

September 21, 2018

The Honorable Mitch McConnell Jr.
Majority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Schumer
Minority Leader
U.S. Senate
322 Hare Senate Office Building
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, United States Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
H-204, United States Capitol
Washington, DC 20515

RE: Final Conference Committee report on H.R. 6 – “the Opioid Crisis Response Act of 2018”

Dear Majority Leader McConnell, Leader Schumer, Speaker Ryan, and Leader Pelosi:

The Academy of Managed Care Pharmacy (AMCP) thanks Congress for its dedication to combatting the opioid epidemic. The importance of H.R. 6 increases as the number of preliminary CDC reported overdose deaths rise (72,000 overdose deaths in 2017).¹ Both pieces of legislation passed by the House and Senate will advance patient treatment and recovery initiatives, improve prevention of opioid addiction, protect communities, and increase education initiatives for patients and providers. While we applaud these efforts, AMCP asks that the conference committee include two vital provisions in its final legislative package to prevent fraud, waste and abuse in Medicare, and align 42 CFR Part 2 (Part 2) with the Health Insurance Portability and Accountability Act (HIPAA) for treatment, payment, and health care operations.

AMCP is the nation’s leading professional association dedicated to increasing patient access to affordable medicines, improving health outcomes and ensuring the wise use of health care dollars. Through evidence- and value-based strategies and practices, the Academy’s 8,000 pharmacists, physicians, nurses and other practitioners manage medication therapies for the 270 million Americans served by health plans, pharmacy benefit management firms, emerging care models and government.

Our members, as health care professionals, actively support several provisions in the Act, including:

- Senate Sec. 1507 – reauthorizing NASPER;

¹ Ahmad FB, Rossen LM, Spencer MR, Warner M, Sutton P. Provisional drug overdose death counts. National Center for Health Statistics. 2018. <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

- House Sec. 7023 – creating and disseminating programs and materials training pharmacists on situations they may decline to fill a prescription;
- Senate Sec. 2104/House Sec. 2005 – requiring electronic prescribing of Part D (or MA-PD) covered medications;
- Senate Sec. 2105/House Sec. 2021 – standardizing electronic prior authorization in Part C and Part D covered medications.

These provisions should all be included in the final package.

However, we are concerned that the Senate package does not include Sections 6101-6102 from the House passed version, which would address fraud in the Medicare Part D program. Those sections would allow potentially fraudulent payments, as defined by the Secretary of Health and Human Services (HHS), in the Medicare Part D program to be suspended pending an investigation. In 2016, the federal government spent almost \$1 trillion on the Medicare Part D Program.² The Centers for Medicare and Medicaid Services (CMS) estimates that approximately \$2.39 billion of that spending included improper payments for prescription drugs.³ The Secretary of HHS already has that authority for Medicare Parts A and B so a change in the law is necessary to extend that authority to the Medicare Part D program. Extending this authority would enhance Section 2106 in the Senate version, which creates a secure web portal between the Secretary of HHS and MA plans and Part D plans for referring suspected fraud waste and abuse or assisting investigations and data sharing among all groups. When investigations are initiated through such a portal, MA Plans and Part D plans should be able to suspend payment pending the investigation.

Another necessary provision in the final opioid package is language like that of the Overdose Prevention and Patient Safety Act, H.R. 6082, which aligns Part 2 with HIPAA to eliminate barriers to patient centered coordinated care. The current barriers to accessing a patient's entire medical record lead to potentially dangerous medical situations such as harmful drug-drug interactions and lack of integrated care. Included in this bill are added consumer protections such as breach notification requirements and antidiscrimination language to protect against the use of addiction records in criminal, civil, or administrative proceedings. While the Senate version includes a section on best practices for disclosing patient records under current law, this does not reduce all barriers or create additional patient protections. As the country moves forward with combating the opioid epidemic, a focus should remain on integrating substance use disorder, mental health, and primary care services to improve patient outcomes.

As Congress works to reconcile both chambers' opioid packages, inclusion of the two provisions detailed above is crucial. The focus should be on increasing coordination among all stakeholders, including HHS, CMS, plan sponsors, providers, patients, and families. Including the detailed provisions will work to avoid addiction before

² 2017 Annual Report of the Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds. <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFunds/Downloads/TR2017.pdf>. Accessed February 20, 2018.

³ Fiscal Year 2016 Health and Human Services Agency Financial Report. <https://www.hhs.gov/about/agencies/asfr/finance/financial-policy-library/agency-financial-reports/fy-2016hhsagency-financial-report/other-information-4.html>. Accessed February 20, 2018.

it starts by preventing fraud, waste and abuse, and provide added care coordination to improve patient outcomes in treatment by aligning Part 2 with HIPAA.

We applaud your efforts to combat the opioid epidemic and respectfully request that you consider the above for inclusion in the final package. Thank you for your consideration and if we can provide additional information, please do not hesitate to contact me at 703-684-2645 or scantrell@amcp.org

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Cantrell". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Susan A. Cantrell, RPh, CAE
Chief Executive Officer