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6 MARKUP OF ENERGY AND COMMERCE COMMITTEE VOTE

7 ON OPIOIDS LEGISLATION

8 THURSDAY, MAY 17, 2018

9 House of Representatives

10 Committee on Energy and Commerce

11 Washington, D.C.

12

13

14

15 The committee met, pursuant to call, at 10:00 a.m., in Room
16 2123 Rayburn House Office Building, Hon. Greg Walden [chairman
17 of the committee] presiding.

18 Members present: Representatives Walden, Barton, Upton,
19 Shimkus, Burgess, Blackburn, Scalise, Latta, McMorris Rodgers,
20 Harper, Lance, Guthrie, Olson, McKinley, Kinzinger, Griffith,
21 Bilirakis, Johnson, Long, Bucshon, Flores, Brooks, Mullin,
22 Hudson, Collins, Cramer, Walberg, Walters, Costello, Carter,

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23 Duncan, Pallone, Rush, Eshoo, Engel, Green, DeGette, Doyle,
24 Schakowsky, Butterfield, Matsui, Castor, Sarbanes, McNerney,
25 Welch, Lujan, Tonko, Clarke, Loeb sack, Schrader, Kennedy,
26 Cardenas, Ruiz, Peters, and Dingell.

27 Staff present: Mike Bloomquist, Staff Director; Samantha
28 Bopp, Staff Assistant; Adam Buckalew, Professional Staff Member,
29 Health; Daniel Butler, Staff Assistant; Karen Christian, General
30 Counsel; Kelly Collins, Staff Assistant; Zachary Dareshori, Staff
31 Assistant; Jordan Davis, Director of Policy and External Affairs;
32 Paul Eddatel, Chief Counsel, Health; Margaret Tucker Fogarty,
33 Staff Assistant; Melissa Froelich, Chief Counsel, Digital
34 Commerce and Consumer Protection; Adam Fromm, Director of
35 Outreach and Coalitions; Ali Fulling, Legislative Clerk,
36 Oversight & Investigations, Digital Commerce and Consumer
37 Protection; Caleb Graff, Professional Staff Member, Health; Jay
38 Gulshen, Legislative Clerk, Health; Peter Kielty, Deputy General
39 Counsel; Ed Kim, Policy Coordinator, Health; Caprice Knapp,
40 Fellow, Health; Ryan Long, Deputy Staff Director; Drew McDowell,
41 Executive Assistant; James Paluskiewicz, Professional Staff,
42 Health; Mark Ratner, Policy Coordinator; Kristen Shatynski,
43 Professional Staff Member, Health; Jennifer Sherman, Press
44 Secretary; Danielle Steele, Counsel, Health; Austin Stonebraker,

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45 Press Assistant; Josh Trent, Deputy Chief Health Counsel, Health;
46 Evan Viau, Legislative Clerk, Communications & Technology; Hamlin
47 Wade, Special Advisor, External Affairs; Jacquelyn Bolen,
48 Minority Professional Staff; Michael Budros, Health Fellow; Jeff
49 Carroll, Minority Staff Director; Elizabeth Ertel, Minority
50 Deputy Clerk; Waverly Gordon, Minority Health Counsel; Tiffany
51 Guarascio, Minority Deputy Staff Director and Chief Health
52 Advisor; Una Lee, Minority Senior Health Counsel; Dan Miller,
53 Minority Policy Analyst; Rachel Pryor, Minority Senior Health
54 Policy Advisor; Tim Robinson, Minority Chief Counsel; Samantha
55 Satchell, Minority Policy Analyst; Andrew Souvall, Minority
56 Director of Communications, Outreach and Member Services; Theresa
57 Tassej, Minority Health Fellow; Kimberlee Trzeciak, Minority
58 Senior Health Policy Advisor; and C.J. Young, Minority Press
59 Secretary.

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60 The Chairman. The committee will come to order.

61 The committee will come to order. Good morning, everyone.

62 We got a lot of work to do today and we will get started.

63 We are here for another big markup, keeping us on track to
64 complete our work on legislation to combat the opioid crisis ahead
65 of Memorial Day.

66 And just this week, House Majority Leader Kevin McCarthy
67 announced that he's reserving time on the House floor in June
68 to consider such legislation.

69 Our communities are counting on us -- the people we represent
70 are counting on us -- to deliver on solutions to help turn the
71 tide of addiction and death that is ravaging American from coast
72 to coast.

73 On our docket today, we have 34 individual pieces of
74 legislation to help turn the tide of the opioid epidemic. In
75 the week since our Health Subcommittee markup, members and staff
76 on both sides of the aisle have put in long hours to try and bridge
77 the gaps on differences that remained on some of the bills.

78 Real progress has been made and I believe we will continue
79 those efforts successfully today.

80 As I said during last week's markup, we know there is no
81 silver bullet, no one-size-fits-all approach that will remedy

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82 the catastrophic and deadly effects of this crisis over the last
83 decade.

84 But, collectively, we know that much can be done to help
85 vulnerable patients in our communities get the treatment they
86 want and that they need, and to ensure that these powerful drugs
87 are not getting into the wrong hands.

88 Paired with the bills that passed out of this committee last
89 week -- paired with the bills that passed out of this committee
90 last week, our efforts will help protect our communities and
91 bolster enforcement efforts, strengthen our prevention and public
92 health efforts, and address coverage and payment issues in
93 Medicare and Medicaid.

94 These bills are the direct result of hearing from the
95 families impacted by this crisis -- some of whom I met with in
96 my district on Monday -- those working to remedy it, and those
97 -- and compromise by our fellow leaders.

98 Earlier this week, I met with two families from southern
99 Oregon whose sons are still struggling with this horrible
100 addiction. I've heard from others at roundtables across Oregon.
101 Their stories are all too familiar.

102 I've also received valuable feedback from the health care
103 providers in our communities and, in fact, I'd like to submit

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104 a letter from the Oregon Hospital Association for the record where
105 they outline their support for several of the bills we are working
106 on here today.

107 While this Congress has delivered unprecedented resources
108 to combat this crisis, Americans from all backgrounds and walks
109 of life still feel the grasp of this epidemic and are asking us
110 to help, and today we will once again, as the Energy and Commerce
111 Committee, deliver.

112 I mentioned the work of the staffs earlier, and Paul and
113 Tiffany and their teams have put in countless hours over late
114 nights and weekends this past year. Thank you for your efforts
115 on this national priority.

116 We have a unique opportunity to save lives and we cannot
117 lose sight of the real-world impact of our actions throughout
118 this process. We owe it to the families, the more than 115
119 Americans who die from opioids every single day, to come together
120 and advance legislation that can help stem this tide.

121 With that, I yield back and recognize my friend from New
122 Jersey, Mr. Pallone, for three minutes for an opening statement.

123 Mr. Pallone. Thank you, Mr. Chairman.

124 Today's markup focuses on proposals to address the opioid
125 epidemic. I applaud all the committee members for their hard

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126 work on these bills, especially given the accelerated time frame.

127 I also appreciate the chairman working with us to reach
128 agreement on the majority of these bills as we work together to
129 craft strategies that make positive changes in the communities
130 around the country devastated by this epidemic.

131 We are in a good place with many of the bills in front of
132 us today and there are a number of bills that make incremental
133 changes that will bolster our efforts to combat the opioid crisis.

134 I am concerned, however, that there are bills missing from
135 today's markup that are critically important to our overall
136 legislative effort.

137 For example, Mr. Green's legislation, H.R. 5803, was
138 favorably approved out of subcommittee but was not -- but was
139 excluded from today's markup.

140 This bill would give FDA the authority to assess whether
141 or not a drug could be subject to misuse or abuse as part of the
142 drug approval process before entering the market.

143 Without this authority, the FDA could and has allowed drugs
144 to enter the market only to be abused and misused substantially,
145 requiring a withdrawal of the product.

146 This bill is common sense legislation, especially in light
147 of the lessons this committee has learned regarding the role our

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148 drug supply chain played in the rise of the opioid epidemic.

149 We should take every step possible to prevent American
150 consumers from unnecessary exposure to harm and risk of addiction.

151 Further, I am also disappointed that I believe, Mr. Chairman,
152 that you're playing some politics with the priority of the members
153 of this committee.

154 The Addiction Treatment Access Improvement Act introduced
155 by Mr. Tonko would have an immediate effect on the availability
156 of treatment in our communities by increasing the number of
157 providers capable of treating patients with medication-assisted
158 treatment.

159 We all know treatment is critical to preventing fatal
160 overdoses that take the lives of more than 115 people each day
161 and helping individuals with opioid use disorder achieve
162 recovery.

163 Unfortunately, the chairman has apparently decided to
164 combine that bill -- Mr. Tonko's bill -- with a controversial
165 proposal that would gut the Part 2 patient consent requirement
166 and result, in my opinion, in less people receiving lifesaving
167 treatment for opioid use disorders.

168 I can't support that bill and I strongly objection to any
169 efforts to combine that bill with Mr. Tonko's. So I've asked,

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170 and I will continue to ask the chairman, that these bills be
171 debated and voted on separately.

172 I hope that we can do that. I think combining them is a
173 huge mistake.

174 So finally, Mr. Chairman, we have made progress, but our
175 work is far from complete. I hope to continue to work with my
176 colleagues on today's list of opioid bills in addition to others
177 that, hopefully, will be moving forward.

178 And with that, I yield back.

179 The Chairman. Gentleman yields back the balance of his
180 time.

181 The chair recognizes the former chairman of the full
182 committee, Mr. Upton from Michigan, for one minute.

183 Mr. Upton. Thank you, Mr. Chairman.

184 I am going to put my full statement in the record. But I
185 would note that in last week's markup we advanced a bill that
186 I worked on with my colleague, Representative Dingell, the ACE
187 Research Act, that gives the NIH the tools that it needs to
188 research nonaddictive pain treatments.

189 This week, we intend to -- we should move H.R. 5800, the
190 IMD Additional Info Act. This bill is going to require the
191 Medicaid and CHIP Payment and Access Commission submit to Congress

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192 a report on information about services furnished to Medicaid
193 enrollees who are patients in an institute of mental disease
194 standards that the IMDs must follow including quality standards
195 and recommendations on how CMS can improve the data collected
196 for IMDs.

197 All this legislation is to better help Congress and CMS
198 understand how current Medicaid dollars are being used to provide
199 care for their patients with substance use disorders and mental
200 disease in an IMD.

201 And I yield back the balance of my time.

202 The Chairman. The gentleman yields back.

203 Other members seeking recognition for one minute?

204 Gentleman from Texas, Mr. Green, is recognized for one
205 minute.

206 Mr. Green. I thank the chairman and ranking member for
207 holding a markup today. I appreciate the efforts of members on
208 both sides of the aisle to work this crisis and expand access
209 to treatment for Americans suffering from substance abuse.

210 I am concerned that our committee has not identified any
211 pay force for any of the opioids bills. Our committee must
212 identify how we are going to pay for these authorizations before
213 they are considered on the House floor.

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214 Otherwise, I fear our efforts will be to cuts in Medicaid
215 or other critical public health programs. I am also disappointed
216 -- and I thank the ranking member for mentioning it -- the
217 majority's decision not to include my misuse and abuse legislation
218 for today's markup introduced earlier this week as H.R. 5803.

219 This legislation would have simply clarified FDA's authority
220 to consider a drug's potential for misuse and abuse as part of
221 the approval process.

222 This bill was introduced at the request of the FDA and
223 received expert testimony in support during our March Health
224 Subcommittee hearing and passed then subcommittee markup by voice
225 vote last month.

226 This legislation should be given full consideration and
227 included in the House opioids package, and I thank you and yield
228 back my time.

229 The Chairman. I thank the gentleman.

230 If the gentleman would yield for a second -- we recognize
231 that FDA initially submitted a request for that legislation. In
232 further conversation, they have told us they do not believe they
233 need that authority that -- that they already have it. That's
234 --

235 Mr. Green. Obviously, I didn't hear that.

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236 The Chairman. Yes. That's what I --

237 Mr. Green. I talked to the administrator last Friday so
238 but --

239 The Chairman. That is the issue here I am hearing from our
240 staff is FDA now believes they have all the authority they need
241 in this area and it is unnecessary.

242 That's the only issue going on here.

243 Mr. Green. Well, I want to make sure we can see if we can
244 document it. So thank you.

245 The Chairman. Yes. We are working on that.

246 Other members seeking recognition on the Republican side?

247 Dr. Burgess, chairman of our Subcommittee on Health,
248 recognized for one minute.

249 Mr. Burgess. Thank you, Mr. Chairman, and I'll submit my
250 full statement for the record.

251 But I do want to acknowledge the significant work that's
252 gone on on both sides the dais with both members and staff to
253 bring us to this point.

