AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 5775

OFFERED BY MR. BRADY OF TEXAS

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2   This Act may be cited as the "Providing Reliable Op-
3 tions for Patients and Educational Resources Act of
4 2018" or the "PROPER Act of 2018".

5 **SEC. 2. REQUIRING MEDICARE ADVANTAGE PLANS AND**
6   **PART D PRESCRIPTION DRUG PLANS TO IN-**
7   **CLUDE INFORMATION ON RISKS ASSOCIATED**
8   **WITH OPIOIDS AND COVERAGE OF NON-**
9   **PHARMACOLOGICAL THERAPIES AND**
10   **NONOPIOID MEDICATIONS OR DEVICES USED**
11   **TO TREAT PAIN.**

12   Section 1860D–4(a)(1) of the Social Security Act (42
13 U.S.C. 1395w–104(a)(1)) is amended—

14   (1) in subparagraph (A), by inserting ", subject
15   to subparagraph (C)," before "including";

16   (2) in subparagraph (B), by adding at the end
17   the following new clause:

1 ''(vi) For plan year 2021 and each

2 subsequent plan year, subject to subpara-

3 graph (C), with respect to the treatment of

4 pain—

5 ''(I) the risks associated with

6 prolonged opioid use; and

7 ''(II) coverage of nonpharma-

8 cological therapies, devices, and

9 nonopioid medications—

10 ''(aa) in the case of an MA-

11 PD plan under part C, under

12 such plan; and

13 ''(bb) in the case of a pre-

14 scription drug plan, under such

15 plan and under parts A and B.'';

16 and

17 (3) by adding at the end the following new sub-

18 paragraph:

19 ''(C) TARGETED PROVISION OF INFORMA-

20 TION.—A PDP sponsor of a prescription drug

21 plan may, in lieu of disclosing the information

22 described in subparagraph (B)(vi) to each en-

23 rollee under the plan, disclose such information

24 through mail or electronic communications to a

25 subset of enrollees under the plan, such as en-

1 rollees who have been prescribed an opioid in
2 the previous two-year period.''.

3 **SEC. 3. REQUIRING MEDICARE ADVANTAGE PLANS AND**
4 **PRESCRIPTION DRUG PLANS TO PROVIDE IN-**
5 **FORMATION ON THE SAFE DISPOSAL OF PRE-**
6 **SCRIPTION DRUGS.**

7 (a) MEDICARE ADVANTAGE.—Section 1852 of the
8 Social Security Act (42 U.S.C. 1395w–22) is amended by
9 adding at the end the following new subsection:

10 ''(n) PROVISION OF INFORMATION RELATING TO THE
11 SAFE DISPOSAL OF CERTAIN PRESCRIPTION DRUGS.—

12 ''(1) IN GENERAL.—In the case of an individual
13 enrolled under an MA or MA-PD plan who is fur-
14 nished an in-home health risk assessment on or after
15 January 1, 2021, such plan shall ensure that such
16 assessment includes information on the safe disposal
17 of prescription drugs that are controlled substances
18 that meets the criteria established under paragraph
19 (2). Such information shall include information on
20 drug takeback programs that meet such require-
21 ments determined appropriate by the Secretary and
22 information on in-home disposal.

23 ''(2) CRITERIA.—The Secretary shall, through
24 rulemaking, establish criteria the Secretary deter-
25 mines appropriate with respect to information pro-

1 vided to an individual to ensure that such informa-

2 tion sufficiently educates such individual on the safe

3 disposal of prescription drugs that are controlled

4 substances.''.

5 (b) PRESCRIPTION DRUG PLANS.—Section 1860D–

6 4(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–

7 104(c)(2)(B)) is amended—

8   (1) by striking ''may include elements that pro-

9 mote'';

10   (2) by redesignating clauses (i) through (iii) as

11 subclauses (I) through (III) and adjusting the mar-

12 gins accordingly;

13   (3) by inserting before subclause (I), as so re-

14 designated, the following new clause:

15   ''(i) may include elements that pro-

16   mote—'';

17   (4) in subclause (III), as so redesignated, by

18 striking the period at the end and inserting ''; and'';

19 and

20   (5) by adding at the end the following new

21 clause:

22   ''(ii) with respect to plan years begin-

23   ning on or after January 1, 2021, shall

24   provide for—

1   "(I) the provision of information

2   to the enrollee on the safe disposal of

3   prescription drugs that are controlled

4   substances that meets the criteria es-

5   tablished under section 1852(n)(2),

6   including information on drug

7   takeback programs that meet such re-

8   quirements determined appropriate by

9   the Secretary and information on in-

10   home disposal; and

11   "(II) cost-effective means by

12   which an enrollee may so safely dis-

13   pose of such drugs.".

14 **SEC. 4. REVISING MEASURES USED UNDER THE HOSPITAL**

15   **CONSUMER ASSESSMENT OF HEALTHCARE**

16   **PROVIDERS AND SYSTEMS SURVEY RELAT-**

17   **ING TO PAIN MANAGEMENT.**

18   (a) RESTRICTION ON THE USE OF PAIN QUESTIONS

19 IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social

20 Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amend-

21 ed by adding at the end the following new subclause:

22   "(XII)(aa) With respect to a Hospital Consumer As-

23 sessment of Healthcare Providers and Systems survey (or

24 a successor survey) conducted on or after January 1,

25 2019, such survey may not include questions about com-

1 munication by hospital staff with an individual about such

2 individual's pain unless such questions take into account,

3 as applicable, whether an individual experiencing pain was

4 informed about risks associated with the use of opioids

5 and about non-opioid alternatives for the treatment of

6 pain.

7 ''(bb) The Secretary shall not include on the Hospital

8 Compare Internet website any measures based on the

9 questions appearing on the Hospital Consumer Assess-

10 ment of Healthcare Providers and Systems survey in 2018

11 about communication by hospital staff with an individual

12 about such individual's pain.''.

13 (b) RESTRICTION ON USE OF 2018 PAIN QUESTIONS

14 IN THE HOSPITAL VALUE-BASED PURCHASING PRO-

15 GRAM.—Section 1886(o)(2)(B) of the Social Security Act

16 (42 U.S.C. 1395ww(o)(2)(B)) is amended by adding at the

17 end the following new clause:

18 ''(iii) HCAHPS PAIN QUESTIONS.—

19 The Secretary may not include under sub-

20 paragraph (A) a measure that is based on

21 the questions appearing on the Hospital

22 Consumer Assessment of Healthcare Pro-

23 viders and Systems survey in 2018 about

1   communication by hospital staff with an

2   individual about the individual's pain.''.

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