

House Energy and Commerce Committee Health Subcommittee
Subcommittee Vote on Opioid Legislation and HR 5554
April 25, 2018

On April 25th, the House Energy and Commerce Committee Health Subcommittee held a markup of legislation to address the opioid misuse and overdose epidemic. Chairman Walden's (R-OR) opening statement is available [here](#), Subcommittee Chair Burgess' (R-TX) opening statement is available [here](#), and Ranking Member Pallone's (D-NJ) opening statement is available [here](#).

7 of the 64 bills that were noticed were not considered at the markup; at 9:30pm ET Subcommittee Chairman Burgess (R-TX) said that the bills that would not be considered were worthy of discussion but not ready for the full Committee and they wanted to continue working on them rather than have them voted down. The bills that were not considered included:

1. [H.R. 3545, Overdose Prevention and Patient Safety Act](#)
2. [HR 3692 Addiction Treatment Access Improvement Act](#)
3. [H.R. 4005, Medicaid Reentry Act](#)
4. [H.R. 4998, Health Insurance for Former Foster Youth Act](#)
5. [H.R. 5477, Rural DOCS Act](#)
6. [H.R. 5562, To require the Secretary of Health and Human Services to develop a strategy implementing certain recommendations relating to the Protecting Our Infants Act of 2015, and for other purposes](#)
7. [H.R. ____, FDA Long-term Efficacy](#)

Ranking Member Pallone asked that the bills that were not considered at the markup be considered before the other bills go to the full Committee and Chairman Burgess (R-TX) said they would consider the request.

During the opening statements, Democrats expressed dismay at the speed at which the Committee is moving on such a large number of bills with several saying they would prefer "quality over quantity." In response to a question about the amount of time there will be to work on bills before they advance, Subcommittee Chairman Burgess said he does not anticipate the full Energy and Commerce Committee will markup for several weeks and then Floor consideration is not likely until several weeks after that. As we have previously reported, full Committee Chairman Walden has very publicly said he wants bills ready for a House floor vote before Memorial Day.

Bills that were considered and approved at the markup are listed below with key debates summarized:

1. [H.R. 3331, to amend title XI of the Social Security Act to promote testing of incentive payments for behavioral health providers for adoption and use of certified electronic health record technology](#), **Approved by voice vote**
2. [H.R. ____, Welcome to Medicare](#), **Approved by voice vote**
 - During debate over the bill Ranking Member Pallone said that while the bill still needs work, the current version is significantly improved over the previous iteration. He had raised concerns that the inclusion of questions about pain in the "welcome to Medicare"

doctors visit could have the unintended result of increasing opioid prescribing, similar to when pain was added as the 5th vital sign.

3. [H.R. _____, Post-Surgical Injections as an Opioid Alternative](#), Approved by a vote of 17 – 10
4. [HR 5605, Alternative Payment Model for Treating Substance Use Disorder](#), Approved by voice vote
 - During debate over the bill, Chairman Walden, Ranking Member Pallone and Subcommittee Ranking Member Green (D-TX) spoke in support of the legislation. Rep. Pallone note that there is nothing currently for value based care for substance use in Medicare and that is also largely true for the private sector.
 - Rep. Bucshon (R-IN) said he supports the development of Alternative Payment Models (APMs) and said the bill’s language has improved substantially since the original version. However, he said that more feedback from the Centers for Medicare and Medicaid Services (CMS) and the Congressional Budget Office (CBO) is needed on the bill.
 - Rep. Bucshon also raised issues related to 42 CFR Part 2; he said CMS scrubs Part 2 data and that providers need to be able to access to all of the data on patients they are taking risk on. He said this issue needs to be addressed as the bill moves forward to get it ready for the full Committee.
5. [H.R. 5603, Use of Telehealth to Treat Opioid Use Disorder](#), Approved by voice vote
6. [H.R. _____, Incentivizing Non-Opioid Drugs](#), Approved by a vote of 18 - 11
 - During debate over the bill, there was a verbal agreement to update the text to include current drugs on the market
7. [H.R. 3528, Every Prescription Conveyed Securely Act](#), Approved by voice vote
 - Rep. Mullin (R-OK) offered an [amendment](#) to provide an exemption for patients in hospice or skilled nursing facilities. The amendment also gives patients the right to designate their pharmacy of choice. The amendment passed by voice vote.
8. [H.R. _____, Mandatory Lock-In](#), Approved by voice vote
 - During debate over the bill Rep. Pallone said he thinks still have a lot of work to do on this bill to reflect technical assistance they received from CMS
9. [H.R. _____, Beneficiary Education](#); Approved by voice vote
 - During debate over the bill, Rep. Schakowsky (D-IL) offered and withdrew an amendment to address what she called the “skyrocketing” price of naloxone.
 - Rep. Collins (R-NY) raised a point of order against her amendment.
 - Rep. Schakowsky said that the price of naloxone is a huge barrier and cited the rising cost – saying that a 10 ml vile costs close to \$150, more than double the price of even a few years ago - and more than the cost to produce it. She said even more “egregious is Kaleo, the pharmaceutical corporation that produces Evzio, which accounts for 20% of the naloxone dispensed” who has raised its price for a 2-pack from \$690 in 2014 to \$4,500 today, a 500% increase.
 - Rep. Schakowsky argued that the HHS Secretary should be able to negotiate all drug prices.
10. [H.R. 5582, Abuse Deterrent Access Act of 2018](#); approved by voice vote

