

## Union Calendar No. 17

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 756

[Report No. 111-47]

To amend the Public Health Service Act with respect to pain care.

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### IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mrs. CAPPS (for herself and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 23, 2009

Additional sponsors: Mr. GORDON of Tennessee, Mr. MCCOTTER, Ms. KAPTUR, Ms. BALDWIN, Ms. SUTTON, Mr. SESTAK, Ms. ZOE LOFGREN of California, Mr. MCGOVERN, Mr. MARKEY of Massachusetts, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Mr. LOEBSACK, Mr. GONZALEZ, and Mr. GRIJALVA

MARCH 23, 2009

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To amend the Public Health Service Act with respect to  
pain care.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “National Pain Care Policy Act of 2009”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Institute of Medicine Conference on Pain.
- Sec. 3. Pain research at National Institutes of Health.
- Sec. 4. Pain care education and training.
- Sec. 5. Public awareness campaign on pain management.

6 **SEC. 2. INSTITUTE OF MEDICINE CONFERENCE ON PAIN.**

7 (a) **CONVENING.**—Not later than June 30, 2010, the  
8 Secretary of Health and Human Services shall seek to  
9 enter into an agreement with the Institute of Medicine of  
10 the National Academies to convene a Conference on Pain  
11 (in this section referred to as “the Conference”).

12 (b) **PURPOSES.**—The purposes of the Conference  
13 shall be to—

14 (1) increase the recognition of pain as a signifi-  
15 cant public health problem in the United States;

16 (2) evaluate the adequacy of assessment, diag-  
17 nosis, treatment, and management of acute and  
18 chronic pain in the general population, and in identi-  
19 fied racial, ethnic, gender, age, and other demo-  
20 graphic groups that may be disproportionately af-  
21 fected by inadequacies in the assessment, diagnosis,  
22 treatment, and management of pain;

1           (3) identify barriers to appropriate pain care,  
2 including—

3           (A) lack of understanding and education  
4 among employers, patients, health care pro-  
5 viders, regulators, and third-party payors;

6           (B) barriers to access to care at the pri-  
7 mary, specialty, and tertiary care levels, includ-  
8 ing barriers—

9           (i) specific to those populations that  
10 are disproportionately undertreated for  
11 pain;

12           (ii) related to physician concerns over  
13 regulatory and law enforcement policies  
14 applicable to some pain therapies; and

15           (iii) attributable to benefit, coverage,  
16 and payment policies in both the public  
17 and private sectors; and

18           (C) gaps in basic and clinical research on  
19 the symptoms and causes of pain, and potential  
20 assessment methods and new treatments to im-  
21 prove pain care; and

22           (4) establish an agenda for action in both the  
23 public and private sectors that will reduce such bar-  
24 riers and significantly improve the state of pain care

1 research, education, and clinical care in the United  
2 States.

3 (c) OTHER APPROPRIATE ENTITY.—If the Institute  
4 of Medicine declines to enter into an agreement under sub-  
5 section (a), the Secretary of Health and Human Services  
6 may enter into such agreement with another appropriate  
7 entity.

8 (d) REPORT.—A report summarizing the Con-  
9 ference’s findings and recommendations shall be sub-  
10 mitted to the Congress not later than June 30, 2011.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—For the  
12 purpose of carrying out this section, there is authorized  
13 to be appropriated \$500,000 for each of fiscal years 2010  
14 and 2011.

15 **SEC. 3. PAIN RESEARCH AT NATIONAL INSTITUTES OF**  
16 **HEALTH.**

17 Part B of title IV of the Public Health Service Act  
18 (42 U.S.C. 284 et seq.) is amended by adding at the end  
19 the following:

20 **“SEC. 409J. PAIN RESEARCH.**

21 **“(a) RESEARCH INITIATIVES.—**

22 **“(1) IN GENERAL.—**The Director of NIH is en-  
23 couraged to continue and expand, through the Pain  
24 Consortium, an aggressive program of basic and

1 clinical research on the causes of and potential treat-  
2 ments for pain.

3 “(2) ANNUAL RECOMMENDATIONS.—Not less  
4 than annually, the Pain Consortium, in consultation  
5 with the Division of Program Coordination, Plan-  
6 ning, and Strategic Initiatives, shall develop and  
7 submit to the Director of NIH recommendations on  
8 appropriate pain research initiatives that could be  
9 undertaken with funds reserved under section  
10 402A(c)(1) for the Common Fund or otherwise  
11 available for such initiatives.

