

June 25, 2018

#### U.S. House Passes Opioid Package - SUPPORT for Patients and Communities Act

On Friday, the House passed the bipartisan Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act ([H.R. 6](#)), with a vote of [396-14-17](#). Introduced by Reps. Greg Walden (R-OR), Kevin Brady (R-TX), Frank Pallone (D-NJ) and Rep. Richard Neal (D-MA), the legislation represents a combination of 58 individual bills already approved by the House in the past two weeks, and is the result of several months of debate. Descriptions of provisions that may impact hospitals and health systems adopted by the House are outlined below, while a full outline of the provisions can be [found here](#). The policies include Medicaid, Medicare and public health reforms to address the opioid crisis.

Two pieces of opioid-related legislation supported by IHA were not included in the package, but passed separately in the House on Wednesday, June 20:

- The Overdose Prevention and Patient Safety Act ([H.R. 6082](#)), which would allow better information sharing among providers with regard to substance use disorder (SUD) treatment information by aligning 42 CFR Part 2 regulations with the Health Insurance Portability and Accountability Act. Passed the House with a vote of [357-57-13](#) and referred to the Senate Committee on Health, Education, Labor, and Pensions.
- The Individuals in Medicaid Deserve Care that is Appropriate and Responsible in its Delivery Act ([H.R. 5797](#)), which would allow states to receive federal matching funds for up to 30 days per year for services provided to adult Medicaid beneficiaries with an opioid use disorder in an Institution for Mental Disease (IMD). Passed the House with a vote of [261-155-11](#) and has been referred to the Senate Committee on Finance.

Rep. Frank Pallone, the top Democrat on the Energy and Commerce Committee, said on the House floor of H.R. 6, "This bill makes incremental changes to support those affected by the opioid crisis, but is far from perfect. [The bill] does not adequately deal with the magnitude of the crisis that this country is facing, and there are provisions that I did not support at the subcommittee or full committee markups, including provisions that most Democrats voted against." H.R. 6 will now go to the Senate, which could take the bill up as early as mid-July. Earlier this month, the Senate Committee on Finance took action on a [series of bills](#) to address the opioid epidemic. The Senate continues to work on developing its package.

Meanwhile, IHA member hospitals and health systems have been dealing with shortages of a number of injectable opioid medications. IHA applauds recent actions by the Food and Drug Administration (FDA) to allow healthcare providers to use certain opioid and other IV drugs made by Hospira that were in short supply, but were on hold due to the potential for a manufacturing defect. The [special handling instructions](#) approved by the FDA advise providers to not use the Carpuject Luer Lock Glass Syringe products if the cartridges are visibly damaged or contain particulate matter.

Provisions in H.R. 6 House Package:

#### Medicaid

- Enable former foster youth who are in care by their 18th birthday and previously enrolled in Medicaid to receive health care until the age of 26 if they move out of state (H.R. 4998).
- Require the Centers for Medicare & Medicaid Services (CMS) to carry out a demonstration project to provide an enhanced federal matching rate for state Medicaid expenditures related to the expansion of SUD treatment and recovery services

targeting provider capacity (H.R. 5477).

- Require all state Medicaid programs to have a beneficiary assignment program that identifies Medicaid beneficiaries at-risk for SUD and assigns them to a pharmaceutical home program, which must set reasonable limits on the number of prescribers and dispensers that beneficiaries may utilize (H.R. 5808).
- Require state Medicaid programs to have safety edits in place for opioid refills, monitor concurrent prescribing of opioids and certain other drugs, and monitor antipsychotic prescribing for children (H.R. 5799).
- Provide additional incentives for Medicaid health homes for patients with SUD (H.R. 5810).

#### Medicare

- Instruct CMS to evaluate the utilization of telehealth services in treating SUD (H.R. 5603)
- Add a review of current opioid prescriptions and, as appropriate, a screening for opioid use disorder as part of the Welcome to Medicare initial examination (H.R. 5798).
- Incentivize post-surgical injections as a pain treatment alternative to opioids by reversing a reimbursement cut for these treatments in the Ambulatory Service Center setting, as well as collect data on a subset of codes related to these treatments (H.R. 5804).
- Require e-prescribing, with exceptions, for coverage of prescription drugs that are controlled substances under the Medicare Part D program (H.R. 3528).
- Require prescription drug plan sponsors under the Medicare program to establish drug management programs for at-risk beneficiaries (H.R. 5675).
- Provide access to Medication-Assisted Treatment (MAT) in Medicare through bundled payments made to Opioid Treatment Programs for holistic service (Section 2 of H.R. 5776).

#### Public Health

- Makes the buprenorphine prescribing authority for physician assistants and nurse practitioners permanent. Temporarily allows advanced practice registered nurses to prescribe buprenorphine. Permits a waived-practitioner to immediately start treating 100 patients at a time with buprenorphine (skipping the initial 30 patient cap) if the practitioner has board certification in addiction medicine or addiction psychiatry, or if the practitioner provides MAT in a qualified practice setting (H.R. 3692).

