

# Union Calendar No. 593

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5774

**[Report No. 115–762, Part I]**

To require the Secretary of Health and Human Services to develop guidance on pain management and opioid use disorder prevention for hospitals receiving payment under part A of the Medicare program, provide for opioid quality measures development, and provide for a technical expert panel on reducing surgical setting opioid use and data collection on perioperative opioid use, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2018

Mr. CURBELO of Florida (for himself, Ms. KUSTER of New Hampshire, Ms. DELBENE, and Mr. BUDD) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 19, 2018

Additional sponsors: Mrs. COMSTOCK, Mr. SAM JOHNSON of Texas, Mr. BUCHANAN, Mr. PAULSEN, Mr. GOTTHEIMER, and Mr. HIGGINS of New York

JUNE 19, 2018

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 19, 2018

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 11, 2018]

# **A BILL**

To require the Secretary of Health and Human Services to develop guidance on pain management and opioid use disorder prevention for hospitals receiving payment under part A of the Medicare program, provide for opioid quality measures development, and provide for a technical expert panel on reducing surgical setting opioid use and data collection on perioperative opioid use, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Combating Opioid Abuse*  
5 *for Care in Hospitals Act of 2018” or the “COACH Act*  
6 *of 2018”.*

7 **SEC. 2. DEVELOPING GUIDANCE ON PAIN MANAGEMENT**  
8 **AND OPIOID USE DISORDER PREVENTION**  
9 **FOR HOSPITALS RECEIVING PAYMENT UNDER**  
10 **PART A OF THE MEDICARE PROGRAM.**

11 *(a) IN GENERAL.—Not later than January 1, 2019,*  
12 *the Secretary of Health and Human Services (in this sec-*  
13 *tion referred to as the “Secretary”) shall develop and pub-*  
14 *lish on the public website of the Centers for Medicare &*  
15 *Medicaid Services guidance for hospitals receiving payment*  
16 *under part A of title XVIII of the Social Security Act (42*  
17 *U.S.C. 1395c et seq.) on pain management strategies and*  
18 *opioid use disorder prevention strategies with respect to in-*  
19 *dividuals entitled to benefits under such part.*

20 *(b) CONSULTATION.—In developing the guidance de-*  
21 *scribed in subsection (a), the Secretary shall consult with*  
22 *relevant stakeholders, including—*

23 *(1) medical professional organizations;*

1           (2) providers and suppliers of services (as such  
2 terms are defined in section 1861 of the Social Secu-  
3 rity Act (42 U.S.C. 1395x));

4           (3) health care consumers or groups representing  
5 such consumers; and

6           (4) other entities determined appropriate by the  
7 Secretary.

8           (c) CONTENTS.—The guidance described in subsection  
9 (a) shall include, with respect to hospitals and individuals  
10 described in such subsection, the following:

11           (1) Best practices regarding evidence-based  
12 screening and practitioner education initiatives relat-  
13 ing to screening and treatment protocols for opioid  
14 use disorder, including—

15                   (A) methods to identify such individuals at-  
16 risk of opioid use disorder, including risk strati-  
17 fication;

18                   (B) ways to prevent, recognize, and treat  
19 opioid overdoses; and

20                   (C) resources available to such individuals,  
21 such as opioid treatment programs, peer support  
22 groups, and other recovery programs.

23           (2) Best practices for such hospitals to educate  
24 practitioners furnishing items and services at such

1        *hospital with respect to pain management and sub-*  
2        *stance use disorders, including education on—*

3                *(A) the adverse effects of prolonged opioid*  
4        *use;*

5                *(B) non-opioid, evidence-based, non-phar-*  
6        *macological pain management treatments;*

7                *(C) monitoring programs for individuals*  
8        *who have been prescribed opioids; and*

9                *(D) the prescribing of naloxone along with*  
10        *an initial opioid prescription.*

11                *(3) Best practices for such hospitals to make such*  
12        *individuals aware of the risks associated with opioid*  
13        *use (which may include use of the notification tem-*  
14        *plate described in paragraph (4)).*

15                *(4) A notification template developed by the Sec-*  
16        *retary, for use as appropriate, for such individuals*  
17        *who are prescribed an opioid that—*