254 It was last October that we opened the doors of the Dingell
255 Room to hear from all of our colleagues throughout the United
256 States House of Representatives on difficulties they were having
257 in their districts with this crisis.

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258 And we took that information to heart and you are seeing
259 the culmination of that in today's markup. So thanks to the
260 members and the staff that worked so hard to make this day
261 possible.

262 And I'll yield back.

263 The Chairman. I thank the gentleman.

264 I'd also like to thank our members and staff on the O&I
265 Committee as well who have done incredible work doing the
266 investigative side of our efforts on Energy and Commerce, which
267 has informed our efforts on the legislative side. So kudos to
268 those folks as well.

269 The gentlelady from California is recognized for one minute.
270 Good morning.

271 Ms. Eshoo. Thank you, Mr. Chairman.

272 Over 2 million people have a prescription opioid addiction
273 in our country and 591,000 have a heroin addiction, and we have
274 seen overdose deaths triple in the last 13 years.

275 So this is a real crisis in our country and today we are
276 working to address it. We are considering bills that make changes
277 to the Medicaid program, and many of them are bipartisan and I
278 support them.

279 There is something, I think, that is very important to point

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280 out, and that is that the committee's actions, when it comes to
281 providing federal resources for the programs and legislation that
282 we are discussing today, that's on the one hand.

283 On the other hand, and we know that Medicaid is the single
284 largest payer of mental health services, providing health
285 coverage to 27 percent of adults with a serious mental illness.

286 Nearly 12 percent of these adults are enrolled in Medicare,
287 have a substance use disorder. Some of the bills we are
288 discussing expand Medicaid coverage for substance abuse disorder
289 treatment and many of the bills have significant cost to them.

290 So what I am concerned about is that my Republican colleagues
291 vote for the money. You can't wipe out Medicaid --

292 The Chairman. The gentlelady's time has expired.

293 Ms. Eshoo. -- and then say we are going to do something
294 about this.

295 I yield back.

296 The Chairman. The gentlelady's time has expired.

297 The chair recognizes the gentlelady from Tennessee, the
298 chairman of our Telecommunications Committee, Mrs. Blackburn,
299 for one minute.

300 Mrs. Blackburn. Thank you, Mr. Chairman, and I want to thank
301 you and the staff for the great work that has been done on these

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302 bills. Chairman Burgess also deserves some credit.

303 We have got a couple of bills -- the Stop Illicit Drug
304 Importation Act and the Medicaid DUR Improvement Act -- the Drug
305 Improvement Act -- that are coming up today.

306 We are pleased to get these bills moving forward because
307 this is the type of legislation that keeps the drugs from landing
308 on the streets.

309 They are priority bills and I thank you for the support and
310 for the action on this legislation.

311 Yield back.

312 The Chairman. Gentlelady yields back.

313 Other members? Mr. Engel, New York, recognized for one
314 minute.

315 Mr. Engel. Thank you very much, Mr. Chairman.

316 There is no question that we need to do more to end the opioid
317 crisis that has touched so many of our communities and I am glad
318 we are making a serious attempt to do that.

319 I am pleased that today the committee will consider the
320 Poison Center Network Enhancement Act, which I've introduced with
321 Congresswoman Brooks.

322 This bill will extend our nation's Poison Center program
323 for an additional five years, ensuring that the work those centers

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324 are doing to address the opioid crisis continues.

325 But I am concerned by other elements of today's markup,
326 namely, the apparently gamesmanship surrounding Mr. Tonko's
327 Addiction Treatment Access Improvement Act, a bill which takes
328 needed steps to expand access to treatment for those grappling
329 with addiction.

330 This is exactly the kind of action that's needed to turn
331 the tide of the opioid epidemic and I can't understand why there
332 would be an effort to hamstring that effort.

333 I hope that changes and I look forward to the markup, and
334 yield back the balance of my time.

335 The Chairman. Gentleman yields back the balance of his
336 time.

337 Other members on the Republican side seeking recognition?

338 Mr. Kinzinger from Illinois recognized for one minute.

339 Mr. Kinzinger. Thank you, Mr. Chairman, for holding the
340 markup and thanks for putting H.R. 5590, the Opioid Addiction
341 Plan, in, which I introduce with Ms. Yvette Clarke, my fellow
342 colleague.

343 On a personal note, Mr. Chairman, I want to thank you for
344 taking the time to sit time with Luke Tomsha, my constituent,
345 yesterday to hear his story.

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346 He's used heroin for over a decade and now is in recovery
347 and has started a foundation called Perfectly Flawed. He's taken
348 his experience and his passion and channeled them into helping
349 children who are negatively affected by this crisis.

350 Luke and his son, Cash, live in LaSalle, Illinois, and he
351 told us earlier that this month they had seven people overdose
352 in about 24 hours in a town of just over 9,000 people.

353 Today is about getting resources to everyone struggling with
354 addiction but also about getting relief to the parents who can't
355 go to work because they are afraid to leave their children alone
356 or the spouse that must drive hours to get their loved one to
357 the nearest treatment facility.

358 And has Luke has correctly identified, it's about getting
359 relief to the children who've had to watch a parent or a sibling
360 suffer. That's how we are going to break this cycle of addiction
361 in our communities.

362 So thank you, and I yield back, Mr. Chairman.

363 The Chairman. I thank the gentleman for his leadership on
364 this issue.

365 Members on the Democratic side seeking recognition?

366 Mr. Doyle, Ms. Schakowsky.

367 I got to go to Ms. Matsui is up -- from California -- for

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368 one minute.

369 Ms. Matsui. Thank you, Mr. Chairman.

370 Mr. Chairman, I commend the bipartisan steps taken to craft
371 many of the bills we will markup today.

372 As we all know, this epidemic is literally a life or death
373 situation for patients and our legislative decisions will have
374 real impacts on entire families.

375 Oftentimes, policymaking swings to the extremes. For
376 example, over prescribing of pain medication is an issue so we
377 craft policy to address it, and suddenly we have shortages of
378 medication that is still needed for legitimate purposes.

379 We all know, too, that policy may have -- made with the best
380 of intentions can have unintended consequences. We may agree
381 on a concept but laws are not always carried out as we expect,
382 and the words on paper matter both in how the public interprets
383 Congress' will and what rights become available legally.

384 That is why I am considering all of the bills we are advancing
385 carefully in an effort not only to do no harm but to actually
386 do good.

387 I know that we must act expediently to address our immediate
388 crisis but we must do so -- do things that actually help and won't
389 cause problems in the future or for the next crisis.

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390 Thank you, and I yield back.

391 The Chairman. I thank the gentlelady, and now we recognize
392 the gentleman from Florida, Mr. Bilirakis, who's been very active
393 on this issue, for one minute.

394 Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate it
395 very much.

396 Thanks for marking up these bills as well. Industry
397 standards maximize the reliability of products, materials, and
398 services people use every day.

399 Without standards, quality outcomes and, ultimately,
400 patient safety can be jeopardized. That's why I am pleased to
401 see the Ensuring Access to Quality Sober Living Act -- a bill
402 I helped introduce -- be marked up today, which would establish
403 standards for sober homes.

404 I am also pleased to see the inclusion of the Medicaid
405 Pharmaceutical Home Act, which would establish standards for
406 state Medicaid lock-in programs and ensure every state and
407 territory has a locked in program.

408 I look forward to continuing the great work of this committee
409 and advancing these bipartisan solutions to the House floor.

410 I want to thank the chairman for his leadership in moving
411 a record number of bills to help address the opioid crisis

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412 afflicting our country.

413 And I yield back. Thank you.

414 The Chairman. The gentleman yields back.

415 The chair now recognizes the gentlelady from Florida, Ms.
416 Castor, for one minute.

417 Ms. Castor. Thank you very much, Mr. Chairman.

418 Democrats have been pressing for a comprehensive plan to
419 address the opioid public health crisis because a greater
420 commitment is required. We need an approach that targets the
421 entire spectrum of addiction, from prevention treatment,
422 recovery, and crisis response.

423 You know, we did under the 21st Century Cures a grant
424 initiative that was only for 2017 and 2018, and our communities
425 and families back home, they are crying for a more definitive
426 longer-term commitment.

427 The second point I'd like to make is that when Republicans
428 propose deep cuts into Medicaid and the Affordable Care Act, that
429 is antithetical and contradictory to wanting to actually address
430 the opioid public health crisis.

431 So I look forward to working on some of these bipartisan
432 bills but I especially look forward to the day where we can all
433 work together to make significant progress for families and the

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434 entire country on this opioid crisis.

435 And I yield back.

436 The Chairman. Other members seeking recognition on the
437 Republican side before we get into the bills?

438 Seeing none, Mr. Tonko from New York, recognized for one
439 minute.

440 Mr. Tonko. Thank you, Mr. Chair.

441 If the road to Hell is paved with good intentions, this
442 committee is in the driver's seat, barreling a steamroller down
443 the highway.

444 In the coming hours, we are going to pass a handful of
445 feel-good bills, some of which will make incremental progress.

446 But tomorrow morning we will all wake up to another day of
447 record-breaking American overdose deaths.

448 The smallness of today's debate is disgraceful. This crisis
449 is growing and the answers are right in front of us. People need
450 treatment, but instead of solutions we are giving excuses.

451 We can't spend money. No matter the lives, families, or
452 communities saved, we can't do anything controversial. Where
453 were these concerns when my colleagues were pushing tax breaks
454 for billionaires or trying to slash Medicaid in the Affordable
455 Care Act?

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456 Enough. The American people are dying. These are half
457 measures. I am tired of the excuses. I am sick of this recurring
458 and preventable nightmare.

459 Congress is sending a clear message today -- we'd rather
460 give huge tax breaks to the wealthy than stick out our necks to
461 save the lives of thousands of our constituents.

462 Shame on us. Some may say the majority is gutting my bill.
463 I say we are playing with lives. We are walking away from saving
464 lives.

465 And with that, I yield back.

466 The Chairman. The gentleman yields back. We are moving
467 a couple of his bills through this process.

468 Other members seeking recognition? The gentlelady from New
469 York, Ms. Clarke. Good morning.

470 Ms. Clarke. Good morning, and thank you, Mr. Chairman and
471 Ranking Member Pallone, for convening our full committee for
472 today's markup.

473 Today we will be discussing various bills on important health
474 care topics ranging from Medicare to Medicaid, to more pressing
475 legislation aimed at addressing one of our nation's most recent
476 public health crises.

477 One issue of particular importance to the 9th Congressional

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478 District of New York is the opioid epidemic, which has become
479 a household topic.

480 And while I am glad it is a topic that is not being ignored,
481 I do believe it is misunderstood by many. You see, opioid use
482 is not just a rural or urban issue. It is an American issue.

483 For the past couple of months, I've introduced several pieces
484 of legislation related to understanding and addressing treatment
485 for opioid use disorder including H.R. 5590, the Opioid Addiction
486 Action Plan, which we will discuss during today's markup.

487 It has been a pleasure to work across the aisle with
488 Representative Adam Kinzinger of Illinois and I look forward to
489 discussing our bill in depth today.

490 As a committee, we owe it to the American people to craft
491 legislation that is solutions oriented, practical, and
492 comprehensive, leaving no one behind.

493 Thank you, and I yield back the balance of my time.

494 The Chairman. The gentlelady yields back the balance of
495 her time.

496 Other members seeking -- the gentleman from -- well, I got
497 to go back up here, I guess. Mr. Doyle, senior.

498 Mr. Doyle. Yes. Move to strike the last word.

499 The Chairman. Without objection, recognized for one

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500 minute.

501 Mr. Doyle. And I'd like to yield my time to Mr. Green.

502 Mr. Green. I thank my colleague.

503 Mr. Chairman, I want to read what we received on May 14th
504 from the FDA and I'll -- we believe drug developers and other
505 stakeholders are well aware that the FDA interprets our existing
506 authorities to permit consideration of misuse and abuse in our
507 approval or withdrawal decisions -- in fact, does so whenever
508 a drug carries the significant concerns of misuse and abuse
509 consistent with primary mission to protect health care.

510 Accordingly, we do not think the guidance clear line we do
511 would be valuable. However, in its over line as we have
512 previously indicated, the FDA's statutory framework would be
513 enhanced to more explicitly recognize the agency's ability to
514 consider misuse and abuse of a controlled substance when
515 determining if its overall benefits outweigh the risks.

516 Clarifying the FDA's authority to consider misuse and abuse
517 as part of the drug approval and assessment process for opioids
518 would augment the agency's capacity to take necessary action to
519 minimize public health consequences of opioid misuse and abuse.

520 Therefore, we continue to believe that Sections 505(d) and
521 (e) would clarify FDA's authority to consider misuse and abuse

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522 when making safety determinations under this provision and do
523 not think attempting such a clarification through nonbinding FDA
524 guidance is an adequate substitute.

