National Association for Behavioral Healthcare

Access. Care. Recovery.

12 February 2024

Senate Majority Leader Chuck Schumer
S 221 U.S. Capitol
Washington, D.C. 20510

House Speaker Mike Johnson
H 232 U.S. Capitol
Washington, D.C. 20515

Senate Minority Leader Mitch McConnell
S 230 U.S. Capitol
Washington, DC 20510

House Minority Leader Hakeem Jeffries
H 204 U.S. Capitol
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Sen. Bernie Sanders, Chairman
Senate HELP Committee
332 Dirksen Senate Office Building
Washington, D.C. 20510

Sen. Bill Cassidy, M.D., Ranking Member
Senate HELP Committee
455 Dirksen Senate Office Building
Washington, D.C. 20510

Rep. Cathy McMorris Rogers, Chairwoman
House Energy and Commerce Committee
2188 Rayburn House Building
Washington, D.C. 20515

Rep. Frank Pallone, Ranking Member
House Energy and Commerce Committee
2107 Rayburn House Office Building
Washington, D.C. 20515

Dear Senate and House Leaders:

The National Association for Behavioral Healthcare (NABH) represents behavioral healthcare systems that provide mental health and addiction treatment services across the entire continuum of care, including inpatient, residential treatment, partial hospitalization, and intensive outpatient programs, as well as other facility-based outpatient programs, including medication assisted treatment (MAT) centers. Our membership includes behavioral healthcare providers in 49 states and Washington, D.C.

For decades, federal policy has permitted the provision of methadone to individuals with an opioid use disorder (OUD) through opioid treatment programs (OTPs), highly regulated, comprehensive outpatient care settings for individuals with OUD. This treatment paradigm provides all OUD medications with a host of psychosocial wrap-around services and constitutes the *gold standard* of care that supports long-term recovery. OTPs implement robust safety precautions against diversion.

The *Modernizing Opioid Treatment Access Act* (MOTAA) [H.R. 1359 / S. 644] would permit addiction physicians outside OTPs to prescribe methadone that would be dispensed through pharmacies. This legislation has not been vetted appropriately with stakeholders, the House has not held a hearing to examine it, and the Senate has given it only a cursory review. The bill's goal is to provide greater access to methadone; however, patient safety concerns with such an untested approach warrants further review and attention before further congressional consideration.

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While there are certainly methadone access issues in the United States, the vast majority of *Americans* fall within federal time and distance standards to an OTP, despite some who argue that there is an exorbitant gap in OTP coverage based on U.S. *counties*. Evaluating the metric of access through a review of counties results in a misleading measure of access. Some counties are large, some are small, some have large populations, some have small populations, and some people can attend OTP treatment outside their home counties if the OTP is geographically nearer to their home.

Restricted access to OTPs is often due to greater state regulatory stringency and moratoria or quotas on developing OTPs, not OTP access issues or waiting lists. Among our members' 424 OTPs, only one to three facilities have temporary holds on admissions, and this is due to state regulations requiring OTPs halt admissions when experiencing a staff shortage.

Moreover, the location of addiction specialists does not generally map to the areas in which OTP access is a problem; thus, expanded access is *unlikely* under the MOTAA paradigm. But MOTAA does significantly introduce more danger of overdose given the safety profile of methadone (versus buprenorphine, for example).

What *will* provide greater access is implementing the Substance Abuse and Mental Health Services Administration's (SAMHSA) *Medications for the Treatment of Opioid Use Disorder* regulations. Released on Feb. 2, 2024, these regulations are thoughtful, long overdue, and transformational. They will allow greater access to individuals of all ages, provide greater convenience for patients, bolster the workforce, ease expansion to broader settings of care (medication units and mobile units), and more. The regulations also recognize that methadone has a more dangerous pharmacological profile than other medications for OUD.

Specifically, the final regulations:

- Clarify that the prescription of methadone to community pharmacies is NOT permitted.
- Permit audio-only telemedicine when the patient is in the presence of a practitioner who is registered to prescribe Schedule II drugs, including dispensing, due to the safety profile of methadone.
- Make permanent the COVID-era take-home schedule.
- Permit methadone for new patients via audio-visual telemedicine with the dispensing of medication at the OTP (not audio-only).
- Change the requirement for a one-year history of OUD for eligibility so that now either the patient must a) meet diagnostic criteria for moderate-severe OUD, or b) be in OUD remission, or c) at high risk for overdose.
- Remove the requirement for two treatment failures for people under the age of 18 to be eligible for treatment.
- Remove the requirement for a one-year history of OUD for people recently released from a prison, pregnant patients, or previously enrolled individuals.
- Allow medication units to provide all OTP services.
- Decouple medication and attendance at counseling services.
- Permit interim treatment for 180 days, including at for-profit OTPs.

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- Permit mid-levels ("…those appropriate licensed by the state") to prescribe without exemption.
- Clarified accreditation standards to reduce potential for a burdensome increase in less-than 3-year accreditations.
- Permit buprenorphine prescribing in an OTP via audio-only and audio-visual without an in-person evaluation; and
- Update terminology to reflect contemporary, non-stigmatizing language.

NABH members are eager to work with SAMHSA to implement these new regulations with the new tools provided through the revisions. These changes are essential to expanding access to methadone treatment during our nation's ongoing opioid epidemic. Understanding the impact of these much-needed regulatory changes should be better understood before Congress acts.

Thank you for considering our comments. If you have any questions, please contact me directly at shawn@nabh.org or 202-393-6700, ext. 100.

Sincerely,

Shawn Coughlin
President and CEO