



OFFICE OF CHRIS CHRISTIE

November 3, 2020

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Brooke Rollins
Acting Director
United States Domestic Policy Council
Eisenhower Executive Office Building, Room 464
17th Street and Pennsylvania Avenue, NW
Washington, D.C. 20504

Dear Secretary Azar and Acting Director Rollins:

I am writing to you in your capacities as Co-Chairs of the Coronavirus Mental Health Working Group ("Working Group") established by President Trump's October 3, 2020 *Executive Order on Saving Lives Through Increased Support for Mental and Behavioral Health Needs* ("Executive Order"). The President is to be applauded for recognizing and acting upon the impact of the COVID-19 pandemic on the opioid crisis. I appreciate the opportunity to share my perspectives, based on my experience as Governor of New Jersey and as Chair of the President's Commission on Combating Drug Addiction and the Opioid Crisis ("Commission").

The COVID-19 pandemic has exacerbated America's existing addiction epidemic. Americans are faced with reduced access to substance use disorder treatment resources, and stressors heightened by the pandemic, such as social isolation and anxiety, are linked with increases in substance abuse. The Working Group is charged in the Executive Order with facilitating an "all of government" response to the mental health conditions induced or exacerbated by the pandemic. The Working Group is directed to examine existing protocols and programs to support vulnerable populations, including those suffering from substance use disorder. The following comments and recommendations are submitted for the Working Group's consideration.

America's opioid epidemic and the battle against it long pre-date the arrival of the COVID-19 pandemic. In 2018, the Centers for Disease Control and Prevention estimated that the total economic burden of prescription opioid abuse alone cost the United States \$78.5 billion a year including costs associated with

healthcare, lost productivity, addiction treatment, and criminal justice involvement.¹ An estimated 46,802 Americans succumbed to an opioid overdose, accounting for 69.5% of all drug overdose deaths in 2018. Owing to strong actions taken -- including by this Administration -- the number of overdose deaths decreased by 4.6% from 2018 to 2019, the first time overdose deaths decreased since this epidemic took root.

President Trump took robust and decisive action against the opioid epidemic beginning early in his Presidency. On March 29, 2017, he established the Commission, which I had the honor to chair. The Commission's work culminated in a final report that brought needed attention to the crisis and provided 56 recommendations aimed at ending the crisis through a multi-pronged approach. The Commission focused on reducing drug demand, cutting off the flow of illicit drugs, reducing overdose deaths, and expanding access to evidence-based treatment. President Trump's support for the Commission's recommendations spurred government at all levels to address the crisis. The Federal government has made strong progress towards achieving the goals of the Commission's report including securing \$6 billion in funding over two years from Congress, reducing the total amount of opioids being prescribed by 34%, prosecuting more fentanyl traffickers than ever before, and increasing the number of patients receiving medication-assisted treatment by 23%. The efforts of the Administration and Congress culminated in the passage of the most comprehensive drug control legislation in American history, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act ("SUPPORT Act").

The SUPPORT Act demonstrated our national commitment to fighting this epidemic. It encouraged increased training on addiction in medical schools, expanded the prescribing authority of nurse practitioners and physician assistants, and increased the number of patients that physicians can treat with medication-assisted treatment.² The SUPPORT Act further encouraged entities to implement and replicate evidence-based practices in coordination with the Substance Abuse and Mental Health Services Administration ("SAMHSA"), authorized new grants resources, and created the option for State Medicaid plans to cover inpatient/residential treatment. Notably, the SUPPORT Act required coverage of opioid use disorder in Medicaid and significantly expanded the use of telemedicine. This included directing the Attorney General to issue final regulations regarding special registration requirements for telemedicine. These policies were crucial and important steps in ensuring that Americans receive the help they need, and significant progress has been made.

The arrival of the COVID-19 pandemic disrupted the response to the opioid epidemic and exacerbated it in significant ways. The pandemic required prolonged lockdown orders and widespread social isolation, which feeds into addiction and substance use disorders. Patients lost access to vital in-person visits and counseling, and fear of exposure to COVID-19 has led many to avoid going to hospitals for emergency treatment. Unfortunately, emergency departments wind up serving as the primary contact point for many Americans suffering from substance use disorder and are therefore important access points for patients to receive treatment. Initial reports from the Overdose Detection Mapping Application Program ("ODMAP"), a federal initiative that collects real-time data from public sources, demonstrated that overdoses increased by 18% in March of 2020, 29% in April, and 42% in May.³ The full impact of COVID-

¹ <https://www.drugabuse.gov/drug-topics/opioids/opioid-overdose-crisis>

² [https://www.asam.org/advocacy/the-support-for-patients-and-communities-act-\(h.r.-6\)](https://www.asam.org/advocacy/the-support-for-patients-and-communities-act-(h.r.-6))

³ https://journals.lww.com/em-news/fulltext/2020/09000/special_report__covid_19_reignites_substance_use.4.aspx

19 on substance use disorder will not be known for some time, but it is imperative that we continue to take strong action to fight this epidemic.

