



October 28, 2015

TO: Members, Subcommittee on Health

FROM: Committee Majority Staff

RE: Subcommittee Markup on H.R. 1344, H.R. 1462, H.R. 1725, and H.R. 2820

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## I. INTRODUCTION

The Subcommittee on Health will meet in open markup session on November 3 and 4, 2015, in 2123 Rayburn House Office Building.

On Tuesday, November 3, 2015, at 3:00 p.m., the Subcommittee will convene for opening statements only. The Subcommittee will reconvene on Wednesday, October 4, 2015, at 10:00 a.m. to consider the following:

- H.R. 2017, Common Sense Nutrition Disclosure Act of 2015;
- H.R. 2446, To amend title XIX of the Social Security Act to require the use of electronic visit verification for personal care services furnished under the Medicaid program;
- H.R. 2646, Helping Families in Mental Health Crisis Act;
- H.R. 3014, Medical Controlled Substances Transportation Act;
- H.R. 3537, Synthetic Drug Control Act of 2015;
- H.R. 3716, Ensuring Terminated Providers Are Removed from Medicaid and CHIP Act; and
- H.R. 3821, Medicaid Directory of Caregivers Act.

In keeping with Chairman Upton's announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to [peter.kielty@mail.house.gov](mailto:peter.kielty@mail.house.gov). Any information with respect to an amendment's parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

## II. LEGISLATION

### A. H.R. 2017, Common Sense Nutrition Disclosure Act of 2015

H.R. 2017, introduced by Rep. McMorris-Rodgers (R-WA), would amend section 4205 of the Patient Protection and Affordable Care Act, which requires calorie and other nutrition information be provided to consumers in restaurants and other similar retail food establishments that have twenty or more locations.

The Food and Drug Administration's (FDA) final rule implementing section 4205 was issued on November 25, 2014, three and a half years after FDA published the proposed rule. FDA delayed implementation of the final rule by one year, so the rule will go into effect December 1, 2016. The rule mandates that restaurants and similar retail food establishments provide calorie and other nutrition information to consumers. According to the final rule, similar retail establishments include:

. . . bakeries, cafeterias, coffee shops, convenience stores, delicatessens, food service facilities located within entertainment venues (such as amusement parks, bowling alleys, and movie theaters), food service vendors (e.g., ice cream shops and mall cookie counters), food take out and/or delivery establishments), grocery stores, retail confectionary stores, superstores, quick service restaurants and table service restaurants.<sup>1</sup>

The bill would provide flexibility to ensure entities could utilize alternative methods to food labeling that are appropriate for the diverse business models and that are less burdensome, but accomplish the same goal of providing nutrition information to consumers.

An amendment to H.R. 2017 will be circulated with the notice. The amendment strikes the provision that would exempt certain entities from menu labeling requirements, ensures all states have a consistent standard, and other technical edits.

**B. H.R. 2446, To amend title XIX of the Social Security Act to require the use of electronic visit verification for personal care services furnished under the Medicaid program**

H.R. 2446, introduced by Rep. Guthrie (R-KY), would reduce fraud and waste related to personal care services and ensure that caregivers provide needed services to vulnerable beneficiaries. To accomplish this, the bill would, beginning in 2018, implement a Federal Matching Assistance Percentage (FMAP) penalty for states that fail to require providers of personal care services in their Medicaid program to use an electronic visit verification system that verifies the date of service, site of service, provider of service, and duration of service.

An amendment to H.R. 2446 will be circulated with the notice. The amendment would delay the start of the FMAP penalty to 2019 and expand the requirement for electronic visit verification to include providers of home health services.

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<sup>1</sup> <https://www.federalregister.gov/articles/2014/12/01/2014-27833/food-labeling-nutrition-labeling-of-standard-menu-items-in-restaurants-and-similar-retail-food>.

