

Committee on Energy and Commerce
Opening Statement as Prepared for Delivery
of
Subcommittee on Health Chairwoman Anna G. Eshoo

Hearing on “The Overdose Crisis: Interagency Proposal to Combat Illicit Fentanyl-Related Substances”

December 2, 2021

As our country has grappled with a public health crisis caused by a novel virus for nearly two years, we’ve also faced a more familiar threat in the form of drug addiction. More than 100,000 Americans have died from drug overdoses since the Covid-19 pandemic began, a grim record that shows no sign of abating.

The fastest growing cause of overdose deaths has been synthetic opioids, including fentanyl. Since 2018, all fentanyl-related substances that are not already scheduled have been temporarily listed under Schedule I of the Controlled Substances Act, and the current extension will expire at the end of January. The Continuing Resolution introduced this morning extends the deadline to February 18th. Despite this temporary scheduling, deaths due to fentanyl-related overdoses have continued to rise even as deaths caused by other drugs have fallen.

Our Subcommittee Hearing today is to learn from the Administration its recommendation to Congress for permanent scheduling of all fentanyl-related substances. The interagency proposal calls for permanently scheduling these drugs under Schedule I but with an expedited process to reschedule those that are later found not to be dangerous enough to warrant such strict regulation.

Over 100 civil rights groups have expressed concern about class-wide scheduling because it expands the number of drugs subject to mandatory minimum sentences that contribute to the disproportionate incarceration of racial minorities.

To address this concern, mandatory minimums would not apply in most cases involving fentanyl-related substances unless there is death or serious bodily harm. And if a substance is later removed from Schedule I, incarcerated individuals could have their sentences reduced or vacated.

The proposal would also make it easier for researchers to get permission from the federal government to study all Schedule I substances. The current restrictions deter many researchers from studying these drugs, and removing some of these barriers will help us better understand how to treat addiction.

Today we will hear from some of the agencies that developed these recommendations, including the FDA, the National Institute on Drug Abuse, the Drug Enforcement Administration,

December 2, 2021

Page 2

and the Office of National Drug Control Policy, and we look forward to their insights on how the Administration's proposals will help address the overdose epidemic.

I want all Members to know that we invited the Department of Justice to testify but they chose not to appear at today's hearing. Our staff began conversations with the DOJ about this hearing in September, and I formally invited them to send a witness on November 18th.

DOJ's refusal to testify is troubling and they offered no legitimate reason. Their perspective on their own recommendations to Congress would have been valuable for us to hear.