

May 15, 2020

The Honorable Uttam Dhillon, JD  
Acting Administrator  
U.S. Drug Enforcement Administration  
8701 Morrisette Drive  
Springfield, VA 22152

RE: RIN 1117- AB51/Docket No. DEA-501 Registration and Reregistration Fees for Controlled Substance and List I Chemical Registrants; Notice of Proposed Rulemaking

Dear Acting Administrator Dhillon:

On behalf of the physician members of the American Medical Association (AMA), we appreciate the opportunity to provide comments on the proposed increase in the U.S. Drug Enforcement Administration (DEA) registration and reregistration fees that would take effect in fiscal year 2021. The AMA strongly urges the DEA not to finalize its proposal to increase the registration fees for practitioners from \$731 every three years to \$888 every three years.

The AMA understands that the costs of administering the Diversion Control Program (DCP) have increased, and appreciates that DEA registration fees for practitioners were last increased in 2012. The AMA also deeply appreciates the steps that the DEA has taken to help physicians manage care for their patients being treated with controlled substances or for opioid use disorder during the ongoing COVID-19 public health emergency. DEA efforts to alleviate drug shortages for patients on ventilators by rapidly increasing production quotas were extremely helpful, as have been the flexibilities in allowing prescribing of controlled substances based on telecommunications-based services in lieu of in-person visits, as well as the exception for separate registration requirements across state lines.

The AMA has three major concerns about the proposed increase in fees:

1. Medical practices are in the midst of an economic disaster. The need to mitigate the spread of COVID-19 through physical distancing, avoiding unnecessary travel, and delaying all but emergency medical care has led to extremely steep decreases in patient services and their associated revenues for physicians across the country. The exceptions are those physicians who are on the frontlines caring for patients with COVID-19, but in many cases their practices also face reductions in revenues from elective procedures as well as increased expenses due to new infection control processes and supplies. Some physicians and staff have been furloughed, and others have had their earnings and hours reduced. Even before the emergency, Medicare physician payment rates were in the midst of a six-year freeze as practice costs continue to rise. In short, physicians cannot afford to pay higher DEA registration and reregistration fees.

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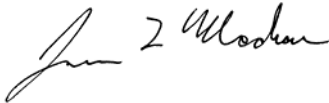
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2. Although the AMA appreciates and agrees with the DEA's concern about imposing a disproportionately higher increase on narcotic treatment programs, which certainly could not afford it, if the alternative "past-based option" were used, we believe that practitioners are weighted too high relative to manufacturers and particularly distributors under the current and proposed "weighted ratio option." The "past-based option" would lead to a 117 percent increase in the registration fees for distributors, but the "weighted ratio option" that DEA proposes increases distributor (and all other) registration fees by 21 percent. It does not appear to us that the distributors are paying their fair share relative to practitioners.
  
3. The current and proposed methodology for determining registration fees treats all practitioners the same. There are significant costs to physicians of complying with DEA regulations, such as adoption of electronic prescribing for controlled substances (EPCS). The reason that many policymakers have been encouraging adoption of EPCS is that it is believed to reduce drug diversion, so it follows that the DCP would incur lower costs for practitioners who adopt EPCS. Similarly, physicians who obtain the training needed to prescribe buprenorphine to treat opioid use disorder patients in their offices are helping to lessen the costs associated with drug addiction, including DCP costs. The AMA recommends, therefore, that the DEA consider reducing the registration fees for physicians who adopt EPCS and those who obtain a waiver to prescribe buprenorphine.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Madara".

James L. Madara, MD