Partnership to Advance Virtual Care

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Anne Milgram
Administrator
Drug Enforcement Administration
DPW
8701 Morrissette Drive
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Submitted electronically

Re: Comments on the Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In Person Medical Evaluation [DEA–407] and Expansion of Induction of Buprenorphine via Telemedicine Encounter [DEA–948]

Dear Administrator Milgram:

On behalf of the Partnership to Advance Virtual Care (PAVC), we thank you for your ongoing efforts to ensure continued access to telehealth services for patients who need essential prescription medications, including certain controlled substances. We appreciate the opportunity to submit comments on two Drug Enforcement Agency (DEA) proposed rules related to the prescription of controlled substances, including buprenorphine, without a requirement for an in-person visit.

PAVC is a coalition of health systems, health IT vendors, innovators, chronic care specialists, and primary care stakeholders committed to providing and facilitating access to innovative, patient-centered care across the country. Our members are leaders working together to promote policies to preserve and advance access to virtual care services for patients and consumers. To that end, we bring a unique perspective on balancing the ability for patients and providers to appropriately utilize telehealth services with the need for in-person visits when warranted. The goal of all providers is to provide the best care for their patients.

As you know, the COVID-19 public health emergency (PHE) has vastly accelerated the revolution in telehealth care delivery. During the pandemic, enhanced flexibilities and increased access to telehealth services have served as a lifeline to patients across the country, allowing patients to access critical health care services while keeping vulnerable patients out of clinics and hospitals. Telehealth will continue to play an important role in our health care delivery system by expanding access to high-quality health care services and improving health equity. The role of telehealth has been especially acute when it comes to access to behavioral and mental health services. After the pandemic ends, these services should continue to be leveraged in order to enhance patient experiences, improve health outcomes, and reduce health care costs.

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While we appreciate the DEA's efforts to provide a pathway for the continuation of the ability to utilize telehealth to appropriately prescribe certain controlled substances, the proposed rules are overly burdensome for patients and providers alike. Under the proposed rules, the timeframe for a required in-person visit can vary for patients depending on a number of factors but, ultimately, all patients needing Schedule II-V medications, including buprenorphine for opioid use disorder, will need to see a practitioner in-person if they have not already done so. This requirement will negatively impact access to care.

Many patient-provider relationships were established virtually during the COVID-19 PHE, and there is no justification or data provided by the agency in the proposed rules that would warrant a requirement for these patients to see a provider in-person for the prescription of certain controlled substances. The in-person requirement proposed by DEA will lead to a number of challenges for patients. For example, patients may have trouble getting a timely appointment due to the significant shortage of physicians and mental health professionals. Additionally, those who need continuous refills will only have 30 days to find a provider that either is already registered with the DEA or will be able to virtually include a DEA-registered provider during an in-person appointment. This burden will fall to the patient to navigate, in an already complex care environment. Taken together, these barriers will likely lead to delays in patients seeking care and delays in necessary treatments.

Finally, the agency notes in the proposed rules that it was tasked with promulgating rules around a special registration process, but has chosen not to do so. This is unacceptable. Stakeholders were anticipating this process as a potential means to continue to provide care via telehealth. DEA should issue proposed rules on a special registration process in order to meet the statutory requirements of the Ryan Haight Act.

We strongly encourage the DEA to consider stakeholder feedback on these overly restrictive requirements and provide for an extension of the existing waiver of the in-person requirement until at least the end of this calendar year. This will provide additional time for the agency to adequately engage with stakeholders on this important issue, without jeopardizing access to essential medications for patients.

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We appreciate the opportunity to submit these comments and are available to discuss further, at your convenience.

Sincerely,

Rachel Stauffer
Executive Director
Partnership to Advance Virtual Care