American Hospital Association

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April 20, 2018

The Honorable Greg Walden
Chairman
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Michael Burgess, M.D.
Chairman
Subcommittee on Health
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Gene Green
Ranking Member
Subcommittee on Health
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Walden and Burgess, and Ranking Members Pallone and Green:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses, and other caregivers – the American Hospital Association (AHA) appreciates the opportunity to submit the following comments on bills before the committee related to the opioid crisis. In addition to the bills listed below, we have in prior letters indicated our support for H.R. 5176, the Preventing Overdoses While In Emergency Rooms Act, and H.R. 3545, the Overdose Prevention and Patient Safety Act.

H.R. __, Adding Resources on Non-Opioid Alternatives to the Medicare Handbook. The AHA recognizes that the nation's seniors are experiencing increasing rates of opioid addiction and dependence. According to the Substance Abuse and Mental Health Services Administration, the number of elderly Americans who misuse opioids has sharply increased since 2004, from 1.2 percent to a projected 2.4 percent by 2020. We support directing the Centers for Medicare & Medicaid Services (CMS) to employ trusted and easily understood publications, such as the "Medicare and You" Handbook, to share educational resources with Medicare beneficiaries regarding opioid use, pain management and alternative pain management treatments.

H.R. __, CMS Action Plan. Stemming the tide of the opioid epidemic will require a sustained effort by the public and private sectors. The AHA supports the creation, in collaboration with stakeholders, of a CMS Action Plan to guide the agency in its endeavors.

H.R. 5197, the Alternatives to Opioids (ALTO) in the Emergency Department Act. The AHA strongly supports this legislation, which would establish a three-year demonstration program to study alternative pain management protocols and treatments that promote the appropriate limited use of opioids in emergency departments. In addition, the AHA applauds the recent announcement by the National Institutes of Health (NIH) that the agency has launched the HEAL (Helping to End Addiction Long-term) Initiative, which includes work to develop a data-sharing collaborative and a clinical trials network for testing new pain therapies, and enhance the pipeline of treatments for pain.

H.R. __, Initial Pain Assessment. The AHA supports this draft legislation, which would add evaluation and management of chronic pain to the *Welcome to Medicare* initial preventive physical examination. The opioid epidemic has taken a staggering toll on this nation. At the same time, we recognize that the under-treatment of pain can have a significant impact on individuals' health and quality of life. As the health care field works to ensure that patients are neither undertreated for pain nor overprescribed opioids, we support efforts to improve pain care, and adding this step to the initial Medicare physical examination would enhance the ability of providers to offer quality care to new beneficiaries.

H.R. 4841, Standardizing Electronic Prior Authorization for Safe Prescribing Act. The AHA supports the standardization of electronic prior authorization. We encourage the Committee to require health plans and pharmacy benefit managers (PBMs) to develop standardized policies around the dispensing of opioids so that physicians and others authorized to write prescriptions can understand and explain to the patient any limitations or obligations the PBM is imposing on these medications. Such a requirement would also make it easier for pharmacies to understand a standardized policy, and it could be used to determine whether and in which cases refills would be allowed.

H.R. __, Beneficiary Education. The AHA has long supported efforts to increase patients' awareness of the risks of opioids. To that end, in conjunction with the Centers for Disease Control and Prevention (CDC), the AHA developed a patient resource for distribution online and in our member hospitals to educate patients. This draft bill would require prescription drug plans (PDPs) under Medicare Part D to include information on the adverse effects of prolonged opioid utilization and of non-pharmacological therapies, devices, and non-opioid medications. We believe that *all* Part D enrollees would be well-served by information about the adverse effects of opioids, and we encourage the committee to require PDP sponsors to provide this important information to all beneficiaries, rather than limit it to a "subset of enrollees under the plan, such as enrollees who have been prescribed an opioid in the previous two-year period."

H.R. __, Evaluating Abuse Deterrent Formulations. The AHA supports efforts to increase beneficiaries' access to abuse-deterrent opioid formulations, and supports an HHS study on barriers to those medications. We look forward to reviewing further versions of this discussion draft.

H.R. __, Prescriber Notification. The AHA supports the concept of timely notifications by CMS to outlier prescribers of opioids. We have heard from many clinicians who believe such notification would help them improve patient care. We look forward to reviewing further versions of this discussion draft.

H.R. __, Prescriber Education. The AHA supports the concept of providing grants to provide technical assistance to outlier prescribers of opioids. We encourage the committee to consider expanding eligibility for grants to other physicians who may not have been identified as "outliers," but still may wish to benefit from technical assistance.

H.R. __, the Medicaid Providers and Pharmacists Required To Note Experiences in Record Systems to Help In-need Patients (PARTNERSHIP) Act. The AHA supports in concept this draft bill, which would require the Medicaid program in each state to integrate prescription drug monitoring program (PDMP) usage into Medicaid providers' and pharmacists' clinical workflow. It would also establish basic standard criteria for PDMPs and require states to report data on provider participation in PDMPs to CMS.

H.R. __, Use of Telehealth to Treat Opioid Use Disorder. The AHA has long advocated for statutory changes that would eliminate existing restrictions on the location, services and technologies for which Medicare will pay for telehealth. We believe that such changes should apply to telehealth services for all conditions, but given the urgency of addressing the opioid epidemic, we would support a condition-specific approach in this area. However, we believe that any expansion of telehealth payment under Medicare should maintain the existing originating site fee. Without this fee, the location where the patient arrives for service receives no payment for costs incurred, such as obtaining, maintaining and operating telehealth equipment, providing a treatment room, and employing staff to accommodate the patient, book appointments, and other essential functions.

