Fed's scrutiny of telehealth startups a benefit to industry

A joint investigation by both the U.S. Department of Justice and the Drug Enforcement Agency into a pair of telehealth startups might be the best thing to happen to virtual medicine since its inception.

Pre-COVID barriers to telehealth

Before the COVID-19 Pandemic, prescriptions for controlled substances usually required a prior in-person visit. The in-person requirements for mental health services, were considered a way to help protect against fraud and overuse. However, many claim that requiring a “face-to-face” meeting was preventing access, especially for underserved patient populations. Requirements were temporarily lifted during the pandemic allowing a new avenue of care. With that suspension, many startups also entered the picture. Two of those startups were Cerebral and Done Global. It was seen as a quick and easy way to get into the industry.

The Feds intervene in pandemic telehealth trend

In May of 2022, Cerebral announced that they were being investigated by the DOJ for potential violation of the Controlled Substances Act. At the time, Cerebral was one of a handful of companies prescribing stimulants like Adderall and other controlled substances to patients without the need for an in-person consultation.

Though no official charges had been filed, Cerebral, along with their preferred pharmacy partner TruePill stopped prescribing and filling orders of stimulants and controlled substances for new patients. Cerebral was also dealing with a labor lawsuit alleging that a former executive was fired after complaining about prescribing practices.

Months later, In September of 2022, the DEA announced an investigation into Done Global. According to the Wall Street Journal, the DEA was investigating Done Global for similar violations. Shortly after the DEA news broke, Done Global was rejected by CVS Health pharmacies. The retail pharmacies within Walmart, Walgreens, Costco, and CVS Health have all expressed caution about prescriptions for controlled substances from digital behavioral health companies.

Startups tackle telehealth's growing issue

Cerebral, Done Global and other digital health startups were born out of a growing issue: legacy business that are more worried about the bottom line than improving medical practices. This reminds me of the early days of Telehealth when we saw so much resistance from startups when doctors were required to be licensed across state lines. That ultimately ended up being a good thing.

Telehealth businesses have been fighting the Ryan Haight Act for some time. The act is designed to regulate, among several things, the distribution and use of certain controlled substances that could be potentially addictive.

I'm also reminded of the "triplicate" requirements -- when opioids really came into prominence in the 1990s. Some have committed that the removal of those requirements has led to the current crisis of opioid use triggered by the proliferation of OxyContin prescriptions. Doctors were required to fill out triplicate prescription forms and then send a copy to the state drug monitoring agency, the pharmacy, and retain one on file.

According to the National Bureau of Economic Research, the "five states that required doctors to fill out triplicate forms and report opioid prescriptions experienced slower growth in OxyContin use." In 1996 that use was 50 percent lower in California, Idaho, Illinois, New York, and Texas than in other states. Researchers have concluded that the lower usage was basically because of "paperwork." Now evidence seems to suggest that the opioid crisis and continued overdose rates of today were introduced by the marketing and extensive sales push of OxyContin.

In like manner, companies such as Done Global have been accused of increasing customer retention by overprescribing these types of stimulants. Cerebral is currently battling a separate lawsuit for over prescribing and recently the FTC announced they would investigate Cerebral's marketing practices.

In my opinion, this is a good thing and will cause industry leaders and officials to respect the Telemedicine practice. A greater regulation and oversight by the DEA and HHS will help overcome some of the laggards and usher in a greater acceptance with safer utilization.

This is just growing pains in the evolution of remote-based medicine. We see the same issues with trying to address areas such as price transparency, total experience, interoperability, and next generation practices. Most EHR vendors offer a telehealth product alongside the traditional system. Now with new Medicare and Medicaid policies, along with new HIPAA flexibilities, opportunities are bound to emerge. As of publish of this article, there are currently 278 approved Medicare services for 2022.

The future of teleahealth

There are tons of predictions for the growth of Telehealth, but the one that really matters is how it impacts the health of individuals. Gartner predicted last year that by 2023 public health officials will report that a lack of virtual healthcare access contributed to 5% of global deaths due to disease. That is a number that will allow Telehealth to grow.

When Telehealth first began, those on the forefront of digital medicine had many battles with those who felt it was not the right way. However, as the use expanded, it became evident by the results that telehealth was a great benefit to the industry. Not only was it convenient, but it also saved lives.

The new pharmacy negotiation rules under Medicare will make this even more visible. Unfortunately, many only see the consumer-facing elements. However, peel back that layer and you will quickly see hospitals systems incorporating many new and welcomed features such as patient tracking, fall detection, remote vitals, duplicate prescription validation, cost of care reduction, and rural facility coverage to name a few.