- Rep Schakowsky offered the attached amendment that calls on the HHS Secretary to study how the naloxone prices increased and how to lower costs. Chairman Burgess asked Rep. Schakowsky to withdraw the amendment and said he would work with her on it. She said she would like to work with him, but did not want to withdraw it. The amendment was ruled non-germane following a point of order raised by Rep. Collins and after Rep. Schakowsky appealed the ruling and asked for a recorded vote, the **amendment was tabled by a vote of 18 – 13.**
 - Reps. Pallone, Engel (D-NY) and Eshoo (D-CA) spoke in support of the amendment. Rep. Pallone cited the cost increase of Evzio and the price increases of injectable and nasal spray formulations and Rep. Eshoo said it made sense to look at the price increases.
 - Rep. Carter (R-GA) said he appreciated the intent of the amendment, but said the amendment was not germane to the underlying bill being debated.
11. [H.R. 1925, At-Risk Youth Medicaid Protection Act](#), approved by voice vote
 12. [H.R. 3192, CHIP Mental Health Parity Act](#), approved by voice vote
 - Bill sponsor Rep Kennedy (D-MA) said that the legislation seeks to cover a small gap that still exists as the vast majority of CHIP plans cover mental health and that the bill seeks to close that loophole
 13. [H.R. , Incentives to Create Medicaid Health Homes to Treat Substance Use Disorder](#), approved by voice vote
 14. [H.R. , Medicaid IMD ADDITIONAL INFO Act](#), approved by voice vote
 15. [H.R. , Require Medicaid Program to Report on All Core Behavioral Health Measures](#), approved by voice vote
 16. [H.R. , HUMAN CAPITAL in Medicaid Act](#), approved by a vote of 18 – 12
 17. [H.R. , Medicaid Pharmaceutical Home Act](#), approved by a vote of 18 – 14
 18. [H.R. , Limited repeal of the IMD Exclusion for adult Medicaid beneficiaries with substance use disorder](#), approved by a vote of 16 - 10
 - During debate over the bill, Rep. Pallone argued that using 1115 waivers for IMD waivers is preferable. Chairman Walden cited several letters from stakeholders in favor of repealing the IMD and said that the statutory change provides more certainty than waivers.
 19. [H.R. , Medicaid DRUG Improvement Act](#), approved by a vote of 18 – 9
 20. [H.R. , Medicaid PARTNERSHIP Act](#), approved by a vote of 18 - 9
 21. [H.R. , Medicaid Graduate Medical Education Transparency Act](#), approved by a vote of 18 - 10
 22. [H.R. 4275, Empowering Pharmacists in the Fight Against Opioid Abuse Act](#), as [amended](#), approved by voice vote
 23. [H.R. 5041, Safe Disposal of Unused Medication Act](#), as [amended](#), approved by voice vote
 24. [H.R. 5202, Ensuring Patient Access to Substance Use Disorder Treatments Act of 2018](#), approved by voice vote

