



Minnesota Hospital Association

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March 31, 2023

The Honorable Anne Milgram
Administrator
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152

Submitted electronically through www.regulations.gov.

RE: Docket No. DEA-407: Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation

Dear Administrator Milgram,

On behalf of our member hospitals and health systems, the Minnesota Hospital Association (MHA) is concerned about limiting access to important mental health and substance use disorder services through the proposed rule on telemedicine prescribing of controlled substances.

The telehealth flexibilities instituted due to the public health emergency have been invaluable in expanding access to mental health services and helping mitigate the provider workforce shortage in Minnesota. Audio and video mental health services help circumvent some barriers to mental health care visits, such as transportation and stigma, especially in rural Minnesota. Specifically, by waiving the in-person visit requirement for virtual prescribing as required by the Ryan Haight Online Pharmacy Consumer Protection Act of 2008, providers have been able to ensure both established and new patients are able to receive medically necessary prescriptions.

The proposed rule will discontinue the ability for telemedicine prescribing of controlled substances where the patient has never had an in-person exam. MHA believes this will negatively impact patient-provider relationships established over the past three years, potentially jeopardizing access to necessary care for vulnerable patients. For example, one member is concerned about limiting access to hormone therapy for transgender and gender diverse youth, who may not have the ability to get in-person care. While we understand guardrails to virtual prescribing may be necessary to limit bad actors, we do not believe this is the right approach. Instead, we urge the DEA to consider proposing a special registration process for providers to have the ability to continue to prescribe medically necessary controlled substances via telehealth.

Thank you for the opportunity to comment and please feel free to contact me with any questions at bwifstrand@mnhospitals.org.

Sincerely,

Becky Wifstrand
Director of Federal Policy and Regulatory Affairs