

April 13, 2021

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

## **Re: Immediate Action Requested to Combat the Dire Addiction Crisis**

Dear Secretary Becerra,

The undersigned organizations write to emphasize the urgency of addressing the ongoing addiction crisis, which has been severely exacerbated by the COVID-19 pandemic. Forty-two states have reported significant increases in overdose deaths since the onset of the pandemic. To immediately save lives, we urge you to take decisive action to eliminate the X-Waiver, which is required by the Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe buprenorphine, one of three FDA-approved medication-assisted treatments (MAT) indicated for the treatment of opioid use disorder (OUD).

### **Significant Access Challenges and Barriers**

Despite the overwhelming evidence of buprenorphine's effectiveness for treating OUD, it remains highly underutilized with only about 20 percent of individuals with an OUD receiving any treatment<sup>1</sup>, and even less receiving MAT. The waiver requirement has prevented those with OUD from receiving life-saving care, because more than 95 percent of practitioners lack the X-waiver and thus are unable prescribe buprenorphine. Forty percent of U.S. counties do not have a single provider that can prescribe buprenorphine for OUD in an office setting, according to an important January 2020 report by the Department of Health and Human Services (HHS) Inspector General.<sup>2</sup> The treatment gap is even greater in rural communities, with two-third of those counties representing individuals that live in rural areas<sup>3</sup>.

### **Perpetuating Stigma**

The horrendous irony of the opioid epidemic has been that any DEA-licensed prescriber can prescribe powerful opioids that can, in a short period of time, lead to OUD. The existence of the X-Waiver sends a terrible message to practitioners and the public alike: that treating OUD with

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<sup>1</sup> Saloner B and Karthikeyan S. Changes in Substance Abuse Treatment Use Among Individuals With Opioid Use Disorders in the United States, 2004-2013. *JAMA*. 2015 October; 314(14): 1515-1517.

<sup>2</sup> Office of Inspector General, U.S. Department of Health and Human Services, *Geographic Disparities Affect Access to Buprenorphine Services for Opioid Use Disorder*, January 2020, <https://oig.hhs.gov/oei/reports/oei-12-17-00240.pdf>.

<sup>3</sup> Shatterproof, *County buprenorphine access in the United States*, April 2020, [https://www.shatterproof.org/sites/default/files/2020-04/Shatterproof%20OUD%20Brief\\_R03\\_42220.pdf](https://www.shatterproof.org/sites/default/files/2020-04/Shatterproof%20OUD%20Brief_R03_42220.pdf)

buprenorphine requires separate, stigmatizing rules and that buprenorphine is inherently more dangerous than the powerful opioids that have fueled this crisis.

## The Urgent Need

The current need could not be greater. During the ongoing COVID-19 pandemic, fatal drug overdoses have skyrocketed, with the Centers for Disease Control and Prevention estimating that more than 81,000 Americans died from drug overdoses during a 12-month period ending in May 2020.<sup>4</sup> This dramatic increase, which reflects only a few months of the pandemic's negative effects, has undone all the gains in reducing fatal overdoses.

In an attempt to address this escalating crisis, the prior administration released new practice guidelines ("Notice") on January 14, 2021, that would have made a number of changes to the X-Waiver. Specifically, the Notice gave physicians the option to prescribe buprenorphine, for up to 30 patients, without needing to satisfy some of the requirements to obtain an X-Waiver.<sup>5</sup> While we do not believe the Notice would have completely resolved the issues for patients to access buprenorphine for OUD, our organizations lauded this as a strong first step in that direction.

While the subsequent pulling of the Notice on January 21, 2021, was a disappointment due to its potential to save lives, we understand that HHS must be confident that its actions comply with federal law. **Nonetheless, because the severity of the crisis persists, we urge HHS to immediately take any actions within its power to reduce the disproportionately high barrier to life-saving OUD treatment with buprenorphine created by the X-Waiver. Further, we urge the Administration to publicly call upon Congress to eliminate the X-Waiver completely. It should also call upon Congress to include provisions to increase substance use disorder education for all DEA-licensed prescribers in order to increase early identification and treatment of these disorders.**

These actions would be fully consistent with what the President called for during the 2020 presidential campaign, when he pledged to "ensure that any undue restrictions on [buprenorphine] prescribing are lifted..."<sup>6</sup> and cited a *JAMA Psychiatry* article estimating that eliminating the X-Waiver could save more than 30,000 American lives each year.<sup>7</sup> This estimate was made prior to the rising overdose deaths associated with the pandemic. By taking immediate action within its powers, clearly communicating with stakeholders, and unambiguously calling upon Congress to eliminate the X-Waiver, the Administration can proactively steer our country

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<sup>4</sup> "Overdose Deaths Accelerating During COVID-19," *Centers for Disease Control and Prevention*, December 17, 2020, <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>.

