

NCPA member summary of H.R. 6, the *SUPPORT for Patients and Communities Act*

On Oct. 24, 2018, President Trump signed into law H.R. 6, the *Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act* (the “opioid package”). The opioid package contains several changes to law that seek to combat the opioid crisis. This summary will outline the relevant and important aspects of the 2018 opioid package that are pertinent to small business community pharmacists.

NCPA advocacy at work for you

NCPA successfully lobbied for the inclusion of language in the legislation that would ensure pharmacy benefit managers cannot use e-prescribing to steer patients to specific pharmacies. NCPA continues to advocate to protect pharmacy choice in the Medicare program.

NCPA successfully negotiated the exemption for long-term care patients from e-prescribing requirements under the Act. Starting in 2021, prescriptions for a covered Part D drug for controlled substances will be required to be sent electronically from prescriber to pharmacy, subject to certain exemptions, including if the patient resides in a skilled nursing facility.

NCPA successfully backed language that requires the Department of Health and Human Services and the Drug Enforcement Agency to put out guidelines on when pharmacists can refuse to fill opioids. The *Empowering Pharmacists in the Fight Against Opioid Abuse Act* included in the opioid package will provide pharmacists, health care providers, and patients with training materials.

NCPA successfully prevented PBMs from having the authority to suspend payments to a pharmacy pending investigation of credible allegations of fraud by a pharmacy. Under this law, only plan sponsors have such authority, which is aligned with the rest of the Medicare program.

NCPA successfully prevented pharmacists from being mandated to check prescription drug monitoring programs under state Medicaid programs. Instead, only prescribers are mandated to check the prescription drug history of a Medicaid patient through a qualified prescription drug monitoring program before prescribing a controlled substance.

Required e-prescribing for controlled substances in Medicare Part D

Starting Jan. 1, 2021, prescriptions for a covered Part D drug under a Medicare Part D prescription drug plan or under a Medicare Advantage drug plan for a Schedule II, III, IV, or V controlled substance must be transmitted electronically from prescriber to pharmacy. The following exceptions exist, and the HHS Secretary must outline further via rulemaking:

1. prescriber and dispenser are the same entity
2. prescription cannot be transmitted electronically under the most recent NCPDP SCRIPT Standard
3. prescriber has a waiver that cannot exceed one year
4. prescriber determines it will be impractical for the patient to obtain the prescription in a timely manner and the delay would adversely impact patient health
5. prescriber is issuing the prescription under a research protocol
6. prescription contains elements that the Food and Drug Administration requires that are not able to be included in electronic prescribing (such as a REMS drug)
7. patient receives hospice care or is a resident of a skilled nursing facility

A pharmacist is not required to verify that a prescriber has a waiver. A patient can designate a pharmacy of their choice.

Required drug management programs (prescriber and/or pharmacy lock-ins) in Medicare Part D

Starting Jan. 1, 2022, Medicare Part D prescription drug plan sponsors must establish a drug management program for at-risk beneficiaries. Note that starting Jan. 1, 2019, Part D plan sponsors have the authority to create a drug management program but are not required to do so.

Suspension of payments for fraud

Starting Jan. 1, 2020, Part D prescription drug plan sponsors and Medicare Advantage prescription drug plans may suspend payments to a pharmacy pending investigation of credible allegations of fraud. The plan sponsor shall notify the Centers for Medicare & Medicaid Services if the plan sponsor has suspended any payment to a pharmacy. A fraud hotline tip without further evidence must not be treated as sufficient evidence for a credible allegation of fraud. The Secretary must consult with the Inspector General of HHS in determining whether there is a credible allegation of fraud.

Constructive transfer for implantable or injectable controlled substances

A pharmacy may deliver an injectable or implantable controlled substance to a practitioner for administering the controlled substance if delivered by the pharmacy to the location listed on the practitioner's DEA certificate of registration and the controlled substance is administered for maintenance or detoxification treatment. The controlled substance must be administered to the patient named on the prescription not later than 14 days after the date of receipt of the controlled substance by the practitioner.

Pharmacist training materials on circumstances under which a pharmacist may decline to fill a prescription

Not later than Oct. 24, 2019, HHS, DEA, FDA, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration must develop and disseminate materials for pharmacists, health care providers, and patients on circumstances under which a pharmacist may decline to fill a prescription for a controlled substance. These materials must include information on how to decline to fill a prescription and actions to take after declining, and must be made available for stakeholder input prior to publication.

Required electronic prior authorization for Part D drugs

Starting not later than Jan. 1, 2021, the Medicare program must provide for electronic prior authorization requests from prescribing health care professionals to Part D plan sponsors or Medicare Advantage plans for covered Part D drugs and a response to the health care professional. The Secretary will provide for the appropriate standards by which this electronic prior authorization request must be conducted in consultation with NCPDP, other standard setting organizations determined appropriate by the Secretary, and stakeholders. A facsimile, a proprietary payer portal not meeting standards specified by the Secretary, or an electronic form will not meet the requirements.

Grants for drug disposal programs

The opioid package also authorizes funds to the Attorney General to award grants to five states to increase participation of eligible collectors as authorized collectors for controlled substance drug disposal programs. The grant funding may be used only for the costs of installation, maintenance, training, purchasing, and disposal of controlled substances.

Expanding eligibility for medication therapy management programs in Part D

Starting Jan. 1, 2021, at-risk beneficiaries for drug abuse in the Part D program shall be included in the list of targeted beneficiaries eligible for MTM services.

ARCOS transparency

Drug manufacturers and distributors will be provided with anonymized information through the Automated Reports and Consolidated Ordering System to help identify, report, and stop suspicious orders of opioids and reduce diversion rates. The Attorney General must at least on a quarterly basis provide drug manufacturers and distributors with ARCOS information pertaining to the total number of distributor registrants that distribute controlled substances to a pharmacy or practitioner registrant, aggregated by the name and address of each pharmacy and practitioner registrant. Also, the total quantity and type of opioids distributed to each pharmacy and practitioner registrant will be provided by the Attorney General to drug manufacturers and distributors.