

November 21, 2023

Dr. Miriam E. Delphin-Rittmon, PhD
Assistant Secretary for Mental Health and Substance Use
Substance Abuse and Mental Health Services Administration
5600 Fishers Lane
Rockville, Maryland 20857

Dear Dr. Delphin-Rittmon,

Thank you for your leadership in supporting the development of SAMHSA's proposed Harm Reduction Framework with a goal of better integrating harm reduction strategies throughout SAMHSA's policies and programming. Strategies effective in reducing the harms associated with drug use, as well as the harms resulting from racialized and punitive drug policies, are critical to engaging with people who use drugs to ensure their health care needs are met. As our nation's epidemic of overdose persists, all strategies and interventions that are effective in keeping people safe and healthy must be available and accessible in every community.

As organizations advocating to ensure that people have good coverage and meaningful access to mental health and substance use care, and that people who have been involved in the criminal legal system have what they need to become and remain well, we appreciate SAMHSA's work to increase support for and availability to harm reduction resources and practices. As SAMHSA finalizes and implements its Harm Reduction Framework, we urge you to take the following actions to advance the administration's goals of enhancing individual and community health and well-being:

- Center people who use drugs (PWUD) with lived and living experience and actively engage their expertise: PWUD with lived and living experience should be centered as SAMHSA finalizes and implements the Harm Reduction Framework. Just as SAMHSA has convened various Councils and Advisory Committees of experts to focus on the need for certain SU and MH services and interventions and certain populations, there should be a permanent body consisting of people who use drugs or are directly impacted by drugs or drug criminalization to advise SAMHSA on harm reduction policies, practices, and programming and an active use of their ideas, suggestions, and solutions.
- Engage and coordinate with other federal agencies: As SAMHSA's Framework is implemented, it will be extremely important to coordinate work across the Biden-Harris administration to ensure that harm reduction principles are reflected in policies, practices, and programming across the federal government. Coordination should occur across federal programs that advance individual and community health but also that promote a person's ability to live free of discrimination, secure and maintain stable housing, pursue their education, and engage in meaningful work. Similar to the Obama administration's Interagency Reentry Council, which brought together several federal agencies and departments that oversaw initiatives important to people leaving prisons/jails, the administration should convene an interagency working group focused on harm reduction which could include SAMHSA, CDC (the Centers for Disease Control and Prevention), CMS (the Centers for Medicare and Medicaid Services, HRSA (the

Health Resources Services Administration), ONDCP (the Office of National Drug Control Policy), NIDA (the National Institute on Drug Abuse), NIAAA (the National Institute on Alcohol Abuse and Alcoholism), HUD (the Department of Housing and Urban Development), DOL (the Department of Labor), DOE (the Department of Education), VA (the Department of Veterans Affairs) and other key agencies. This group could more intentionally plan, coordinate, and align funding priorities, ensure more cohesive messaging and guidance to the states and localities about ways to promote more equitable access to harm reduction services, and identify and address federal policies and practices which perpetuate discrimination against PWUD.

- Ensure adequate funding: Federal dollars should be available to states and localities to ensure that every community has sufficient capacity of culturally and linguistically effective harm reduction services. CMS's Center for Medicaid and CHIP Services (CMCS) should issue guidance to states, making clear that harm reduction services are effective, evidence-based health services, and identifying specific ways for states to utilize federal Medicaid dollars to support harm reduction services. The administration should support increased annual federal discretionary funding at SAMHSA, CDC, and other HHS agencies for harm reduction interventions and should also work with Congress to eliminate current federal funding restrictions against effective harm reduction interventions.
- Support community-based harm reduction programs: SAMHSA, CDC, and other grant-making federal agencies should develop policies and practices (which center the recommendations of community-based harm reductionists) to ensure that dollars are accessible to community-based harm reduction programs, particularly those serving historically marginalized communities. Barriers that community-based harm reduction programs may face in applying for federal funds (including reporting requirements that incorporate personal identifiable information about the people they serve) should be removed and policies that minimize those barriers should be adopted.
- Respond to community needs: The federal government should encourage, including through the use of incentives, states and localities to remove barriers to harm reduction programs including syringe service programs (SSPs) so that they can effectively meet the public health needs of every community. The federal government should also encourage states and localities to employ innovative approaches such as public health vending machines and mail-order services to distribute the full range of effective supplies, including syringes and naloxone. The federal government should remove federal restrictions facing communities that wish to establish overdose prevention centers, one type of evidence-based harm reduction strategy to reduce fatal overdose and other harms associated with drug use. The Biden-Harris administration should also examine the impact, particularly on BIPOC communities, of policies that require coordination between harm reduction services and law enforcement entities.
- Strengthen and enforce the legal rights of PWUD: The federal government should expansively interpret, strengthen, and enforce anti-discrimination protections for PWUD in health care settings. As HHS has stated clearly in its recent NPRM to amend Section 504 of the Rehabilitation Act (R.A.), denial of health care because of an individual's SUD or drug use, rather

than due to legitimate medical grounds, violates the R.A. DOJ and the HHS Office of Civil Rights also have stated that it violates the Americans with Disabilities Act (ADA), the Affordable Care Act (ACA), and the Fair Housing Act (FHA). SAMHSA should engage with the DOJ and OCR to ensure the strongest protections for PWUD access to health care. SAMSHA also should work with CMS to create clear standards for emergency department provision of evidence-based practices for people with SUD-related emergencies; failure to adopt these practices can violate the Emergency Medical Treatment and Labor Act (EMTALA). Finally, these federal agencies should work with Congress to update and align with current understanding/thinking the R.A., ADA, and other federal anti-discrimination laws so that people whose disability involves the current illegal use of drugs are no longer excluded from most protections.

Thank you again for your leadership and for your consideration of our recommendations. Please contact Gabrielle de la Guéronnière (gdelagueronniere@lac-dc.org) with any questions or if you would like additional information.

Addiction Policy Forum

American Association for the Treatment of Opioid Dependence

American Foundation for Suicide Prevention

American Psychiatric Association

American Psychological Association Services

American Society of Addiction Medicine

Community Catalyst

Faces and Voices of Recovery

IC&RC

Legal Action Center

Mental Health America

MoNetwork

National Association of Addiction Treatment Providers

National Association of County Behavioral Health and Developmental Disability Directors (NACBHDD)

National Association of Rural Mental Health

National Behavioral Health Association of Providers

National Center for Advocacy and Recovery, Inc. (NCAAR)

National Council on Alcoholism and Drug Dependence-Maryland Chapter

National Council for Mental Wellbeing

National Health Law Program

Never Use Alone Inc.

The Partnership to End Addiction

Pennsylvania Harm Reduction Network

Treatment Communities of America

Voices of Hope, Inc.

Young People in Recovery