<sup>5</sup> Announcement of Practice Guidelines for the Administration of Buprenorphine for Treating Opioid Use Disorder, Department of Health and Human Services, <https://www.hhs.gov/sites/default/files/mat-physician-practice-guidelines.pdf>, last visited March 10, 2021.

<sup>6</sup> "THE BIDEN PLAN TO END THE OPIOID CRISIS," *Biden-Harris Campaign Website*, <https://joebiden.com/opioidcrisis/>.

<sup>7</sup> Fiscella K, Wakeman SE, Beletsky L. Buprenorphine Deregulation and Mainstreaming Treatment for Opioid Use Disorder: X the X Waiver. *JAMA Psychiatry*. 2019;76(3):229–230. doi:10.1001/jamapsychiatry.2018.3685

in the direction necessary to fulfill its promise that all individuals living with OUD have access to potentially life-saving treatment.

There is no time to lose. With the Administration's leadership, we can finally end this discriminatory and stigmatizing provision that costs far too many lives. We look forward to working with you to realize the vision of all Americans with a substance use disorder receiving the treatment they need.

Sincerely,

Association for Behavioral Health and Wellness  
The Kennedy Forum  
Shatterproof  
America's Health Insurance Plans  
American Academy of Physical Medicine and Rehabilitation  
American Association for Psychoanalysis in Clinical Social Work  
American College of Medical Toxicology  
American Foundation for Suicide Prevention  
Array Behavioral Care  
Ascension  
Assisted Recovery Centers of America  
Association for Ambulatory Behavioral Healthcare  
Big Cities Health Coalition  
Blue Cross Blue Shield Association  
Centerstone  
Central City Concern  
Cigna  
Cities Thrive Coalition  
City of New York  
College of Healthcare Information Management Executives (CHIME)  
College of Psychiatric and Neurologic Pharmacists (CPNP)  
Community Catalyst  
Global Alliance for Behavioral Health and Social Justice  
Harm Reduction Coalition  
Healthcare Leadership Council  
Health Innovation Alliance  
HIV Alliance  
innovaTel Telepsychiatry  
Inseparable  
The Levenson Foundation  
Live4Lali  
Magellan Health  
Mass General Brigham

Mental Health America  
NACBHDD and NARMH  
National Alliance on Mental Illness  
National Association of Addiction Treatment Providers  
National Association of Attorneys General  
National Association of Pediatric Nurse Practitioners  
National Council for Behavioral Health  
National Health Law Program  
National Safety Council  
New Directions Behavioral Health  
OCHIN  
Partnership to End Addiction  
PAs in Virtual Medicine and Telemedicine  
Pharmaceutical Care Management Association (PCMA)  
Police, Treatment, and Community Collaborative (PTACC)  
Psychotherapy Action Network Advocacy  
PursueCare  
QueerDoc  
SMART Recovery  
Stop Stigma Now  
Student Coalition on Addiction  
The International Society for Psychiatric Nurses  
The Voices Project  
Treatment Advocacy Center  
Treatment Communities of America  
UPMC  
USC Institute for Addiction Science  
Well Being Trust  
Young People in Recovery

Cc: Tom Coderre (Substance Abuse and Mental Health Services Administration)  
Merrick Garland (U.S. Department of Justice)  
D. Christopher Evans (U.S. Drug Enforcement Administration)  
Regina LaBelle (Office of National Drug Control Policy)  
Representative Paul Tonko (D-NY)  
Representative Antonio Delgado (D-NY)  
Representative Anthony Gonzalez (R-OH)  
Representative Mike Turner (R-OH)  
Senator Maggie Hassan (D-NH)  
Senator Lisa Murkowski (R-AK)