525 Mr. Chairman, if there are folks who want to go to the
526 courthouse to challenge FDA's authority, I think we ought to,
527 and we agree that they ought to have this authority. We ought
528 to put it into law so that would give us some -- and I'll be glad
529 to submit this to you.

530 The Chairman. And we will continue to talk about this today
531 and see. We are in communication with the FDA to get
532 clarification. So we will continue to work on this and we will
533 put that in the record as well. Thank you.

534 Let's see. Other members seeking recognition on the
535 Republican side?

536 We go to Mr. McNerney on the Democratic side.

537 Mr. McNerney. Mr. Chairman, I just wanted to say that every
538 person in this committee wants to do the right thing about opioids.
539 It's a huge problem.

540 A hundred people in my district died of opioid abuse last
541 year, and a lot of the amendments are good. A lot of them are
542 working together. There is some disagreement.

543 But the real problem, in my mind, is that we are just not

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544 putting enough resources into this problem. This affects every
545 part of this country. Medicaid is probably the best vehicle for
546 dealing with the opioid crisis.

547 And so consideration of reducing Medicaid funding on any
548 level is hurtful to this issue and to this effort. So, yes, let's
549 go ahead and do these amendments. They are good.

550 But what we need to do is put more resources into this issue
551 if we want to solve the problem.

552 Thank you, Mr. Chairman. I yield back.

553 The Chairman. The gentleman yields back the balance of his
554 time.

555 Other members seeking recognition?

556 Mr. Peters is recognized for one minute.

557 Mr. Peters. Thank you, Mr. Chairman and Ranking Member
558 Pallone, for your leadership on this very important issue. We
559 are going to make a lot of progress today.

560 I want to acknowledge that during the Health Subcommittee
561 markup the ranking members expressed several concerns about my
562 bill, the Post-Operative Opioid Prevention Act.

563 We have taken those concerns very seriously and been working
564 closely with our colleagues to make changes accordingly, and I
565 want to thank Ranking Member Pallone and his staff for helping

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566 to strengthen our policy.

567 Today, the incentive is to prescribe opioids because of
568 bundled payments. Our bill aims to stop addiction where it begins
569 with -- in the surgical setting by separating that out and
570 providing incentives to develop alternatives.

571 The reason there is no alternatives is that there is no market
572 for it. Our bill would reverse this perverse incentive and give
573 CMS the authority to make payments for nonopioid analgesics that
574 demonstrate substantial clinical improvement over existing
575 medications as determined by CMS, and we will looking for your
576 support. I look forward to the discussion.

577 Thank you. I yield back.

578 The Chairman. The gentleman yields back the balance of his
579 time.

580 Are there other members seeking recognition?

581 Seeing none, the chair now calls up H.R. 5228 -- this would
582 be number 31 on your list -- and ask the clerk to report.

583 [The bill follows:]

584

585 *****INSERT 1*****

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586 The Clerk. H.R. 5228, to strengthen the authorities of the
587 Food and Drug Administration to address counterfeit drugs,
588 illegal and synthetic opioids, and opioid-like substances and
589 for other purposes.

590 The Chairman. Without objection, the first reading of the
591 bill is dispensed with. The bill will be open for amendment at
592 any point.

593 Are there any bipartisan amendments?

594 For what purpose does the gentleman from New Jersey seek
595 recognition?

596 Mr. Pallone. Mr. Chairman, I have an amendment in the nature
597 of a substitute at the desk.

598 The Chairman. The clerk will report the amendment.

599 The Clerk. Amendment in the nature of a substitute to H.R.
600 5228, offered by Mr. Pallone.

601 [The amendment of Mr. Pallone follows:]

602

603 *****COMMITTEE INSERT 2*****

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604 The Chairman. Without objection, the reading of the
605 amendment is dispensed with. The gentleman is recognized for
606 five minutes in support of the amendment.

607 Mr. Pallone. Thank you, Mr. Chairman.

608 Just last week, I had the opportunity to visit an
609 international mail facility in my home state of New Jersey with
610 my colleague, Mr. Pascrell, and FDA, a CBP, and the United States
611 Post Office to discuss the very real problem of illegal unapproved
612 drugs that are entering our country through international mail
613 facilities.

614 FDA staff showed us boxes of pills that were minimally
615 labeled, labeled in foreign languages, or not labeled at all that
616 were coming in from unknown and unregistered facilities.

617 It then takes FDA days to catalog that box, identify what
618 is legitimate, and identify what products under current law the
619 agency is allowed to destroy.

620 FDA then has no other option but to return that box to the
621 sender, leaving open the possibility that the sender will just
622 drop the box of illegal pills back in the mail to another
623 international mail facility.

624 The agency also showed me a series of similar packages that
625 were minimally labeled or misidentified as gifts that, upon

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626 inspection, were found to include bags of drugs labeled in another
627 language.

628 The SCREEN Act, the bill before us which passed the
629 subcommittee by a voice vote, would give the FDA authority to
630 take action in these situations to stop these drugs from going
631 out into the marketplace and allow the agency to better target
632 their inspection resources and provide resources to better equip
633 FDA to conduct this work.

634 Specifically, the SCREEN Act would, first, expand FDA's
635 authority to refuse or destroy illegal drugs; to provide FDA with
636 the ability to order manufacturers to cease distribution or to
637 recall drugs that pose an imminent or substantial hazard to the
638 public health; three, allow FDA to refuse admission or to destroy
639 bulk shipments of drugs from a manufacturer or distributor, or
640 imported drugs if they are found to be misbranded or adulterated;
641 and finally, authorize new resources to help support provide
642 additional capacity at international mail facilities and to
643 upgrade infrastructure equipment and other needed technology for
644 screening purposes.

645 Now, currently, FDA's authority in this space is woefully
646 inadequate to address the growing threat of illicit drugs coming
647 in through international mail facilities.

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648 The SCREEN Act would grant FDA the authority and resources
649 needed to better target their enforcement and to prevent illicit
650 unapproved drugs from entering the country in the first place.

651 Having worked closely with the FDA on this legislation, I
652 know that the authorities outlined in the SCREEN Act will go a
653 long way towards empowering the agency to take on repeated illicit
654 drug traffickers and ensure that dangerous unapproved drugs are
655 stopped at our ports and mail facilities.

656 So I urge my colleagues to vote in support of this amendment,
657 and I just want to say I -- we introduced this bill because we
658 knew there was a problem.

659 But when I went to this facility with Mr. Pascrell in his
660 district in Secaucus last week, I could not believe how bad the
661 situation was, and it was not only bad with regard to packages
662 of illicit drugs but also with automatic weapons and all kinds
663 of other things that were found that just really opened my eyes
664 to the problem at these facilities.

665 So with that, Mr. Chairman, I would yield back.

666 The Chairman. Gentleman yields back.

667 Is there further discussion?

668 The chair recognizes for what purpose the gentleman from

669 --

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670 Mr. Burgess. Will the gentleman yield part of his time to
671 me?

672 The Chairman. Yes, sure he will.

673 Mr. Burgess. I'll just say that having had the opportunity
674 to go the international mail facility at JFK Airport several weeks
675 ago with Dr. Gottlieb, I saw exactly what the gentleman describes.

676 And you're right, it's not just the fentanyl and analogs
677 that are coming in. It is the counterfeit drugs that could be
678 dangerous, that could be mislabeled.

679 And yes, there was -- there were passports. There were other
680 things that were coming in through these -- disguised as other
681 objects.

682 So, clearly, this is an area of vulnerability and from the
683 fentanyl analog perspective, it throws gasoline on any fire that
684 we are trying to contain with all of our other opiate work.

685 If we don't get our arms around this problem, we will not
686 have solved it. So I thank the gentleman for bringing it forward.

687 It's an important concept and one that's worthy of bipartisan
688 support and I intend to support it.

689 And I'll yield back.

690 The Chairman. Gentleman's time.

691 Mr. Pallone. Oh, I am sorry. Let me thank Dr. Burgess for

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692 what he said and the support for this bipartisan bill.

693 Thank you, Mr. Chairman.

694 The Chairman. I thank the gentleman.

695 Any other members seeking recognition on this amendment?

696 I would just say that I appreciate all the committee's work
697 on this on both sides of the aisle. This is a really, really
698 important piece of legislation, Mr. Pallone, and we need to get
699 this into law.

700 With that, I am going to recognize the gentleman from Texas,
701 who I believe has an amendment to the substitute. We are trying
702 to see if we have paper on that yet.

703 Do we have paper on the Green amendment? We do. The
704 gentleman is recognized for what purpose?

705 Mr. Green. Mr. Chairman, I'll offer an amendment to H.R.
706 5228. I'd like to strike the last word.

707 The Chairman. To the amendment in the nature of a
708 substitute. The clerk will report the Green amendment -- to the
709 amendment in the nature of a substitute.

710 The Clerk. Amendment to the amendment in the nature of a
711 substitute offered by Mr. Green.

712 The Chairman. The gentleman is recognized for five minutes
713 on his amendment.

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714 Mr. Green. Thank you, Mr. Chairman. I strike the last word
715 and speak in support of the amendment. This is the issue we were
716 talking about earlier, to clarify the FDA's authority to consider
717 a drug's potential for misuse and abuse as part of the approval
718 process.

719 During our March legislative hearing, FDA Director Scott
720 Gottlieb testified that the issue of opioid misuse and abuse is
721 one of the agency's highest priorities.

722 Last year, the FDA acted when it requested the withdrawal
723 treatment due to the concerns of the benefits associated with
724 the product was outweighed by the risk of the abuse and
725 manipulation.

726 Clarifying the FDA's authority to take potential risk for
727 abuse and misuse into consideration is an important step to combat
728 the opioid crisis.

729 I ask the committee to support this amendment in the nature
730 of a substitute and --

731 Mr. Pallone. Would the gentleman yield?

732 Mr. Green. I'd be glad to yield.

733 Mr. Pallone. Oh, I am sorry.

734 I wanted to speak in support of the amendment.

735 The Chairman. So do I.

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736 Mr. Pallone. All right. So I just want to --

737 The Chairman. So it depends how much --

738 Mr. Pallone. Do you want to speak in support?

739 The Chairman. Yes.

740 Mr. Pallone. Oh. Well, then I'll cease --

741 The Chairman. Would the gentleman yield yes?

742 Mr. Green. I yield.

743 The Chairman. In the meantime --

744 Mr. Green. To the ranking member or the chair.

745 The Chairman. I think we are going to say the same thing.

746 Mr. Green. If you agree with me, I'll yield to you on

747 anything.

748 The Chairman. As we were going back and forth here about

749 whether FDA needed this or not, in further conversations with

750 the FDA there is no violence done by adding this amendment and

751 in fact we can clarify it once and for all.

752 And so there is no reason not to, on further review. And

753 so the majority is prepared to continue to add this amendment,

754 continue to work if there are any technical issues going forward

755 to the floor.

756 But at this point we are supportive of adding the Green

757 amendment.

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758 Mr. Green. I move to adoption and yield back my time.

759 The Chairman. Is there further discussion on the Green
760 amendment to the substitute -- Pallone substitute amendment?

761 Seeing none, all those in favor of the Green amendment will
762 say aye.

763 Those opposed, nay.

764 The ayes appear to have it. The ayes have it, and the Green
765 amendment to this Pallone substitute amendment is adopted.

766 Is there further discussion of the now amended substitute
767 to this legislation?

768 Seeing none, the question now arises on the amendment in
769 the nature of a substitute.

770 All those in favor will say aye.

771 All those opposed, nay.

772 The ayes appear to have it. The ayes have it and the
773 substitute is adopted.

774 Are there further amendments to the underlying bill?

775 Is there further discussion?

776 Seeing none, the question now arises on H.R. 5228 as amended.

777

778 All those in favor will say aye.

779 Those opposed, no.

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780 Ayes appear to have it. The ayes have it and the bill is
781 referred to the floor with the pass recommendation.

782 Chair now calls up H.R. 5752 -- this is number 32 on your
783 list -- and asks the clerk to report.

784 [The bill follows:]

785

786 *****INSERT 3*****

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787 The Clerk. H.R. 5752, to amend the Federal Food, Drug, and
788 Cosmetic Act with respect to the importation of certain drugs
789 and for other purposes.

790 The Chairman. Without objection, the first reading of the
791 bill is dispensed with. The bill will be open for amendment at
792 any point.

793 Are there any bipartisan amendments?

794 The chair recognizes the gentlelady from Tennessee for
795 purposes of an amendment.

796 Mrs. Blackburn. Mr. Chairman, yes, I have an amendment at
797 the desk.

798 The Chairman. The clerk will report the Blackburn
799 amendment.

800 The Clerk. Amendment to H.R. 5752, offered by Mrs.
801 Blackburn.

802 The Chairman. Without objection, further reading of the
803 amendment is dispensed with. The chair recognizes the gentlelady
804 from Tennessee to speak on her amendment.

