

# Congress of the United States

Washington, DC 20515

March 27, 2023

Administrator Anne Milgram  
Drug Enforcement Agency  
8701 Morrisette Drive  
Springfield, VA 22152

Dear Administrator Milgram:

We write to express our concern with proposed rule DEA-1948, “Expansion of induction of buprenorphine via telemedicine encounter” in relation to the impact on access to buprenorphine for treatment of opioid use disorder. The proposed 30-day requirement for an in-person medical evaluation for patients to receive buprenorphine will interrupt continuity of care and limit access to a critical medication at a time when millions of Americans are struggling. We believe that continuation of telehealth flexibilities for the initiation of buprenorphine for opioid use disorder are essential to respond to the ongoing opioid crisis.

Overdose deaths involving opioids rose to over 80,000 in 2021, and recent data shows that over 9 million people misused opioids in the past year.<sup>i,ii</sup> We are very proud of the policies that became law in the Consolidated Appropriations Act of 2023 that will expand access to treatment for substance use disorder, and appreciate the Biden Administration’s commitment to eliminating stigma and enhancing access to medication-assisted treatment.<sup>iii,iv</sup> However, despite strong evidence that medication is the most effective treatment for OUD, studies have shown that only about one in four individuals needing treatment for OUD received medication.<sup>v</sup> Making permanent the use of audio-only or audio-visual telehealth technology for the initiation of buprenorphine is an evidence-based approach to tackle the opioid crisis by expanding avenues to treatment.

There is a strong body of research supporting telehealth utilization during the pandemic to increase access to treatment and reduce the risk of opioid overdoses, including studies and experiences shared by clinicians.<sup>vi,vii</sup> Buprenorphine treatment gaps put patients at a greater risk of opioid overdose and leads to higher health expenditures.<sup>viii</sup> In 2022, the average wait time to get an appointment with a new provider was 26 days.<sup>ix</sup> Under this proposed rule, a patient who starts their 30-day treatment via telemedicine has no guarantee they will be able to access an in-person visit within one month – especially in rural and medically underserved areas where OUD workforce shortages persist. This gap in care could create needless risk and lead to relapses, overdoses and loss of lives. Empowering patients who are seeking medication for opioid use disorder is an essential step to improve retention in treatment programs, allowing clinicians to reach underserved populations.<sup>x</sup>


In addition, the use of telehealth to access treatment throughout the pandemic did not lead to any greater risk of misuse. A January 2023 collaborative study from the National Institute for Drug Abuse and the Centers for Disease Control and Prevention found that overdose deaths involving buprenorphine did not increase with new flexibilities in prescribing.<sup>xi</sup> As a partial opioid receptor, the possibility of diversion with the use of buprenorphine is low.

The proposed rule does not adequately balance the strong need for increased access to treatment with the minimal risk of misuse. As the proposed rule states, “issues with availability, accessibility, and acceptability of formal buprenorphine treatment may also contribute to non-prescribed buprenorphine misuse.”<sup>xii,xiii</sup> Ensuring accessibility to formal treatment, such as through expanded telehealth flexibilities, is an essential step to ensure that buprenorphine is used appropriately.

Telehealth is an important tool to increase access to treatment for people with substance use disorders. As the number of people who overdose on opioids continues to rise, we must support ways to expand access to treatment, not limit it. Buprenorphine is safe and effective, and we encourage the Drug Enforcement Agency to revise the proposed rule to reflect these facts.

Sincerely,

  
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Ann McLane Kuster  
Member of Congress

  
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Lori Trahan  
Member of Congress

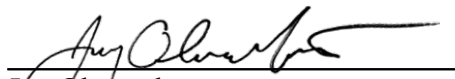
  
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Paul Tonko  
Member of Congress

  
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David J. Trone  
Member of Congress

  
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Brian Fitzpatrick  
Member of Congress


  
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Grace F. Napolitano  
Member of Congress


  
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Jill Tokuda  
Member of Congress


  
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Jay Obernolte  
Member of Congress

  
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Brittany Pettersen  
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Member of Congress

  
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Doris Matsui  
Member of Congress

  
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Jasmine Crockett  
Member of Congress

- <sup>i</sup> [https://www.cdc.gov/nchs/pressroom/nchs\\_press\\_releases/2022/202205.htm](https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm)
- <sup>ii</sup> <https://www.samhsa.gov/data/sites/default/files/reports/rpt39443/2021NSDUHFFRRev010323.pdf>
- <sup>iii</sup> <https://www.congress.gov/bill/117th-congress/house-bill/2617/text>
- <sup>iv</sup> <https://www.whitehouse.gov/ondcp/briefing-room/2022/12/23/dr-gupta-applauds-omnibus-appropriations-bill-that-will-expand-access-to-treatment-for-substance-use-disorder/>
- <sup>v</sup> <https://www.publichealth.columbia.edu/public-health-now/news/only-one-four-people-needing-treatment-opioid-use-disorder-received-medication#:~:text=Among%20those%20who%20may%20have,percent%20received%20medication%20for%20OUD>
- <sup>vi</sup> <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2795954>
- <sup>vii</sup> <https://www.pewtrusts.org/en/research-and-analysis/articles/2022/01/06/telehealth-can-lower-barriers-to-buprenorphine-treatment-for-opioid-use-disorder>
- <sup>viii</sup> <https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2796738>
- <sup>ix</sup> <https://patientengagementhit.com/news/average-patient-appointment-wait-time-is-26-days-in-2022>
- <sup>x</sup> <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2797201>
- <sup>xi</sup> <https://www.nih.gov/news-events/news-releases/overdose-deaths-involving-buprenorphine-did-not-proportionally-increase-new-flexibilities-prescribing>
- <sup>xii</sup> <https://www.federalregister.gov/documents/2023/03/01/2023-04217/expansion-of-induction-of-buprenorphine-via-telemedicine-encounter#footnote-36-p12894>
- <sup>xiii</sup> <https://pubmed.ncbi.nlm.nih.gov/32203863/>