18                *(A) explains the risks and side effects asso-*  
19        *ciated with opioid use (including the risks of ad-*  
20        *dition and overdose) and the importance of ad-*  
21        *hering to the prescribed treatment regimen,*  
22        *avoiding medications that may have an adverse*  
23        *interaction with such opioid, and storing such*  
24        *opioid safely and securely;*

1           (B) highlights multimodal and evidence-  
2 based non-opioid alternatives for pain manage-  
3 ment;

4           (C) encourages such individuals to talk to  
5 their health care providers about such alter-  
6 natives;

7           (D) provides for a method (through signa-  
8 ture or otherwise) for such an individual, or per-  
9 son acting on such individual's behalf, to ac-  
10 knowledge receipt of such notification template;

11           (E) is worded in an easily understandable  
12 manner and made available in multiple lan-  
13 guages determined appropriate by the Secretary;  
14 and

15           (F) includes any other information deter-  
16 mined appropriate by the Secretary.

17           (5) Best practices for such hospital to track  
18 opioid prescribing trends by practitioners furnishing  
19 items and services at such hospital, including—

20           (A) ways for such hospital to establish tar-  
21 get levels, taking into account the specialties of  
22 such practitioners and the geographic area in  
23 which such hospital is located, with respect to  
24 opioids prescribed by such practitioners;

1           (B) guidance on checking the medical  
2 records of such individuals against information  
3 included in prescription drug monitoring pro-  
4 grams;

5           (C) strategies to reduce long-term opioid  
6 prescriptions; and

7           (D) methods to identify such practitioners  
8 who may be over-prescribing opioids.

9           (6) Other information the Secretary determines  
10 appropriate, including any such information from the  
11 Opioid Safety Initiative established by the Depart-  
12 ment of Veterans Affairs or the Opioid Overdose Pre-  
13 vention Toolkit published by the Substance Abuse and  
14 Mental Health Services Administration.

15 **SEC. 3. REQUIRING THE REVIEW OF QUALITY MEASURES**  
16 **RELATING TO OPIOIDS AND OPIOID USE DIS-**  
17 **ORDER TREATMENTS FURNISHED UNDER**  
18 **THE MEDICARE PROGRAM AND OTHER FED-**  
19 **ERAL HEALTH CARE PROGRAMS.**

20           (a) *IN GENERAL.*—Section 1890A of the Social Secu-  
21 rity Act (42 U.S.C. 1395aaa-1) is amended by adding at  
22 the end the following new subsection:

23           “(g) *TECHNICAL EXPERT PANEL REVIEW OF OPIOID*  
24 *AND OPIOID USE DISORDER QUALITY MEASURES.*—

1           “(1) *IN GENERAL.*—Not later than 180 days  
2           after the date of the enactment of this subsection, the  
3           Secretary shall establish a technical expert panel for  
4           purposes of reviewing quality measures relating to  
5           opioids and opioid use disorders, including care, pre-  
6           vention, diagnosis, health outcomes, and treatment  
7           furnished to individuals with opioid use disorders.  
8           The Secretary may use the entity with a contract  
9           under section 1890(a) and amend such contract as  
10          necessary to provide for the establishment of such  
11          technical expert panel.

12           “(2) *REVIEW AND ASSESSMENT.*—Not later than  
13          1 year after the date the technical expert panel de-  
14          scribed in paragraph (1) is established (and periodi-  
15          cally thereafter as the Secretary determines appro-  
16          priate), the technical expert panel shall—

17                   “(A) review quality measures that relate to  
18                   opioids and opioid use disorders, including exist-  
19                   ing measures and those under development;

20                   “(B) identify gaps in areas of quality meas-  
21                   urement that relate to opioids and opioid use  
22                   disorders, and identify measure development pri-  
23                   orities for such measure gaps; and

24                   “(C) make recommendations to the Sec-  
25                   retary on quality measures with respect to