12 “(3) DEFINITION.—In this subsection, the term  
13 ‘Pain Consortium’ means the Pain Consortium of  
14 the National Institutes of Health or a similar trans-  
15 National Institutes of Health coordinating entity  
16 designated by the Secretary for purposes of this sub-  
17 section.

18 “(b) INTERAGENCY PAIN RESEARCH COORDINATING  
19 COMMITTEE.—

20 “(1) ESTABLISHMENT.—The Secretary shall es-  
21 tablish not later than 1 year after the date of the  
22 enactment of this section and as necessary maintain  
23 a committee, to be known as the Interagency Pain  
24 Research Coordinating Committee (in this section  
25 referred to as the ‘Committee’), to coordinate all ef-

1       forts within the Department of Health and Human  
2       Services and other Federal agencies that relate to  
3       pain research.

4               “(2) MEMBERSHIP.—

5                       “(A) IN GENERAL.—The Committee shall  
6       be composed of the following voting members:

7                               “(i) Not more than 7 voting Federal  
8       representatives as follows:

9                                       “(I) The Director of the Centers  
10       for Disease Control and Prevention.

11                                       “(II) The Director of the Na-  
12       tional Institutes of Health and the di-  
13       rectors of such national research insti-  
14       tutes and national centers as the Sec-  
15       retary determines appropriate.

16                                       “(III) The heads of such other  
17       agencies of the Department of Health  
18       and Human Services as the Secretary  
19       determines appropriate.

20                                       “(IV) Representatives of other  
21       Federal agencies that conduct or sup-  
22       port pain care research and treat-  
23       ment, including the Department of  
24       Defense and the Department of Vet-  
25       erans Affairs.

1                   “(ii) 12 additional voting members ap-  
2                   pointed under subparagraph (B).

3                   “(B) ADDITIONAL MEMBERS.—The Com-  
4                   mittee shall include additional voting members  
5                   appointed by the Secretary as follows:

6                   “(i) 6 members shall be appointed  
7                   from among scientists, physicians, and  
8                   other health professionals, who—

9                   “(I) are not officers or employees  
10                  of the United States;

11                  “(II) represent multiple dis-  
12                  ciplines, including clinical, basic, and  
13                  public health sciences;

14                  “(III) represent different geo-  
15                  graphical regions of the United  
16                  States; and

17                  “(IV) are from practice settings,  
18                  academia, manufacturers or other re-  
19                  search settings; and

20                  “(ii) 6 members shall be appointed  
21                  from members of the general public, who  
22                  are representatives of leading research, ad-  
23                  vocacy, and service organizations for indi-  
24                  viduals with pain-related conditions.

1           “(C) NONVOTING MEMBERS.—The Com-  
2           mittee shall include such nonvoting members as  
3           the Secretary determines to be appropriate.

4           “(3) CHAIRPERSON.—The voting members of  
5           the Committee shall select a chairperson from  
6           among such members. The selection of a chairperson  
7           shall be subject to the approval of the Director of  
8           NIH.

9           “(4) MEETINGS.—The Committee shall meet at  
10          the call of the chairperson of the Committee or upon  
11          the request of the Director of NIH, but in no case  
12          less often than once each year.

13          “(5) DUTIES.—The Committee shall—

14                 “(A) develop a summary of advances in  
15                 pain care research supported or conducted by  
16                 the Federal agencies relevant to the diagnosis,  
17                 prevention, and treatment of pain and diseases  
18                 and disorders associated with pain;

19                 “(B) identify critical gaps in basic and  
20                 clinical research on the symptoms and causes of  
21                 pain;

22                 “(C) make recommendations to ensure that  
23                 the activities of the National Institutes of  
24                 Health and other Federal agencies, including  
25                 the Department of Defense and the Department



1 of Veteran Affairs, are free of unnecessary du-  
2 plication of effort;

3 “(D) make recommendations on how best  
4 to disseminate information on pain care; and

5 “(E) make recommendations on how to ex-  
6 pand partnerships between public entities, in-  
7 cluding Federal agencies, and private entities to  
8 expand collaborative, cross-cutting research.

