

United States Senate

WASHINGTON, DC 20510

October 11, 2024

The Honorable Joseph R. Biden, Jr.
President
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear President Biden:

We write to express our serious concerns regarding initial reports about the Drug Enforcement Administration's (DEA) [draft proposed](#) rule that would impose substantial limitations on telemedicine prescribing of controlled substances.¹ We appreciated the DEA's extension of the telemedicine flexibilities through the end of the year while developing this proposal, but are concerned that the new policies would significantly restrict access to necessary and life-saving treatments. These restrictions would be detrimental to patients and a barrier to accessing care. As bipartisan senators committed to safeguarding public health and promoting equitable access to health care, we are concerned that the reported proposed restrictions could have significant unintended consequences, including disrupting access to treatment for substance use disorder. We urge the DEA to continue working with stakeholders on a proposal that prioritizes the public health benefit for continued access to telemedicine, and finalize an additional temporary extension well before the December 31, 2024 deadline so that both providers and patients have certainty that there will be no gap in their ongoing care.

Telemedicine has been instrumental in expanding access to health care, especially for individuals in rural and under-resourced areas. The flexibility afforded by telemedicine has been particularly important in providing access to essential medications, including those for mental health conditions, substance use disorders, and chronic illnesses. Telemedicine has proven to be an effective tool in reducing barriers to care, supporting those with the greatest need, and bridging the divide between patients and providers. At its pandemic peak, telemedicine represented 40 percent of mental health and substance use disorder outpatient visits and remains highly utilized, representing 36 percent of all outpatient visits of this type.² With over 57 million adults in the United States experiencing mental illness each year,³ and approximately two million individuals suffering from opioid use disorder,⁴ the need for accessible and effective treatment options is

¹ Leonard, B. (2024, August 28). DEA eyeing substantial limits to telemedicine prescribing. POLITICO Pro. <https://subscriber.politicopro.com/article/2024/08/dea-eyeing-substantial-limits-to-telemedicine-prescribing-00176574>

² Lo, J., Rae, M., Amin, K., Cox, C., Panchal, N., & Published, B. F. M. (2022, March 15). Telehealth has played an outsized role meeting mental health needs during the COVID-19 pandemic. KFF. <https://www.kff.org/mental-health/issue-brief/telehealth-has-played-an-outsized-role-meeting-mental-health-needs-during-the-covid-19-pandemic/>

³ 2021 NSDUH annual national report | CBHSQ data. (2023). Substance Abuse and Mental Health Services Administration. <https://www.samhsa.gov/data/report/2021-nsduh-annual-national-report>

⁴ Dydyk, A. M., Jain, N. K., & Gupta, M. (2024). Opioid use disorder. In StatPearls. StatPearls Publishing. <http://www.ncbi.nlm.nih.gov/books/NBK553166/>

undeniable. The pandemic telemedicine flexibilities increased access to medications, like buprenorphine, for vulnerable Americans with opioid use disorder, improved addiction treatment retention, and reduced overdoses.⁵ A disruption in access to essential and life-saving medication and services will be detrimental to the health and safety of patients everywhere.

According to the Centers for Disease Control and Prevention, there were an estimated 107,543 drug overdose deaths in the United States in 2023, including over 81,000 from opioids.⁶ Americans face barriers to accessing substance use disorder and mental health treatment services, particularly in rural and under-resourced communities. More than half of U.S. counties do not have a psychiatrist, including nearly three-quarters of rural counties.⁷ Rural counties also face additional provider shortages, with many lacking access to psychiatrists, psychologists, clinical social workers, and other behavioral health providers. Telemedicine flexibilities have ensured that patients receive timely and necessary care, at a time and location that is convenient for them. These challenges underscore the importance of maintaining flexibilities that increase access to treatment and services.

We understand the DEA's responsibility to address the risks associated with prescription drug diversion and abuse and to ensure that prescriptions for controlled substances are issued for a legitimate medical purpose. However, it is vital that any new regulations do not erect barriers to necessary, life-saving care. It is essential to strike a balance between regulatory oversight and accessibility, ensuring that patients who benefit from telemedicine continue to receive the care they need without undue impediments. Indeed, Congress has directed the DEA to allow telemedicine, including through a special registration that would strike this balance, both originally in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 as well as in law again in the SUPPORT for Patients and Communities Act in 2018.

We appreciate your attention to this important matter and look forward to a constructive dialogue on how best to address these concerns.

Sincerely,



Sheldon Whitehouse
United States Senator



Lisa Murkowski
United States Senator

⁵ Christopher Jones et al., Receipt of Telehealth Services, Receipt and Retention of Medications for Opioid Use Disorder, and Medically Treated Overdose Among Medicare Beneficiaries Before and During the COVID-19 Pandemic, JAMA PSYCHIATRY, <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2795953>.

⁶ U. S. overdose deaths decrease in 2023, first time since 2018. (2024, May 14). https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2024/20240515.htm

⁷ University of Michigan Behavioral Health Workforce Research Center. Estimating the Distribution of the U.S. Psychiatric Subspecialist Workforce. Ann Arbor, MI: UMSPH; 2018.



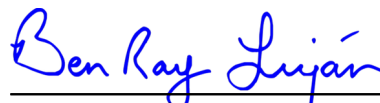
Mark R. Warner
United States Senator



Marsha Blackburn
United States Senator



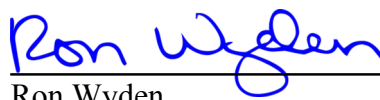
Peter Welch
United States Senator



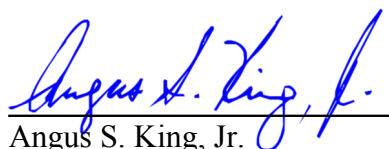
Ben Ray Lujan
United States Senator



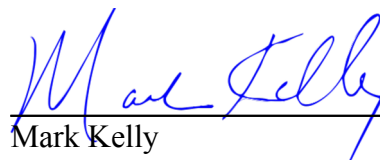
Jeffrey A. Merkley
United States Senator



Ron Wyden
United States Senator



Angus S. King, Jr.
United States Senator



Mark Kelly
United States Senator



Martin Heinrich
United States Senator

CC:

The Honorable Merrick B. Garland
Attorney General

The Honorable Anne Milgram
Administrator of the Drug Enforcement Administration

The Honorable Xavier Becerra
Secretary of Health and Human Services