

Congress of the United States
Washington, DC 20510

November 21, 2019

Mr. Uttam Dhillon
Acting Administrator
United States Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Dear Acting Administrator Dhillon:

We write to inquire about the Drug Enforcement Agency (DEA) process for approving applications to import medication used for medical aid in dying (MAID), specifically pentobarbital and secobarbital.

In 1997, Oregon enacted the Death with Dignity Act, the first-in-the-nation legislation allowing certain terminally-ill patients to end their lives by self-administering lethal medications prescribed to them by their doctor.¹ Since then, eight other states and the District of Columbia have passed similar laws permitting MAID.²

Although approximately 20 percent of the United States population now lives in a state that permits MAID,³ significant barriers to accessing safe and effective care remain, including the cost and availability of medications. In the past, short-acting barbiturates, like pentobarbital and secobarbital, have most commonly been prescribed for MAID.⁴ However, in recent years, these medications have become prohibitively expensive—secobarbital can cost upwards of \$3,000 for a single dose⁵—or completely unavailable in the United States. People facing a terminal illness should be able to spend their remaining days with loved ones. They should not have to struggle to locate medicine that allows them to determine their end of life story, or worry about the financial impact on them and the loved ones they leave behind.

Under the Controlled Substances Act,⁶ the DEA has the authority to approve the importation of certain drugs, including pentobarbital and secobarbital, if they meet medical, scientific or other legitimate needs and the domestic market for the drugs is deemed inadequate. Pentobarbital and secobarbital meet these criteria. Furthermore, we have been informed that there are applications pending with the DEA to import these medications with the goal of lowering the cost of end of life decisions for people choosing MAID.

In order for us to better understand how the DEA evaluates applications to import these medications, please respond to the following questions by December 5, 2019:

¹ Oregon Health Authority. "About the Death with Dignity Act." <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Pages/index.aspx>

² Washington, Vermont, Montana, California, Colorado, Washington D.C., Hawaii, New Jersey and Maine; authorization in Montana based on a ruling of the Montana Supreme Court.

³ Span, Paula. "Physician Aid in Dying Gains Acceptance in the U.S." *New York Times*, January 16, 2017. <https://www.nytimes.com/2017/01/16/health/physician-aid-in-dying.html?module=inline>

⁴ Aleccia, JoNoel. "Docs in Northwest Tweak Aid-In-Dying Drugs to Prevent Prolonged Deaths." *Kaiser Health News*, February 21, 2017. <https://khn.org/news/docs-in-northwest-tweak-aid-in-dying-drugs-to-prevent-prolonged-deaths/>

⁵ Nelson, Roxanne RN, BSN. "When Dying Becomes Unaffordable." *Medscape*, November 4, 2019. <https://www.medscape.com/viewarticle/888271>

⁶ 21 USC §952

1. Please provide a list of all applications that have been approved for the importation and registration of pentobarbital or secobarbital since 2014. Please include the date of the approval, the quantity that was approved for importation, the specific basis for approval under the Controlled Substances Act, and the current status of the registration.
2. Please provide a list of all applications that have either been withdrawn or denied for the importation and registration of pentobarbital or secobarbital since 2014. Please include the date of withdrawal or denial, the quantity that was requested, and the reason for withdrawal or denial.
3. Please provide a list of all pending applications for the importation and registration of pentobarbital or secobarbital.
4. What factors does the DEA use to determine whether an application for pentobarbital or secobarbital is intended for legitimate use under the Controlled Substances Act?
5. To what extent does cost or availability of the medicine factor into the approval of an application?

Terminally-ill persons seeking MAID should be able to control their end of life experience. This means the federal government should do what it can to ease their suffering and ensure access to medications that they and their doctor have determined to be the best for them.

We look forward to your response.

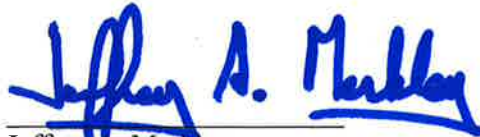
Sincerely,



Ron Wyden
United States Senator



Earl Blumenauer
United States Representative



Jeffrey A. Merkley
United States Senator



Peter A. DeFazio
United States Representative



Kurt Schrader
United States Representative



Suzanne Bonamici
United States Representative