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8501 West Higgins Road, Suite 400
Chicago, IL 60631
Phone: 847.952.5100
www.acofp.org

March 12, 2025

VIA ELECTRONIC SUBMISSION

Mr. Derek Maltz
Acting Administrator
Drug Enforcement Administration
Attn: DEA Federal Register Representative/DPW
8701 Morrissette Drive
Springfield, Virginia 22152

Dear Acting Administrator Maltz:

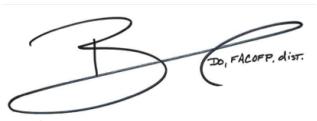
On behalf of the American College of Osteopathic Family Physicians (ACOFP), we appreciate the opportunity to comment on the Drug Enforcement Administration (DEA) notice of proposed rulemaking, *Special Registrations for Telemedicine and Limited State Telemedicine Registrations*.

ACOFP is the professional organization representing more than 26,000 practicing osteopathic family physicians, residents, and students throughout the United States who are deeply committed to advancing our nation's health care system by improving health care delivery and outcomes and ensuring that patients have access to high-quality care.

Our comments focus on: (1) ensuring appropriate electronic prescribing and prioritizing in-person care; (2) maintaining state level regulation of telemedicine; (3) avoiding additional administrative burdens for providers; and (4) opposing telemedicine prescribing privileges for nonphysician practitioners that are the same or greater than physician telemedicine prescribing privileges.

Our full comments are detailed on the following pages. Thank you for the opportunity to share our feedback with you. Should you need any additional information or if you have any questions, please feel free to contact ACOFP at advocacy@acofp.org or (847) 952-5100.

Sincerely,



Brian A. Kessler, DO, DHA, FACOFP, *dist*.
President, ACOFP

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I. Prescribing Medications Based on In-Person Evaluations of Patients is the Gold Standard

This proposed rule would create a Special Registration framework for practitioners who wish to prescribe controlled substances to individuals they have never evaluated in-person via telemedicine. The proposal would authorize three types of Special Registrations.

ACOFP is concerned about DEA's proposal to expand the prescribing of controlled substances to individuals whom practitioners have never evaluated in-person. While we recognize the goal of ensuring access to care, we believe that in-person care is the gold standard, and that telemedicine should be used as a limited tool only when there is no other option. ACOFP members too often have witnessed the risks associated with prescribing medications, especially controlled substances, to patients via telemedicine when an in-person evaluation has not taken place. This includes questionable diagnoses, which necessitate re-evaluations of patients, and complications that arise after a telemedicine visit. An in-person evaluation of a patient best ensures appropriate prescribing of controlled substances.

II. Maintaining State Level Regulation of Telemedicine

This proposed rule would impose additional federal requirements for physicians. For instance, DEA would require each "special registrant" to maintain a State Telemedicine Registration for every state in which a patient is treated by that provider. The State Telemedicine Registration would be issued by DEA, not the states. This DEA-issued registration would be required for every state in which the practitioner intends to issue prescriptions for controlled substances to patients via telemedicine. Also, a physician would be subject to fees to obtain a special registration.

ACOFP does not support unnecessary federal regulation when telemedicine is already adequately regulated by the states. State licensing boards are responsible for telemedicine and prescribing, and the additional requirements in this proposed rule would be on top of the existing state level requirements. This type of overregulation can contribute to additional administrative burden that results in more physician time spent on compliance rather than providing care to patients.

III. Reducing Administrative Burden and Protecting Practitioners

In addition to the registration requirements and fees discussed above, the proposed rule would mandate heightened prescription, recordkeeping, and reporting requirements. Registrants would remain subject to existing recordkeeping and reporting obligations and would also be subject to additional requirements within the Special Registration framework, such as establishing and maintaining photographic records for patient verification and

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maintaining special registration prescription records at the registrant's designated special registered location.

ACOFP is concerned about these additional recordkeeping and reporting requirements given the added burden and cost for providers associated with complying with these requirements.

Burdensome paperwork requirements are contributing to the physician shortage and are inhibiting appropriate patient care. Many physicians, burned out by paperwork requirements, retire early or leave medical practice for another profession, especially those in small, rural, and solo practices where they do not have the resources to manage all the requirements. As more of these practices are forced to close or relocate, healthcare shortages increase, and more communities lose access to care. These additional reporting requirements would risk increasing the existing administrative burden on physicians and disproportionately impact small, rural, and solo practitioners.

IV. Limits to Who May Prescribe Controlled Substances via Telemedicine

Under the proposed rule, physicians and mid-level practitioners are eligible for the Advanced Telemedicine Prescribing Registration. Physicians and mid-level practitioners, as clinician practitioners, would need to demonstrate they have a legitimate need for the Special Registration and that such need warrants the authorization of prescribing of Schedule II controlled substances in addition to Schedules III through V controlled substances. DEA states that the agency has determined that certain specialized physicians and board-certified mid-level practitioners have a legitimate need to prescribe Schedule II controlled substances via telemedicine when treating particularly vulnerable patient populations. Notably, a physician with a Telemedicine Prescribing Registration, which only authorizes the prescribing of Schedules III through V controlled substances, would not be permitted to prescribe Schedule II controlled substances like a nonphysician practitioner with an Advanced Telemedicine Prescribing Registration.

ACOFP opposes this proposed two-tiered system in which nonphysician practitioners are able to prescribe Schedule II controlled substances, but physicians are not. Mid-level practitioners should not have the same or greater prescription privileges than physicians. Physician-led care teams are the gold standard for care delivery and nonphysician-led care teams are not equivalent because they do not have the same training or education. A family physician will spend an additional 18,900 hours on education and training compared to mid-level practitioners.[1] Decades of evidence have shown that physicians are better positioned

[1] Primary Care Coalition. Compare the education gaps between primary care physicians and nurse practitioners. *Texas Academy of Family Physician*. https://tafp.org/Media/Default/Downloads/advocacy/scope-education.pdf.

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to deliver high-quality care because of their demanding education and professional training requirements. As a result, beneficiaries experience better health outcomes and Medicare realizes overall savings from healthier seniors.[2, 3, 4] While the use of nonphysician practitioners may be appropriate under certain conditions and with adequate physician supervision, the nonphysician practitioner model is not an equivalent substitute to the use of family physicians and is not appropriate under the proposed circumstances.

[2] Lohr RH, West CP, Beliveau M, et al. Comparison of the quality of patient referrals from physicians, physician assistants, and nurse practitioners. *Mayo Clin Proc*. 2013; 88(11):1266–1271. doi:10.1016/j.mayocp.2013.08.013.

[3] Hughes DR, Jiang M, Duszak R Jr. A comparison of diagnostic imaging ordering patterns between advanced practice clinicians and primary care physicians following office-based evaluation and management visits. *JAMA Intern Med*. 2015;175(1):101–107. doi:10.1001/jamainternmed.2014.6349.

[4] Muench U, Perloff J, Thomas CP, Buerhaus PI. Prescribing practices by nurse practitioners and primary care physicians: a descriptive analysis of Medicare beneficiaries. *Journal of Nursing Regulation*. 2017;8(1):21–30. doi:10.1016/S2155-8256(17)30071-6.