February 3, 2025

The Honorable Chuck Grassley
Chairman
Judiciary Committee
U.S. Senate
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member
Judiciary Committee
U.S. Senate
Washington, DC 20510

The Honorable Buddy Carter
Chairman
Subcommittee on Health
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Health
Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

RE: Halt Lethal Trafficking (HALT) Fentanyl Act

Dear Chairman Grassley, Ranking Member Durbin, Chairman Carter, and Ranking Member DeGette:

On behalf of the American Society of Addiction Medicine (ASAM), a national medical specialty society representing more than 8,000 physicians and associated health professionals who specialize in the prevention and treatment of addiction, I write to **urge amendments to the Halt Lethal Trafficking (HALT) Fentanyl Act to mitigate unintended negative consequences and encourage further Congressional action to address the demand side of our national addiction and overdose crisis**.

Opioid overdose deaths are always tragic, especially because they are preventable with evidence-based addiction prevention, treatment, and overdose reversal medications. Even though drug overdose deaths dropped last year,[i] the United States (US) has far to go in ending our national addiction and overdose crisis. We still rank highest in drug overdose deaths per capita in the world.[ii]

Illicitly manufactured, high-potency synthetic opioids, including fentanyl, are key drivers of overdose deaths in the US.[i] Therefore, policies aiming to decrease their illegal importation and distribution are critically important. **However, we are concerned that some of the policies proposed in the HALT Fentanyl Act may have unintended consequences. Some minor adjustments may support a better return on investment.** Enacting smart legislation is critical to saving more American lives.

Specifically, ASAM urges the following amendments to The HALT Fentanyl Act:

- **Revise its definition of "fentanyl-related substances" to consider potency and mu opioid receptor activity in the brain, rather than simply specifying the *precise* structures of drugs that would qualify for Schedule I.** Strict structural specification provides a blueprint for drug cartels and chemists to modify substances to avoid detection or conviction. Unfortunately, this can lead to more dangerous substances being manufactured and distributed across the US – resulting in higher potency substances on the streets and more severe addictions involving substances for which existing treatments may not work. Additionally, prosecutions need to focus on the trafficking and distribution of fentanyl-related substances that pose a danger to humans; the bill's current definition may include substances that do not have "abuse" potential;
- **Expand the federal mandatory minimum safety valve across <u>all</u> substances to end the practice of low-level drug offenders with substance use disorders receiving excessive and expensive sentences.** Redirecting associated savings toward evidence-based addiction treatments would be more effective;
- **Refine the expedited research procedures to reference "substance(s)" instead of "substance" throughout to clarify that researchers can submit one application for multiple substances;**
- **Amend the expedited research procedures to remove the requirement to demonstrate that the researcher is authorized to conduct research with respect to the substance(s) under the laws of the State in which the research will take place.** This often creates a catch-22 for researchers. A State won't approve the research until the researchers can demonstrate that it is approved federally, and the DEA won't approve it until the researchers can demonstrate that it is approved at the state level. We recommend deferring to the States to include the requirement to demonstrate federal approval; and
- **Express a sense of Congress that, while the legislation may facilitate prosecutions and seizures of fentanyl-related substances, increased and sustained Congressional efforts are needed to address the demand side of our national addiction and overdose crisis if the primary goal is to save lives.**

The Halt Lethal Trafficking (HALT) Fentanyl Act

ASAM agrees with the Drug Enforcement Administration (DEA)'s assessment that the current scheduling framework under the Controlled Substances Act (CSA) does not offer necessary flexibility to combat the threat posed by emerging synthetic substances. Chemists can constantly adjust their formulations to evade US scheduling, and law enforcement faces significant challenges staying ahead of these threats.

In 2018, the DEA exercised its authority to place non-scheduled fentanyl-related substances into Schedule I for two years.[iii] Congress has extended this *temporary* class-wide scheduling on several occasions.[iii] While this approach has had success in reducing law enforcement encounters with new fentanyl-related substances in the illicit market,[iv] it has been unable to curb the overall flow of illicitly manufactured fentanyl into the US. Drug cartels have continued large-scale production and distribution of high-potency synthetic opioids.

Between 2017 and 2023, the number of illicit fentanyl seizures in the U.S. skyrocketed by more than 1,700 percent.[v] Concurrently, the proportion of fentanyl seizures involving counterfeit prescription pills - that further exacerbate the risk of overdose by misleading Americans as to what substance they are ingesting – increased fourfold.[v] Sadly, overdose deaths involving synthetic opioids other than methadone (primarily illicitly manufactured fentanyl) have climbed since 2018 to more than 73,000 in 2022.[vi]

In short, the HALT Fentanyl Act merely preserves a deadly status quo.

