ata ACTION
Telehealth Policy to Transform Healthcare

March 31, 2025

Leanne K. Diakov
General Counsel
Kentucky Board of Medical Licensure
Public Health Policy Director
310 Whittington Parkway, Suite 1B,
Louisville, Kentucky 40222
Leanne.diakov@ky.gov

RE: ATA ACTION COMMENTS ON PROPOSED RULES REGARDING PROFESSIONAL STANDARDS FOR PRESCRIBING OR ADMINISERING BUPRENORPHINE

Dear Ms. Diakov,

On behalf of ATA Action, I am writing to provide comments regarding proposed amendments to 201 KAR 9:270. Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with Naloxone.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

Our organization is concerned that elements of the proposed amendments will further exacerbate effects of the barriers currently in place on Kentucky patients receiving treatment for opioid use disorder (OUD) via telemedicine. Specifically, the requirements regarding in-office observed initiation at the bottom of page eight and top of page nine of the proposed rules are not compatible with telehealth care. While the requirement for licensees to recommend an in-office initiation is in existing rule, the increased requirements for the licensee and the initiation, such as coordination and planning for a precipitated withdrawal, make providing OUD care via telehealth more arduous and unlikely for patients to access.

Our organization believes that licensed practitioners should be able to utilize the full range of available telehealth technologies while delivering virtual care, so long as the technologies being used are appropriate to meet the standard of care for the condition presented by the patient. We acknowledge that there are situations in which the standard of care for the condition presented by the patient cannot be met through telehealth modalities. This could be due to any number of reasons such as inability to properly evaluate the patient's condition outside of an in-person setting or due to technological barriers such as requiring equipment that the patient does not have access to at their

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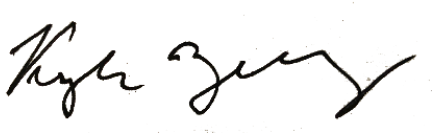
location. In these instances, it is the responsibility of the provider to take steps to treat the patient in-person or direct them to seek other treatment that does meet the standard of care. It should be licensed professionals, guided by the standard of care, making decisions on what modalities are appropriate for patient care, not rule and statute.

Furthermore, telehealth has proven to be a very effective tool for treating OUD. An October 2023 study found that Medicaid enrollees who initiated buprenorphine treatment for OUD via telemedicine had better odds of 90-day retention when compared to patients who did not initiate through telemedicine.[1] Furthermore, use of telemedicine initiation was not associated with any increase in opioid-related nonfatal overdose.[2] Finally, a study of both rural and urban areas in New York showed that "telemedicine for buprenorphine initiation is eliminating many traditional barriers to treatment, in particular for individuals leaving incarceration, and people who use drugs and access syringe service programs."[3] With the proven success of telemedicine as a tool in helping patients with OUD, ATA Action is disappointed to see the Board maintain and expand upon rules which require in-person visits. Not only can telehealth be more convenient for patients, but it can also come with cost savings, particularly for those in rural or underserved areas who may have to make long trips or take time off work to access care which a telehealth appointment can provide without the need for such efforts. Additionally, telehealth care for OUD is an attractive option for patients who face stigma while seeking treatment, especially in small communities.

ATA Action is supportive of the amendments made at the top of page 13 of the proposed rules which allow formal consultations to occur via telehealth if it would meet the same standards of acceptable and prevailing evaluative practices of a physical in-person evaluation. The Board should use this same approach for all elements of treatment of OUD with buprenorphine, allowing care via telehealth modalities as long as the standard of care is met.

Thank you for the opportunity to comment. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telemedicine policy in Kentucky. If you have any questions or would like to engage in additional discussion regarding the telemedicine industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,



Kyle Zebley
Executive Director
ATA Action

[1] Hammerslag LR, Mack A, Chandler RK, et al. Telemedicine Buprenorphine Initiation and Retention in Opioid Use Disorder Treatment for Medicaid Enrollees. JAMA Netw Open. 2023;6(10):e2336914.
[2] Hammerslag LR, Mack A, Chandler RK, et al.
[3] Wang, L., Weiss, J., Ryan, E. B., Waldman, J., Rubin, S., & Griffin, J. L. (2021). Telemedicine increases access to buprenorphine initiation during the COVID-19 pandemic. *Journal of substance abuse treatment*, *124*, 108272.