805 [The amendment of Mrs. Blackburn follows:]

806

807 *****COMMITTEE INSERT 4*****

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808 Mrs. Blackburn. Thank you, Mr. Chairman.

809 As I start to speak on this amendment, I want to say -- and
810 this kind of adds onto what Mr. Pallone was just saying -- we
811 have all listened to local law enforcement.

812 We have listened and worked with our constituents and the
813 people who have been so affected and impacted by this opioid
814 crisis.

815 And what we are doing today is responding to requests that
816 we have had, whether from our local or state or our federal
817 entities. And Mr. Pallone's amendment and my amendment address
818 changes that need to be made in dealing with these international
819 mail facilities.

820 So the amendment on this bill ensures that the FDA has the
821 tools it needs to stop the flow of illicit drugs into the country
822 without adversely affecting legitimate imports for personal or
823 commercial use.

824 It will allow the FDA to deem an otherwise unknown substance
825 or pill a drug if it is contained in -- as an active ingredient
826 in a drug or a biologic that has been approved or is in the approved
827 pipeline.

828 This deeming authority, which the amendment limits only to
829 purposes related to inspection for import, will allow the FDA

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830 to determine more quickly whether these items violate federal
831 law.

832 The languages is tailored to exempt articles that are entered
833 into authorized electronic data interchange systems like the one
834 used by CBP and are designated in that system as product regulated
835 by the agency.

836 The amendment also refines the section granting the agency
837 debarment authority for importers who repeatedly violate the law.

838 I appreciate the stakeholders that have reached out to us
839 as well as staff at the FDA and in the Senate, who have worked
840 with us to get the language right, and I encourage support of
841 the amendment.

842 And I yield back.

843 The Chairman. The gentlelady supports the amendment she
844 offered, and are there other members seeking recognition on the
845 Blackburn amendment?

846 Seeing none, the question now arises on approval of the
847 Blackburn amendment.

848 All those in favor will say aye.

849 Those opposed, no.

850 The ayes appear to have it. The ayes have it, and the
851 Blackburn amendment is adopted.

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852 Are there further amendments on the bill?

853 Is there further discussion on the bill? If none, the vote
854 now occurs on approving H.R. 5752 as amended to the House.

855 All those in favor will signify by saying aye.

856 Those opposed, no.

857 The ayes appear to have it and the bill is favorably reported.

858 The chair now calls up H.R. 5806 -- this would be number
859 33 -- and asks the clerk to report.

860 [The bill follows:]

861

862 *****INSERT 5*****

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42

863 The Clerk. H.R. 5806, to require the secretary of Health
864 and Human Services to issue guidance with respect to the expedited
865 approval of certain drugs and for other purpose.

866 The Chairman. Without objection, the first reading of the
867 bill is dispensed with. The bill will be open for amendment at
868 any point.

869 Are there any bipartisan amendments?

870 Are there any amendments?

871 For what purpose does the chairman of the Subcommittee on
872 Health seek recognition?

873 Mr. Burgess. Seek to strike the last word.

874 The Chairman. Recognized for five minutes. Strike the
875 last word.

876 Mr. Burgess. Thank you, Mr. Chairman.

877 This bill before us, 5806, 21st Century Tools for Pain and
878 Addiction Treatments -- first off, I want to thank Dr. Larry
879 Bucshon and Representative Griffith for working with me on this
880 important initiative.

881 We have all heard the data -- 46,000 Americans die from an
882 opiate overdose between October 2016 and October 2017. There
883 is a lack of innovation and investment in the development of
884 nonaddictive pain and addiction treatments.

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885 If we can -- the healing arts have relied on opiates for
886 pain relief for centuries and likely will continue to rely on
887 opiates for pain relief.

888 However, if we do not develop some alternatives we will
889 consign future generations to suffer from the same problems that
890 we are experiencing currently.

891 H.R. 5806 will spur investment in innovative new treatments
892 for pain and addiction by directing the Food and Drug
893 Administration in three very simple areas.

894 First, it will -- the FDA will hold at least one public
895 meeting to address the challenges and the barriers to developing
896 nonaddictive medical products intended to treat pain or
897 addiction.

898 Second, the Food and Drug Administration will issue or update
899 existing guidance documents to help address challenges to
900 developing nonaddictive medical products to treat pain or
901 addiction.

902 It's interesting that there have been only two novel chemical
903 entities to treat pain approved by the Food and Drug
904 Administration over the last decade.

905 Clinical success in pain drug development has been difficult
906 for novel drugs with only a 2 percent probability of FDA approval

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907 from Phase 1 compared to an overall 10 percent success rate for
908 other diseases.

909 It is important that all of us develop and share a sense
910 of urgency when it comes to the need for innovation in pain
911 addiction treatment.

912 So we have worked closely with the Food and Drug
913 Administration to get the policy in this bill correct. The agency
914 has assured that this bill will not create unnecessary burden
915 or expand the current pathways.

916 It will simply clarify those pathways for certain products
917 which are so desperately needed. I will ask unanimous consent
918 to submit a letter of support from Medical Device Manufacturers
919 Association for the record and --

920 The Chairman. Without objection.

921 [The information follows:]

922

923 *****COMMITTEE INSERT 6*****

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45

924 Mr. Burgess. -- I will urge my colleagues to support this
925 bill, and yield back my time.

926 The Chairman. Gentleman yields back.

927 The chair recognizes the gentleman from New Jersey for five
928 minutes to speak on the bill.

929 Mr. Pallone. Thank you, Mr. Chairman.

930 I am striking the last word in opposition to the bill.

931 The opiate crisis has made everyone rethink how we treat
932 pain and addiction in this country and there is broad agreement
933 that this conversation should include examining alternatives to
934 opioids that are nonaddictive.

935 Patients and providers deserve to have options other than
936 opioids. Like my colleagues on the other side, I share the goal
937 of encouraging the development of these alternatives and want
938 to work with FDA and industry to do so.

939 And that's why I am supportive of the agency hosting public
940 meetings with industry and other stakeholders to discuss any
941 issues, concerns, or barriers there may be to the development
942 of these products today.

943 Unfortunately, industry has said that meetings with FDA to
944 discuss development issues or what regulatory --

945 The Chairman. Will the gentleman suspend? Shh.

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946 Thank you. You may proceed.

947 Mr. Pallone. Thank you.

948 Unfortunately, industry has said that meetings with FDA to
949 discuss development issues or what regulatory assistance their
950 products may be eligible for is not enough. Manufacturers say
951 they need as eligibility for accelerated approval, which shortens
952 the time line for review or breakthrough therapy designation and
953 which would grant sponsors intensive assistance from the agency
954 as an incentive to develop these products.

955 While I am sympathetic, I have received no compelling
956 evidence that FDA has been unwilling to meet with sponsors of
957 nonaddictive pain or addictive treatments to discuss eligibility
958 for these pathways or has been denying such requests at all.

959 And, further, we know that some of these nonaddictive
960 nonopioid products have benefitted from the pathways already
961 existing.

962 According to FDA, most if not all approved abuse-deterrent
963 opioid formulations received first fast tracked designation.
964 And the sponsor of at least one novel nonopioid analgesic has
965 made public that it received breakthrough therapy designation
966 last year.

967 While my colleagues may argue that a public meeting and

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968 guidance are small steps to help bring needed products to market,
969 we should think seriously about the resource impact this would
970 have on the agency and also the precedent.

971 Public meetings and guidance has required considerable staff
972 time and financial resources, diverting time away from other
973 activities such as meeting one-on-one with sponsors or responding
974 to questions regarding submissions.

975 This legislation does not provide any new resources for these
976 activities. Additionally, this bill would set the precedent of
977 the agency issuing product area-specific guidance on regulatory
978 issues.

979 Typically, FDA refrains from issuing product area-specific
980 guidance documents unless there is a need to address scientific
981 or clinical issues specific to those products. The guidance
982 proposed in this bill does not fall into that category.

983 So I worry that if FDA is required to issue such guidance,
984 it could unintentionally raise questions about whether the
985 criteria applies differently for each product area and would open
986 the agency up to a flood of requests for product area-specific
987 guidances about the eligibility for these pathways.

988 And I am also worried that the bill is laying the groundwork
989 for industry to come back to Congress and request that the

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990 eligibility for expedited programs be changed in order to
991 guarantee that their products can receive accelerated approval
992 and break through therapy designation should the guidance
993 provided under the bill not be to their liking.

994 And this could have the effect of unintentionally weakening
995 the benefits of accelerated approval and breakthrough therapy
996 designation by expanding it to even more products.

997 This is not legislation that FDA has asked for or highlighted
998 as a priority in fighting the opioid crisis, and while they may
999 say that the changes are okay, I am not comfortable passing
1000 legislation just for the talking point of saying we may be helping
1001 bring nonaddictive pain and addiction treatments to market
1002 sooner, and I think we have to think seriously about the resource
1003 burden and the precedent we will be setting with this bill.

1004 So for all these reasons I can't support the legislation.

1005 Again I understand that the majority is trying to address
1006 concerns.

1007 But again, you know, as we have said previously in the
1008 subcommittee hearings and on other occasions that we have to be
1009 careful that, you know, in dealing with these bills that we don't
1010 set precedents that may ultimately, you know, create more harm.

1011 And I know that we have spent some time on this and I think

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1012 there might be some way of dealing with it more effectively.

1013 But at this time I am concerned about the resources and the
1014 precedents set and I don't think we should be moving forward
1015 because I don't think that this is necessary at this point. I
1016 yield back.

1017 The Chairman. The gentleman yields back.

1018 The chair recognizes the gentleman from Georgia, Mr. Carter,
1019 our resident pharmacist.

1020 Mr. Carter. Thank you, Mr. Chairman.

1021 Mr. Chairman I'd like to thank my colleague, Chairman
1022 Burgess, Representative Bucshon, Representative Griffith for
1023 their work on this legislation.

1024 Legislation directs the FDA to offer guidance on ways to
1025 bring nonaddictive treatments for pain to patients. As a
1026 practicing pharmacist for over 30 years and currently the only
1027 pharmacist serving in Congress, when talking of this situation
1028 I've always said that there needs to be something in between for
1029 physicians to be able to prescribe -- something in between
1030 ibuprofen and tramadol and the opioids.

1031 There is a big gap there and I've called on the pharmaceutical
1032 manufacturers to fill that gap and to give us something that we
1033 can prescribe that doesn't have the addictive qualities of the

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1034 opioids.

1035 When physicians perform relative minor procedures on
1036 patients such as removing wisdom teeth or a porta-cath placement,
1037 they should have the option of prescribing their patient a lower
1038 strength pain reliever that is appropriate for their specific
1039 needs.

1040 This legislation would allow the FDA to develop or edit
1041 existing guidance for industry on ways they can develop drugs
1042 that fit the bill. I am truly excited about the potential for
1043 innovation made possible by this bill.

1044 Our nation has seen incredible development in new therapies
1045 in precision medicine, and with better guidance from the FDA I
1046 hope to see a new generation of nonaddictive pain medications.

1047 Thank you, Mr. Chairman, and I yield back.

1048 The Chairman. Gentleman yields back the balance of his
1049 time. Other members seeking recognition?

1050 If not, the question now arises on approving favorably and
1051 reporting H.R. 5806 to the House.

1052 We are going to do a roll call vote on this one so the clerk
1053 will call the roll.

1054 Those in favor vote aye. Those opposed, no.

1055 The Clerk. Mr. Barton.

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1056 Mr. Barton. Aye.

1057 The Clerk. Mr. Barton votes aye.

1058 Mr. Upton.

1059 Mr. Upton. Aye.

1060 The Clerk. Mr. Upton votes aye.

1061 Mr. Shimkus.

1062 [No response.]

1063 Mr. Burgess.

1064 Mr. Burgess. Aye.

1065 The Clerk. Mr. Burgess votes aye.

1066 Mrs. Blackburn.

1067 Mrs. Blackburn. Aye.

1068 The Clerk. Mrs. Blackburn votes aye.

1069 Mr. Scalise.

1070 [No response.]

1071 Mr. Latta.

1072 Mr. Latta. Aye.

1073 The Clerk. Mr. Latta votes aye.

1074 Mrs. McMorris Rodgers.

1075 Mrs. McMorris Rodgers. Aye.

1076 The Clerk. Mrs. McMorris Rodgers votes aye.

1077 Mr. Harper.

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1078 Mr. Harper. Aye.

1079 The Clerk. Mr. Harper votes aye.

1080 Mr. Lance.

1081 Mr. Lance. Aye.

1082 The Clerk. Mr. Lance votes aye.

1083 Mr. Guthrie.

1084 [No response.]

