

**HOUSE COMMITTEE ON WAYS AND MEANS  
HEALTH SUBCOMMITTEE  
"Charting the Path Forward for Telehealth"  
Wednesday, April 28, 2021  
2:00 PM  
Statement for the Record  
The American Pharmacists Association**

The American Pharmacists Association (APhA) appreciates the opportunity to submit the following Statement for the Record for the April 28, 2021 U.S. House Ways and Means Health Subcommittee hearing "Charting the Path Forward for Telehealth."

APhA is the largest association of pharmacists in the United States and the only organization advancing the entire pharmacy profession. APhA represents pharmacists in all practice settings, including community pharmacies, hospitals, long-term care facilities, specialty pharmacies, community health centers, physician offices, ambulatory clinics, managed care organizations, hospice settings, and government facilities. Our members strive to improve medication use, advance patient care, and enhance public health. Advancing pharmacists' role in providing patient-care services via telehealth is one of APhA's strategic priorities. To meet the telehealth demands of the COVID-19 public health emergency (PHE), APhA established a Telehealth Advisory Committee to guide our advocacy, practice, and educational efforts; developed telehealth practice resources;<sup>1</sup> included telehealth programming in our March 12-15<sup>th</sup> *APhA2021 Annual Meeting & Exposition*;<sup>2</sup> and organized an inaugural digital health summit, *DigitalHealth.Rx*, on March 11, 2021.<sup>3</sup>

The rapid shift to telehealth services during the PHE has illustrated the value of telehealth long-term, particularly for patients with mobility issues and those in rural and/or medically underserved areas. Prior to the PHE, pharmacists were already actively involved in virtual care

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<sup>1</sup> See "Telehealth in Your Pharmacy Practice: Using Innovative Technology to Care for Patients During COVID-19," available at [https://aphanet.pharmacist.com/sites/default/files/audience/APhACOVID-19Telehealth0620\\_web.pdf](https://aphanet.pharmacist.com/sites/default/files/audience/APhACOVID-19Telehealth0620_web.pdf)

<sup>2</sup> See *APhA2021 Annual Meeting & Exposition* Telehealth sessions, "Telehealth Part 1: Health Care's Answer to a Pandemic" and "Telehealth Part 2: Choosing the Best Technology for Virtual Care," available at <https://apha2021.pharmacist.com/>

<sup>3</sup> See *DigitalHealth.Rx* Summit, available at <https://apha2021.pharmacist.com/agenda.asp?startdate=3/11/2021&enddate=3/11/2021&BCFO=&pfp=days>

delivery for Medicare beneficiaries through provision of Part B services such as Chronic Care Management (CCM), Transitional Care Management (TCM), Continuous Glucose Monitoring (CGM), Remote Patient Monitoring (RPM), and Behavioral Health Integration (BHI), as well as Medication Therapy Management Services in the Part D program. The onset of the COVID-19 pandemic has brought about additional opportunities to leverage pharmacists in telehealth services, including medication management services, chronic disease management, education on healthy lifestyle interventions, interpretation of, and patient counseling on point of care diagnostic tests, and more.

APhA would like to thank Subcommittee Chair Doggett and Ranking Member Nunes for holding this hearing and recommends that Congress take the following steps to enhance patient access to telehealth services:

- Make Permanent the Authority Allowing Direct Supervision to be Provided Using Real-Time Interactive Audio and Video Technology under Incident to Physician Services Arrangements
- Make Permanent the Authority Allowing Medicare-enrolled Pharmacies Offering Accredited Diabetes Self-Management Training (DSMT) Programs to Offer DSMT Services via Telehealth
- Designate Pharmacists as Practitioners (Providers) for the Medicare Telehealth Benefit, and Add Patient Care Services Provided by Pharmacists Using Telehealth to the Medicare Telehealth List
- Ensure Medicare Payment for Pharmacist-provided Telehealth and In-Person Services is Commensurate with the Time and Complexity of the Services Provided
- Make Permanent Medicare Coverage and Payment of Audio-Only Telephone Calls for Opioid Treatment Program Therapy, Counseling, and Periodic Assessments

**Make Permanent the Authority Allowing Direct Supervision to be Provided Using Real-Time Interactive Audio and Video Technology under Incident to Physician Services Arrangements**

In order to accommodate the provision of telehealth services during the COVID-19 PHE, the Centers for Medicare and Medicaid Services (CMS) relaxed its rule requiring physicians to provide “direct supervision” of auxiliary personnel, including pharmacists, in situations where direct supervision currently is required by regulation.<sup>4</sup> In these situations, during the PHE, physicians may provide direct supervision of pharmacists using real-time interactive audio and

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<sup>4</sup> 85 Fed. Reg. 19230

video technology. APhA urges Congress to make this flexibility permanent regardless of whether there is a declared PHE. Real-time “virtual” supervision of pharmacist services, where direct supervision is required, will help meet the growing demand for telehealth services and expand access to care.

