

Congress of the United States
Washington, DC 20515

August 19, 2019

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear AG Barr,

Thank you for your Department's efforts to combat the opioid epidemic by disrupting the sale of synthetic opioids and addressing the overuse of prescription opioids. It is also vital that we protect patients with substance use disorders from abusive practices, such as patient brokering, in the addiction treatment and recovery industries.

Brokers treat patients as commodities, recruiting and sending them to disreputable – and often distant – facilities without meaningful supervision and support, to earn finders' fees up to tens of thousands of dollars. These facilities often pay the client's initial private insurance premium in order to secure lucrative reimbursement rates. Once the benefits are exhausted, they eject patients, often leaving them with nowhere else to go. Brokers then push them to relapse by promising lavish lifestyles and providing drugs so they can qualify for new insurance and reenter addiction treatment, generating additional fees. This perverse incentive system contributes to homelessness in our communities and results in countless relapses and deaths each year.

While some states have enacted laws to address this issue, they vary widely. For example, Florida's Patient Brokering Act¹ applies to any individual engaged in brokering and establishes this activity as a felony with a minimum \$50,000 fine. Meanwhile, California law² provides the Department of Public Health with authority to penalize only certified programs and counselors or licensed facilities, with no specified fines. Because many patients are brokered across state lines, it is critical that the federal government step in.

On October 24, 2018, President Trump signed into law the SUPPORT for Patients and Communities Act³, a sweeping measure to address our nation's opioid crisis. Section 8122 of this law prohibits the knowing and willful solicitation, receipt, payment, or offer of kickbacks for referrals to recovery homes, clinical treatment facilities, and laboratories. This applies to all health care benefit programs, expanding upon the federal anti-kickback statute⁴ which only covers federal health care programs.

¹ Florida Statutes, §817.505

² Health and Safety Code Sections 118.631.6-118.631.7

³ Public Law 115-271

⁴ 42 U.S.C. §1320a-7b(b)

We strongly support this provision, and request information on how it is being enforced. Please provide a written response to the following questions no later than September 5, 2019:

1. How many cases have been charged under 18 U.S.C. §220?
 - a. Please provide a breakdown of these cases by entity type – recovery residences, treatment facilities, and laboratories.
 - b. Please provide a breakdown of these cases by party charged – facility and/or broker.
2. How many of these cases have been convicted, and what is the average sentence?
3. What additional authorities or resources does the Department need to address patient brokering ?

Thank you for your attention to this important issue and our request.

Sincerely,



MIKE LEVIN
Member of Congress



HARLEY ROUDA
Member of Congress



GUS M. BILIRAKIS
Member of Congress



KATIE PORTER
Member of Congress



JUDY CHU
Member of Congress



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