H.R. 1925, At-Risk Youth Medicaid Protection Act. The AHA is pleased to support this bipartisan legislation, which would help ensure access to Medicaid coverage for incarcerated juveniles when they are released from confinement. We encourage the committee to report this bill as introduced.

H.R. 4998, Health Insurance for Former Foster Youth Act. The AHA is pleased to support H.R. 4998, which would expand access to substance use disorder treatment for foster youth, by allowing those enrolled in Medicaid who are between the ages of 18 and 26 to maintain their coverage if they move to another state.

H.R. 3192, CHIP Mental Health Parity Act. The AHA has long advocated for mental health and substance use disorder parity across all insurance offerings. We are pleased to strongly support H.R. 3192, bipartisan legislation that would require all Children's Health Insurance Program plans to cover treatment of mental illness and substance use disorders.

H.R. __, Protecting NAS Babies Act. The AHA is pleased to support this draft legislation, which would require the Department of Health and Human Services (HHS) to execute a strategy to improve the care of infants with neonatal abstinence syndrome. Increasingly, hospitals' neonatal intensive care unit beds are occupied by infants born addicted to opioids. These infants are often underweight, premature, and have other serious medical conditions that must be addressed. We urge the committee to consider providing hospitals additional funding through grants or other mechanisms to provide the specialized care needed to give these infants the best chance at a full and healthy life.

H.R. __, Limited Repeal of the IMD Exclusion for Adult Medicaid Beneficiaries with Substance Use Disorder. The AHA appreciates the Committee's efforts to amend the outdated Medicaid Institutions for Mental Disease (IMD) exclusion, which has been in effect since the enactment of the Medicaid program in 1965, at a time when state-operated psychiatric facilities were a primary setting for behavioral health care, and patients were admitted for longer-term stays. Since then, advances in behavioral health care have allowed for shorter inpatient stays and more outpatient treatment options, while funding challenges have led to a decline in the number of inpatient psychiatric beds. Amending the IMD would help reverse this decline; this initiative is more urgent than ever given the shortage of beds available to treat patients with opioid use disorder.

H.R. __, MOM IMD Act. The AHA supports this draft bill, which would allow women who are pregnant and enrolled in Medicaid or who are and post-partum mothers of newborns and enrolled in Medicaid to continue to receive Medicaid benefits when in an IMD up to first 12 months after delivery.

H.R. __, Provider Capacity Demonstration Project. This draft bill would establish a Medicaid demonstration project that provides an enhanced match to states to enroll new providers treating substance use disorder in Medicaid or expand existing substance use disorder provider capacity. Because the severe shortages of substance use disorder providers across the nation, patients have limited access to needed treatment; the AHA supports creation of this demonstration project.

H.R. __, Post-surgical Injections as an Opioid Alternative. The draft bill before the committee would increase payments in ambulatory surgery centers (ASCs) for specific procedures with the intention of obviating the need for other pain-relieving drugs, such as opioids. We oppose Section 1(b) of the draft, which would require the HHS Secretary to collect data relating to the cost differential between hospital outpatient services performed in a hospital operating room and those performed in an outpatient setting. Americans rely heavily on hospitals to provide 24/7 access to care for all types of patients, to serve as a safety-net provider for vulnerable populations, and to have the resources needed to respond to disasters. These roles are not explicitly funded; instead they are built into a hospital's overall cost structure and supported by revenues received from providing direct patient care. Hospitals are also subject to more comprehensive licensing, accreditation and regulatory requirements than other settings. We oppose efforts to make total payment for a service provided in a hospital the same as when a service is provided in a physician office or ASC. Implementing site-neutral policies would erode Medicare reimbursement in hospital outpatient departments, threatening access to care. The AHA strongly supports federal funding for additional research into effective alternative forms of pain management, and believes that the Food and Drug Administration should be directed to work to speed these alternatives to market, when applicable. In addition, we support making funds available for hospitals to use in building out capacity for alternative pain management programs through Medicare and Medicaid.

H.R. __, Improving Medicaid Data Timeliness Act. The AHA opposes this draft legislation, which would reduce the filing window for Medicaid claims from two years to one year. We are concerned that this draft bill would impose an undue burden on hospitals and other providers in certain states, as electronic claims systems vary widely across the states.

H.R. 3528, Every Prescription Conveyed Securely Act. The AHA supports efforts to minimize fraud and abuse in prescribing. We believe that H.R. 3528 represents a well-intentioned initiative to better monitor opioid use and reduce the proliferation of fraudulent scripts by requiring e-prescribing of controlled substances under the Medicare Part D program. We have several concerns that we would urge the Committee to consider before reporting out this bill. The bill authorizes HHS to waive the mandate for certain categories of prescribers, including those with financial hardships. However, the bill specifies that pharmacies are not required to verify whether a prescribing provider has received a waiver. We are concerned that beneficiaries who are legitimately prescribed opioids by a physician with a waiver will be denied their medicines because a pharmacist insists on an electronic prescription. Alternatively, someone who has forged a paper script may be permitted to fill it. We further urge you to consider that the bill leaves all penalties for physician non-compliance up to the Secretary's discretion and could result in exorbitant fines for providers.

The AHA appreciates the Committee's continuing efforts to develop legislation to address the opioid crisis. If you have any questions or would like additional information, please contact Priscilla A. Ross, senior associate director of federal relations, at pross@aha.org or (202) 626-2677.

Sincerely,

/s/

Thomas P. Nickels
Executive Vice President

cc: Members of the Energy and Commerce Committee