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March 28, 2023

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

Re: Expansion of Induction of Buprenorphine via Telemedicine Encounter (Docket No. DEA-948)

Dear Administrator Milgram,

The American Academy of Child and Adolescent Psychiatry (AACAP) appreciates the opportunity to comment on the U.S. Drug Enforcement Administration's (DEA) proposed rule authorizing "Expansion of Induction of Buprenorphine via Telemedicine Encounter." Many of our comments offered in response to Docket No. DEA-407, "Telemedicine prescribing of controlled substances when the practitioner and the patient have not had a prior in person medical evaluation," are relevant here. In particular, we respectfully call your attention to our comments on the rule's incompatibility with the current practice of medicine, the impact of burdensome and confusing record-keeping and registration requirements and the importance of establishing a "special registration for telemedicine."

AACAP is the medical professional home to more than 10,000 child and adolescent psychiatrists, fellows, residents, and medical students, many of whom treat adolescents and transitional aged youth suffering with substance use disorders. Child and adolescent psychiatrists are a highly trained workforce of medical doctors who have extensive specialized training in both adult and child psychiatry whose patients have benefited greatly from increased access to telemedicine visits during the Public Health Emergency (PHE). As such, we are uniquely qualified to comment on the impact this proposed rule will have on children and adolescents' access to specialty mental health care, including pharmacological treatment for substance use disorders.

Americans are struggling with two national behavioral health crises--a children's mental health crisis and an opioid use disorder crisis. In many communities, these crises converged, impacting many members of a family and many

generations. The COVID-19 pandemic exacerbated these crises by cutting off access to treatment and further isolating patients from their support systems. In declaring COVID-19 a public health emergency (PHE), the federal government waived requirements across public health programs that enabled healthcare providers to maintain Americans' access to healthcare throughout the pandemic. Telehealth flexibilities were critical in maintaining patients' access to care, including the flexibility to prescribe buprenorphine, a schedule III narcotic partial opioid agonist, to patients diagnosed with an opioid use disorder for whom the prescribing provider had not first examined in person. Despite historical concerns that telemedicine, including the electronic prescription of controlled substances, would lead to substandard care and diversion of controlled substances, telemedicine proved to be a safe and effective way to deliver this evidence-based and highly effective opioid use disorder medication[i]. Moreover, telemedicine extended the reach of psychiatrists and other behavioral health specialists already in short supply to patient populations in underserved areas and into less traditional healthcare settings like homes, in-patient treatment facilities, and criminal justice facilities.

Proposed Rule Restricts Access to Opioid Use Disorder Care

AACAP is concerned that the DEA's proposed rule on "Expansion of Induction of Buprenorphine via Telemedicine Encounter" ("proposed rule") will undermine the Administration's goal of reducing opioid overdose deaths. Buprenorphine is a lifeline for many Americans suffering with an opioid use disorder. Patients who initiated treatment on buprenorphine during the PHE are at risk of losing access to these medications, should this proposed rule be implemented, and at risk of relapse, overdose, and death.

AACAP appreciates the DEA creating a pathway for providers to issue an initial buprenorphine prescription of no more than thirty days without having first conducted an initial in-person exam. Further, we understand that the patient must have an in-person exam with the prescriber before additional prescriptions can be issued. Unfortunately, the number of providers willing to prescribe buprenorphine for the treatment of opioid use disorder is insufficient to meet the current demand for this medication. In fact, nearly one-third of U.S. counties lack a buprenorphine provider. Telemedicine enabled patients living in communities lacking buprenorphine providers to engage in treatment with a provider in another part of the state or country. ***AACAP recommends that the DEA amend the proposed rule to allow the provider to issue a buprenorphine prescription (or prescriptions) for no more than a ninety-day supply.*** This recognizes the gaps in access to in-person opioid use disorder treatment and facilitates continuity of care for patients who require these medications for the treatment of their opioid use disorder.

Proposed Rule May Limit Access to Future OUD Medications

As currently written, section 1306.04 of the proposed rule appears to only authorize providers to prescribe buprenorphine via telemedicine since it is currently the only FDA approved schedule III-V narcotic controlled substance for the treatment of OUD. ***AACAP recommends that the DEA amend the rule to apply this flexibility to any (existing and new) FDA-approved schedule III-V narcotic controlled substance for the treatment of OUD to facilitate access to avoid requiring future updates to this rule.***

AACAP also suggests that this rule be combined with the Notice of Proposed Rulemaking, "Telemedicine prescribing of controlled substances when the practitioner and the patient have not had a prior in-person medical evaluation" in a Final Rule to address confusion over which of the two proposed rules supersedes the other related to the rules for prescribing narcotic schedule III-V controlled substances.

Thank you, again, for the opportunity to comment on this proposed rule. We applaud the DEA's work to improve patient access to buprenorphine for the treatment of opioid use disorder and address our nation's opioid use disorder crisis. Please reach out to Alexis Geier Horan, Chief of Advocacy and Practice Transformation, at ahoran@aacap.org, with any questions or

Sincerely,

Warren Y.K. Ng, MD, MPH

President

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[i] Association of Receipt of Opioid Use Disorder–Related Telehealth Services and Medications for Opioid Use Disorder With Fatal Drug Overdoses Among Medicare Beneficiaries Before and During the COVID-19 Pandemic | Substance Use and Addiction Medicine | JAMA Psychiatry | JAMA Network