**Make Permanent the Authority Allowing Medicare-enrolled Pharmacies Offering Accredited Diabetes Self-Management Training (DSMT) Programs to Offer DSMT Services via Telehealth**

Diabetes Self-Management Training (DSMT) programs teach essential skills to people with diabetes, including proper nutrition and physical activity, maintaining glycemic control, and other important selfcare tasks, such as blood glucose monitoring and insulin administration. The provision of DSMT services via telehealth has improved rural/underserved populations’ access to care during the PHE, and has provided a safe environment for patients to receive DSMT services remotely instead of the normally required group setting where social distancing would likely be problematic. APhA appreciates CMS’ guidance<sup>5</sup> clarifying that accredited and recognized DSMT programs, eligible to bill Medicare Part B directly for DSMT services, may furnish and bill for DSMT services provided via telehealth during the COVID-19 PHE, and urges Congress to make this authority permanent. The addition of DSMT programs to the list of “professionals” eligible to provide telehealth services has allowed pharmacists in DSMT accredited pharmacies to furnish these services to Medicare beneficiaries via telehealth modalities and be reimbursed for them, thus enhancing diabetic patients’ access to care.

**Designate Pharmacists as Practitioners (Providers) for the Medicare Telehealth Benefit, and Add Patient Care Services Provided by Pharmacists Using Telehealth to the Medicare Telehealth List**

The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act (P.L. 116-136) under Sec. 3703. Expanding Medicare Telehealth Flexibilities eliminated requirements in the Coronavirus Preparedness and Response Supplemental Appropriations Act (P.L. 116-123) and allows the Secretary of Health and Human Services to waive telehealth restrictions under 1834(m) to enable beneficiaries to access telehealth, including in their home, from a broader range of providers—including pharmacists. Given the significant burdens on the health care system posed by the COVID-19 PHE, APhA urges Congress to designate pharmacists as practitioners

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<sup>5</sup> CMS COVID-19 FAQs on Medicare Fee for Service (FFS) Billing (page 82). Updated 3/31/2021, available at: <https://www.cms.gov/files/document/03092020-covid-19-faqs-508.pdf>

(providers) for the Medicare Telehealth Benefit in order to fully utilize their expertise both during and after the end of the PHE.

In addition, APhA urges Congress to add patient care services provided by pharmacists using telehealth, particularly services provided outside of inpatient settings, to the Medicare Telehealth List.<sup>6</sup> Many patient care services provided by pharmacists are clinically appropriate for telehealth, including medication management services, chronic condition management (e.g., diabetes, hypertension), pharmacogenomics, interpretation of point of care diagnostic tests and providing patient counseling on test results, and consultations with patients and health care providers.

### **Ensure Medicare Payment for Pharmacist-provided Telehealth and In-Person Services is Commensurate with the Time and Complexity of the Services Provided**

To ensure telehealth services are financially sustainable, physicians and other non-physician providers (NPPs) must be able to bill for pharmacist-provided telehealth and in-person services at a level commensurate with the time and complexity of the services provided. However, the 2021 Medicare physician fee schedule rule<sup>7</sup> only allows payment to physicians and other NPPs for pharmacists' evaluation and management (E/M) services at the least complex services level (limited to 7 minutes). It is inconceivable that a pharmacist providing a 45-minute office visit to manage multiple chronic conditions and multiple medications for a Medicare beneficiary under an incident to arrangement with a physician is limited to having the service billed as a Level 1 visit (CPT Code 99211), that only has an anticipated time commitment of 7 minutes. Such a provision eliminates any incentive and/or ability for physicians/NPPs and pharmacists to partner to provide complex health care services. This misaligned Medicare payment policy for pharmacists' services performed in incident to physician services arrangements continues to be a significant barrier to broad use of pharmacists in team-based care models during the PHE and beyond.

Accordingly, APhA strongly urges Congress to ensure that physicians and other qualified practitioners can bill for pharmacist-provided "incident to" services provided both in-person and via telehealth to Medicare beneficiaries at higher E/M codes within their state scope of practice and training (CPT Codes 99212-99215) when the service provided meets the billing requirements for a specific E/M code.

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<sup>6</sup> Medicare List of Telehealth Services, available at <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

<sup>7</sup> 85 Fed. Reg. 84472

## **Make Permanent Medicare Coverage and Payment of Audio-Only Telephone Calls for Opioid Treatment Program Therapy, Counseling, and Periodic Assessments**

During the COVID-19 PHE, CMS revised its regulations<sup>8</sup> to allow audio-only telephone calls for the therapy and substance use counseling portions of the weekly bundles and the add-on code for additional counseling or therapy for beneficiaries with opioid use disorders, provided all other requirements are met. Providers may conduct the periodic patient assessments via two-way interactive audio-video communication technology or by telephone only in cases where the beneficiary does not have access to two-way interactive technology. Congress should make these authorities permanent. Emerging data is demonstrating that meeting people with their available technology expands care, counseling, and referral. This is a health equity measure to assist minorities and underserved communities and aligns with President Biden’s Executive Order on “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” to “pursue a comprehensive approach to advancing equity for all.”<sup>9</sup>

APhA would like to close by thanking the Subcommittee for its efforts to advance telehealth services in order to expand patient access to care. Please contact Alicia Kerry J. Mica, Senior Lobbyist, at [AMica@aphanet.org](mailto:AMica@aphanet.org) or by phone at (202) 429-7507 as a resource as you consider telehealth legislation. Thank you again for the opportunity to provide comments on this important issue.

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<sup>8</sup> 42 CFR § 410.67(b)(3) and (4)

<sup>9</sup> Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021), available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>