

United States Senate

WASHINGTON, DC 20510

February 16, 2018

Honorable Robert W. Patterson
Acting Administrator of the Drug Enforcement Agency
8701 Morrissette Drive
Springfield, VA 22152

Dear Acting Administrator Patterson:

We write today because of our concern over the fentanyl, heroin and opioid epidemic in the United States. As you know, synthetic opioids have been an increasingly deadly health problem in our country. We understand the difficulties associated with prosecuting those who produce and traffic these substances, particularly when they make minor changes to the structural makeup of the chemical to skirt existing law.

On February 6, 2018, Attorney General Jeff Sessions issued an order to temporarily schedule fentanyl-related substances that were not listed in any schedule of the Controlled Substances Act so that "the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle fentanyl-related substances."¹

It is our understanding that the intent of this temporary scheduling action is to avoid imminent hazard to public safety, and, ultimately, permanently place all fentanyl-related substances under Schedule I control. To assist Congress' oversight of this effort, please provide our offices with the following information within 30 days of July 29, 2018; within 30 days of January 29, 2019; within 30 days of July 29, 2019; and within 30 days of January 29, 2020:

1. The percent change in seizures, arrests and successful prosecutions that are the direct result of this scheduling order over the past year, broken out by each substance covered.
2. A summary of concerns and feedback raised by the research community, including academic, government and industry researchers, and any steps DEA has taken to address these issues.

¹ <https://www.gpo.gov/fdsys/pkg/FR-2018-02-06/pdf/2018-02319.pdf>

3. A status report on progress made in transitioning any temporarily controlled fentanyl-related substances to permanent control. If a substance fails to meet the criteria for permanent scheduling within the above listed time frames, please explain why.

These reports will help us better understand the overall impact of this regulatory action. We applaud your efforts to ensure the public is protected from dangerous fentanyl-related substances. As part of our efforts to stem the tide of increased synthetic opioid abuse, we want to confirm the data you collect show the steps you are taking to curtail this problem are effective, and ensure we do not hinder researchers' ability to do their job and help turn the tide of this crisis. Thank you for your cooperation on this important matter.

Sincerely,

Bill Cassidy, M.D. *Maggie Hassan*

Bill Cassidy, M.D.
U.S. Senator

Margaret Wood Hassan
U.S. Senator