1           *opioids and opioid use disorders for purposes of*  
2           *improving care, prevention, diagnosis, health*  
3           *outcomes, and treatment, including recommenda-*  
4           *tions for revisions of such measures, need for de-*  
5           *velopment of new measures, and recommenda-*  
6           *tions for including such measures in the Merit-*  
7           *Based Incentive Payment System under section*  
8           *1848(q), the alternative payment models under*  
9           *section 1833(z)(3)(C), the shared savings pro-*  
10           *gram under section 1899, the quality reporting*  
11           *requirements for inpatient hospitals under sec-*  
12           *tion 1886(b)(3)(B)(viii), the hospital value-based*  
13           *purchasing program under section 1886(o), and*  
14           *under other value-based purchasing programs*  
15           *under this title.*

16           “(3) *CONSIDERATION OF MEASURES BY SEC-*  
17           *RETARY.—The Secretary shall consider—*

18                   “(A) *using opioid and opioid use disorder*  
19                   *measures (including measures used under the*  
20                   *Merit-Based Incentive Payment System under*  
21                   *section 1848(q), measures recommended under*  
22                   *paragraph (2)(C), and other such measures iden-*  
23                   *tified by the Secretary) in alternative payment*  
24                   *models under section 1833(z)(3)(C) and in the*  
25                   *shared savings program under section 1899; and*

1           “(B) using opioid measures described in  
2           subparagraph (A), as applicable, in the quality  
3           reporting requirements for inpatient hospitals  
4           under section 1886(b)(3)(B)(viii), in the hospital  
5           value-based purchasing program under section  
6           1886(o), and under other value-based purchasing  
7           programs under this title.

8           “(4) *PRIORITIZATION OF MEASURE DEVELOP-*  
9           *MENT.—The Secretary shall prioritize for measure de-*  
10          *velopment the gaps in quality measures identified*  
11          *under paragraph (2)(B).”.*

12          (b) *EXPEDITED ENDORSEMENT PROCESS FOR OPIOID*  
13          *MEASURES.—Section 1890(b)(2) of the Social Security Act*  
14          *(42 U.S.C. 1395aaa(b)(2)) is amended by adding at the end*  
15          *the following new flush sentence:*

16                 *“Such endorsement process shall, as determined prac-*  
17                 *ticable by the entity, provide for an expedited process*  
18                 *with respect to the endorsement of such measures re-*  
19                 *lating to opioids and opioid use disorders.”.*

20          **SEC. 4. TECHNICAL EXPERT PANEL ON REDUCING SUR-**  
21                         **GICAL SETTING OPIOID USE; DATA COLLEC-**  
22                         **TION ON PERIOPERATIVE OPIOID USE.**

23          (a) *TECHNICAL EXPERT PANEL ON REDUCING SUR-*  
24          *GICAL SETTING OPIOID USE.—*

1           (1) *IN GENERAL.*—Not later than 6 months after  
2           the date of the enactment of this Act, the Secretary of  
3           Health and Human Services shall convene a technical  
4           expert panel, including medical and surgical spe-  
5           cialty societies and hospital organizations, to provide  
6           recommendations on reducing opioid use in the inpa-  
7           tient and outpatient surgical settings and on best  
8           practices for pain management, including with re-  
9           spect to the following:

10                   (A) *Approaches that limit patient exposure*  
11                   *to opioids during the perioperative period, in-*  
12                   *cluding pre-surgical and post-surgical injections,*  
13                   *and that identify such patients at risk of opioid*  
14                   *use disorder pre-operation.*

15                   (B) *Shared decision making with patients*  
16                   *and families on pain management, including*  
17                   *recommendations for the development of an eval-*  
18                   *uation and management code for purposes of*  
19                   *payment under the Medicare program under title*  
20                   *XVIII of the Social Security Act that would ac-*  
21                   *count for time spent on shared decision making.*

22                   (C) *Education on the safe use, storage, and*  
23                   *disposal of opioids.*

24                   (D) *Prevention of opioid misuse and abuse*  
25                   *after discharge.*

1                   (E) *Development of a clinical algorithm to*  
2                   *identify and treat at-risk, opiate-tolerant pa-*  
3                   *tients and reduce reliance on opiodes for acute*  
4                   *pain during the perioperative period.*

