

115TH CONGRESS  
2D SESSION

# S. 3008

To direct the Secretary of Health and Human Services to conduct a study and submit to Congress a report containing recommendation on how to improve the use of non-opioid treatments for acute and chronic pain management for individuals entitled to benefits under part A or enrolled under part B of the Medicare program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 6, 2018

Mr. YOUNG (for himself and Mr. DONNELLY) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To direct the Secretary of Health and Human Services to conduct a study and submit to Congress a report containing recommendation on how to improve the use of non-opioid treatments for acute and chronic pain management for individuals entitled to benefits under part A or enrolled under part B of the Medicare program, 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 “Dr. Todd Graham Pain  
5 Management Improvement Act of 2018”.

1 **SEC. 2. PAIN MANAGEMENT STUDY.**

2 (a) IN GENERAL.—Not later than 1 year after the  
3 date of enactment of this Act, the Secretary of Health and  
4 Human Services (referred to in this section as the “Sec-  
5 retary”) shall conduct a study and submit to the Com-  
6 mittee on Ways and Means and the Committee on Energy  
7 and Commerce of the House of Representatives and the  
8 Committee on Finance of the Senate a report containing  
9 recommendations on whether and how reimbursement to  
10 providers and suppliers of services, coverage, and coding  
11 policies related to the use of multi-disciplinary, evidence-  
12 based, non-opioid treatments for acute and chronic pain  
13 management for individuals entitled to benefits under part  
14 A or enrolled under part B of title XVIII of the Social  
15 Security Act should be revised. The Secretary shall make  
16 such report available on the public website of the Centers  
17 for Medicare & Medicaid Services.

18 (b) CONSULTATION.—In developing the report de-  
19 scribed in subsection (a), the Secretary shall consult  
20 with—

21 (1) relevant agencies within the Department of  
22 Health and Human Services;

23 (2) licensed and practicing osteopathic and  
24 allopathic physicians, physician assistants, nurse  
25 practitioners, dentists, and pharmacists;

1           (3) hospitals and other medical facilities, in-  
2           cluding acute care hospitals, cancer hospitals, psy-  
3           chiatric hospitals, hospital emergency departments,  
4           facilities furnishing urgent care services, ambulatory  
5           surgical centers, and post-acute care and long-term  
6           care facilities (such as skilled nursing facilities, inpa-  
7           tient rehabilitation facilities, long-term care hos-  
8           pitals, and home health agencies);

9           (4) substance abuse and mental health profes-  
10          sional organizations;

11          (5) pain management professional organizations  
12          and advocacy entities, including individuals who per-  
13          sonally suffer chronic pain;

14          (6) medical professional organizations and med-  
15          ical specialty organizations;

16          (7) licensed health care providers who furnish  
17          alternative pain management services;

18          (8) organizations with expertise in the develop-  
19          ment of innovative medical technologies for pain  
20          management;

21          (9) beneficiary advocacy organizations; and

22          (10) other organizations with expertise in the  
23          assessment, diagnosis, treatment, and management  
24          of pain, as determined appropriate by the Secretary.

1 (c) CONTENTS.—The report described in subsection  
2 (a) shall include the following:

3 (1) The recommendations described in sub-  
4 section (d).

5 (2) The impact analysis described in subsection  
6 (e).

7 (3) An assessment of pain management guid-  
8 ance published by the Federal Government that may  
9 be relevant to coverage determinations or other cov-  
10 erage requirements under title XVIII of the Social  
11 Security Act.

12 (4) Recommendations for updating, including  
13 expanding, the “CDC Guideline for Prescribing  
14 Opioids for Chronic Pain—United States, 2016”  
15 published in March 2016 by the Centers for Disease  
16 Control and Prevention, including for purposes of  
17 management of pain. Such recommendations shall—

18 (A) consider incorporating relevant ele-  
19 ments of the “Va/DoD Clinical Practice Guide-  
20 line for Opioid Therapy for Chronic Pain” pub-  
21 lished in February 2017 by the Department of  
22 Veterans Affairs and Department of Defense,  
23 including adoption of elements of the Depart-  
24 ment of Defense and Veterans Administration  
25 pain rating scale; and

1 (B) include recommendations on how the  
2 “CDC Guideline for Prescribing Opioids for  
3 Chronic Pain—United States, 2016”, as so up-  
4 dated, could be adopted by health care pro-  
5 viders across clinical settings.

6 (5) An evaluation of the following:

7 (A) Barriers inhibiting individuals entitled  
8 to benefits under part A or enrolled under part  
9 B of such title from accessing treatments and  
10 technologies described in subparagraphs (A)  
11 through (C) of paragraph (6).