Additionally, the legislation would continue (1) imposing mandatory minimum sentences for quantity-based offenses involving fentanyl-related substances and (2) defining the class by chemical structure, regardless of potency or actual impact on opioid receptors and related risks. Unfortunately, mandatory minimum sentences are a terrible return on investment when used to punish low-level drug dealers.[vii]

These sentences are expensive, needlessly requiring thousands of dollars per individual per year. **Research has shown that mandatory minimum sentences do not deter drug use - either before or after incarceration – and can spend tax dollars with little to no impact on drug use, drug-related arrests, or overdose rates**.[vii,viii,ix] Moreover, a meta-analysis of research studies found that incarceration not only fails to prevent drug use, it may even increase the likelihood of reoffending.[x]

The largest return on criminal justice costs may come from targeting cartel leaders or high-level drug dealers.[xi] Unlike low-level dealers, they are responsible for the movement of large quantities of fentanyl-related substances at any given time. **Yet, the highest-level drug traffickers represent only 11% of federal drug offenders across substances.[xii] In other words, the US currently wastes a significant amount of money incarcerating low-level drug offenders with lengthy sentences.**

A Better ROI: Investing in Addiction Medicine Innovation and Treatment

Carefully tailored drug scheduling decisions can play a useful role in a supply-side approach to addressing an overdose crisis, but increased and sustained efforts on the demand side present an opportunity for greater progress. While many people reduce or stop using drugs without treatment, those who consume most drugs distributed by drug cartels frequently have moderate to severe substance use disorders that necessitate medical treatment. Threats of punishment are unlikely to deter these Americans, because their disorder has already negatively affected their motivation and judgment regarding their drug use. Instead, effective addiction treatment reduces drug use and improves health and wellbeing.

Addiction treatment is an excellent return on investment, including for low-level drug dealers who are distributing drugs to support their own addiction. Every dollar spent on addiction treatment saves $4 to $7 in criminal justice and other costs.[xiii] Therefore, rather than inefficiently using taxpayers' money incarcerating low-level dealers of fentanyl-related or other substances, the government can realize positive effects from treating substance use disorders of low-level dealers, including through drug courts that utilize evidence-based practices and other alternatives to incarceration.

Congress can lead the way in promoting helpful addiction treatments. While highly effective medications exist for opioid use disorder, many people are using stimulants, like cocaine and methamphetamine, as well as alcohol. No medications have been approved for stimulant use disorder, and new treatments are urgently needed for all substance use disorders to increase their uptake by both prescribers and patients.[xiv] Unfortunately, innovation in the addiction field has lagged other medical fields due to limited financial investment and misunderstanding of addiction as a moral rather than a medical condition.[xv] **Congress could consider establishing incentives for the pharmaceutical industry to enter the under-tapped addiction medicine field.**[xv] The recent case of GLP-1 medications demonstrates how new medications can change millions of lives, spur economic growth, and provide renewed hope for people suffering from stigmatized medical conditions.

While new treatments are being developed and tested, the US must also quickly expand access to existing evidence-based treatments – including methadone, buprenorphine, and contingency management. Few clinicians offer these treatments, and they are unlikely to do so without increased reimbursement rates from insurers and less red tape around methadone for the treatment of opioid use disorder.[xvi] For example, Congress could explicitly amend federal law to state that contingency management – the most effective treatment for stimulant use disorder – does ***not*** violate federal anti-kickback laws and patient inducement laws. For too long, contingency management has been underused by clinicians who fear prosecution under federal statutes that were not created to address contingency management. Similarly, many pharmacies fear that stocking effective medications, like buprenorphine, will lead to Department of Justice investigations. Recognizing this, Congress could clarify federal statute to ensure that pharmacies' stocking of addiction medications is not an indicator of suspicious activity.[xvii]

Additionally, Congress could close the dangerous Medicare coverage gap for evidence-based *residential* addiction treatment.[xviii] At a minimum, Congress could reauthorize, and update key

programs first created by the SUPPORT for Patients and Communities Act in 2018, after unfortunately letting them lapse in 2024.

Conclusion

Thank you for considering these recommendations. ASAM remains committed to working with you to promote remission and recovery from addiction, ensuring that all communities are safe, and more Americans can lead healthy, productive lives. For any questions or to discuss, please contact Kelly Corredor, ASAM's Chief Advocacy Officer, at kcorredor@asam.org.

Sincerely,

Brian Hurley, MD, MBA, FAPA, DFASAM
President, American Society of Addiction Medicine

cc: Chairs and Ranking Members of the House Energy and Commerce Committee, House Judiciary Committee, and Senate HELP Committee; Senator Bill Cassidy; Representative Morgan Griffith

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