

SENATE CONCURRENT RESOLUTION No. 107

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Urges U.S. President, Congress, and Department of Health and Human Services to ease patient limits applicable to private physicians prescribing buprenorphine as part of medication-assisted treatment for substance use disorders.

CURRENT VERSION OF TEXT

As introduced.



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1 **A CONCURRENT RESOLUTION** urging the President and Congress of
2 the United States and the Department of Health and Human
3 Services to ease patient limits applicable to private physicians
4 who prescribe buprenorphine.
5
6 **WHEREAS**, In the current legal environment, it can be harder for
7 opioid addicts to get the medication they need to treat their
8 addiction than it is for them to get the drugs that feed it; and
9 **WHEREAS**, Buprenorphine is an oral opioid agonist medication that is
10 categorized as a Schedule III controlled dangerous substance (CDS)
11 and is used in medication-assisted substance use disorder treatment
12 as an effective means to wean opioid dependent people off of more
13 dangerous and addictive opioid drugs, including prescription
14 painkillers such as OxyContin, Percocet, and Vicodin, and more
15 illicit opioid drugs such as heroin and fentanyl, without the
16 detrimental side effects of withdrawal; and
17 **WHEREAS**, The federal Department of Health and Human Services
18 (DHHS) has recognized that buprenorphine is less toxic than
19 methadone and is significantly less likely than other CDS to lead to
20 abuse, overdose, or physical or mental damage; and
21 **WHEREAS**, Clinical studies show that the use of buprenorphine
22 effectively lowers the risk of a fatal opioid overdose, more than
23 doubles the chance that an opioid dependent person will stay in
24 recovery and avoid a relapse, and offers a far greater chance of
25 recovery from addiction than treatments that do not involve
26 medication, such as 12-step programs or residential stays; and
27 **WHEREAS**, While more than 900,000 U.S. physicians (nearly all
28 physicians in the country) are authorized to prescribe addictive
29 opioid painkillers, fewer than 32,000 physicians are authorized to
30 prescribe buprenorphine to people who have become addicted to
31 opioid drugs; and
32 **WHEREAS**, Pursuant to section 303(g) of the federal “Controlled
33 Substances Act” (21 U.S.C. 823(g)), as amended by the “Drug
34 Addiction Treatment Act of 2000” (DATA 2000), Pub.L.106-310,
35 in order for a private physician to prescribe buprenorphine outside
36 of a formal Opioid Treatment Program (OTP), the physician must
37 obtain a federal waiver from the registration requirements that are
38 applicable to OTPs under the “Narcotic Addict Treatment Act of
39 1974,” Pub.L.93-281; and
40 **WHEREAS**, Any physician who obtains a DATA 2000 waiver is
41 prohibited by statute from prescribing buprenorphine to more than
42 30 patients at any one time; however, the law authorizes the DHHS
43 to change this patient limit, at any time, through regulation; and
44 **WHEREAS**, Pursuant to DHHS regulation, any private physician who
45 wishes to prescribe buprenorphine to more than 30 patients at a
46 time will be authorized to do so only if the physician waits a full
47 year after the initial DATA 2000 waiver is approved and then

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1 applies for and obtains a second federal waiver authorizing the
2 prescription of buprenorphine to up to 100 patients at a time; and
3 **WHEREAS**, On August 8, 2016, DHHS adopted a new rule, which
4 raised to 275 the maximum number of patients that an authorized
5 physician may treat with buprenorphine at any one time, but this
6 higher patient limit will only be applicable if: the physician has
7 already utilized, for a full year, a federal waiver authorizing the
8 treatment of 100 patients with buprenorphine; the physician has
9 obtained advanced credentialing in addiction medicine or
10 psychiatry or practices in a qualified practice setting; and the
11 physician applies for and obtains a separate federal waiver
12 authorizing the expansion of the patient limit up to 275 patients;
13 and
14 **WHEREAS**, Even when a physician has successfully obtained a waiver
15 of the 100 patient limit, the waiver is not permanent, and the
16 physician will be required to undergo the same waiver request and
17 approval process every three years thereafter if the physician wishes
18 to maintain the authorization necessary to continue to provide
19 buprenorphine treatment to up to 275 patients at a time; and
20 **WHEREAS**, Because federal law restricts the number of patients who
21 may be treated with buprenorphine, only 49 percent of opioid
22 dependent people in the United States, and slightly more than 50
23 percent of opioid dependent people in New Jersey, are currently
24 able to access the buprenorphine treatment they need; and
25 **WHEREAS**, As noted by the American Society of Addiction Medicine,
26 there is no other disease in America, other than opioid addiction, for
27 which medical treatment is subject to a federally-established patient
28 limit; and
29 **WHEREAS**, Although patient limits were established in this area to
30 prevent the creation of pill mills and the diversion of buprenorphine
31 for unlawful purposes, researchers have now concluded that any
32 threat of buprenorphine diversion is minor compared to the
33 lifesaving potential of the drug, and this finding has been used by
34 the DHHS as a basis upon which to support the relaxation of other
35 federal restrictions applicable to buprenorphine; and
36 **WHEREAS**, The current federal laws and regulations restricting the
37 number of patients to whom buprenorphine may be prescribed by a
38 private physician are anachronistic holdovers that evidence the
39 nation's long-standing prejudice against the disease of addiction
40 and that fail to reflect the current body of knowledge about
41 buprenorphine and its positive effects, while unfairly singling out
42 addicts and the doctors who treat them and preventing many opioid
43 dependent persons from obtaining the medicine they need to
44 overcome their addictions; now, therefore,
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46 **BE IT RESOLVED** by the Senate of the State of New Jersey (the
47 General Assembly concurring):