1085 Mr. Olson.

1086 Mr. Olson. Aye.

1087 The Clerk. Mr. Olson votes aye.

1088 Mr. McKinley.

1089 Mr. McKinley. Aye.

1090 The Clerk. Mr. McKinley votes aye.

1091 Mr. Kinzinger.

1092 Mr. Kinzinger. Aye.

1093 The Clerk. Mr. Kinzinger votes aye.

1094 Mr. Griffith.

1095 Mr. Griffith. Aye.

1096 The Clerk. Mr. Griffith votes aye.

1097 Mr. Bilirakis.

1098 Mr. Bilirakis. Aye.

1099 The Clerk. Mr. Bilirakis votes aye.

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53

1100 Mr. Johnson.
1101 Mr. Johnson. Aye.
1102 The Clerk. Mr. Johnson votes aye.
1103 Mr. Long.
1104 Mr. Long. Aye.
1105 The Clerk. Mr. Long votes aye.
1106 Mr. Bucshon.
1107 Mr. Bucshon. Aye.
1108 The Clerk. Mr. Bucshon votes aye.
1109 Mr. Flores.
1110 [No response.]
1111 Mrs. Brooks.
1112 Mrs. Brooks. Aye.
1113 The Clerk. Mrs. Brooks votes aye.
1114 Mr. Mullin.
1115 Mr. Mullin. Aye.
1116 The Clerk. Mr. Mullin votes aye.
1117 Mr. Hudson.
1118 Mr. Hudson. Aye.
1119 The Clerk. Mr. Hudson votes aye.
1120 Mr. Collins.
1121 Mr. Collins. Aye.

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54

1122 The Clerk. Mr. Collins votes aye.
1123 Mr. Cramer.
1124 Mr. Cramer. Aye.
1125 The Clerk. Mr. Cramer votes aye.
1126 Mr. Walberg.
1127 Mr. Walberg. Aye.
1128 The Clerk. Mr. Walberg votes aye.
1129 Mrs. Walters.
1130 Mrs. Walters. Aye.
1131 The Clerk. Mrs. Walters votes aye.
1132 Mr. Costello.
1133 Mr. Costello. Aye.
1134 The Clerk. Mr. Costello votes aye.
1135 Mr. Carter.
1136 Mr. Carter. Aye.
1137 The Clerk. Mr. Carter votes aye.
1138 Mr. Duncan.
1139 Mr. Duncan. Aye.
1140 The Clerk. Mr. Duncan votes aye.
1141 Mr. Pallone.
1142 Mr. Pallone. No.
1143 The Clerk. Mr. Pallone votes no.

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55

1144 Mr. Rush.
1145 [No response.]
1146 Ms. Eshoo.
1147 [No response.]
1148 Mr. Engel.
1149 [No response.]
1150 Mr. Green.
1151 Mr. Green. No.
1152 The Clerk. Mr. Green votes no.
1153 Ms. DeGette.
1154 [No response.]
1155 Mr. Doyle.
1156 Mr. Doyle. No.
1157 The Clerk. Mr. Doyle votes no.
1158 Ms. Schakowsky.
1159 Ms. Schakowsky. No.
1160 The Clerk. Ms. Schakowsky votes no.
1161 Mr. Butterfield.
1162 [No response.]
1163 Ms. Matsui.
1164 Ms. Matsui. No.
1165 The Clerk. Ms. Matsui votes no.

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56

1166 Ms. Castor.
1167 Ms. Castor. No.
1168 The Clerk. Ms. Castor votes no.
1169 Mr. Sarbanes.
1170 Mr. Sarbanes. No.
1171 The Clerk. Mr. Sarbanes votes no.
1172 Mr. McNerney.
1173 Mr. McNerney. No.
1174 The Clerk. Mr. McNerney votes no.
1175 Mr. Welch.
1176 Mr. Welch. No.
1177 The Clerk. Mr. Welch votes no.
1178 Mr. Lujan.
1179 Mr. Lujan. No.
1180 The Clerk. Mr. Lujan votes no.
1181 Mr. Tonko.
1182 Mr. Tonko. No.
1183 The Clerk. Mr. Tonko votes no.
1184 Ms. Clarke.
1185 Ms. Clarke. No.
1186 The Clerk. Ms. Clarke votes no.
1187 Mr. Loeb sack.

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1188 Mr. Loeb sack. No.

1189 The Clerk. Mr. Loeb sack votes no.

1190 Mr. Schrader.

1191 Mr. Schrader. No.

1192 The Clerk. Mr. Schrader votes no.

1193 Mr. Kennedy.

1194 Mr. Kennedy. No.

1195 The Clerk. Mr. Kennedy votes no.

1196 Mr. Cardenas.

1197 Mr. Cardenas. No.

1198 The Clerk. Mr. Cardenas votes no.

1199 Mr. Ruiz.

1200 Mr. Ruiz. No.

1201 The Clerk. Mr. Ruiz votes no.

1202 Mr. Peters.

1203 Mr. Peters. No.

1204 The Clerk. Mr. Peters votes no.

1205 Mrs. Dingell.

1206 Mrs. Dingell. No.

1207 The Clerk. Mrs. Dingell votes no.

1208 Chairman Walden.

1209 The Chairman. Aye.

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1210 The Clerk. Chairman Walden votes aye.

1211 The Chairman. Are there other members not recorded?

1212 The Clerk. The gentleman is not recorded.

1213 Mr. Guthrie. Aye.

1214 Mr. Guthrie votes aye.

1215 The Chairman. Mr. Flores?

1216 Mr. Flores. Aye.

1217 The Clerk. Mr. Flores votes aye.

1218 The Chairman. Are there other members not recorded?

1219 The gentleman from Louisiana, whip of the House.

1220 Mr. Scalise. Aye.

1221 The Clerk. Mr. Scalise votes aye.

1222 The Chairman. Gentlelady from California.

1223 The Clerk. Ms. Eshoo?

1224 Ms. Eshoo. No.

1225 The Clerk. Ms. Eshoo votes no.

1226 The Chairman. Rush.

1227 Mr. Rush. No.

1228 The Clerk. Mr. Rush votes no.

1229 Mr. Engel.

1230 Mr. Engel. No.

1231 The Clerk. Mr. Engel votes no.

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1232 The Chairman. Mr. Butterfield.

1233 [No response.]

1234 The Clerk. Mr. Shimkus.

1235 Mr. Shimkus. Aye.

1236 The Clerk. Mr. Shimkus votes aye.

1237 The Chairman. Mr. Butterfield, I believe.

1238 The Clerk. Mr. Butterfield.

1239 Mr. Butterfield. No.

1240 The Clerk. Mr. Butterfield votes no.

1241 The Chairman. Are there any other members wishing to be
1242 recorded?

1243 If not, clerk will report the roll.

1244 The Clerk. Mr. Chairman, on that vote there were 31 ayes
1245 and 23 nays.

1246 The Chairman. The ayes appear to have it. The ayes have
1247 it. The bill is favorably reported to the House.

1248 The chair now calls up H.R. 5811 -- this is number 34 --
1249 and asks the clerk to report.

1250 [The bill follows:]

1251

1252 *****INSERT 7*****

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60

1253 The Clerk. H.R. 5811, the amend the Federal Food, Drug,
1254 and Cosmetic Act with respect to post approval study requirements
1255 for certain controlled substances and for other purposes.

1256 The Chairman. Without objection, the first reading of the
1257 bill is dispensed with. The bill will be open for amendment at
1258 any point.

1259 Are there amendments to this bill?

1260 For what purpose does the gentleman from Virginia seek
1261 recognition?

1262 Mr. Griffith. Mr. Chairman, I have an amendment at the desk.

1263 The Chairman. Without objection, the clerk will report the
1264 amendment.

1265 The Clerk. Amendment to H.R. 5811, offered by Mr. Griffith.

1266 The Chairman. And without objection, the reading of the
1267 amendment is dispensed with.

1268 The gentleman is recognized for five minutes in support of
1269 this amendment.

1270 [The amendment of Mr. Griffith follows:]

1271

1272 *****COMMITTEE INSERT 8*****

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1273 Mr. Griffith. Thank you very much, Mr. Chairman.

1274 This amendment simply tailors the scope of the bill so that
1275 the new authority given to the FDA under the bill to require a
1276 post-market review is limited to studies on the long-term efficacy
1277 of the drug.

1278 FDA already has the authority under existing law to request
1279 -- to require a post-market review to assess if there is an
1280 increase and serious risk of a drug.

1281 Therefore, this language is duplicative and not necessary
1282 to achieve the intent of the bill. The FDA has even said this
1283 language is not critical to the bill.

1284 I urge my colleagues to support the amendment and if you'd
1285 look at it, it just strikes out "or the increase in serious risk"
1286 and then if you look at the code section it would tell you that
1287 in paragraph B of the particular code section that they already
1288 have that authority and the rules are already set up and they've
1289 been using it and there is no point in reinventing that wheel.

1290 I yield back.

1291 The Chairman. Gentleman yields back.

1292 The chair now recognizes the gentleman from New Jersey, Mr.
1293 Pallone, to speak on the amendment.

1294 Mr. Pallone. Thank you, Mr. Chairman.

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1295 The bill, H.R. 5811, grants FDA additional authority to
1296 request controlled substances manufacturers to study whether or
1297 not their products, such as chronically administered opioids,
1298 have the potential to reduce efficacy or increase in serious risk
1299 with long-term use.

1300 Now, Mr. McNerney and Mr. Griffith's bill takes into account
1301 the fact that controlled substances are inherently risky
1302 substances with abuse potential and provides FDA with critical
1303 authority to gather the long-term data about opiates that we need.

1304 My colleagues are correct that the FDA can require
1305 post-market studies related to serious risk already, whether it
1306 be that the drug presents a known or unexpected serious risk.

1307 The underlying bill, which was drafted with the assistance
1308 of FDA, builds on this authority to also capture whether or not
1309 a reduction in efficacy or an increase in serious risk can result
1310 in the benefits of the drug no longer outweighing the risk.

1311 But the amendment is the -- the underlying bill I support
1312 but the amendment is something I can't support. The amendment's
1313 true goal, I understand, is to ensure opiate manufacturers will
1314 continue to get three years of exclusivity if FDA requests that
1315 they study whether or not the drug poses an increase in serious
1316 risk.

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1317 But I don't know -- I doubt whether we should be continuing
1318 to reward the manufacturers of these products that fuel the opioid
1319 crisis through their sales and marketing with three years of
1320 exclusivity.

1321 It depends. Let's be clear that, ultimately, it is the FDA
1322 that will determine whether or not any study conducted in the
1323 post-market setting is eligible for exclusivity or not.

1324 If FDA determines that an opiate manufacturer is eligible
1325 for exclusivity for assessing the related serious risks of their
1326 product, they can do so.

1327 But I don't think we should impede FDA's ability to require
1328 assessments that take into account the potential of a controlled
1329 substance to pose an increased risk.

1330 So I'd ask my colleagues why would we reward an opiate
1331 manufacturer with an incentive when there should be an obligation
1332 and especially in light of this opioid crisis that you should
1333 have to demonstrate the long-term efficacy and safety of your
1334 product.

1335 So I urge my colleagues to oppose the amendment. I think
1336 it's -- it should -- that issue of exclusivity should be determined
1337 by the FDA, given the circumstances.

1338 We have had enough problems with opioids and the

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1339 manufacturers promoting products in ways that perhaps they
1340 shouldn't without saying the definitive statement of exclusivity
1341 should be awarded, and that's -- I don't know if Mr. McNerney
1342 wants my time or his own. Should I yield or -- you'll speak now?

1343 I yield to the gentleman. Oh, no, he wants to do his own
1344 time.

1345 I am sorry, Mr. Chairman. I yield back.

1346 The Chairman. The gentleman yields back.

1347 The chair recognizes the gentleman from Kentucky, Mr.

1348 Guthrie, to speak on the amendment.

1349 Mr. Guthrie. Thank you, Mr. Chairman.

1350 Under the current law, it's my understanding FDA may require
1351 that a drug undergo a post-approval study to assess serious risk.

1352 This is serious adverse drug experiences involving failure of
1353 expected drug effect.

1354 Although the FDA's decision to require a post-approval study
1355 for an approved drug must be based on new safety information,
1356 that can include just a single adverse event report.

1357 I've been informed that the FDA can already require studies
1358 examining the potential reduction of effectiveness of a drug for
1359 its approved uses under current law but that there may not --
1360 there may be some ambiguity.

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1361 That is why I support Congressman Griffith's amendment to
1362 strike the language "or increase in serious risk," I believe
1363 without striking "or increase serious risk" the bill would be
1364 redundant in nature and unnecessary.

