

underserved locations, as VA health care practitioners routinely travel to smaller medical facilities, mobile health units, and clinics in nearby states to provide care that is otherwise unavailable or difficult to obtain.⁶

In the letter, and elsewhere, the Commission recognizes that state licensing regulations can serve a beneficial role by protecting the health and safety of the public.⁷ But licensing regulations can also set up entry barriers, limiting the number of workers who can provide certain services—a matter of longstanding bipartisan agreement.⁸ This limit on the labor supply can restrain competition and result in higher prices and reduce access to health care services, especially those provided across state lines.

Much of the Commission’s competition advocacy is targeted at restraints on competition in the health care sector, a segment of our economy that has a profound impact on consumers’ wallets and well-being. The Rule and the Commission’s support for it are particularly timely given the COVID-19 pandemic, which has necessitated quick responses by the VA to shortages of frontline health care workers in hotspots around the nation.⁹ The federal government and states alike have wisely reacted by expanding access to telemedicine and other mechanisms for

⁶ The VA has previously issued other rules to increase veterans’ access to healthcare from out-of-state providers, including the rule titled _____, which received unanimous, bipartisan support from the FTC. Press Release,

allowing care to cross state lines.¹⁰ The Rule will mitigate challenges to the VA’s ability to respond quickly in other emergency situations, without fear of state licensing regulations.

The Commission has a long and proud history of bipartisan support for its advocacy comments. This traditional approach relies on Commissioners’ willingness to engage with each other and staff to improve Commission work product. While that support did not materialize with this comment, we hope the agency will soon resume its bipartisan commitment, through competition advocacy and otherwise, to reducing barriers to entry in the provision of healthcare.

¹⁰ , Comment from FTC Staff to the Centers for Medicare & Medicaid Services (“CMS”), Dep’t of Health & Human Services (May 29, 2020), https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-letter-centers-medicare-medicaid-services-regarding-interim-final-rule-policy-regulatory/v200009_staff_advocacy_letter_cms_telehealth_comment.pdf (supporting provisions in CMS Interim Final Rule that reduce or eliminate restrictive Medicare payment requirements for telehealth during the pandemic, and suggesting that CMS consider making some of these changes permanent); Interim Final Rule with Comment Period, Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, 85 Fed. Reg. 19,230, 19,246 (April 6, 2020) (temporarily relaxing a requirement for direct supervision requirement of nonphysici