June 21, 2023

The Honorable Brett Guthrie
Chairman
House Committee on Energy and Commerce
Subcommittee on Health
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member
House Committee on Energy and Commerce
Subcommittee on Health
Washington, DC 20515

Re: Reauthorization of The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act of 2018

Dear Chairman Guthrie and Ranking Member Eshoo:

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) thanks you for your work to reauthorize the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act of 2018 and appreciates the opportunity to provide feedback to the Subcommittee.

With a membership of more than 60,000 medical practice administrators, executives, and leaders, MGMA represents more than 15,000 medical groups in which more than 350,000 physicians practice. These groups range from small private practices in rural areas to large regional and national health systems, and cover the full spectrum of physician specialties and organizational forms, making MGMA well-positioned to offer the following feedback.

While the Subcommittee is reviewing the reauthorization the SUPPORT Act, MGMA urges consideration of certain policies that would help bolster medical groups' ability to offer high-quality behavioral and mental health telehealth care. These last few years have seen the expansion of telehealth for behavioral services to meet an increased demand that was exacerbated by the COVID-19 pandemic. Thirty percent of MGMA members surveyed last fall said they are looking at adding or expanding behavioral health services in 2023.[1] Ensuring medical groups have the tools to treat patients effectively – especially those in rural communities or areas experiencing a shortage of mental health professionals – is vital to a well-functioning health system.

Institute an appropriate process for the administration of controlled substances via telehealth

During the COVID-19 public health emergency (PHE), the Drug Enforcement Agency (DEA) waived the in-person requirement for prescribing controlled substances through telehealth under the *Ryan Haight Online Pharmacy Consumer Protection Act of 2008*. The DEA instituted flexibilities along with other federal agencies that enabled necessary mental health treatment to continue unabated during the PHE.

Earlier this year, the DEA released two proposed two rules that would allow for certain permanent exceptions to the in-person requirement for prescribing controlled substances. The DEA received over

[1] MGMA Stat Poll, Sept. 28, 2022, https://www.mgma.com/practice-resources/quality-patient-experience/how-medical-practices-are-adapting-to-the-surge-in.

38,000 comments in response to its proposal, and MGMA joined other stakeholders in raising concerns that the rules as proposed would curtail access to care and were too restrictive.[2] The Substance Abuse and Mental Health Services (SAMHSA) and DEA jointly released a temporary rule extending COVID-19 telehealth flexibilities for prescribing controlled substances once the PHE ended on May 11. This temporary extension is meant to smooth the transition for patients and practitioners who use telemedicine while the agency works on developing a permanent rule.

MGMA urges the Subcommittee to ensure clinicians have the necessary flexibility under the *Ryan Haight Act* as there is significant need for the provision of mental health treatment through telehealth including the prescribing of controlled substances. Providers need certainty and the ability to prescribe medication as part of an ongoing mental health treatment plan without onerous requirements.

Remove the in-person requirement for behavioral health visits

The Consolidated Appropriations Act of 2021 instituted Medicare policies allowing practitioners to provide telehealth services for treatment of a mental health disorder other than for treatment of a diagnosed substance use disorder (SUD) or cooccurring mental health disorder to patients in non-rural areas and their home. After the PHE ended, Medicare coverage would have been contingent on there being an initial in-person visit within six months prior to the furnishing of telehealth services, and an in-person visit within 12 months of each mental telehealth service furnished. Subsequent legislation delayed these requirements until Jan. 1, 2025.

MGMA believes that removing this in-person requirement would promote equitable access to essential mental telehealth services. Patients may not be able to travel for an in-person visit for a multitude of reasons, and this arbitrary six-month requirement may discourage patients from seeking care.

Conclusion

Access to mental telehealth services is crucial as nearly a third of Americans show symptoms of anxiety and depression.[3] We appreciate the Subcommittee's attention to reauthorizing the SUPPORT Act and hope you will consider these policies to further promote high-quality telehealth care and reduce regulatory burden for medical groups. If you have any questions about the above recommendations, please contact James Haynes at jhaynes@mgma.org or 202-293-3450.

Sincerely,

/s/

Anders Gilberg
Senior Vice President, Government Affairs

[2]Stakeholder Letter to the DEA, Mar. 31, 2023, https://www.mgma.com/getmedia/5c823ba0-48b0-4ac1-b1bb-72ccced42c6a/03-31-2023-Stakeholder-Mental-Health-Letter-on-DEA-Telemedicine-Rule.pdf.aspx?ext=.pdf.
[3] Nirmita Panchal, Heather Saunders, Robin Rudowitz, and Cynthia Cox, *The Implications of COVID-19 for Mental Health and Substance Use*, Kaiser Family Foundation, Mar. 20, 2023, https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/.