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1 1. The President and the Congress of the United States are
2 respectfully memorialized to enact legislation to eliminate the
3 statutorily established patient limit that is applicable, under the
4 provisions of the “Drug Addiction Treatment Act of 2000,”
5 Pub.L.106-310, to private physicians who prescribe buprenorphine
6 to patients outside of a formal Opioid Treatment Program.

7
8 2. The Secretary of the Department of Health and Human
9 Services is respectfully requested to take appropriate regulatory
10 action to eliminate the regulatory waiver requirements that must
11 currently be satisfied in order for a physician to prescribe
12 buprenorphine to more than 30 patients at a time; and to liberally
13 expand the patient limit beyond the current statutory and regulatory
14 maximums, as may be necessary to ensure that all opioid dependent
15 persons are able to receive the medication they need.

16
17 3. A copy of this resolution, as filed with the Secretary of
18 State, shall be transmitted by the Clerk of the General Assembly or
19 the Secretary of the Senate to the President and Vice-President of
20 the United States, the Majority and Minority Leaders of the United
21 States Senate, the Speaker and Minority Leader of the United States
22 House of Representatives, the Secretary of the Department of
23 Health and Human Services, and every member of Congress elected
24 from this State.

STATEMENT

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29 This concurrent resolution respectfully urges the President and
30 Congress of the United States and the Department of Health and
31 Human Services (DHHS) to ease patient limits that are applicable to
32 physicians who prescribe buprenorphine outside of a formal Opioid
33 Treatment Program (“private physicians”).

34 The federal “Controlled Substances Act,” as amended by the
35 “Drug Addiction Treatment Act of 2000” (DATA 2000),
36 Pub.L.106-310, currently limits to 30 the number of patients who
37 may be treated by a private physician with buprenorphine at any
38 one time. However, the law authorizes the DHHS to change this
39 patient limit, through regulation, as it deems appropriate. In
40 implementing DATA 2000, the DHHS has established regulatory
41 processes pursuant to which the statutorily-established 30 patient
42 limit may be waived and the patient limit increased. However,
43 these waiver processes are burdensome and repetitive, and even
44 after all relevant waivers have been secured, the maximum number
45 of patients that a private physician will be able to treat at one time
46 with buprenorphine is 275 patients. A private physician must also
47 take action, every three years, to renew the waiver that authorizes

1 the physician to prescribe buprenorphine to this maximum number
2 of patients.

3 Because federal law restricts the number of patients who may be
4 treated with buprenorphine, only 49 percent of opioid dependent
5 people in the United States, and slightly more than 50 percent of
6 opioid dependent people in New Jersey, are currently able to access
7 the buprenorphine treatment they need. As noted by the American
8 Society of Addiction Medicine, there is no other disease in
9 America, other than opioid addiction, for which medical treatment
10 is subject to a federally-established patient limit.

11 Although patient limits were established in this area to prevent
12 the creation of pill mills and the diversion of buprenorphine for
13 unlawful purposes, researchers have now concluded that any threat
14 of buprenorphine diversion is minor compared to the lifesaving
15 potential of the drug. This finding, moreover, has been used by the
16 DHHS to support the agency's relaxation of other federal
17 restrictions applicable to buprenorphine.

18 Because the current patient limits associated with buprenorphine
19 are anachronistic holdovers that fail to reflect the current body of
20 knowledge about buprenorphine and its positive effects and that
21 prevent many opioid dependent persons from obtaining the
22 medicine they need, this resolution urges the federal government to
23 take both legislative and regulatory action, as appropriate, to either
24 fully eliminate or liberally expand these patient limits, so as to
25 ensure that all opioid dependent persons are able to receive the
26 medication-assisted treatment they need.