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The Honorable Derek S. Maltz
Acting Administrator
United States Drug Enforcement Administration
800 K St. NW Suite 500
Washington, DC 20001

Re: Special Registrations for Telemedicine and Limited State Telemedicine Registrations (Docket No. DEA-407)

Dear Acting Administrator Maltz:

Vizient, Inc. appreciates the opportunity to provide feedback to the Drug Enforcement Administration (DEA) regarding the proposed rule "Special Registrations for Telemedicine and Limited State Telemedicine Registrations" (hereinafter, "Proposed Rule"). Vizient appreciates DEA's efforts to provide telemedicine prescribing flexibility since the COVID-19 public health emergency (PHE) as access to telemedicine services has proved to be integral to patient care.

Background

Vizient, Inc. provides solutions and services that improve the delivery of high-value care by aligning cost, quality and market performance for more than 65% of the nation's acute care providers, including 97% of the nation's academic medical centers, and more than 35% of the non-acute market. Vizient provides expertise, analytics, consulting services and a contract portfolio that represents $140 billion in annual customer purchasing volume to improve patient outcomes and lower costs.

Recommendations

While Vizient thanks the DEA for issuing an updated Proposed Rule which is more flexible than prior proposals,[1] we believe there are numerous opportunities to ease provider burden and add clarity. Vizient encourages the DEA to finalize a telemedicine prescribing framework that is more similar to the flexibilities that have been in place since the COVID-19 PHE which are less burdensome and helped expand access while preventing disruptions to care.

Three Types of Special Registration and Eligibility of Clinician Practitioners and Platform Practitioners

In the Proposed Rule, DEA provides three types of special registration for prescribing[2] and ancillary registrations for state telemedicine. Under this framework, DEA proposed additional

[1] https://www.federalregister.gov/documents/2023/03/01/2023-04248/telemedicine-prescribing-of-controlled-substances-when-the-practitioner-and-the-patient-have-not-had

[2] The three proposed types of telemedicine prescribing registration are: Telemedicine Prescribing Registration, Advanced Telemedicine Prescribing Registration and Telemedicine Platform Registration.

requirements on prescribers related to state licensure and location, including a reversion back to the pre-pandemic policy of requiring the prescribing practitioner to be registered with DEA in the state that the provider and the patient are located when the telemedicine visit occurs. Vizient is concerned that imposing additional requirements on both providers and patients who have grown accustomed to current flexibilities that support patient access to care will disrupt care and harm patients. Vizient recommends that DEA ease regulatory burdens by providing both providers and patients with similar registration flexibilities as provided since the COVID-19 PHE.

Threshold for Special Registration Prescriptions

DEA proposes to limit the proportion of Schedule II controlled substance prescriptions that are provided by a clinician special registrant per calendar month. Specifically, DEA would require that the average number of special registration prescriptions for Schedule II controlled substances constitute less than 50 percent of the total number of Schedule II prescriptions issued by the clinician special registrant in their telemedicine and non-telemedicine practice in a calendar month. Imposing such rigid thresholds can be extremely disruptive to care as it may limit which patients providers see, such as patients in rural areas or those with other transportation barriers. Further, from the Proposed Rule, it is unclear why DEA selected a 50 percent threshold or how DEA envisions providers being able to implement this requirement. For example, tracking and forecasting prescriptions would be extremely challenging for providers and could potentially impose excessive burdens across providers to assure that the threshold has not been met or exceeded. Vizient encourages DEA to ease regulatory barriers by not imposing the proposed prescribing threshold.

Administrative Burden

More broadly, the Proposed Rule's special registration framework and related requirements, including recordkeeping, notification requirements and prescription drug monitoring program (PDMP) checks with reciprocity agreements, create additional, avoidable burden. Vizient encourages DEA to identify opportunities to simplify the Proposed Rule by easing these regulatory requirements so that they are more akin to policies that providers have met since the pandemic.

Lastly, Should DEA finalize these additional requirements, and other concerning changes noted in our comments, we emphasize the strong need for additional education to help providers navigate the complexities of the regulation. Further, a more flexible approach to implementation, such as a longer transition to the new regulations may be warranted.

Thank you for your consideration. Please do not hesitate to contact me at (202) 354-2607 or shoshana.krilow@vizientinc.com if you have any questions or if we can be of assistance.

Sincerely,

Shoshana Krilow
Senior Vice President, Public Policy & Government Relations