12 (B) Potential legislative and administrative  
13 changes under such title to improve individuals’  
14 access to items and services currently covered  
15 under such title and used for the treatment of  
16 pain, such as cognitive behavioral interventions,  
17 physical therapy, occupational therapy, physical  
18 medicine, biofeedback therapy, and chiropractic  
19 therapy, and other pain treatments services fur-  
20 nished in a hospital or post-acute care setting.

21 (C) Costs and benefits associated with po-  
22 tential expansion of coverage under such title to  
23 include items and services not covered under  
24 such title that may be used for the treatment  
25 of pain, such as acupuncture, therapeutic mas-

1           sage, and items and services furnished by inte-  
2           grated pain management programs.

3           (6) An analysis on reimbursement, coverage,  
4           and coding policies (including DRG classification,  
5           CPT, HCPCS, NDC, and other applicable codes)  
6           under title XVIII of the Social Security Act with re-  
7           spect to the following:

8                   (A) Non-opioid based treatments and tech-  
9                   nologies for chronic or acute pain, including  
10                  such treatments that are covered, not covered,  
11                  or have limited coverage under such title.

12                  (B) Non-opioid based treatments and tech-  
13                  nologies that monitor substance use withdrawal  
14                  and prevent overdoses of opioids.

15                  (C) Non-opioid based treatments and tech-  
16                  nologies that treat substance use disorders.

17                  (D) Items and services furnished by practi-  
18                  tioners through a multi-disciplinary treatment  
19                  model for pain management.

20                  (E) Medical devices, non-opioid based  
21                  drugs, and other therapies (including inter-  
22                  ventional and integrative pain therapies) ap-  
23                  proved or cleared by the Food and Drug Ad-  
24                  ministration for the treatment of pain.

1 (F) Items and services furnished to bene-  
2 ficiaries with psychiatric disorders, substance  
3 use disorders, or who are at risk of suicide, or  
4 have comorbidities and require consultation or  
5 management of pain with one or more special-  
6 ists in pain management, mental health, or ad-  
7 diction treatment.

8 (d) RECOMMENDATIONS.—The recommendations de-  
9 scribed in this subsection are, with respect to individuals  
10 entitled to benefits under part A or enrolled under part  
11 B of title XVIII of the Social Security Act, legislative and  
12 administrative recommendations on the following:

13 (1) Options for additional coverage of pain  
14 management therapies without the use of opioids, in-  
15 cluding interventional pain therapies, and options to  
16 augment opioid therapy with other clinical and com-  
17plementary, integrative health services to minimize  
18 the risk of substance use disorder, including in a  
19 hospital setting.

20 (2) Options for coverage and reimbursement  
21 modifications of medical devices and non-opioid  
22 based pharmacological and non-pharmacological  
23 therapies (including interventional and integrative  
24 pain therapies) approved or cleared by the Food and

1 Drug Administration for the treatment of pain as an  
2 alternative or augment to opioid therapy.

3 (3) Treatment strategies for beneficiaries with  
4 psychiatric disorders, substance use disorders, or  
5 who are at risk of suicide, and treatment strategies  
6 to address health disparities related to opioid use  
7 and opioid abuse treatment.

8 (4) Treatment strategies for beneficiaries with  
9 comorbidities who require a consultation or co-  
10 management of pain with one or more specialists in  
11 pain management, mental health, or addiction treat-  
12 ment, including in a hospital setting.

13 (5) Coadministration of opioids and other  
14 drugs, particularly benzodiazepines.

15 (6) Appropriate case management for bene-  
16 ficiaries who transition between inpatient and out-  
17 patient hospital settings, or between opioid therapy  
18 to non-opioid therapy, which may include the use of  
19 care transition plans.

20 (7) Outreach activities designed to educate pro-  
21 viders of services and suppliers under the Medicare  
22 program and individuals entitled to benefits under  
23 part A or under part B of such title on alternative,  
24 non-opioid therapies to manage and treat acute and  
25 chronic pain.

1           (8) Creation of a beneficiary education tool on  
2           alternatives to opioids for chronic pain management.

3           (e) **IMPACT ANALYSIS.**—The impact analysis de-  
4           scribed in this subsection consists of an analysis of any  
5           potential effects implementing the recommendations de-  
6           scribed in subsection (d) would have—

7           (1) on expenditures under the Medicare pro-  
8           gram; and

9           (2) on preventing or reducing opioid addiction  
10          for individuals receiving benefits under the Medicare  
11          program.

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