

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.¹ 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.

¹ 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 and Kyle Zebley, Executive Director at ATA Action at 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