**C. H.R. 2646, Helping Families in Mental Health Crisis Act of 2015**

H.R. 2646, Rep. Murphy (R-PA) and Rep. Johnson (D-TX) and cosponsored by over 150 members, including 43 Democrats, would make the following changes:

- **Title I:** Title I would establish an Assistant Secretary for Mental Health and Substance Use Treatment within the Department of Health and Human Services (HHS) to replace the Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA). The Assistant Secretary would have to be a licensed psychiatrist or a clinical psychologist.
  - The Assistant Secretary would report directly to the Secretary of HHS and have the responsibility to promote, evaluate, organize, integrate, and coordinate research, treatment, and services across departments and agencies with respect to the problems of individuals suffering from mental illness and/or substance abuse. The Assistant Secretary would head the National Mental Health Policy Laboratory.
  - The Assistant Secretary would be required to prepare and submit to Congress reports on investigations regarding parity in mental health and substance use disorder benefits, best practices for peer-support specialist programs, certification and training, and a series of “state of the state” reports detailing how federal funds are being used, what best practice models are available, and statistical reports on health outcome measures.
- **Title II:** This title would establish the National Mental Health Policy Laboratory, which would create evidence-based and peer-review standards for all grant programs administered by the Assistant Secretary. This title also would authorize certain grant programs. Finally, it would reform and provide further accountability as to how the Community Mental Health Block Grants, the largest single component of SAMHSA’s mental health budget and a major contributor to state mental health budgets, are administered.
- **Title III:** Title III would establish a committee to assist the Assistant Secretary in carrying out the Assistant Secretary’s duties and develop a summary of advances in serious mental illness research related to causes, prevention, treatment, early screening, diagnosis or rule out, intervention, and access to services and supports for individuals with serious mental illness.
- **Title IV:** Title IV would reform the Health Insurance Portability and Accountability Act Privacy Rule by allowing a licensed mental health professional to share the diagnoses, treatment plans, appointment scheduling, medications, and medication-related instructions of a patient with a serious mental illness to an identified responsible caregiver. The bill sets out a specific, limiting set of circumstances under which such disclosure would be permitted to support better health outcomes for patients with a diminished capacity to understand or follow a treatment plan.

- **Title V:** This title includes certain Medicare and Medicaid reforms.
- **Title VI:** This title would increase funding for brain research at the National Institute of Mental Health.
- **Title VII:** This title would allow behavioral health providers to be eligible for electronic health record incentives under the HITECH Act.
- **Title VIII:** Title VIII would reform SAMHSA with restrictions on lobbying by systems that accept federal funds to protect and advocate the rights of individuals with mental illness.
- **Title IX:** This title would require the Government Accountability Office to conduct a study on preventing discriminatory coverage limitations for individuals with serious mental illness and substance use disorders.

**D. H.R. 3014, Medical Controlled Substances Transportation Act**

H.R. 3014, was introduced by Rep. Sessions (R-TX) and would amend the Controlled Substances Act to allow registered physicians to transport and administer controlled substances to patients at other practice settings and disaster areas if the physician enters into an agreement with the Drug Enforcement Administration.

**E. H.R. 3537, Synthetic Drug Control Act**

H.R. 3537, introduced by Rep. Dent (R-PA), Rep. Himes (D-CT), Del. Holmes Norton (D-DC), and Rep. Jolly (R-FL), would add certain synthetic drug compounds to schedule I of the Controlled Substances Act.

**F. H.R. 3716, Ensuring Terminated Providers Are Removed from Medicaid and CHIP Act**

H.R. 3716, introduced by Rep. Bucshon (R-IN), Rep. Butterfield (D-NC), and Rep. Welch (D-VT), would implement several targeted recommendations by the HHS Office of Inspector General to improve Centers for Medicare and Medicaid Services oversight of terminated providers, also improving states' incentives to better police their programs and screen providers.

**G. H.R. 3821, Medicaid Directory of Caregivers Act**

H.R. 3821, introduced by Reps. Collins (R-NY) and Rep. Tonko (D-NY), would improve Medicaid beneficiaries access to care by helping them find a health care provider. Specifically, the bill would require state Medicaid programs that serve enrollees through fee-for-service and/or primary care case management arrangements to publish a list of Medicaid providers on its website.

### **III. STAFF CONTACTS**

If you have any questions regarding this hearing, please contact Katie Novaria, Adrianna Simonelli, John Stone, Carly McWilliams, Josh Trent, or Michelle Rosenberg of the Committee staff at (202) 225-2927.