



1212 New York Ave. NW,
Suite 900
Washington, DC 20005
202.525.5717

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June 4, 2019

The Honorable Lindsey Graham, Chairman
Committee on the Judiciary
U.S. Senate
224 Dirksen Senate Office Building
Washington, D.C. 20515

The Honorable Dianne Feinstein, Ranking Member
Committee on the Judiciary
U.S. Senate
152 Dirksen Senate Office Building
Washington, D.C. 20515

RE: Hearing on “The Countdown: Fentanyl Analogues & the Expiring Emergency Scheduling Order

Dear Chairman Graham & Ranking Member Feinstein:

The R Street Institute is a nonprofit, nonpartisan, public policy research organization based out of Washington, D.C. We strive to promote free markets and effective government policies in many areas, including harm reduction and public health.

My interest in and efforts to promote reasonable policy relating to drug abuse are based on my scientific expertise in neural mechanisms of addiction, as well as my keen understanding of sound public policy and its ability to positively influence society.

When considering amendments to the Controlled Substances Act, including rescheduling or de-scheduling drugs or drug analogs, we ask that consideration be given to the consequences associated with these actions.

We appreciate that synthetic opioids, such as fentanyl and certain derivatives, have contributed to the opioid overdose crisis that the United States is currently experiencing. However, we submit that keeping fentanyl analogs as Schedule I drugs and extending the emergency scheduling order will not curb the number of opioid overdose deaths. Instead:

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- Scheduling fentanyl analogs as Schedule I drugs will dramatically limit access to these compounds for research purposes. In the case of fentanyl and other novel synthetic opioids, research must be done to characterize abuse potential, evaluate therapeutic applications, and develop and evaluate treatments for addiction and other side effects. While Schedule I drugs are allowed to be used in research, the burdensome regulatory requirements associated with obtaining a Schedule I license for research is a major deterrent for labs that are otherwise equipped to carry out research examining compound characterization.
- Scheduling a class of drugs under the most severe category without taking into consideration the properties of the individual compounds being scheduled also has the potential to create extreme punitive consequences for the possession and use of substances that may not only be less harmful than other Schedule I drugs, but may have legitimate medical applications. This is certainly the case for synthetic opioids that have novel pain management applications, but are formulated to be abuse deterrent.
- Practices that restrict access to chemicals simply drive the market to develop newer drugs with unknown characteristics and lethal potential, thereby negating any positive effects seen from initial restrictions.

Given current regulations surrounding the use and potential use of scheduled drugs, we believe that reclassifying fentanyl analogs as Schedule II drugs would be more appropriate.

Thank you for your time and consideration.

Respectfully submitted,

Dr. Carrie Wade, Director of Harm Reduction Policy
R Street Institute