#### Provisions Included Previously Passed by the House June 12-19

- *Section 5001* - H.R. 5583, to amend title XI of the Social Security Act to require states to annually report on certain adult health quality measures and will require state Medicaid programs to report on the 11 behavioral health measures that are included in CMS' 2018 Core Set of Adult Health Care Quality Measures for Medicaid.
- *Section 5011, 5012* - H.R. 5800, the Medicaid IMD ADDITIONAL INFO Act, will direct the Medicaid and CHIP Payment and Access Commission (MACPAC) to conduct a study on IMDs that receive Medicaid reimbursement. The study will report on the requirements and standards that state Medicaid programs have for IMDs. MACPAC, considering input from stakeholders, will summarize the findings and make recommendations on improvements and best practices and data collection. The report would be due no later than January 2020.
- *Section 5021, 5022* - H.R. 3192, the CHIP Mental Health Parity Act, will require state Children's Health Insurance Programs (CHIP) to cover mental health benefits, including SUD services for pregnant women and children. States would not be allowed to impose financial or utilization limits on mental health treatment that are lower than limits placed on physical health treatment.
- *Section 5041, 5042* - H.R. 5801, the Medicaid PARTNERSHIP Act, will require Medicaid providers to check the prescription drug monitoring program (PDMP) before prescribing a Schedule II controlled substance, encourage Medicaid providers to integrate PDMP use into a Medicaid provider's clinical workflow, establish standard criteria that a PDMP must meet to be counted as a qualified PDMP and require state Medicaid programs to report to CMS on PDMP data.
- *Section 6031, 6032* - H.R. 5590, the Opioid Addiction Action Plan Act, will establish an action plan, including studies and

reports to Congress authored by the Department of Health and Human Services (HHS), as well as meetings with stakeholders, for the purpose of addressing the opioid crisis.

- *Section 6041, 6042* - H.R. 5605, the Advancing High Quality Treatment for Opioid Use Disorders in Medicare Act, will create a demonstration project for treating SUD. This model includes the development of measures to evaluate the quality and outcomes of treatment.
- *Section 6061, 6062 (HR4841); 6063 (HR5715); 6065 (HR5716); 6064 (HR5684)* - H.R. 5773, the PASS Act of 2018, contains a number of provisions passed by the Energy and Commerce Committee, including H.R. 4841, H.R. 5716, H.R. 5715, and H.R. 5684. Collectively, this bill will combat opioid abuse by providing more resources to beneficiaries and altering several requirements under the Medicare prescription drug benefit.
- *Section 6091, 6092, 6093, 6094, 6095* - H.R. 5774, the COACH Act of 2018, will require CMS to publish guidance for hospitals on pain management and opioid-use disorder prevention strategies for Medicare beneficiaries and convene a panel to recommend opioid-related quality measures for value-based payment and reporting models under Medicare.
- *Section 6101, 6102* - H.R. 5676, the SENIOR Communities Protection Act of 2018, will allow Medicare Advantage and prescription drug plans to suspend potentially fraudulent payments, mirroring their authority in Medicare FFS.
- *Section 7051, 7052* - H.R. 5009, Jessie's Law, will ensure medical professionals have access to a consenting patient's complete health history when making treatment decisions by requiring HHS to develop and disseminate best practices regarding the prominent display of SUD history in records of patients who have previously provided this information to a healthcare provider.
- *Section 7071* - H.R. 5102, SUD Workforce Loan Repayment Act of 2018, will create a loan repayment program for SUD treatment providers. Specifically, student loan repayment of up to \$250,000 will be offered for participants who agree to work as a SUD treatment professional in areas of need. The program will be available to physicians, registered nurses, social workers, and other behavioral health professionals.
- *Section 7081, 7082* - H.R. 5176, Preventing Overdoses While in Emergency Rooms (POWER) Act of 2018, will provide resources for hospitals to develop protocols on discharging patients who have presented with an opioid overdose. These protocols would address the provision of naloxone upon discharge, connection with peer-support specialists, and the referral to treatment and other services that best fit the patient's needs.
- *Section 7091, 7092* - H.R. 5197, Alternatives to Opioids (ALTO) in the Emergency Department Act, will establish a demonstration program to test alternative pain management protocols to limit the use of opioids in hospital emergency departments.
- *Section 7141, 7142, 7143, 7144* - H.R. 5329, the Poison Center Network Enhancement Act of 2018, will reauthorize the national network of Poison Control Centers, which offer free, confidential, and expert medical advice 24 hours a day, seven days a week. Often times these programs serve as the primary resource for poisoning information and help reduce Emergency Room visits through in-home treatment.
- *Section 7171, 7172* - H.R. 5483, Special Registration for Telemedicine Clarification Act of 2018, will clarify telemedicine waivers. Federal law permits the Attorney General to issue a special registration to health care providers to prescribe controlled substances via telemedicine in emergency situations, but the waiver process has never been implemented through regulation. This bill directs the Attorney General, with the Secretary of HHS, to promulgate interim final regulations within one year of passage of the law.
- *Section 7201, 7202, 7203* - H.R. 5812, the Creating Opportunities that Necessitate New and Enhanced Connections That Improve Opioid Navigation Strategies (CONNECTIONS) Act, will improve current federal support for state-run PDMPs. H.R. 5812 will authorize the Centers for Disease Control and Prevention (CDC) to carry out certain controlled substances overdose prevention and surveillance activities in order to improve data collection and integration into physician clinical workflow so that timely, complete, and accurate information will get into the hands of providers and dispensers so that they can make the best clinical decisions for their patients.
- *Section 8011, 8012* - H.R. 5889, the Recognizing Early Childhood Trauma Related to Substance Abuse Act of 2018, will require HHS to disseminate information to professionals working with young children on ways to recognize children impacted by trauma related to an adult's substance use, and how to respond in a manner that will provide the best support

for the child.

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