1365 The FDA already has the authority to require studies to
1366 assess potential increase in serious risk. So I urge support
1367 of the amendment, and I yield back.

1368 The Chairman. Gentleman yields back.

1369 Other members seeking recognition?

1370 The gentleman from California is recognized for five minutes
1371 to strike the last word.

1372 Mr. McNerney. I move to strike the last word.

1373 Thank you. This underlying legislation would give the Food
1374 and Drug Administration the authority to ask opioid manufacturers
1375 to conduct post-market studies to examine long-term efficacy and
1376 serious risk of opioid drugs.

1377 In 2016, my home state of California witnessed 2,000 deaths
1378 that resulted from opioid overdose. The opioid epidemic has
1379 impacted my district very strongly and we waited too long to take
1380 action.

1381 At a hearing before this committee, FDA Commissioner
1382 Gottlieb explained that many opioid drugs have not been studied

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1383 for chronic administration and yet are chronically administered.

1384 In order to combat the opioid epidemic, it's critical that
1385 we give the FDA the tools it needs to understand opioid drugs'
1386 efficacy and serious risk over time.

1387 I do want to thank my colleague, Mr. Griffith, for working
1388 with me on this. However, I can't support this amendment.

1389 We are talking about a narrow subset of drugs that have
1390 serious abuse potential. We have worked hard to negotiate with
1391 stakeholders like pharma and their concern regarding specific
1392 language and the language impact on exclusivity was not raised
1393 until yesterday.

1394 So, obviously, serious risk is something we should be looking
1395 at and this amendment, it appears to me, is aimed at giving pharma
1396 exclusivity in cases where I don't think that's justified and,
1397 because of that, I am going to be asking my colleagues to oppose
1398 this legislation -- this amendment.

1399 And I yield back.

1400 The Chairman. The gentleman yields back.

1401 The chair recognizes himself to speak on the amendment and
1402 yields to the gentleman from Virginia, Mr. Griffith.

1403 Mr. Griffith. I appreciate that, Mr. Chairman. Thank you.

1404 The bill allows the FDA to require post-approval studies

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1405 of controlled substance to further assess the drug's
1406 effectiveness. So as I read it, the FDA does not need to actually
1407 have any concerns about the drug's effectiveness before requiring
1408 these additional studies under the bill.

1409 Indeed, it does not seem that there is any limit on the number
1410 or scope of further studies FDA may require under this bill.
1411 I am rather concerned that this bill as drafted would enable the
1412 FDA to require limitless studies on drugs without any documented
1413 effectiveness concerns and FDA already has authority to require
1414 safety studies.

1415 That's why I support the amendment. And I understand, and
1416 there is no intent here to reward bad actors. But as we move
1417 forward and we are looking at drugs, if the FDA labels a drug
1418 as having a serious risk related to that drug and uses that code
1419 section that currently exists, it triggers to the public something
1420 other than we are just studying chronic -- we are trying to see
1421 if it really does what we thought it would do.

1422 It signals to the public that there is in fact a serious
1423 risk and then that raises issues that each, depending on the --
1424 what the FDA says as to whether or not that drug can even be used
1425 in the marketplace while the additional study is going on.

1426 So it's not really an extension of the rights as much as

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1427 it's recognizing the reality that during the time period of the
1428 additional study if it's under the current code and not under
1429 this code you're, in essence, taking that drug off the market.

1430 If, after the study is done under the current code serious
1431 risk, then the company has spent a lot of money and it's been
1432 established that there is no risk or no serious risk, then they
1433 come back into the marketplace, having been out of the marketplace
1434 for a period of time for all practical purposes, and that's the
1435 reason why we shouldn't reinvent the wheel because, like with
1436 so many things, what we have has been working in this arena and
1437 if we go and we start changing it, I fear that we will be doing
1438 more harm than good, which is why I think the amendment is
1439 appropriate and I will yield to anybody who wants time.

1440 The Chairman. Well, actually, I'll yield since it's my
1441 time.

1442 Mr. Griffith. Oh, yes. I'll yield back.

1443 The Chairman. I recognize the subcommittee chairman on
1444 health. Dr. Burgess, did you want to speak on this?

1445 Mr. Burgess. Just to reiterate the issues that Mr. Griffith
1446 just brought up about serious risk and that this bill needs to
1447 be struck to close the loophole in the applicability provision.

1448 So I give my support to the comments of Mr. Griffith and

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1449 urge a vote in favor of Mr. Griffith's.

1450 The Chairman. Any other members on our side seeking time?

1451 If not, I'll yield back my time in support of the Griffith
1452 amendment.

1453 Any other members seeking recognition on the amendment?

1454 If not, we will have a roll call vote on this amendment --
1455 a roll call vote on this amendment.

1456 Those in favor of the Griffith amendment will vote aye.

1457 Those opposed no, and the clerk will call the roll.

1458 The Clerk. Mr. Barton.

1459 Mr. Barton. Aye.

1460 The Clerk. Mr. Barton votes aye.

1461 Mr. Upton.

1462 [No response.]

1463 The Clerk. Mr. Shimkus.

1464 Mr. Shimkus. Mr. Shimkus votes aye.

1465 Mr. Burgess.

1466 Mr. Burgess. Aye.

1467 The Clerk. Mr. Burgess votes aye.

1468 Mrs. Blackburn.

1469 Mrs. Blackburn. Aye.

1470 The Clerk. Mrs. Blackburn votes aye.

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1471 Mr. Scalise.

1472 [No response.]

1473 Mr. Latta.

1474 Mr. Latta. Aye.

1475 The Clerk. Mr. Latta votes aye.

1476 Mrs. McMorris Rodgers.

1477 Mrs. McMorris Rodgers. Aye.

1478 The Clerk. Mrs. McMorris Rodgers votes aye.

1479 Mr. Harper.

1480 Mr. Harper. Aye.

1481 The Clerk. Mr. Harper votes aye.

1482 Mr. Lance.

1483 Mr. Lance. Aye.

1484 The Clerk. Mr. Lance votes aye.

1485 Mr. Guthrie.

1486 Mr. Guthrie. Aye.

1487 The Clerk. Mr. Guthrie votes aye.

1488 Mr. Olson.

1489 Mr. Olson. Aye.

1490 The Clerk. Mr. Olson votes aye.

1491 Mr. McKinley.

1492 Mr. McKinley. Aye.

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1493 The Clerk. Mr. McKinley votes aye.
1494 Mr. Kinzinger.
1495 Mr. Kinzinger. Aye.
1496 The Clerk. Mr. Kinzinger votes aye.
1497 Mr. Griffith.
1498 Mr. Griffith. Aye.
1499 The Clerk. Mr. Griffith votes aye.
1500 Mr. Bilirakis.
1501 Mr. Bilirakis. Aye.
1502 The Clerk. Mr. Bilirakis votes aye.
1503 Mr. Johnson.
1504 Mr. Johnson. Aye.
1505 The Clerk. Mr. Johnson votes aye.
1506 Mr. Long.
1507 Mr. Long. Aye.
1508 The Clerk. Mr. Long votes aye.
1509 Mr. Bucshon.
1510 Mr. Bucshon. Aye.
1511 The Clerk. Mr. Bucshon votes aye.
1512 Mr. Flores.
1513 [No response.]
1514 Mrs. Brooks.

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1515 Mrs. Brooks. Aye.
1516 The Clerk. Mrs. Brooks votes aye.
1517 Mr. Mullin.
1518 Mr. Mullin. Aye.
1519 The Clerk. Mr. Mullin votes aye.
1520 Mr. Hudson.
1521 Mr. Hudson. Aye.
1522 The Clerk. Mr. Hudson votes aye.
1523 Mr. Collins.
1524 Mr. Collins. Aye.
1525 The Clerk. Mr. Collins votes aye.
1526 Mr. Cramer.
1527 Mr. Cramer. Aye.
1528 The Clerk. Mr. Cramer votes aye.
1529 Mr. Walberg.
1530 Mr. Walberg. Aye.
1531 The Clerk. Mr. Walberg votes aye.
1532 Mrs. Walters.
1533 Mrs. Walters. Aye.
1534 The Clerk. Mrs. Walters votes aye.
1535 Mr. Costello.
1536 Mr. Costello. Aye.

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1537 The Clerk. Mr. Costello votes aye.

1538 Mr. Carter.

1539 Mr. Carter. Aye.

1540 The Clerk. Mr. Carter votes aye.

1541 Mr. Duncan.

1542 [No response.]

1543 Mr. Pallone.

1544 Mr. Pallone. No.

1545 The Clerk. Mr. Pallone votes no.

1546 Mr. Rush.

1547 [No response.]

1548 Ms. Eshoo.

1549 [No response.]

1550 Mr. Engel.

1551 Mr. Engel. No.

1552 The Clerk. Mr. Engel votes no.

1553 Mr. Green.

1554 Mr. Green. No.

1555 The Clerk. Mr. Green votes no.

1556 Ms. DeGette.

1557 [No response.]

1558 Mr. Doyle.

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1559 Mr. Doyle. No.
1560 The Clerk. Mr. Doyle votes no.
1561 Ms. Schakowsky.
1562 Ms. Schakowsky. No.
1563 The Clerk. Ms. Schakowsky votes no.
1564 Mr. Butterfield.
1565 Mr. Butterfield. No.
1566 The Clerk. Mr. Butterfield votes no.
1567 Ms. Matsui.
1568 Ms. Matsui. No.
1569 The Clerk. Ms. Matsui votes no.
1570 Ms. Castor.
1571 Ms. Castor. No.
1572 The Clerk. Ms. Castor votes no.
1573 Mr. Sarbanes.
1574 Mr. Sarbanes. No.
1575 The Clerk. Mr. Sarbanes votes no.
1576 Mr. McNerney.
1577 Mr. McNerney. No.
1578 The Clerk. Mr. McNerney votes no.
1579 Mr. Welch.
1580 Mr. Welch. No.

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1581 The Clerk. Mr. Welch votes no.
1582 Mr. Lujan.
1583 Mr. Lujan. No.
1584 The Clerk. Mr. Lujan votes no.
1585 Mr. Tonko.
1586 Mr. Tonko. No.
1587 The Clerk. Mr. Tonko votes no.
1588 Ms. Clarke.
1589 Ms. Clarke. No.
1590 The Clerk. Ms. Clarke votes no.
1591 Mr. Loeb sack.
1592 Mr. Loeb sack. No.
1593 The Clerk. Mr. Loeb sack votes no.
1594 Mr. Schrader.
1595 Mr. Schrader. No.
1596 The Clerk. Mr. Schrader votes no.
1597 Mr. Kennedy.
1598 Mr. Kennedy. No.
1599 The Clerk. Mr. Kennedy votes no.
1600 Mr. Cardenas.
1601 Mr. Cardenas. No.
1602 The Clerk. Mr. Cardenas votes no.

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1603 Mr. Ruiz.
1604 Mr. Ruiz. No.
1605 The Clerk. Mr. Ruiz votes no.
1606 Mr. Peters.
1607 Mr. Peters. No.
1608 The Clerk. Mr. Peters votes no.
1609 Mrs. Dingell.
1610 Mrs. Dingell. No.
1611 The Clerk. Mrs. Dingell votes no.
1612 Chairman Walden.
1613 The Chairman. Aye.
1614 The Clerk. Chairman Walden votes aye.
1615 Mr. Upton.
1616 Mr. Upton. Aye.
1617 The Clerk. Mr. Upton votes aye.
1618 Mr. Scalise.
1619 Mr. Scalise. Aye.
1620 The Clerk. Mr. Scalise votes aye.
1621 Mr. Flores.
1622 Mr. Flores. Aye.
1623 The Clerk. Mr. Flores votes aye.
1624 Mr. Duncan.

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1625 Mr. Duncan. Aye.

1626 The Clerk. Mr. Duncan votes aye.

1627 Ms. Eshoo.

1628 Ms. Eshoo. No.

1629 The Clerk. Ms. Eshoo votes no.

1630 The Chairman. Are there other members who have not been
1631 recorded who wish to be recorded?

1632 Seeing none, the clerk will report the tally.

1633 The Clerk. Mr. Chairman, on that vote there were 31 ayes
1634 and 22 nays.

1635 The Chairman. Thirty-one ayes, 22 nays. The amendment is
1636 adopted.

1637 Are there other members seeking recognition on the
1638 underlying bill as amended?

1639 If not, the question now occurs on favorably reporting H.R.
1640 5811 as amended to the House.

1641 Those in favor will say aye.

1642 Those opposed, no.

1643 The ayes appear to have it. The ayes have it and the bill
1644 is favorably reported.

1645 The chair now calls up H.R. 1925. This would be number 18
1646 on your programs as forwarded by the Subcommittee on Health on

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1647 April 20th, 2018, and the clerk is asked to report.

