March 31, 2023

Anne Milgram, Administrator
Drug Enforcement Agency
8701 Morrissette Drive
Springfield, VA 22152

RE: Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation (DEA – 407)

Dear Administrator Milgram:

Thank you for the opportunity to comment on the proposed rule on the prescribing of controlled substances via telehealth.

The Telehealth Equity Coalition is a group of diverse stakeholders encompassing non-profits, academia, community leaders, industry, and others. We believe telehealth has the power to dramatically increase access to quality, affordable health care, especially among those who have been left out or left behind.

At no time in the last decade has the value of telehealth been more apparent than during the COVID-19 pandemic. In a time of great uncertainty, patients turned to telehealth en masse to maintain the connection to their primary care physicians, consult with medical professionals when they were experiencing COVID symptoms, and access mental health care as they dealt with the strain of a pandemic. From its inception, TEC has recognized the value that telehealth can provide – especially for populations that have difficulties accessing in-person care or have no access at all. The flexibilities provided during the pandemic by states and the federal government were critical to enabling patients to have sufficient access to their healthcare providers. As the public health emergency (PHE) comes to an end, patients and providers expect that they will have continued access to telehealth.¹

General Comments
The pandemic illuminated the need for patients to be able to connect with their practitioners virtually, especially when that was the only option. Even when in-person visits became possible again, telehealth use for consultations, well-checks, therapy sessions, and many other typical services remained high. Now as the country emerges

from the pandemic and PHE, telehealth usage remains much higher than pre-pandemic. According to FAIR Health data, telehealth made up 5.9% of all medical claims in January 2023\(^2\) versus 0.24% in January 2020\(^3\) – an increase of over 400%. This makes sense – in scenarios where a practitioner does not need to put hands on a patient to take the measure of the issue and decide collaboratively on a course of treatment, a virtual visit can have advantages for both parties. There are other situations where telehealth can be the only way a patient is able to seek and receive care – such as if they live in a rural area hours from the nearest provider, if they have transportation difficulties in an urban area, or care for a family member. Certain types of care comprise the majority of current telehealth visits, and perhaps the clearest example is behavioral health services, which made up a third of visits as of mid-year 2022.\(^4\) At a time when there is a pressing need for behavioral health care due to the pandemic, and when there is a shortage of providers, telehealth visits are plugging the gap by enabling easier visits and acting as a force multiplier for limit resources. This is critical to address disparities in access to mental health services, where Black, Hispanic, and Asian adults are less likely than White adults to receive mental health services.\(^5\)

We recognize that the DEA has a difficult task in attempting to balance sufficient access to telehealth visits while ensuring appropriate prescribing practices. It is important to strike a balance, as telehealth is an important piece of the care puzzle, and can be the only way individuals feel comfortable connecting with providers on sensitive issues such as substance use or behavioral health needs. For the treatment of these conditions, there are many prescriptions that treat a wide variety of conditions beyond the medication assisted treatment (MAT) for opioid use disorder (OUD) highlighted in the rule.\(^6\) This includes medications for the treatment of depression, anxiety, insomnia, epilepsy, and for gender-affirming care. Many of these patients would be severely impacted by any disruption in care in the case that an in-person visit is not feasible within a short amount of time – this is especially true for psychiatric care and chronic disease management. It is important that clinicians and patients are empowered to decide collaboratively on a course of care, and telehealth can be an important part of that process.

In other cases, an individual is located far from their provider, such as in rural areas and underserved communities, or there is no access to the specialists that can serve that

patient’s needs. A poignant example is in the realm of gender-affirming care. It can be very difficult for a patient to find a provider that can serve their needs and deliver culturally competent care, especially in underserved or unserved areas. A telehealth visit can be that lifeline when there are no other options. Testosterone is scheduled as a controlled substance and would be impacted under the proposed policy. Any barriers to patient access in this case are very impactful and can greatly impact the course of treatment. As the Administration finalizes these policies, we urge consideration of these factors.

We thank the DEA for the opportunity to weigh in on these important issues and for their work on these proposals. We stand ready to collaborate on appropriate solutions to ensure telehealth access for all.

Sincerely,

Telehealth Equity Coalition