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Testimony – House Subcommittee on Health, Wednesday, February 1, 2023

“Lives Worth Living: Addressing the Fentanyl Crisis, Protecting Critical Lifelines, and Combatting Discrimination Against Those with Disabilities”

Key Points

- Under the American with Disabilities Act, those with substance use disorder are considered to have a disability; this protects individuals who are in recovery or have used drugs in the past. This extends to inmates within the prison system who are prescribed medications for opioid use disorder.
- A pathway to recovery is essential for all individuals, including those who may be in prison on drug-related charges. Many of the individuals who are incarcerated on drug-related crimes are dealing as a means to get their own drugs in the midst of substance use disorder.
- I agree that addressing some of the key social determinants of health are key to helping non-violent offenders with persistent substance abuse problems break the cycle of their addiction. This includes access to medical care, as well as food, steady income, housing, and access to transportation and education opportunities.
- While I believe that violent drug dealers should be appropriately punished under the law, I would argue that those who are merely engaging in a system because they are actively addicted to the drugs they sell should be afforded an appropriate opportunity for recovery.

Planned Oral Testimony

Good morning, Chairman Rogers, Ranking Member Pallone, and members of the Committee. I am Stephen Loyd, and I am an addiction medicine doctor and recovering opioid addict, and through my work as a physician in Tennessee, I see at least 5000 patients a year in opioid treatment and recovery. I currently serve as the Chief Medical Officer for Cedar Recovery, which is an outpatient addiction medicine practice in Middle and East Tennessee. I also am the medical director for an opioid treatment program in Cocke County, Tennessee, which serves an inmate population, as well as the medical director for Renewal House, a Nashville organization which serves marginalized women with an underlying substance abuse disorder.

Thank you for the opportunity to appear before you today as you consider these important bills on criminal justice reform and continue to discuss how to best address the Fentanyl crisis in the United States. This is something that I deal with every day in Tennessee, in both the patients I treat, but in also my role as Tennessee's opioid czar that has been tasked with figuring out how to best abate the crisis in our state. This includes working with those citizens in jails and prisons as we consider how to best serve their needs, alongside the needs of other Tennesseans who may be impacted by the opioid crisis.

Under the American with Disabilities Act, those with substance use disorder are considered to have a disability; this protects individuals who are in recovery or have used drugs in the past – a category that would apply to any individual who is incarcerated in the United States. Under the ADA, and as interpreted by the U.S. Department of Justice, people that are in recovery, but who would be limited in a major life activity – including activities like communicating, caring for

oneself, and thinking – in the absence of treatment or recovery services are protected.¹ This extends to inmates within the prison system who are prescribed medications for opioid use disorder.²

In my own experience, both as someone who was previously addicted to opioids and was given a second chance, as well as an addiction treatment doctor in Tennessee, a pathway to recovery is essential for all individuals, including those who may be in prison on drug-related charges. I have seen that, many – not all – of the individuals who are incarcerated on drug-related crimes are dealing as a means to get their own drugs in the midst of substance use disorder. In those cases, minimum sentencing will not work; if you want these individuals to stop dealing drugs and reenter society, you must safely stop their use. This includes not only medication, if needed, but also other things like safe housing and education.

For the past few years, I have been fortunate enough to work with Judge Duane Slone, who runs a Drug Recovery Court in Tennessee's Fourth District, which covers four rural counties.³ This includes the TN ROCS docket, a program that serves drug offenders who have an urgent need for treatment but who are not considered high risk enough to qualify for Drug Recovery Court.⁴ Judge Slone, who has become a close friend, and I agree that addressing some of the key social

¹ U.S. Department of Justice Civil Rights Division, *The Americans with Disabilities Act and the Opioid Crisis: Combating Discrimination Against People in Treatment or Recovery* (April 5, 2022), available at https://archive.ada.gov/opioid_guidance.pdf.

² *Id.*

³ Tennessee State Courts, *O. Duane Slone*, available at <https://www.tncourts.gov/courts/circuit-criminal-chancery-courts/judges/o-duane-slone>.

⁴ Tennessee State Courts, *Recovery Oriented Compliance Strategy Latest Tool in Opioid Fight* (October 1, 2018), available at <https://www.tncourts.gov/news/2018/10/01/recovery-oriented-compliance-strategy-latest-tool-opioid-fight>.

determinants of health are key to helping non-violent offenders with persistent substance abuse problems break the cycle of their addiction. This includes access to medical care, as well as food, steady income, housing, and access to transportation and education opportunities.

While I believe that violent drug dealers should be appropriately punished under the law, I would argue that those who are merely engaging in a system because they are actively addicted to the drugs they sell should be afforded the same opportunity for recovery that I was given two decades ago.

I appreciate the opportunity to appear before this Committee, and I look forward to answering any questions you may have.