1648 [The bill follows:]

1649

1650 *****INSERT 9*****

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1651 The Clerk. H.R. 1925, the amend Title 19 of the Social
1652 Security Act to protect at-risk youth against termination of
1653 Medicaid eligibility while an inmate of a public institution.

1654 The Chairman. Without objection the first reading of the
1655 bill is dispensed with. The bill will be open for amendment at
1656 any point.

1657 Are there any bipartisan amendments?

1658 The chair -- oh, you want to strike the last -- let me --
1659 let me go through amendments, if I could.

1660 Are there any amendments?

1661 Seeing none -- for what purpose does the gentleman from
1662 California seek recognition?

1663 Mr. Cardenas. To speak on the bill.

1664 The Chairman. The gentleman is recognized for five minutes
1665 to strike the last word.

1666 Mr. Cardenas. Thank you, Mr. Chairman.

1667 Thank you, Mr. Chairman and Ranking Member Pallone, for
1668 considering H.R. 1925, the At-Risk Youth Medicaid Protection Act,
1669 to be included in the package that is currently being drafted
1670 to combat the opioid epidemic.

1671 It would also -- I would also like to thank my colleague,
1672 Mr. Griffith from Virginia, for his support on this bill and making

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1673 it truly bipartisan.

1674 According to a June 2017 MACPAC report, the opioid epidemic
1675 disproportionately affects Medicaid beneficiaries and, thus,
1676 state Medicaid programs are taking the lead in identifying and
1677 tailoring strategies to prevent and treat opioid use disorder.

1678 Among those affected are our most vulnerable -- our youth.
1679 Currently, federal law prohibits states from receiving federal
1680 financial participation for individuals covered by Medicaid while
1681 they are incarcerated.

1682 It does not, however, specify how each state should handle
1683 the Medicaid enrollment of these individuals. As a result, most
1684 children who are covered by Medicaid and later incarcerated end
1685 up having the enrollment terminated by their state.

1686 While some states are beginning to suspend instead of
1687 terminate their enrollment, only 16 states and the District of
1688 Columbia suspend their enrollment for the exact duration of their
1689 incarceration.

1690 This delays the re-enrollment of children released from
1691 custody, thus delaying their coverage and preventing them from
1692 receiving timely and much-needed health and mental care over their
1693 -- after their release.

1694 The At-Risk Youth Medicaid Protection Act would ensure that

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1695 eligible youth can receive health and mental care immediately
1696 upon their release by prohibiting states from terminating their
1697 enrolment in state plans for Medicaid assistance while they are
1698 in custody.

1699 The bill would require states to automatically restore the
1700 child's Medicaid enrollment upon their release. Further, states
1701 would be require to process applications for Medicaid assistance
1702 by or on behalf of the child and make access to their medical
1703 assistance for children under foster care by extending the age
1704 of eligibility to 26.

1705 Mr. Chairman, it was you who said, and I quote, "We have
1706 a duty to our constituents and the American people to combat the
1707 epidemic from all angles. Everyone has a stake in this fight."

1708 A very wise and truthful statement indeed, Mr. Chairman.
1709 We owe it to the American people to do everything in our power
1710 to decrease the already 64,000 families broken by this epidemic
1711 and restore faith in our government system.

1712 While this package may cover many fronts, the inclusion of
1713 this common sense bill, the At-Risk Youth Medicaid Protection
1714 Act, extends the efforts to attack this epidemic from all angles,
1715 thereby solidifying the package's foundation.

1716 We have received significant support for this bill and, Mr.

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1717 Chairman, I'd like to ask unanimous consent to submit a letter
1718 from the National Association of Counties for the record.

1719 I yield back.

1720 The Chairman. Without objection, the material will be put
1721 in the record and the gentleman yields back.

1722 [The information follows:]

1723

1724 *****COMMITTEE INSERT 10*****

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1725 Are there other members seeking recognition on this
1726 legislation?

1727 The chairman recognizes the gentleman from New Jersey, Mr.
1728 Pallone, for five minutes to strike the last word.

1729 Mr. Pallone. Thank you, Mr. Chairman.

1730 As we begin consideration of the block of Medicaid bills
1731 before us, I wanted to say a few words, given that this set of
1732 bills was controversial during our subcommittee markup.

1733 I appreciate the chairman's work with the minority to address
1734 many of our concerns with respect to this legislation. Taking
1735 these bills as a whole, we appreciate the Republicans and
1736 Democrats have compromised and reached agreement on many of our
1737 priorities.

1738 There is some important things here that will improve access
1739 to treatment. First, new demonstrations to increase
1740 SUD-provided reimbursement. A bipartisan amendment requiring
1741 Medicaid programs to cover all forms of medication-assisted
1742 treatment, new funding for Medicaid health homes for SUD, and
1743 other bills that improve the quality and access to care that
1744 Medicaid beneficiaries impacted by SUD will receive.

1745 I said at the outset that I am committed to legislation that
1746 improves treatment and many of our Medicaid bills do just that.

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1747 So much language, though, has changed over the past could
1748 of days that I hope that the chairman will commit to working with
1749 me as we move these bills forward and continue to receive and
1750 address stakeholder and agency feedback.

1751 We must make sure this language is right before it moves
1752 forward and that there are no unintended consequences. For
1753 instance, on the Medicaid Partnership Act, additional technical
1754 changes are needed to ensure policy intent.

1755 But I am also concerned about offsets. These bills cost
1756 money, and I want to be clear -- I will always oppose any bill
1757 offset by cuts to benefits or eligibility in Medicaid.

1758 We can't cut one to fund another and that's robbing Peter
1759 to pay Paul, and bad policy. With that being said, I appreciate
1760 our good work and hope it will continue as we keep our work on
1761 this process going to the next stage.

1762 And so, again, thank you, Mr. Chairman. I look forward to
1763 continuing to work with you on these various bills. Thank you.

1764 The Chairman. Indeed. If the gentleman will yield --

1765 Mr. Pallone. I yield. Sure.

1766 The Chairman. We appreciate the good faith efforts on both
1767 sides of the aisle. This is a deadly epidemic that doesn't check
1768 party registration or anything else. It just strikes and kills.

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85

1769 So we appreciate the good work from all of our members and
1770 we know we have more to do. But I think we are making real
1771 progress. So thank you and to your team as well.

1772 I yield back to you.

1773 Mr. Pallone. Thank you, and I yield back.

1774 The Chairman. The gentleman yields back.

1775 Other members -- the gentleman is recognized, from Virginia,
1776 for five minutes to strike the last word.

1777 Mr. Griffith. Thank you, Mr. Chairman.

1778 I appreciate the work on this bill and was glad to work with
1779 my colleague on it and it does need, as Ranking Member -- Mr.
1780 Pallone pointed out, it does need -- make sure we get some
1781 technical things worked out and the ranking member also mentioned
1782 my 5801 and I know that also may need some technical clarification
1783 to make sure that we get it right. But appreciate the ranking
1784 member's decision on this bill and I assume on 5801 to work with
1785 us to get those technical issues resolved.

1786 That's -- 5801 is coming up later but the bills have some
1787 similar things that we have to check on.

1788 The Chairman. Yes. I appreciate that and, obviously,
1789 there may be some technical changes and we will get more input
1790 as we -- before we go to floor and --

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86

1791 Mr. Griffith. Yes, sir.

1792 The Chairman. -- work in good faith to get these right.

1793 Are there other members seeking recognition?

1794 If not, the question now arises on favorably reporting H.R.

1795 1925 as amended to the House.

1796 All those in favor will say aye.

1797 Those opposed, no.

1798 The ayes appear to have it. The ayes have it and the bill

1799 is favorably reported.

1800 The chair now calls up H.R. 3192 -- this would be number

1801 19 on the list -- and asks the clerk to report.

1802 [The bill follows:]

1803

1804 *****INSERT 11*****

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87

1805 The Clerk. H.R. 3192, the amend Title 21 of the Social
1806 Security Act to ensure access to mental health services for
1807 children under Children' Health Insurance Program and for other
1808 purposes.

1809 The Chairman. Without objection, the first reading of the
1810 bill is dispensed with. The bill will be open for amendment at
1811 any point.

1812 Are there any bipartisan amendments?

1813 Do you have an amendment?

1814 Mr. Kennedy. Mr. Chairman, I do. I believe -- it's a
1815 technical amendment. I believe it is bipartisan but --

1816 The Chairman. Okay. The clerk will report the Kennedy
1817 amendment. It's number one, I think. Is that right? Yeah.

1818 Mr. Kennedy. Yes, sir. It should be.

1819 The Clerk. Amendment to H.R. 3192, offered by Mr. Kennedy.

1820 The Chairman. Without objection, the further reading of
1821 the amendment is dispensed with and the gentleman from
1822 Massachusetts is recognized for five minutes to speak on his
1823 amendment.

1824 [The amendment of Mr. Kennedy follows:]

1825

1826 *****COMMITTEE INSERT 12*****

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88

1827 Mr. Kennedy. I will use far less than that, Mr. Chairman.

1828 Thank you.

1829 The amendment -- this is -- it essentially incorporates
1830 technical assistance we got from CMS to ensure that the bill does
1831 exactly what we thought it would do and ensure that all CHIP plans
1832 essentially will have -- will be covered by -- will cover access
1833 to mental behavioral health for moms and babies. That's all that
1834 this does.

1835 Grateful for the assistance from staff and members,
1836 particularly Dr. Burgess, Mr. Pallone, and the chairman for
1837 helping us navigate it through this process.

1838 And with that, I will yield back.

1839 The Chairman. Mr. Kennedy, we appreciate your leadership
1840 on this effort as well. It is one that's very, very important.

1841 I think this improves the program which, as you know, we have
1842 extended for a record 10 years fully funded on Children's Health
1843 Insurance Program and incorporating this really will help many
1844 lives in the future.

1845 Are there other members seeking recognition on the Kennedy
1846 amendment?

1847 If not, the question now arises on passage of the Kennedy
1848 amendment.

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89

1849 All those in favor will say aye.

1850 Those opposed, no.

1851 The ayes appear to have it. The ayes have it. The amendment
1852 is agreed to.

1853 Are there other amendments to the bill?

1854 Are there other members seeking recognition to speak on the
1855 bill?

1856 Seeing none, the question now occurs on favorably reporting
1857 H.R. 3192 as amended to the House.

1858 All those in favor will signify by saying aye.

1859 Those opposed, no.

1860 The ayes appear to have it. The ayes have it and the measure
1861 is favorably reported.

1862 The chair now calls up H.R. 4005 -- this would be number
1863 20 -- and asks the clerk to report.

1864 [The bill follows:]

1865

1866 *****INSERT 13*****

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90

1867 The Clerk. H.R. 4005, to amend --

1868 The Chairman. Sorry.

1869 The Clerk. To amend Title 19 of the Social Security Act
1870 to allow for medical assistance under Medicaid for inmates during
1871 the 30-day period preceding release from a public institution.

1872 The Chairman. Without objection, the first reading of the
1873 bill is dispensed with. The bill will be open for amendment at
1874 any point.

1875 Are there any bipartisan amendments to the bill?

1876 The gentleman from New York is recognized.

1877 Mr. Tonko. Mr. Chair, I have an amendment at the desk.

1878 The Chairman. The clerk will report the Tonko amendment.
1879 Do we have a Tonko amendment? Yes, we do.

1880 The Clerk. Amendment in the nature of a substitute to H.R.
1881 4005, offered by Mr. Tonko.

1882 The Chairman. Without objection, the first reading of the
1883 amendment is -- further reading of the amendment is dispensed
1884 with and the gentleman from New York is recognized for five minutes
1885 to speak on his amendment.

1886 [The amendment of Mr. Tonko follows:]

1887

1888 *****COMMITTEE INSERT 14*****

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91

1889 Mr. Tonko. Thank you, Mr. Chair.

1890 This is amendment in the nature of a substitute to the
1891 Medicaid Reentry Act. The underlying legislation attempts to
1892 address the high incidence of overdose deaths occurring among
1893 individuals re-entering society after a stay in a jail or prison.

1894 This population is 129 times more likely to die of an overdose
1895 than the general population during their first two weeks
1896 post-incarceration. The risk of overdose is elevated during this
1897 period due to reduced physiological tolerance for opioids among
1898 the incarcerated population, the lack of effective addiction
1899 treatment options while incarcerated, and poor care transitions
1900 back into the community.

1901 The underlying legislation would have allowed states the
1902 flexibility to waive the existing Medicaid inmate payment
1903 restriction during the 30 days prior to an individual's release
1904 in an effort to expand access to medication-assisted treatment
1905 in corrections facilities and to create a warm hand-off to a
1906 community care upon reentry.

