and public health, we are writing to strongly encourage the Drug Enforcement Administration (DEA) to collaborate with the Department of Health and Human Services (HHS) to consider public health and health care access during the development of the Special Registration process for the use of telemedicine to prescribe controlled substances under the Ryan Haight Act.

Specifically, we believe that the in-person evaluation prior to prescribing controlled substances via telemedicine only results in reduced access to care and does not enhance the DEA's ability to do its job of limiting drug diversion or pursuing illegal actors. We welcome the opportunity to work with the DEA on mechanisms that *can* be used to prevent illegal online drug sales. Illegal online drug sales as well as drug diversion does continue to occur and should be addressed, but we have not seen increased illegal activity related to the waiver of these requirements during the pandemic.

During the COVID-19 public health emergency, the DEA has used its public emergency authority to waive the prior in person requirement. This has enabled providers to safely prescribe controlled substances remotely using telemedicine, increasing access to clinically appropriate medications, including for mental health and substance use disorder treatment. The *Journal of Substance Abuse Treatment* published a study on two harm reduction primary care programs providing buprenorphine treatment for opioid use disorder via telehealth. The study found the removal of the in-person requirement greatly increased access to care and addressed health inequities.<sup>1</sup> This is especially important as mental health and substance use disorders are impacting a growing number of the people across the country. The undersigned organizations are concerned that, when the public health emergency waiver ends, many patients, especially new patients seen for the first time by a clinician during the pandemic, will be left without access to care. This would be especially dire in light of the persistent geographic and numeric maldistribution of behavioral health providers across the United States, the ongoing drug overdose crisis, and a burgeoning mental health crisis precipitated by the pandemic. Allowing clinicians to continue to providing access to care via telehealth would allow for seamless continuity of care.

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<sup>1</sup> Wang, L., et al. *Journal of Substance Abuse Treatment*. January 15, 2021.  
[https://www.journalofsubstanceabusetreatment.com/article/S0740-5472\(20\)30529-8/fulltext](https://www.journalofsubstanceabusetreatment.com/article/S0740-5472(20)30529-8/fulltext)

The DEA and HHS should work with Congress to break down barriers and remove the prior in-person requirement permanently post pandemic. In the meantime, the special registration process that DEA is currently developing – as created by the original Ryan Haight Act and reiterated by Congress in the SUPPORT Act – should expand upon the successful increased access during the pandemic by 1) eliminating the prior in-person requirement and 2) removing any restrictions on the location of the patient.

All appropriate restrictions on the clinician prescribing the controlled substance would remain; the clinician prescribing the controlled substances as well as the dispenser dispensing it would still need to have controlled substances authority. The only difference is that the patient does not need to be physically located in a facility with controlled substances authority when the medication is prescribed. That requirement is extremely limiting as a facility that has controlled substance authority is likely to have a clinician on site that can prescribe a controlled substance and thus wouldn't need to use telemedicine, whereas a facility that does *not* have controlled substances authority would. Additionally, that requirement does not take into account the experience during the pandemic which has shown increased access to necessary care when the patient is able to use telemedicine in their home or other location. While the Ryan Haight Act was intended to enhance DEA's ability to pursue illegal online drug sellers, this limitation only results in less access to legitimate health care providers and does not give DEA additional tools to go after bad actors.

We appreciate the DEA's timely attention to this matter, especially in light of a global pandemic and rapid changes to the use of telemedicine that have evolved over the past 20 months. If possible, we would like to schedule a conversation with the DEA to discuss a proposed framework for this special registration process. To facilitate this meeting, please contact Michelle Dirst, Director of Practice Management and Delivery Systems Policy at the American Psychiatric Association at [mdirst@psych.org](mailto:mdirst@psych.org) and Kyle Zebley, Executive Director at ATA Action at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Sincerely,

American Psychiatric Association  
American Telemedicine Association  
ATA Action  
American Academy of Addiction Psychiatry  
American Association of Nurse Practitioners  
American Medical Association  
American Mental Health Counselors Association  
American Osteopathic Academy of Addiction Medicine  
Anxiety and Depression Association of America  
AptiHealth, Inc.  
Array Behavioral Care  
Association for Behavioral Health and Wellness  
Avel eCare  
Babylon Health  
Bicycle Health  
Brave Health  
Brightline, Inc.  
Care on Location PC  
Cerebral Inc.

Chestnut Health Systems  
Cincinnati Children's Hospital Medical Center  
Circle Medical - A UCSF Health Affiliate  
College of Psychiatric and Neurologic Pharmacists (CPNP)  
Community Wellness Technology, Inc.  
Connected Health Initiative  
DreamCloud Psychiatry  
Empower Pharmacy  
Hazel Health  
Hazelden Betty Ford Foundation  
HealthyWomen  
Hims & Hers  
HIV Alliance  
Hone Health  
Included Health (Doctor On Demand + Grand Rounds)  
Mass General Brigham  
Medical University of South Carolina  
National Association for Behavioral Healthcare  
National Council for Mental Wellbeing  
National Pain Advocacy Center  
Nebraska Medicine  
Northwell Health  
Onduo LLC  
One Medical  
OneFifteen  
Ophelia  
Partnership to Advance Virtual Care  
Partnership to End Addiction  
Plume  
Prism Health North Texas  
Professional Medical Concierge Services, PLLC  
PursueCare  
REDC Consortium  
SC HIMSS  
SMART Recovery  
Stop Stigma Now  
Talkspace  
Teladoc Health  
The Kennedy Forum  
Third Eye Health  
Vault Medical Services  
VoCare, Inc.  
Zipnosis