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November 16, 2022

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Xavier Becerra
Secretary
Department of Health and
Human Services
200 Independence Ave, SW

The Honorable Anne Milgram
Administrator
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, VA 22152

The Honorable Dr. Miriam
Delphin-Rittmon
Assistant Secretary for Mental
Health and Substance Use
Substance Abuse and Mental
Health Services Administration
5600 Fishers Lane
Rockville, MD 20857

Attorney General Garland, Secretary Becerra, Administrator
Milgram, and Assistant Secretary Delphin-Rittmon,

Brian Kane

Executive Director

The undersigned state attorneys general urge the Drug
Enforcement Administration (DEA) and Substance Abuse and
Mental Health Services Administration (SAMHSA) to permanently
extend telehealth flexibilities after the expiration of the public
health emergency for prescribing buprenorphine, one of three
Food and Drug Administration (FDA) approved medications for
treating opioid use disorder.

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As state attorneys general, our top priority is always keeping the
people of our respective jurisdictions safe. We've led multiple
legal efforts to hold those responsible for the opioid crisis
accountable, which have resulted in significant funds our state
can use to support strategies to lower overdose rates. The
coinciding public health emergencies of COVID-19 and the
opioid crisis called for urgent change to our care delivery
systems to allow for more accessible treatment options. We
need your help now so that successful strategies implemented
during the pandemic are not discontinued.

Our nation's overdose death rate has never been higher and the need to ensure access treatment for individuals with substance use disorders has never been greater. Enabling creative, effective strategies, such as telemedicine, is critical to reducing the number of overdose deaths in our country, particularly in underserved areas, and ending the overdose crisis.

As a condition of the public health emergency, on March 16, 2020, the DEA allowed audio-visual telemedicine services for initiating all schedule II-V controlled substances, including buprenorphine, without conducting an in-person evaluation.¹ On March 31, 2020, the DEA further released guidance declaring that prescribers have the flexibility to prescribe buprenorphine via telephone, without the need for in-person or video evaluation.² This flexibility remains in effect, as the COVID-19 public health emergency has yet to end. However, when the public health emergency expires, this rule is set to expire as well. This expiration has the potential to cut off the estimated 2.5 million U.S. adults who use buprenorphine from accessing treatment for opioid use disorder via telemedicine.³

We join a chorus of advocates, addiction treatment providers, medical practitioners, recovery groups, public health experts, and members of the House of Representative's Bipartisan Addiction and Mental Health Task Force in urging the administration to permanently extend these telehealth flexibilities for buprenorphine.⁴ As public health experts have noted, the existing flexibilities have been critical for linking individuals with opioid use disorder to treatment. The number of patients receiving buprenorphine as treatment for an opioid use disorder increased significantly when telehealth flexibilities were allowed, and the number continued to increase as the public health emergency continued.⁵ Not only did this policy change lead to an increase in buprenorphine initiation, but it also improved retention in care and reduced the odds of overdose for individuals prescribed buprenorphine via telehealth for opioid use disorder treatment.⁶

¹ <https://www.deadiversion.usdoj.gov/coronavirus.html>

² [https://www.deadiversion.usdoj.gov/GDP/\(DEA-DC-022\)\(DEA068\)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20\(Final\)%20+Esign.pdf](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20(Final)%20+Esign.pdf)

³ <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2785011#:~:text=In%202019%2C%20an%20estimated%202.4,misused%20hydrocodone%20and%20oxycodone%2C%20respectively.>

⁴ www.stopopioidoverdose.org/wp-content/uploads/2022/10/22.10.06-Final-CSOO-telehealth-letter.pdf; <https://kuster.house.gov/news/documentsingle.aspx?DocumentID=4911>

⁵ <https://ajp.psychiatryonline.org/doi/full/10.1176/appi.ajp.21111141>

⁶ https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2795953?guestAccessKey=ee7219e9-7be8-4f85-bf27-6313250cfea3&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf1&utm_term=083122

The allowance of telehealth for treating opioid use disorder is a low-barrier treatment option that presents an opportunity to expand buprenorphine access to populations who may have previously struggled to receive treatment.⁷ Prior to these telehealth flexibilities, many Americans struggled to access buprenorphine treatment initiation due to geographic barriers. An estimated 28 million Americans live more than ten miles and about three million live over thirty miles from a buprenorphine provider.⁸ Today, the delivery of care for buprenorphine treatment has shifted significantly to telehealth, making it more accessible than ever for individuals to access the treatment they need.⁹