- In his remarks on the bill, Ranking Member Pallone noted that the bill is “common sense” and has bipartisan and bicameral support and he thinks it will ultimately go to the President.
25. [H.R. 5483, Special Registration for Telemedicine Clarification Act of 2018](#), as [amended](#), approved by voice vote
 26. [H.R. _____, Improving Access to Remote Behavioral Health Treatment Act of 2018](#), approved by voice vote
 27. [H.R. _____, To amend title XIX of the Social Security Act to provide for Medicaid coverage protections for pregnant and postpartum women while receiving inpatient treatment for a substance use disorder](#), approved by voice vote
 28. [H.R. 5554, Animal Drug and Animal Generic Drug User Fee Amendments of 2018](#), as [amended](#), approved by voice vote
 29. [H.R. _____, 21st Century Tools for Pain and Addiction Treatments](#), approved by a vote of 19 to 10
 30. [H.R. _____, FDA and International Mail](#), as [amended](#), approved by voice vote
 31. [H.R. 5228, Stop Counterfeit Drugs by Regulating and Enhancing Enforcement Now Act](#), as [amended](#), approved by voice vote
 32. [HR____, FDA Opioid Sparing](#), approved by voice vote
 33. [H.R. _____, FDA Misuse/Abuse](#), approved by voice vote
 34. [H.R. _____, FDA Packaging and Disposal](#), approved by voice vote
 35. [H.R. 4284, Indexing Narcotics, Fentanyl, and Opioids \(INFO\) Act](#), as [amended](#), approved by voice vote
 36. [H.R. 4684, Ensuring Access to Quality Sober Living Act](#), as [amended](#) by a technical amendment,
 - Chairman Walden noted that they heard from families at last week’s roundtable about the issue of patient brokering and one family in particular said their loved one was involved in a scheme, but they were unaware of the situation due to privacy laws.
 - Subcommittee Chair Burgess also noted the stories they heard from families last week and said 3 stories of loss were directly attributed to unscrupulous sober homes.
 - Rep Bilirakis (R-FL) spoke in favor of the legislation stating, “we have to get this through. We have to do it for our kids.”
 37. [H.R. 5176, Preventing Overdoses While in Emergency Rooms \(POWER\) Act](#), as [amended](#), approved by voice vote
 38. [H.R. 5197, Alternatives to Opioids \(ALTO\) in the Emergency Department Act](#), as [amended](#), approved by voice vote
 39. [H.R. 5272, Reinforcing Evidence-Based Standards Under Law in Treating Substance Abuse \(RESULTS\) Act](#), as [amended](#), approved by voice vote
 - Rep. Engel said the RESULTS Act will build on work created in the 21st Century Cures Act and directs the Substance Abuse Mental Health Services Administration (SAMHSA) Policy Lab to issue new guidance to grant applicants

- Chairman Burgess said they heard a family member, Gary Mendell with Shatterproof, at the roundtable last week with a passionate plea for the bill. Burgess said his request was the reason why the amendment was developed in order to make the bill ready for markup
- 40. [H.R. 5327, Comprehensive Opioid Recovery Centers Act](#), as [amended](#), approved by voice vote**
- Rep Lujan (D-NM) said he hoped HR 5327 can be amended before the full Committee markup to incorporate a prevention provision and bill sponsor Guthrie (R-KY) committed to working with him
 - Rep. Schakowsky raised a concern that creating opioid-specific treatment centers could be short-sighted and spoke in favor of [legislation](#) introduced by Rep. Cummings (D-MD) and Senator Warren (D-MA) last week that is modeled after the Ryan White Act
- 41. [H.R. 5329, Poison Center Network Enhancement Act](#), approved by voice vote**
- 42. [H.R. 5353, Eliminating Opioid-Related Infectious Diseases Act](#), as [amended](#), approved by voice vote**
- 43. [H.R. _____, a discussion draft to enhance and improve state-run prescription drug monitoring programs](#), approved by voice vote**
- 44. [H.R. _____, a bill to support the peer support specialist workforce](#), approved by voice vote**

Several bills were approved en bloc. Ranking Member Pallone said they agreed to move the bills forward, but many of the discussion drafts need work. These bills included:

1. [H.R. 449, Synthetic Drug Awareness Act](#), as [amended](#)
2. [H.R. 4841, Standardizing Electronic Prior Authorization for Safe Prescribing Act](#)
3. [H.R. _____, Adding Resources on Non-Opioid Alternatives to the Medicare Handbook](#)
4. [H.R. _____, CMS Action Plan](#)
5. [H.R. _____, Prescriber Notification](#)
6. [H.R. _____, Prescriber Education](#)
7. [H.R. _____, Medication Therapy Management \(MTM\) Expansion](#)
8. [H.R. _____, CMS/Plan Sharing](#)
9. [H.R. 5002, ACE Research Act](#)
10. [H.R. 5009, Jessie's Law](#)
11. [H.R. 5102, Substance Use Disorder Workforce Loan Repayment Act](#)
12. [H.R. 5261, Treatment, Education, And Community Help \(TEACH\) to Combat Addiction Act](#), as [amended](#)
13. [H.R. _____, a discussion draft to improve fentanyl testing and surveillance](#)