

Congress of the United States

Washington, DC 20515

October 2, 2024

The Honorable Dr. Rahual Gupta
Director of the Office of National Drug Control Policy
1600 Pennsylvania Ave, NW
Washington, D.C. 20500

The Honorable Merrick Garland
Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Xavier Becerra
Secretary of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Dear Dr. Gupta, Attorney General Garland, and Secretary Becerra:

We urge you to preserve the existing telehealth flexibilities for buprenorphine products approved to treat opioid use disorder (OUD).

Due to the COVID-19 pandemic, the Department of Justice, in coordination with the Department of Health and Human Services, allowed for the audio-video or audio-only telehealth initiation of buprenorphine, a medication approved to treat OUD. This lifesaving action and its subsequent extension by the Biden-Harris Administration have prompted sweeping changes to addiction care delivered via telehealth. The pandemic telehealth flexibilities increased access to buprenorphine for vulnerable Americans with OUD, improved addiction treatment retention, and reduced overdoses.¹

Those telehealth flexibilities are now set to expire in December 2024.² Worryingly, the Drug Enforcement Administration's (DEA) forthcoming rule reportedly includes new and onerous in-person visitation and burdensome special registration requirements for telehealth prescribing which will gut access to this life-saving medicine.³

Our national public health response to the opioid epidemic has finally paid off: fewer people died from opioid overdoses over the 12-month period ending in April 2024.⁴ Now is not the time for the DEA to limit access to a key medical intervention that saves lives and prevents overdoses.

Congress has granted DEA the authority it needs to maintain the existing telehealth flexibilities for buprenorphine products approved to treat OUD without in-person visitation requirements or a burdensome special registration. The DEA can use one of the "practice of telemedicine" exceptions under either 21 U.S.C. §

¹ Christopher Jones et al., *Receipt of Telehealth Services, Receipt and Retention of Medications for Opioid Use Disorder, and Medically Treated Overdose Among Medicare Beneficiaries Before and During the COVID-19 Pandemic*, JAMA PSYCHIATRY, <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2795953>.

² 21 CFR Part 1307 (2023).

³ Emma Beavins, *Advocates rush to Congress, White House to extend telehealth prescribing for two years, after DEA's plans leaked*, <https://www.fiercehealthcare.com/regulatory/former-dea-official-leaks-plans-telehealth-prescribing-rule-advocates-are-running>.

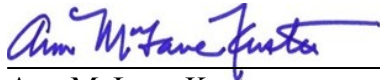
⁴ Brian Mann, *NPR Exclusive: U.S. overdose deaths plummet, saving thousands of lives*, <https://www.npr.org/2024/09/18/nx-s1-5107417/overdose-fatal-fentanyl-death-opioid#:~:text=U.S.%20overdose%20deaths%20fell%20for%20the%20first%20time%20since%202020&text=A%20line%20chart%20showing%20U.S. over%20100%20thousand%20in%202024>.

802(54)(D) or (G) [to extend telehealth flexibilities](#).⁵ Your Administration should use this authority to ensure people with OUD do not lose access to the medication they need.

There are at least two additional policy considerations that support allowing a more permissive initiation regimen via telehealth for buprenorphine. First, buprenorphine is a partial agonist medication, which makes it safer and less likely to be misused compared to full-opioid agonists.⁶ Second, the highly lethal illicit opioid market poses an immediate threat to the lives of Americans struggling with opioid use disorder. These facts should lead you to maximize access to buprenorphine as a tool to prevent overdoses and put people on the road to recovery, not limit access over a misplaced fear of diversion.

We urge you to ensure the DEA finalizes a telemedicine rule that extends existing telemedicine flexibilities for buprenorphine products approved for OUD without imposing unnecessary barriers to lifesaving treatment.

Sincerely,



Ann McLane Kuster
Member of Congress



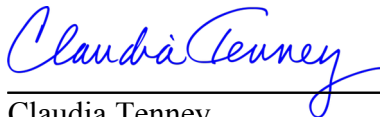
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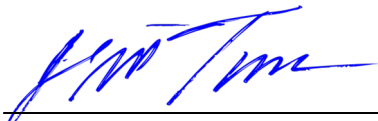
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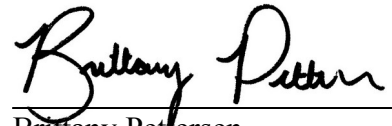
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⁵ 21 U.S.C. § 802(54)(D) is a particularly salient justification for extending telehealth flexibilities. That provision allows for the initiation of controlled substances via telehealth during a declared public health emergency. As the DEA Administrator should know, there is an ongoing opioid public health emergency. [21 U.S.C. § 802\(54\)\(G\) allows for the initiation of controlled substance via telehealth to prevent diversion](#). Since limited access to medical treatment is a primary reason for buprenorphine's diversion, further restricting access to this life-saving medication may exacerbate the diversion the DEA seeks to address. See Howard Chilcoat et al., *Buprenorphine in the United States: Motives for abuse, misuse, and diversion*, JOURNAL OF SUBSTANCE ABUSE TREATMENT. <https://www.sciencedirect.com/science/article/pii/S0740547218304720#:~:text=These%20findings%20are%20consistent%20with,failure%20to%20access%20legitimate%20addiction>.

⁶ Rachna Kumar et al., *Buprenorphine*, <https://www.ncbi.nlm.nih.gov/books/NBK459126/>.



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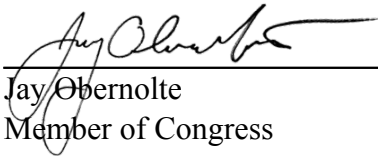
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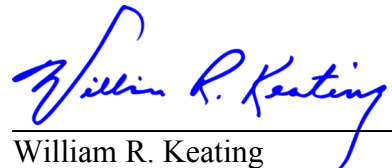
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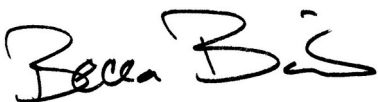
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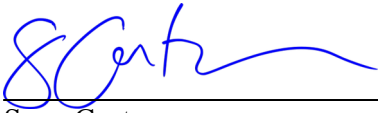
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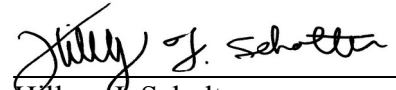
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Eleanor Holmes Norton
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Bill Foster
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CC:
The Honorable Joseph R. Biden, Jr.
President of the United States