5                   (2) *REPORT.—Not later than 1 year after the*  
6                   *date of the enactment of this Act, the Secretary shall*  
7                   *submit to Congress and make public a report con-*  
8                   *taining the recommendations developed under para-*  
9                   *graph (1) and recommendations for broader imple-*  
10                  *mentation of pain management protocols that limit*  
11                  *the use of opioids in the perioperative setting and*  
12                  *upon discharge from such setting.*

13                  (b) *DATA COLLECTION ON PERIOPERATIVE OPIOID*  
14                  *USE.—Not later than 1 year after the date of the enactment*  
15                  *of this Act, the Secretary of Health and Human Services*  
16                  *shall submit to Congress a report that contains the fol-*  
17                  *lowing:*

18                   (1) *The diagnosis-related group codes identified*  
19                   *by the Secretary as having the highest volume of sur-*  
20                   *geries.*

21                   (2) *With respect to each of such diagnosis-related*  
22                   *group codes so identified, a determination by the Sec-*  
23                   *retary of the data that is both available and reported*  
24                   *on opioid use following such surgeries, such as with*  
25                   *respect to—*

- 1           (A) *surgical volumes, practices, and opioid*  
2 *prescribing patterns;*
- 3           (B) *opioid consumption, including—*
- 4                 (i) *perioperative days of therapy;*
- 5                 (ii) *average daily dose at the hospital,*  
6 *including dosage greater than 90 milligram*  
7 *morphine equivalent;*
- 8                 (iii) *post-discharge prescriptions and*  
9 *other combination drugs that are used be-*  
10 *fore intervention and after intervention;*
- 11                (iv) *quantity and duration of opioid*  
12 *prescription at discharge; and*
- 13                (v) *quantity consumed and number of*  
14 *refills;*
- 15           (C) *regional anesthesia and analgesia prac-*  
16 *tices, including pre-surgical and post-surgical*  
17 *injections;*
- 18           (D) *naloxone reversal;*
- 19           (E) *post-operative respiratory failure;*
- 20           (F) *information about storage and disposal;*  
21 *and*
- 22           (G) *such other information as the Secretary*  
23 *may specify.*
- 24           (3) *Recommendations for improving data collec-*  
25 *tion on perioperative opioid use, including an anal-*

1        *ysis to identify barriers to collecting, reporting, and*  
2        *analyzing the data described in paragraph (2), in-*  
3        *cluding barriers related to technological availability.*

4        **SEC. 5. REQUIRING THE POSTING AND PERIODIC UPDATE**  
5                                **OF OPIOID PRESCRIBING GUIDANCE FOR**  
6                                **MEDICARE BENEFICIARIES.**

7        *(a) IN GENERAL.—Not later than 180 days after the*  
8        *date of the enactment of this Act, the Secretary of Health*  
9        *and Human Services (in this section referred to as the “Sec-*  
10        *retary”)* shall post on the public website of the Centers for  
11        *Medicare & Medicaid Services all guidance published by the*  
12        *Department of Health and Human Services on or after*  
13        *January 1, 2016, relating to the prescribing of opioids and*  
14        *applicable to opioid prescriptions for individuals entitled*  
15        *to benefits under part A of title XVIII of the Social Security*  
16        *Act (42 U.S.C. 1395c et seq.) or enrolled under part B of*  
17        *such title of such Act (42 U.S.C. 1395j et seq.).*

18        *(b) UPDATE OF GUIDANCE.—*

19                *(1) PERIODIC UPDATE.—The Secretary shall, in*  
20        *consultation with the entities specified in paragraph*  
21        *(2), periodically (as determined appropriate by the*  
22        *Secretary) update guidance described in subsection*  
23        *(a) and revise the posting of such guidance on the*  
24        *website described in such subsection.*

1           (2) *CONSULTATION.*—*The entities specified in*  
2 *this paragraph are the following:*

3                   (A) *Medical professional organizations.*

4                   (B) *Providers and suppliers of services (as*  
5 *such terms are defined in section 1861 of the So-*  
6 *cial Security Act (42 U.S.C. 1395x)).*

7                   (C) *Health care consumers or groups rep-*  
8 *resenting such consumers.*

9                   (D) *Other entities determined appropriate*  
10 *by the Secretary.*

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