IN-PERSON VISIT IS NEVER AN APPROPRIATE GUARDRAIL FOR CARE PROVIDED VIA TELEHEALTH

The Drug Enforcement Administration's (DEA) highly anticipated proposed rule may continue to require an in-person requirement for medications that help people manage depression, anxiety, ADHD, substance abuse disorder, sleep disorders, terminal illness, and other medical issues. While it is the responsibility of the DEA to protect Americans from dangerous substances, the approach offered by the agency – of requiring an in-person provider visit – is over broad and will lead to harsh consequences for many Americans relying on telehealth for access to health services.

There is no evidence that an in-person requirement is medically necessary for the delivery of comprehensive health services.

- A 2024 study published in JAMA Health Forum found that a new in-person visit requirement would substantially change current mental health practice.
- A 2022 research study published in Psychiatric Services found that psychiatrists "offered in-person care because of patient preference, but few felt that any specific scenarios required only in-person care from a clinical standpoint."
- A 2022 study conducted by Epic Research found that mental health and psychiatry had among the lowest rates of needed in-person follow-up, indicating that patient needs are fully met through telehealth. In fact, follow-up care is significantly more common among individuals whose care was initiated via telemedicine than among those receiving in-person care.

There is no evidence that an in-person requirement would be an effective guardrail against diversion of these substances.

- A prime example is the fact that the opioid epidemic occurred through abuse of in-person care, despite widespread recognition and concern.
- There is no evidence that stimulant abuse is more prevalent for telehealth services than for traditional in-person providers.
- There are many examples of better guardrails that can be implemented using the DEA special registration framework – such as enhanced oversight of organizations prescribing high-numbers of stimulants, and ensuring providers have adequate training to oversee care that involves a stimulant. Prescribing providers are willing to undergo additional scrutiny to ensure their patients receive continued access to their care through a special registration process.

There is no evidence that an in-person requirement would be an effective guardrail against diversion of these substances.

- The **Medicare Payment Advisory Commission (MedPAC) Commissioners** discussed their support for the removal of in-person requirements in Medicare with respect to behavioral health. Commissioners agreed that an in-person requirement for behavioral health services is a baseless provision for fraud concerns.
- During a House Energy & Commerce hearing and a House Ways & Means hearing, noted telehealth skeptic **Dr. Ateev Mehrotra** stated in his written testimony that "in-person visit requirements limit the ability of telehealth to expand access to mental health services for patients who live far from any mental health clinician and, therefore, cannot have in-person care."
- At the DEA listening session, **Shabana Khan, M.D., chair of the American Psychiatric Association (APA) Committee on Telepsychiatry**, said an in-person requirement would "[force] practitioners to cherry-pick patients that have the ability to travel to in-person care."

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