The Administration took swift action to protect patients suffering from substance abuse disorder. On January 31, 2020, the Department of Health and Human Services (“HHS”) declared a public health emergency. Based on that declaration, on March 16, 2020 the Drug Enforcement Administration (“DEA”), in consultation with HHS, allowed DEA-registered practitioners to begin issuing prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation. This allowed registered practitioners to utilize telemedicine and initiate medication-assisted treatment for patients suffering from substance use disorder without first examining the patient in-person. The relaxation of prescribing requirements during the public health emergency helped mitigate the impacts of the pandemic on patients suffering from opioid use disorder across the county.

Even so, COVID-19 has exacerbated the devastating impacts of the opioid epidemic and unraveled some of the progress being made. To counter the effects of the COVID-19 pandemic and accelerate progress in fighting the opioid epidemic, the Administration should build upon policies that we know work. In a comprehensive 2016 report on addiction in America, then Surgeon General Vivek H. Murthy recognized the importance and promise of telemedicine to improve access, engagement, monitoring, and continuing supportive care for those with substance use disorders.⁴ Similarly, in the Commission’s final report, we urged that federal agencies revise regulations and policies to allow for substance use disorder treatment through telemedicine. The permanent expansion of these vital tools would help bring treatment to underserved areas across America.⁵

The Administration’s swift action to expand the use of telemedicine in response to the COVID-19 public health emergency is helping addiction treatment providers meet more of the surging demand for treatment during the pandemic. As America ultimately emerges from the pandemic, increasing the availability of telemedicine-based medication-assisted treatment by qualified providers for patients constrained by limitations due to physical or mental health issues, distance and transportation barriers, or other circumstantial limitations (remote domiciles, incarceration settings, remote work placements) will facilitate more patients engaging in treatment and long-term recovery from addiction.

Specifically, I recommend that under Section 3232 of the SUPPORT Act, the Attorney General in consultation with the Secretary of HHS promulgate final regulations specifying the circumstances under which a special registration for telemedicine may be issued that would authorize the use of a telemedicine examination in lieu of an in-person office visit for the purposes of issuing an electronic prescription of controlled substances for medication-assisted treatment.

In addition, the Administration should expand the waivers required by the Drug Addiction Treatment Act of 2000 (“DATA 2000”). This law requires qualified practitioners to obtain a separate waiver to treat a limited number of patients. The waiver limits present significant barriers to expanding access to medication-assisted treatment for opioid use disorder, widely recognized as evidence-based, effective treatment. Studies have repeatedly shown that while upwards of 80,000 providers have DEA waivers to prescribe Schedule III narcotics approved for the treatment of opioid dependency, most of those providers practice well below their waiver limits. The vast majority of medication-assisted treatment for opioid use

⁴ Surgeon General’s Report, Facing Addiction in America, pg. 4-2 (2016).

⁵ Final Commission Report, Recommendations 39 and 41.

disorder is provided at programs that are organized to meet the criteria for Qualified Practice Settings (42 CFR 8.610-8.625) and that employ highly specialized and trained addiction treatment providers. The waiver limits constrain the ability of these programs to expand access to this vital treatment. Under DATA 2000, the HHS Secretary, in consultation with the DEA Administrator, may by regulation change the waiver limits. Therefore, I recommend that the Administration expand or eliminate these waiver limits to increase access to evidence-based treatment.

COVID-19 has made it clear that telemedicine will be a necessary and vital tool in defeating the opioid epidemic that has been ravaging America. This Administration should continue to demonstrate its commitment to fighting this disease by making permanent the expansion and greater flexibility of telemedicine regulations. In addition, the Administration should expand the DATA 2000 waiver limits to allow qualified prescribers to provide medication-assisted treatment to more Americans suffering from opioid use disorder.

Thank you for your consideration of these recommendations. Please let me know if there is any way I can be supportive of your work on this national public health imperative.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Christie". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping tail.

Christopher J. Christie