

Congress of the United States

Washington, DC 20510

January 17, 2020

Uttam Dhillon
Acting Administrator
U.S. Drug Enforcement Administration
8701 Morrissette Dr.
Springfield, VA 22152

Dear Mr. Dhillon,

We write today to urge the Drug Enforcement Administration (DEA) to take all available actions to address the opioid crisis, including expediting two key regulations concerning addiction treatment: first, authorizing special registration for health care providers to provide medication-assisted treatment (MAT) via telemedicine¹, and second, issue DEA regulations related to improving access to MAT through the use of mobile clinics.² Both regulations have remained on the DEA's unified agenda for nearly two years, with no rule promulgated for either. We ask that the regulatory process move forward quickly, since both provisions will help those on the frontlines better respond to the pressing opioid crisis.

According to the Centers for Disease Control (CDC), nearly 68,000 Americans died from fatal drug overdoses in 2018, with over 47,000 deaths directly attributed to opioid overdose.³ According to the Substance Abuse and Mental Health Services Administration, more than two million Americans suffer from opioid use disorder, but fewer than one in five get the treatment they need.⁴

The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, which was enacted on October 24, 2018, includes over 70 provisions that directly address the ongoing opioid crisis. The SUPPORT Act addresses the many root causes and ripple effects of the opioid crisis and incorporates input from both sides of the aisle and across multiple House and Senate Committees and federal agencies.

Included in SUPPORT is a provision requiring DEA to issue a rule within a year of enactment that would make it easier for health care providers to use MAT to treat patients.⁵ The Ryan Haight Online Pharmacy Consumer Protection Act of 2018 (Ryan Haight Act) allows DEA to authorize "special registrations" that allow providers to prescribe controlled substances online

¹ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=1117-AB40>

² <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=1117-AB43>

³ www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm

⁴ <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHFFR2017/NSDUHFFR2017.pdf>

⁵ H.R.6, Sec. 3232

without an in-person medical evaluation. Despite having legislative authority to issue such registrations, DEA has never done so. We have heard from stakeholders that authorizing this special registration, consistent with the requirements outlined in the Ryan Haight Act, would allow providers to safely prescribe controlled substances as a part of a MAT program and would not prevent DEA from taking appropriate actions to prevent drug misuse and diversion. DEA indicated it would begin the rulemaking process over four years ago, in October 2015. Since then, the opioid crisis has reached new levels of severity, especially affecting the rural and underserved populations that could benefit most from telemedicine prescribing of MAT. The President's Opioid Commission also recognized the importance of telemedicine as a tool in combatting the opioid crisis, and in November of 2017, it recommended the revision of federal regulations to allow for substance use disorder treatment through telemedicine.⁶ Nevertheless, the statutory deadline of October 24, 2019 has passed, and DEA still has not issued a proposed rule for special registration for virtual prescribing of controlled substances. We urge the DEA to move quickly to promulgate these regulations.

We also urge the DEA to issue their expected regulations that would expand access to MAT through the use of mobile methadone clinics. Mobile treatment programs have been a useful tool in combating opioid use disorder (OUD) in rural areas and underserved inner city communities in the U.S. for almost 30 years, and DEA's 2007 decision to halt new licenses for such programs is a significant barrier to public health and combatting the opioid crisis.⁷ Too many people with substance use disorder are currently not receiving MAT because of barriers to providing accessible care. In fact, methadone assisted treatment, one of the most effective methods of MAT available, is inaccessible for many patients, as it is only prescribed in 1,500 locations around the country.⁸ Mobile methadone clinics have the potential to make MAT more accessible to patients, and we urge the DEA to issue their expected regulations as promptly as possible.

Inaction by the DEA is limiting access to potentially lifesaving treatments for people with OUD. We ask the DEA to take the necessary steps to promulgate these rules by the end of January, including requesting an exemption from the Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs,⁹ if that Executive Order is preventing the DEA from promulgating these new regulations. We ask you please brief our staffs on the status of these rules if you expect proposed rules or interim final rules will not be publicly available by February 15. To not make progress quickly on these already-acknowledged priorities is to ignore the critical role actions like these would play in curbing the opioid crisis.

Thank you for your consideration of this request.

⁶ https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Final_Report_Draft_11-1-2017.pdf

⁷ Christine Vestal, *Federal Ban on Methadone Vans Seen as Barrier to Treatment*, PEW (March 23, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/03/23/federal-ban-on-methadone-vans-seen-as-barrier-to-treatment>.


⁸ <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/01/11/in-drug-epidemic-resistance-to-medication-costs-lives>

⁹ Exec. Order No. 13771, 82 Fed. Reg. 9339 (Jan. 30, 2017).

Sincerely,



Patty Murray
United States Senator



Elizabeth Warren
United States Senator



Ann McLane Kuster
Member of Congress