

Congress of the United States
House of Representatives
Washington, DC 20515

October 11, 2024

The Honorable Anne Milgram
Administrator
Drug Enforcement Administration
U.S. Department of Justice
8701 Morrissette Drive
Springfield, VA 22152

Dear Administrator Milgram,

As Congressional champions for telehealth, we write to express our concerns with the reporting surrounding the Drug Enforcement Administration's (DEA) draft proposed rules concerning the remote prescribing of controlled substances via telemedicine.¹ We strongly encourage you to act before the end of the year to ensure patients do not lose access to care on January 1, 2025 by extending the current flexibilities for telemedicine prescribing of controlled substances.

We are grateful for your continued attention to this critical issue and the progress you have made towards creating a Special Registration for Telemedicine process. As you know, Congress has repeatedly directed DEA to create such a Special Registration, first in the Ryan Haight Online Consumer Protection Act of 2008. Following years of inaction by DEA, Congress again mandated DEA to promulgate a Special Registration rule in the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act in 2018. Yet, DEA has avoided its statutory obligation to create such a process for 16 years. We are encouraged that DEA is now seriously considering the option, including by reviewing thousands of comments and holding listening sessions with stakeholders to understand the public health perspective. We maintain our belief that the Special Registration process is a viable option to allow for patient access to care via telemedicine while balancing DEA's law enforcement mission.

However, the reports surrounding the content of DEA's draft proposed rule to create a Special Registration process are deeply concerning. If the reporting is true, the proposed content of the rule seems misaligned with Congressional intent in authorizing such a Special Registration process. Such a rule may unnecessarily risk care for thousands of patients reliant on telemedicine for critical medications. DEA itself, in its first attempt in 2023 to propose rules to provide a permanent framework for telemedicine prescribing of controlled substances following the pandemic, dismissed the idea of a Special Registration requirement out of fears that it would be "burdensome" for patients and providers.² The reported provisions of this draft rule – for example, categorically excluding whole classes of medications and providers based on their

¹ DEA eyeing substantial limits to telemedicine prescribing, <https://subscriber.politicopro.com/article/2024/08/dea-eyeing-substantial-limits-to-telemedicine-prescribing-00176574>

² Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation, <https://www.federalregister.gov/documents/2023/03/01/2023-04248/telemedicine-prescribing-of-controlled-substances-when-the-practitioner-and-the-patient-have-not-had>

usage of telehealth – would create significant burdens for patients and providers. We cannot condone such a potential interpretation of the Special Registration requirement.

Even if the reporting is inaccurate and DEA is prepared to propose a rule that would satisfy the needs of patients and providers, the clock is running out to ensure patients will not lose access to care. In communication to Congressional offices dated June 28, 2024, DEA noted their intention to “[give] patients and medical practitioners time to plan for, and adapt to, the new rules once issued.” If DEA were able to propose regulations today, those regulations would still need time to go through public notice-and-comment period prior to being finalized. Furthermore, the provider community would likely need an additional on-ramp period to allow for the implementation of the rules. To avoid any lapses in care, DEA must consider an extension of the current flexibilities.

Given the gravity of the situation and the impending cliff, we urge DEA to act in a timely manner to extend flexibilities for telemedicine prescribing on controlled substances.

We thank you for your attention to this critical issue and look forward to your response.

Sincerely,



Doris Matsui
Member of Congress



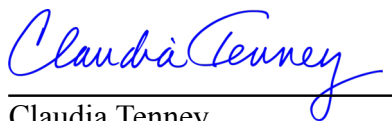
Earl L. "Buddy" Carter
Member of Congress



Mike Ezell
Member of Congress



Mike Thompson
Member of Congress



Claudia Tenney
Member of Congress



Seth Moulton
Member of Congress



August Pfluger
Member of Congress



Angie Craig
Member of Congress



Marcus J. Molinaro
Member of Congress



David J. Trone
Member of Congress



Robert E. Latta
Member of Congress



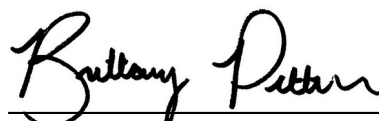
Lori Trahan
Member of Congress



Diana DeGette
Member of Congress



Kim Schrier, M.D.
Member of Congress



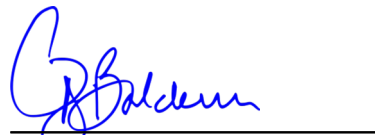
Brittany Pettersen
Member of Congress



Nanette Diaz Barragán
Member of Congress



Stephen F. Lynch
Member of Congress



Troy Balderson
Member of Congress

CC: President Biden, Attorney General Merrick Garland, Secretary Xavier Becerra