

United States Senate

WASHINGTON, DC 20510

January 30, 2018

Robert W. Patterson
Acting Administrator
U.S. Drug Enforcement Administration
8701 Morrisette Dr.
Springfield, VA 22152

Dear Mr. Patterson:

We write today to urge you to expedite the rulemaking process for regulations authorizing special registration for healthcare providers to prescribe medication-assisted treatments for opioid addiction via telemedicine.

On October 26, 2017, President Trump declared the opioid crisis a national public health emergency and specifically supported “expanded access to telemedicine services, including services involving remote prescribing of medicine commonly used for substance abuse or mental health treatment.”¹ The Drug Enforcement Agency (DEA), however, has yet to authorize a special registration process for the prescribing of controlled substances via telemedicine.²

Without this registration, the Ryan Haight Online Pharmacy Consumer Protection Act restricts physicians from prescribing anti-addiction medications without an in-person medical evaluation. Passed by Congress in 2008, this law prohibits the distribution, dispensing, or delivery of controlled substances by means of the “Internet” without a valid prescription.³ The law also requires at least one in-person medical evaluation of a patient prior to the prescription of any controlled substances. At the same time, Congress empowered DEA to authorize “special registration” to exempt healthcare providers from these restrictions in certain circumstances.⁴ DEA intended to promulgate the proposed rulemaking in October 2015,⁵ but has yet to take action more than two years later.

In the meantime, the bar on telemedicine prescribing of anti-addiction medication will continue to impact rural Americans, who often live far from dedicated treatment centers and

¹ *Trump Declares Opioid Crisis a ‘Health Emergency’ but Requests No Funds*, New York Times (Oct. 26, 2017) (www.nytimes.com/2017/10/26/us/politics/trump-opioid-crisis.html); The White House, Office of the Press Secretary: *President Donald J. Trump is Taking Action on Drug Addiction and the Opioid Crisis* (Oct. 26, 2017).

² The Controlled Substances Act defines the term “practice of telemedicine” to include treatment that “is being conducted by a practitioner who has obtained from the Attorney General a special registration under section 831(h) of this title.” 21 U.S.C. § 802(54)(E).

³ 21 CFR § 1306.09(a); 21 CFR § 1300.04(l)(1); 21 U.S.C. § 829(e)(2)(A).

⁴ 21 U.S.C. § 802(54)(E); 21 CFR §§ 1300, 1301, 1304, 1306.

⁵ General Services Administration, Office of Management and Budget, Office of Information and Regulatory Affairs, *Special Registration to Engage in the Practice of Telemedicine* (1117-AB40) (Oct. 2015).

mental health professionals. In Missouri, for example, 98 out of 101 rural counties lack a licensed psychiatrist—“a dangerous scenario that has contributed to higher rates of hospitalizations, emergency room visits, drug addiction and suicide in rural areas.”⁶ In Alaska, where more than 80% of the communities are not connected to a road system, the cost of flying into a hub community or Anchorage can be a huge expense, and one that is often borne by the public health system.

In the face of a declared national public health emergency, DEA should immediately move to expedite the rulemaking process to create a special registration class of providers permitted to prescribe opioid-based medication-assisted addiction therapies via telemedicine. To be clear, this registration should not allow the prescribing of controlled substances generally or the prescribing of opioids for pain management, pain treatment, or any other pain-related purpose that is not part of a medication-assisted treatment for opioid addiction. DEA should also undertake all other appropriate measures to prevent prescription drug abuse and diversion. In addition, to the extent DEA has encountered obstacles arising from the Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs—which requires the elimination of two regulations for each new regulation promulgated⁷—we urge DEA officials to request an exemption from the order. The severity of the U.S. opioid crisis demands nothing less than immediate action on this issue.

If you have any questions related to this request, please contact Courtney Cardin with Senator McCaskill’s staff at Courtney_Cardin@hsgac.senate.gov or (202) 224-2627. Please send any official correspondence relating to this request to Lucy_Balcezak@hsgac.senate.gov.

Sincerely,



Claire McCaskill
U.S. Senator



Lisa Murkowski
U.S. Senator



Dan Sullivan
U.S. Senator

⁶ *Telepsychiatry Helps with Mental Health Burdens in Rural Missouri*, St. Louis Post-Dispatch (May 20, 2017) (www.stltoday.com/lifestyles/health-med-fit/health/telepsychiatry-helps-with-mental-health-burdens-in-rural-missouri/article_495462ea-0ccb-58ee-9aa1-ce32930398ba.html).

⁷ Exec. Order No. 13771, 82 Fed. Reg. 9339 (Jan. 30, 2017).