

in 2014 more than 1,500 people were treated each day in emergency departments for opioid-related emergencies.

This crisis has devastated our communities. It has been particularly harmful for children affected by their parents' drug abuse. The number of infants born drug-dependent increased by nearly 500 percent from 2000 to 2012. The number of children being placed into foster care due, at least in part, to parental drug abuse is increasing, and accounted for almost a third of all child removals in Fiscal Year 2015. Serious drug users are also more likely to be arrested for crimes such as burglary, robbery, and handling stolen goods. Moreover, the drug trafficking that supplies illegal drugs to our country is associated with other illegal activities, including murder and other violent crimes. All of this devastates lives and harms communities in both the United States and foreign countries involved in the illegal drug supply chain. Federal, State, and local governments; law enforcement; first responders; the medical, public health, and substance abuse treatment community; and faith-based and community organizations are working tirelessly and have even expanded their efforts to combat the drug demand and opioid crisis.

Three factors are driving the opioid aspect of this crisis in particular. First, since the 1990s, there has been a dramatic rise in opioid pain medication prescriptions. Second, heroin from Mexico has flooded the country. Third, the illicit manufacture and illegal importation of fentanyl—an extremely deadly synthetic opioid—and its analogues and related compounds have proliferated. Fentanyl is currently manufactured almost exclusively in China, and it is either shipped into the United States or smuggled across the southern border by drug traffickers. Between 2013 and 2016, the amount of fentanyl seized by Customs and Border Protection at the border increased more than 200 times over. Dealers are increasingly lacing fentanyl into other drugs and pressing it into counterfeit opioid pills. Because fentanyl is lethal in even minuscule doses, this is an extremely deadly tactic, as it too often causes users to ingest a fatal amount unknowingly.

SEC. 2. Agency Action. The Secretary of Health and Human Services shall, consistent with section 319 of the Public Health Service Act, 42 U.S.C. 247d, consider declaring that the drug demand and opioid crisis described in section 1 of this memorandum constitutes a Public Health Emergency. Additionally, the heads of executive departments and agencies, as appropriate and consistent with law, shall exercise all appropriate emergency authorities, as well as other relevant authorities, to reduce the number of deaths and minimize the devastation the drug demand and opioid crisis inflicts upon American communities.

SEC. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Health and Human Services is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 801a. Congressional findings and declarations: psychotropic substances

The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

(Pub. L. 95-633, title I, § 101, Nov. 10, 1978, 92 Stat. 3768; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

This Act, referred to in par. (2), is Pub. L. 95-633, Nov. 10, 1978, 92 Stat. 2768, as amended, known as the Psychotropic Substances Act of 1978, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in par. (3), is Pub. L. 91-513,

Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to this chapter [§801 et seq.]. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Section was enacted as a part of the Psychotropic Substances Act of 1978, and not as a part of the Controlled Substances Act which comprises this subchapter.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in par. (3) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Pub. L. 95-633, title I, §112, Nov. 10, 1978, 92 Stat. 3774, provided that: “This title [enacting this section and section 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 872, 952, and 953 of this title and section 242a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 801 and 812 of this title] and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States.” [The Convention entered into force in respect to the United States on July 15, 1980.]

§ 802. Definitions

As used in this subchapter:

(1) The term “addict” means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term “administer” refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term “agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier’s or warehouseman’s business.

(4) The term “Drug Enforcement Administration” means the Drug Enforcement Administration in the Department of Justice.

(5) The term “control” means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise.

(6) The term “controlled substance” means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

(7) The term “counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms “deliver” or “delivery” mean the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not there exists an agency relationship.

(9) The term “depressant or stimulant substance” means—

(A) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term “dispense” means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term “dispenser” means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term “distribute” means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term “distributor” means a person who so delivers a controlled substance or a listed chemical.

(12) The term “drug” has the meaning given that term by section 321(g)(1) of this title.

(13) The term “felony” means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term “isomer” means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term “isomer” means any optical, positional, or geometric isomer. As used in schedule II(a)(4), the term “isomer” means any optical or geometric isomer.

(15) The term “manufacture” means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independ-