

January 29, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Steny H. Hoyer
Majority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Steve J. Scalise
Minority Whip
U.S. House of Representatives
Washington, D.C. 20515

The Honorable James E. Clyburn
Majority Whip
U.S. House of Representatives
Washington, D.C. 20515

Re: Vote on S. 3201, Temporary Reauthorization and Study of the Emergency Schedule of Fentanyl Analogues Act

Dear Speaker Pelosi, Majority Leader Hoyer, Majority Whip Clyburn, Minority Leader McCarthy, and Minority Whip Scalise:

On behalf of the American Society of Anesthesiologists (ASA) and our membership of 54,000 physician anesthesiologists, I am writing regarding the House consideration of S. 3201, the Temporary Reauthorization and Study of the Emergency Schedule of Fentanyl Analogues Act. We applaud the House's effort to address fentanyl analogues in order to stem the number of Americans plagued by losing family members to overdoses by these illicitly manufactured drugs. ASA believes this issue is of great importance in the fight against the opioid crisis. As discussions continue around how to permanently address fentanyl analogues, ASA is gratified that Congress is taking action now to stop the flow of these illegal substances and appreciates the preservation of legal fentanyl (Schedule II) for medical purposes.

Lawfully administered fentanyl in health care settings, such as hospitals, ambulatory surgery centers, health clinics and in hospice care, is an important and essential treatment in the practice of medicine. Approximately 51 million Americans undergo inpatient surgery annually. Lawful fentanyl, typically injectable, is used by physician anesthesiologists to control pain during most surgical procedures in the U.S. It is also used for patients suffering from cancer-related pain and during end-of-life care.

ASA understands the dangers posed by illicit fentanyl and its analogues and we also understand that the Drug Enforcement Administration (DEA) has been successful in using its emergency authority to temporarily place all non-scheduled fentanyl-like substances into Schedule I, to stop these dangerous substances from entering the United States. Yet, DEA's emergency power is set to expire on February 6, 2020.

While we have heard some members of the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security caution against passing S. 3201, and specifically, express concern about the impact this will have on criminal prosecutions and mandatory minimum sentences, ASA hopes that the House

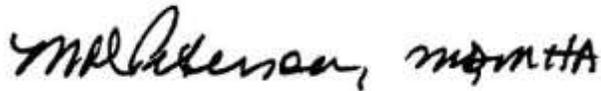
can find consensus before the emergency power expires. We support the intent of S. 3201 to address fentanyl analogues by extending the temporary order and requiring a study evaluating the impact of controls on fentanyl-related substances. ASA is also pleased that the bill would ensure the current regulation (21 CFR §1308.11 (h)(30)) authorizing the emergency scheduling would remain in effect until May 6, 2021. This regulation explicitly ensures only “fentanyl-related substances” are targeted and only applies to “any substance not otherwise listed under another Administration Controlled Substance Code Number... and for which no exemption or approval is in effect.” We believe this provides assurance of continued access to fentanyl in Schedule II for medical purposes.

Furthermore, ASA appreciates the Judiciary Subcommittee’s willingness to recognize the value fentanyl has to both the medical and research communities during their January 28, 2020 hearing. For example, the Subcommittee acknowledged the lawful use of fentanyl (Schedule II) in health care settings for surgery. Additionally, members discussed the need to ensure access to fentanyl analogues for research purposes to determine whether there are novel uses for certain substances in treating opioid use disorder.

ASA understands the House’s desire to thoughtfully explore how to address fentanyl analogues in the future, but we respectfully ask Members to consider S. 3201 before the DEA emergency scheduling power expires.

Thank you for your continued dedication in addressing the opioid crisis.

Sincerely,

A handwritten signature in black ink that reads "MD Peterson, M.D., MSHCA, FACHE". The signature is written in a cursive, flowing style.

Mary Dale Peterson, M.D., MSHCA, FACHE
President
American Society of Anesthesiologists