9 “(6) REVIEW.—The Secretary shall review the  
10 necessity of the Committee at least once every 2  
11 years.”.

12 **SEC. 4. PAIN CARE EDUCATION AND TRAINING.**

13 (a) PAIN CARE EDUCATION AND TRAINING.—Part D  
14 of title VII of the Public Health Service Act (42 U.S.C.  
15 294 et seq.) is amended—

16 (1) by redesignating sections 754 through 758  
17 as sections 755 through 759, respectively; and

18 (2) by inserting after section 753 the following:

19 **“SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN**  
20 **PAIN CARE.**

21 “(a) IN GENERAL.—The Secretary may make awards  
22 of grants, cooperative agreements, and contracts to health  
23 professions schools, hospices, and other public and private  
24 entities for the development and implementation of pro-

1 grams to provide education and training to health care  
2 professionals in pain care.

3 “(b) PRIORITIES.—In making awards under sub-  
4 section (a), the Secretary shall give priority to awards for  
5 the implementation of programs under such subsection.

6 “(c) CERTAIN TOPICS.—An award may be made  
7 under subsection (a) only if the applicant for the award  
8 agrees that the program carried out with the award will  
9 include information and education on—

10 “(1) recognized means for assessing, diag-  
11 nosing, treating, and managing pain and related  
12 signs and symptoms, including the medically appro-  
13 priate use of controlled substances;

14 “(2) applicable laws, regulations, rules, and  
15 policies on controlled substances, including the de-  
16 gree to which misconceptions and concerns regarding  
17 such laws, regulations, rules, and policies, or the en-  
18 forcement thereof, may create barriers to patient ac-  
19 cess to appropriate and effective pain care;

20 “(3) interdisciplinary approaches to the delivery  
21 of pain care, including delivery through specialized  
22 centers providing comprehensive pain care treatment  
23 expertise;

1           “(4) cultural, linguistic, literacy, geographic,  
2           and other barriers to care in underserved popu-  
3           lations; and

4           “(5) recent findings, developments, and im-  
5           provements in the provision of pain care.

6           “(d) PROGRAM SITES.—Education and training  
7           under subsection (a) may be provided at or through health  
8           professions schools, residency training programs, and  
9           other graduate programs in the health professions; entities  
10          that provide continuing education in medicine, pain man-  
11          agement, dentistry, psychology, social work, nursing, and  
12          pharmacy; hospices; and such other programs or sites as  
13          the Secretary determines to be appropriate.

14          “(e) EVALUATION OF PROGRAMS.—The Secretary  
15          shall (directly or through grants or contracts) provide for  
16          the evaluation of programs implemented under subsection  
17          (a) in order to determine the effect of such programs on  
18          knowledge and practice of pain care.

19          “(f) PEER REVIEW GROUPS.—In carrying out section  
20          799(f) with respect to this section, the Secretary shall en-  
21          sure that the membership of each peer review group in-  
22          volved includes individuals with expertise and experience  
23          in pain care.

24          “(g) DEFINITIONS.—For purposes of this section the  
25          term ‘pain care’ means the assessment, diagnosis, treat-

1 ment, or management of acute or chronic pain regardless  
2 of causation or body location.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
4 758(b)(1) of the Public Health Service Act (as redesign-  
5 nated by subsection (a)(1) of this section) is amended—

6 (1) by striking “and” at the end of subpara-  
7 graph (B);

8 (2) by striking the period at the end of sub-  
9 paragraph (C) and inserting “; and”; and

10 (3) by inserting after subparagraph (C) the fol-  
11 lowing:

12 “(D) not less than \$5,000,000 for awards  
13 of grants, cooperative agreements, and con-  
14 tracts under sections 754.”.

15 (c) TECHNICAL AMENDMENTS.—Title VII of the  
16 Public Health Service Act (42 U.S.C. 292 et seq.) is  
17 amended—

18 (1) in paragraph (2) of section 757(b) (as re-  
19 designated by subsection (a)(1)), by striking  
20 “754(3)(A), and 755(b)” and inserting “755(3)(A),  
21 and 756(b)”;

22 (2) in subparagraph (C) of section 758(b)(1)  
23 (as redesignated by subsection (a)(1)), by striking  
24 “754, and 755” and inserting “755, and 756”.

