



March 31, 2023

The Honorable Anne Milgram, Administrator
U.S. Drug Enforcement Administration
800 K Street NW, Suite 500
Washington, DC 20001

Re: Public Comment on Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-person Medical Evaluation (Docket No. DEA-407)

On behalf of Children's Wisconsin, I appreciate the opportunity to provide comments on the proposed rule: Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-person Medical Evaluation (Docket No. DEA-407).

Children's Wisconsin (Children's) is the state's only independent health system dedicated solely to the health and well-being of kids. We serve children and families in every county across the state, with inpatient hospitals in Milwaukee and the Fox Valley and more than 30 primary, specialty and urgent care clinics. At Children's, we believe caring for a child's mental and behavioral health is just as important as caring for their physical health. Our expertise on mental health runs wide and deep: we treat thousands of kids with mental and behavioral health challenges every year at our primary care and specialty clinics, through our foster care and adoptive services, and in schools and communities throughout the state.

As reflected in the U.S. Surgeon General's December 2021 Advisory and the declaration of a "national health emergency in child adolescent mental health" by leading pediatric health care organizations, including Children's Wisconsin, there is an urgent need to address the nation's youth mental health crisis. Prior to the pandemic, Wisconsin, like the rest of the country, was experiencing alarming rates of mental health hospitalizations, suicide rates and depression among children and adolescents. The pandemic has hit children's well-being hard and directly, exacerbating what was already a growing crisis. In Wisconsin 1 in 5 children are living with a serious mental health illness and anxiety, depression, and suicide reports are up, with the percent of students feeling sad and hopeless almost every day jumping to nearly 34 percent, a 10 percentage point increase over the last ten years.

Children's has invested in a number of initiatives to improve kids' access to mental and behavioral health care, including putting in place systems to detect needs sooner and help kids before they are in crisis; reduce the stigma by supporting a system of care that ensures mental health is part of every check-up and doctor visit; and meeting kids and families where they are by bringing mental and behavioral care closer home by providing more services in schools, clinics and using technology to reach far and wide.

Like other health systems, since the start of the pandemic we have made significant investments to accelerate the use of telemedicine services. We have found this strategy has been particularly critical in providing and expanding access to mental and behavioral health services. Telemedicine reduces common barriers for kids and their families to access care, such as transportation and requiring time away from school and work. We have also found that some children are more comfortable with initiating and continuing services using telemedicine. In fact, in 2022, 30 percent of all mental and behavioral health visits in Children's system were conducted via telemedicine.

Importantly, telemedicine has helped Children's address the significant workforce shortages that exist in the state. While there are too few mental health providers across all disciplines—including therapists and psychologists—the shortages of pediatric psychiatric care providers are particularly acute in the state. According to the American Academy of Child and Adolescent Psychiatry, out of 72 counties in Wisconsin, 66 counties don't have pediatric psychiatrists.

In order to improve access to pediatric psychiatrists, Children's partnered with an external firm to establish a telepsychiatry program. The providers are located out-of-state and children receive these services from a Children's outpatient clinic location for the initial visit and subsequent services are provided via telemedicine encounter with the child located at the clinic or at home. Since starting the program, we have significantly reduced Children's wait list for psychiatric care from 300 kids to 70 kids, and provided over 8,000 visits in the last two years. At this time, the time-to-next-appointment for kids to see an in-person psychiatrist is 7 months, yet there are almost immediate openings for kids to access these tele-psychiatry services. This option is critical to ensuring kids in the state have access to the psychiatric care they need.

Given the severe shortages of psychiatrists and other mental health providers in the state and the current critical need for these services, we are very concerned that this proposed rule could lead to significant challenges to children accessing necessary and appropriate mental and behavioral health care. To that end, we urge the Drug Enforcement Agency (DEA) to consider the following changes.

Amend proposed regulation to allow for telemedicine prescribing of Schedule IIN stimulants via telemedicine in the same manner as the proposed rule allows for telemedicine prescribing of Schedule III, IV or V non-narcotic controlled medications.

We encourage the DEA to allow a subset of the schedule IIN stimulants that are often prescribed for conditions such as Attention-deficit/hyperactivity disorder (ADHD) (i.e. Adderall, Ritalin, Concerta, Focalin, Quillivant XR, and Vyvanse) to be prescribed via telemedicine in the same manner as the proposed rule allows for telemedicine prescribing of Schedule III, IV or V non-narcotic controlled medications. Over the last six months, over 1,600 patients have received telepsychiatry services and nearly 50 percent are on Schedule IIN stimulants. We believe treating these medications in a similar fashion as the ones mentioned above by allowing an initial 30 day prescription issued by a pediatric psychiatry via at telemedicine encounter is important to ensure continued, safe access for kids struggling with mental health disorders. These medications are critically important to kids' ability to learn, socialize and participate in daily activities and help promote their well-being at home and at school. Given the high demand for mental and behavioral health services, the significant shortages of providers and the barriers to accessing in-person pediatric providers across the state, it is important the proposed rule be modified to ensure there is not a gap in kids continuing to access these important medications.

Revise definition of allowable in-person medical examination to include a face-to-face examination by a qualified health care provider, such as a registered nurse, with a DEA-authorized prescribing practitioner that participates in the exam via audio-video encounter.

Given the shortages of pediatric psychiatrists, and other pediatric specialists and providers, we believe that additional flexibilities are needed to ensure that kids will have timely access to providers that can perform the required in-person medical evaluation. While we appreciate the "qualifying telemedicine referral" option and will seek to utilize this for children that are part of Children's Wisconsin's primary care network, for many of our patients, this requirement will create additional barriers and delay access to care. This is especially true for children who access our telemedicine services from across the state and/or whose primary family medicine or pediatrician has no connection with our health system. Often they may not have the resources or infrastructure necessary to put in place the requirements to make these referrals in the necessary time frame if, at all. Additionally, many of our patients access our services through a referral from a mental and behavioral health

professional such as a therapist or psychologist who are not DEA-registered practitioners. Importantly, our pediatric telepsychiatry program allows us to provide access, without a provider referral, for patient families when they contact our mental and behavioral health access center for support.

In order to ensure timely access to care and necessary medications to manage children's mental and behavioral health conditions, we believe that the in-person evaluation should allow for the physical presence of a registered nurse, rather than a DEA-registered practitioner, while the DEA-registered pediatric psychiatrist performs the evaluation remotely in an audio-video telemedicine encounter. The pediatric psychiatrist can direct the examination through the health care provider in the room to the extent needed. Additionally, the patient is still required to show up in-person, making it easier to detect drug-seeking behavior and interact with the child's parents or legal guardian during the visit. Importantly, this will help ensure timely access to the pediatric psychiatrist who is trained and has the expertise for prescribing psychiatric medications to children, including stimulants, and managing children who are on multiple psychiatric medications.

Pediatric telepsychiatry has vastly improved access to specialized care for thousands of children in Wisconsin and many more across the nation. Kids are struggling and we must do all that we can to respond to their needs and provide access to the right care and services in a timely manner and where they need them. We strongly support the proposed rules aim to ensure safe and appropriate usage of controlled substances and believe those goals can be met by the proposed changes outlined above which will help ease the transition from the public health emergency for those children that depend on the use of telemedicine for their pediatric psychiatry services.

Thank you for the opportunity to provide comments and appreciate your consideration.

A handwritten signature in black ink, appearing to read "Smriti Khare", with a horizontal line underneath the name.

Smriti Khare, M.D.
Senior Vice President and Chief Mental and Behavioral Health Officer
Children's Wisconsin