Given the successes of these flexibilities, the Substance Abuse and Mental Health Services Administration (SAMHSA) and DEA have previously voiced support to permanently expand these flexibilities. On June 28, 2022, SAMHSA announced that buprenorphine can continue to be prescribed via telemedicine without in-person evaluations after the public health emergency ends.¹⁰ Since this announcement, no actions have been taken to affirm this change. This regulation change needs action by the DEA and SAMHSA to take effect. The George Washington University Regulatory Studies Center released a report stating that DEA and SAMHSA have the legal authority to extend the flexibilities granted during the COVID-19 public health emergency without additional authorization from Congress.¹¹

We urge action on this issue. If the telemedicine flexibilities are not made permanent, the consequences will be grave for the 2.5 million Americans who utilize buprenorphine treatment.

Sincerely,



Josh Stein
North Carolina Attorney General



Ashley Moody
Florida Attorney General

⁷<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8722662/#:~:text=Audiovisual%20telehealth%20has%20been%20shown,are%20not%20yet%20well%20described>

⁸ <https://www.sciencedirect.com/science/article/pii/S0376871620302969?via%3Dihub>

⁹ <https://ajp.psychiatryonline.org/doi/full/10.1176/appi.ajp.21111141>

¹⁰ <https://bhbusiness.com/2022/06/30/opioid-treatment-programs-can-continue-to-virtually-prescribe-some-sud-medications-post-phe/>

¹¹ https://regulatorystudies.columbian.gwu.edu/sites/g/files/zaxdzs4751/files/downloads/PEW_Opioids/GW%20Reg%20Studies_REPORT_Telemedicine%20and%20Buprenorphine_BDooling%20and%20LStanley.pdf



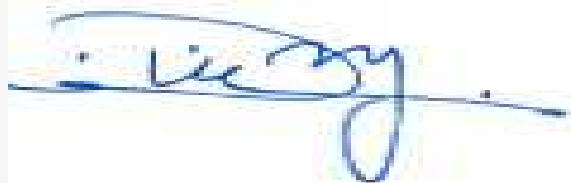
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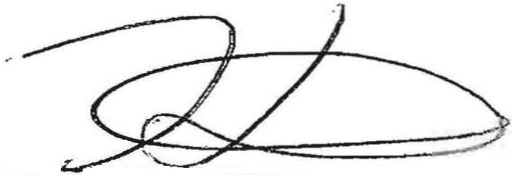
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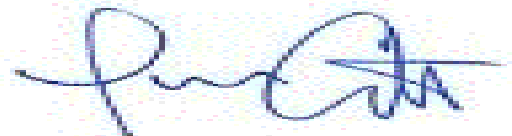
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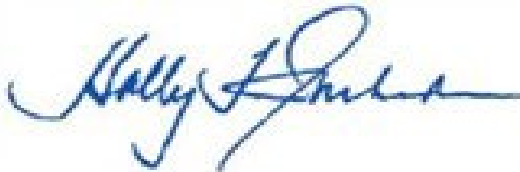
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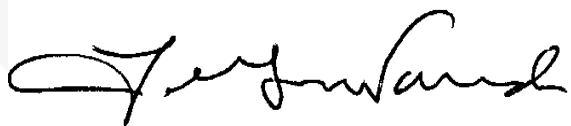
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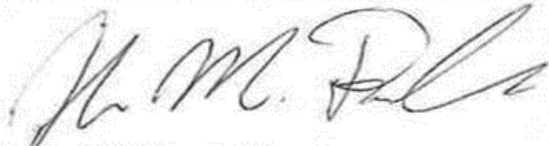
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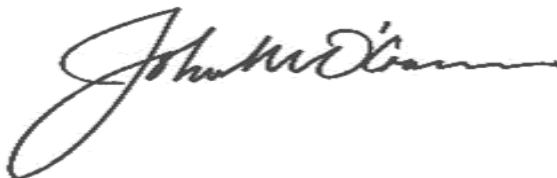
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