1 **SEC. 5. PUBLIC AWARENESS CAMPAIGN ON PAIN MANAGE-**  
2 **MENT.**

3 Part B of title II of the Public Health Service Act  
4 (42 U.S.C. 238 et seq.) is amended by adding at the end  
5 the following:

6 **“SEC. 249. NATIONAL EDUCATION OUTREACH AND AWARE-**  
7 **NESS CAMPAIGN ON PAIN MANAGEMENT.**

8 “(a) ESTABLISHMENT.—Not later than June 30,  
9 2010, the Secretary shall establish and implement a na-  
10 tional pain care education outreach and awareness cam-  
11 paign described in subsection (b).

12 “(b) REQUIREMENTS.—The Secretary shall design  
13 the public awareness campaign under this section to edu-  
14 cate consumers, patients, their families, and other care-  
15 givers with respect to—

16 “(1) the incidence and importance of pain as a  
17 national public health problem;

18 “(2) the adverse physical, psychological, emo-  
19 tional, societal, and financial consequences that can  
20 result if pain is not appropriately assessed, diag-  
21 nosed, treated, or managed;

22 “(3) the availability, benefits, and risks of all  
23 pain treatment and management options;

24 “(4) having pain promptly assessed, appro-  
25 priately diagnosed, treated, and managed, and regu-  
26 larly reassessed with treatment adjusted as needed;

1           “(5) the role of credentialed pain management  
2           specialists and subspecialists, and of comprehensive  
3           interdisciplinary centers of treatment expertise;

4           “(6) the availability in the public, nonprofit,  
5           and private sectors of pain management-related in-  
6           formation, services, and resources for consumers,  
7           employers, third-party payors, patients, their fami-  
8           lies, and caregivers, including information on—

9                   “(A) appropriate assessment, diagnosis,  
10                   treatment, and management options for all  
11                   types of pain and pain-related symptoms; and

12                   “(B) conditions for which no treatment op-  
13                   tions are yet recognized; and

14           “(7) other issues the Secretary deems appro-  
15           priate.

16           “(c) CONSULTATION.—In designing and imple-  
17           menting the public awareness campaign required by this  
18           section, the Secretary shall consult with organizations rep-  
19           resenting patients in pain and other consumers, employ-  
20           ers, physicians including physicians specializing in pain  
21           care, other pain management professionals, medical device  
22           manufacturers, and pharmaceutical companies.

23           “(d) COORDINATION.—

24                   “(1) LEAD OFFICIAL.—The Secretary shall des-  
25           ignate one official in the Department of Health and

1 Human Services to oversee the campaign established  
2 under this section.

3 “(2) AGENCY COORDINATION.—The Secretary  
4 shall ensure the involvement in the public awareness  
5 campaign under this section of the Surgeon General  
6 of the Public Health Service, the Director of the  
7 Centers for Disease Control and Prevention, and  
8 such other representatives of offices and agencies of  
9 the Department of Health and Human Services as  
10 the Secretary determines appropriate.

11 “(e) UNDERSERVED AREAS AND POPULATIONS.—In  
12 designing the public awareness campaign under this sec-  
13 tion, the Secretary shall—

14 “(1) take into account the special needs of geo-  
15 graphic areas and racial, ethnic, gender, age, and  
16 other demographic groups that are currently under-  
17 served; and

18 “(2) provide resources that will reduce dispari-  
19 ties in access to appropriate diagnosis, assessment,  
20 and treatment.

21 “(f) GRANTS AND CONTRACTS.—The Secretary may  
22 make awards of grants, cooperative agreements, and con-  
23 tracts to public agencies and private nonprofit organiza-  
24 tions to assist with the development and implementation  
25 of the public awareness campaign under this section.

1       “(g) EVALUATION AND REPORT.—Not later than the  
2 end of fiscal year 2012, the Secretary shall prepare and  
3 submit to the Congress a report evaluating the effective-  
4 ness of the public awareness campaign under this section  
5 in educating the general public with respect to the matters  
6 described in subsection (b).

7       “(h) AUTHORIZATION OF APPROPRIATIONS.—For  
8 purposes of carrying out this section, there are authorized  
9 to be appropriated \$2,000,000 for fiscal year 2010 and  
10 \$4,000,000 for each of fiscal years 2011 and 2012.”.





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