



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

To: The Honorable Anne Milgram, Administrator, US Drug Enforcement Agency

From: Massachusetts Medical Society

Re: **Docket No. DEA-948, Expansion of Induction of Buprenorphine via Telemedicine Encounter**

Date: March 31, 2023

The Massachusetts Medical Society (MMS) appreciates this opportunity to provide comment to the Drug Enforcement Agency (DEA) regarding Docket No. DEA-948, Expansion of Induction of Buprenorphine via Telemedicine Encounter. We submit the below comment letter on behalf of over twenty-five thousand physician, resident, and medical student MMS members, who come from all medical specialties, geographic locations, and practice settings throughout the Commonwealth. The Medical Society thanks DEA for its efforts toward offering proposed regulations to allow for the continued prescribing of controlled substances through telehealth beyond the conclusion of the COVID-19 Public Health Emergency (PHE) declarations. This letter, however, offers feedback from the physician perspective regarding the potential implications of this rule and how it may be improved for the benefit of both patients and physicians.

The MMS has been participating in advocacy efforts, including as part of the tMED Coalition, to maintain telehealth flexibilities and crucial access to medication for opioid use disorder (MOUD). Considering the DEA's proposed rule, the MMS is concerned about limiting access to OUD care at this time, when opioid use and increased overdoses have demonstrated the need for a federal public health emergency with regard to opioids. We are concerned how the proposed DEA rule would limit the prescribing of controlled substances and buprenorphine to a 30-day supply before requiring an in-person medical exam and how it would impose additional limitations on virtual prescribing of controlled substances without a prior in-person exam. Massachusetts physicians continue to face troubles with increased care volume, burnout, and workforce shortages, including challenges with timely access for initiation and continuation of OUD medications, which existed prior to the COVID-19 pandemic and still persist today.

The Medical Society is concerned that the proposed DEA regulation only allowing for a 30-day initial prescription will restrict access to telemedicine services, which could be detrimental to patients needing buprenorphine initiation and ongoing treatment. This concern is compounded by the ongoing burdens that health care facilities face in regard to workforce, capacity, and throughput challenges. MMS encourages the DEA to extend the prescription limitations to longer than the initial 30-day supply of buprenorphine in order to allow hospitals and OTP providers to adjust to the end of many PHE flexibilities that significantly altered medical practice. This extension would allow for greater continuity of care and critical patient access in many areas that have benefitted from expansion of services through telehealth prescribing.

Patients initiated on buprenorphine may have less retention and success in treatment if they are strictly limited to a 30-day initial supply. Many patients continue to have barriers to treatment access for various reasons. Some examples include current workforce shortages and the overall shortage of OTP community programs, which may have wait times to become an established patient that are longer than thirty days. This limitation will harm patients, who may be more likely to revert to using

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substances if they are not evaluated or enrolled in an OTP program with an in-person evaluation within this proposed timeframe. This proposed rule would also severely disadvantage patients in rural areas and those who are located far from OTP clinics or their prescribers. It would have negative implications for patients unable to visit health care providers during regular business hours and those who lack reliable transportation.

The proposed regulations by the DEA would create more challenges for those who need MOUD initiation, the bridging of MOUD prescriptions or care, or continued MOUD treatment. These timeframes are critical periods for treatment of OUD. The MMS supports proven patient safeguards, but throughout the COVID-19 PHE, the flexibilities granted by the federal government proved critical for treatment, access, and retention of those patients needing buprenorphine and other medications. As we have seen throughout the COVID-19 pandemic, it is not a threat to patient or public safety to prescribe MOUD via telehealth communications for longer than thirty days without an in-person visit. This is not to say that an in-person requirement is not prudent and appropriate but rather to suggest that quickly and bluntly removing these flexibilities and restricting telehealth use will unnecessarily increase barriers for patients needing MOUD to initiate and maintain treatment for opioid use. It will also increase the strain on our current healthcare facilities. During this period of transition, the MMS encourages DEA to offer an expanded limit on these prescriptions, allowing more leeway for physicians to use their discretion as to what is best for their patients.

We respectfully urge DEA to reconsider these proposed changes and to continue to think through how these policies can be furthered to reduce barriers and increase patient retention in these important treatment programs. Finally, we further support an extension of the current waivers for the prescribing of buprenorphine via telehealth pursuant to the Opioid Crisis Public Health Emergency that was renewed January 1, 2023.

Thank you again for this opportunity to provide written comments regarding Docket No. DEA-948, Expansion of Induction of Buprenorphine via Telemedicine Encounter. As always, the Massachusetts Medical Society appreciates the opportunity to provide comments and work with DEA on our shared goal of providing the highest quality health care to patients. The MMS' comments and recommendations are guided by our policies, our membership, and our commitment to providing high-quality, equitable care to all patients. Should you have any questions, please contact Casey Rojas, JD, MBE, Federal Relations & Health Equity Manager, by e-mail at CRojas@mms.org or by phone at 781-434-7082.