1907 This legislation would allow states to expand innovative
1908 approaches to reentry that are already underway in places such
1909 as Ohio, New Mexico, and Rhode Island.

1910 Working with the majority and based on feedback from our

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92

1911 legislative hearing, the amendment in the nature of a substitute
1912 would instead require the secretary of HHS within one year to
1913 release guidance on innovative service delivery systems,
1914 demonstration waiver opportunities based on recommendations from
1915 a group of stakeholders on how to improve care transitions for
1916 individuals who are reentering society.

1917 I thank the majority for their constructive collaboration
1918 on this amendment and I also thank my Republican co-lead,
1919 Representative Mike Turner, for his efforts to help shine a light
1920 on this vulnerable population.

1921 I believe that this smart-on-crime legislation will plant
1922 the seeds for meaningful change and will help to give individuals
1923 reentering society a fighting chance to live a healthier drug-free
1924 life and, most indeed, perhaps save their life.

1925 I urge my colleagues to support this meaningful legislation
1926 and with that, Mr. Chair, I yield back.

1927 The Chairman. Gentleman yields back.

1928 The chair recognizes himself for five minutes to strike the
1929 last word in support of the Tonko amendment, and I want to thank
1930 the gentleman for his good work on this and other bills we are
1931 working on, and we will continue our discussions, going forward.

1932 But this is a really sound piece of legislation. The

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93

1933 amendment improves upon the underlying bill as -- with the
1934 substitute and I fully support of it, and I yield back.

1935 Are there other members seeking recognition on the Tonko
1936 substitute amendment?

1937 Seeing none, the question now arises on approval of the Tonko
1938 substitute amendment to H.R. 4005.

1939 Those in favor will say aye.

1940 Those opposed, nay.

1941 The ayes appear to have it. The ayes have it. The Tonko
1942 amendment is adopted.

1943 Is there further discussion on the bill?

1944 If not, the question now arises on favorably reporting H.R.
1945 4005 as amended to the House.

1946 All those in favor will say aye.

1947 Those opposed, no.

1948 The ayes appear to have it. The ayes have it and the bill
1949 is favorably reported.

1950 The chair now calls up H.R. 4998 -- this would be number
1951 21 -- and asks the clerk to report.

1952 [The bill follows:]

1953

1954 *****INSERT 15*****

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94

1955 The Clerk. H.R. 4998, to amend Title 19 of the Social
1956 Security Act to ensure health insurance coverage continuity for
1957 former foster youth.

1958 The Chairman. Without objection, the first reading of the
1959 bill is dispensed with. The bill will be open for amendment at
1960 any point.

1961 Are there bipartisan amendments to this bill?

1962 For what purpose does the gentleman from North Carolina seek
1963 recognition?

1964 Mr. Butterfield. Mr. Chairman, I have an amendment at the
1965 desk.

1966 The Chairman. The clerk will report the Butterfield
1967 amendment, which is in the nature of a substitute.

1968 Mr. Butterfield. It's ANS 01.

1969 The Clerk. Amendment in the nature of a substitute to 4998,
1970 offered by Mr. Butterfield.

1971 The Chairman. Without objection, further reading of the
1972 amendment is dispensed with and the chair recognizes his friend
1973 from North Carolina, Mr. Butterfield, for five minutes to speak
1974 on his amendment.

1975 [The amendment of Mr. Butterfield follows:]

1976

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95

1977

*****COMMITTEE INSERT 16*****

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96

1978 Mr. Butterfield. Thank you so much, Mr. Chairman.

1979 Mr. Chairman, I rise in support of this amendment and the
1980 underlying bill -- 4998, Mr. Chairman, the Health Insurance for
1981 Former Foster Youth Act.

1982 My friend and colleague, Ms. Bass from California, who I
1983 know is very passionate about foster children, originally
1984 introduced this bill.

1985 Twenty thousand children age out of foster care each and
1986 every year with little support for their transition to adulthood.

1987 Many of those have chronic health issues and many need mental
1988 health services.

1989 We have heard time and time again the importance of health
1990 insurance coverage, particularly Medicaid, in combating the
1991 opioid crisis.

1992 In addition, we know that the people in foster care are
1993 typically at a higher risk for substance use disorder and mental
1994 health conditions.

1995 Children who have been in foster care, Mr. Chairman, are
1996 five times more likely to abuse drugs. Over a third of current
1997 foster youth meet the criteria for a substance use disorder
1998 because 90 percent of those who develop dependence begin using
1999 substances before they are 18 years old.

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2000 This population is extremely vulnerable to lifelong
2001 conditions. This important bill, Mr. Chairman, would provide
2002 continuity to youth aging out of foster care.

2003 It would ensure that they can keep their Medicaid coverage
2004 across state lines until the age of 26. Not only is this
2005 legislation important for primary care for foster youth but it
2006 is critical for assisting them with substance use disorders and
2007 mental health.

2008 In addition to leveling the playing field, the bill is
2009 especially important in the context of a national opioid crisis.

2010 There has been an explosion of foster care youth driven by the
2011 opioid crisis. That's a fact.

2012 In one state, for example, more than half of new foster youth
2013 under the age of six came from a household where opioids were
2014 involved. This substitute amendment incorporates feedback from
2015 the Congressional Budget Office and CMS.

2016 As we work together toward a final package, Mr. Chairman,
2017 I think anything that we can do to help these individuals to keep
2018 their coverage will be important.

2019 I urge my colleagues to support it and I thank you, and I
2020 yield back.

2021 The Chairman. I thank the gentleman for his leadership on

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98

2022 this issue, and is there other discussion on the Butterfield
2023 substitute amendment?

2024 Seeing none, the question now arises on the passage of the
2025 Butterfield substitute amendment to H.R. 4998.

2026 Those in favor will say aye.

2027 Those opposed, nay.

2028 The ayes appear to have it. The ayes have it. The amendment
2029 is agreed to.

2030 Is there further discussion on the bill as amended?

2031 Seeing none, the question now arises on favorably reporting
2032 H.R. 4998 as amended to the House.

2033 All those in favor will say aye.

2034 Those opposed, no.

2035 The ayes appear to have it. The ayes have it and the bill
2036 is favorably reported.

2037 The chair now calls up H.R. 5477 -- this would be number
2038 22 on your list -- and ask the clerk to report.

2039 [The bill follows:]

2040

2041 *****INSERT 17*****

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99

2042 The Clerk. H.R. 5477, to amend Title 19 of the Social
2043 Security Act to provide for a demonstration project to increase
2044 substitute provider capacity under the Medicaid program.

2045 The Chairman. The -- without objection, further -- the
2046 first reading of the bill is dispensed with. The bill will be
2047 open for amendment at any point.

2048 Are there any bipartisan amendments to this bill?

2049 Are there other amendments to this bill?

2050 I believe so. The chair recognizes the gentleman from New
2051 Mexico for what purpose?

2052 Mr. Lujan. Mr. Chairman, I have an amendment at the desk.

2053 The Chairman. The clerk will report the Lujan amendment.

2054 The Clerk. Amendment in the nature of a substitute to 5477,
2055 offered by Mr. Lujan.

2056 The Chairman. Without objection, further reading of the
2057 amendment is dispensed with and the gentleman from New Mexico
2058 is recognized for five minutes to speak on his substitute
2059 amendment.

2060 [The amendment of Mr. Lujan follows:]

2061

2062 *****COMMITTEE INSERT 18*****

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100

2063 Mr. Lujan. Thank you, Mr. Chairman.

2064 I am glad we have been able to come together in a bipartisan
2065 way to advance the Rural DOCS Act. This bill is important because
2066 it addressed Medicaid infrastructure in a way that we haven't
2067 in a long time.

2068 This five-year demonstration project would go a long way
2069 in improving Medicaid provider capacity for substance use
2070 disorder. By improving reimbursements, education, training, and
2071 technical assistance, we can allow states to expand substance
2072 abuse treatments, services for those who need it the most.

2073 I want to thank Dr. Bill Foster for his leadership on this
2074 as well and all of the committee staff who have worked hard
2075 negotiating to get this bill past the finish line.

2076 And with that, Mr. Chairman, I yield back.

2077 The Chairman. The gentleman yields back. Thank you for
2078 your good work on this.

2079 Are there other members seeking recognition on the Lujan
2080 substitute amendment?

2081 Seeing none, the question now arises on approving the Lujan
2082 substitute amendment.

2083 All those in favor, say aye.

2084 Those opposed, no.

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2085 The ayes appear to have it. The ayes have it. The amendment
2086 is agreed to.

2087 Is there further discussion or amendment on the bill?

2088 Seeing none, the question now arises on favorably reporting
2089 H.R. 5477 as amended to the House.

2090 All those in favor will say aye.

2091 Those opposed, no.

2092 The ayes appear to have it. The ayes have it and the bill
2093 is favorably reported.

2094 The chair now calls up H.R. 5583 -- this would be number
2095 23 -- and asks the clerk the report.

2096 [The bill follows:]

2097

2098 *****INSERT 19*****

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102

2099 The Clerk. H.R. 5583, the amend Title 11 of the Social
2100 Security Act to require states to annually report on certain adult
2101 health quality measures and for other purposes.

2102 The Chairman. Without objection, the first reading of the
2103 bill is dispensed with and the bill will be open for amendment
2104 at any point.

2105 Are there any -- are there any bipartisan amendments?

2106 Are there any amendments?

2107 Well, we can wait just a second. I know it's Ms. Clarke's
2108 bill and maybe we are going a little faster than anticipated.

2109 [Pause.]

2110 For what purpose does the gentlelady from New York seek
2111 recognition?

2112 Ms. Clarke. Thank you, Mr. Chairman. I am introducing
2113 today H.R. --

2114 The Chairman. Strike the last word. She's recognized for
2115 five minutes.

2116 Ms. Clarke. Oh, sorry. Strike the last word.

2117 The Chairman. Yes.

2118 Ms. Clarke. Very well.

2119 The Chairman. You're recognized for five minutes.

2120 Ms. Clarke. Thank you so much, Mr. Chairman.

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103

2121 H.R. 5583 would require that all state Medicaid programs
2122 report the CMS behavioral health core set, which includes measures
2123 that will provide a more complete view of the SUD treatment in
2124 the Medicaid program and that will inform Congress, CMS, and
2125 stakeholders on how to target improvements for beneficiaries,
2126 moving forward.

2127 Having said that, Mr. Chairman, this is important. We have
2128 got to be able to really document the core behavioral health
2129 provisions and measures and this bill would certainly make sure
2130 that that occurs.

2131 With having said that, I yield back, Mr. Chairman.

2132 The Chairman. Ms. Clarke, we appreciate your leadership
2133 on this issue and we recognize the good work you've done on it.

2134 The gentlelady yields back. Are there other members seeking
2135 recognition?

2136 The chair recognizes the gentleman from Texas, Dr. Burgess,
2137 to strike the last word.

2138 Mr. Burgess. Thank you, Mr. Chairman, and I'll just
2139 recommend support of this. These are measures that were asked
2140 when CHIP was reauthorized in 2009.

2141 States have had plenty of time to put them in order and it's
2142 a reasonable attempt to get compliance with a policy that actually

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104

2143 now has been in place for over a decade.

2144 So I urge acceptance and I'll yield back.

2145 The Chairman. The gentleman yields back. Are there other
2146 members seeking recognition?

2147 If not, the question now arises on favorably reporting H.R.
2148 5583 to the House floor.

2149 All those in favor shall signify by saying aye.

2150 Those opposed, no.

2151 The ayes appear to have it. The ayes have it and the bill
2152 is favorably reported.

2153 The chair now calls up H.R. 5789 -- this would be number
2154 24 -- and ask the clerk to report.

2155 [The bill follows:]

2156

2157 *****INSERT 20*****

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105

2158 The Clerk. H.R. 5789, to amend Title 19 of the Social
2159 Security Act to provide for Medicaid coverage protections for
2160 pregnant and postpartum women while receiving inpatient treatment
2161 for a substance use disorder and for other purposes.

2162 The Chairman. Without objection, the first reading of the
2163 bill is dispensed with. The bill will be open for amendment at
2164 any point.

2165 Are there any bipartisan amendments?

2166 For what purpose does the gentleman from New Mexico seek
2167 recognition?

2168 Mr. Lujan. I have an amendment at the desk.

2169 The Chairman. The clerk will report the Lujan amendment.

2170 The Clerk. Amendment to H.R. 5789, offered by Mr. Lujan.

2171 The Chairman. Without objection, further reading of the
2172 amendment is dispensed with and the gentleman from New Mexico
2173 is recognized for five minutes to speak on his amendment.

2174 [The amendment of Mr. Lujan follows:]

2175

2176 *****COMMITTEE INSERT 21*****

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2177 Mr. Lujan. Thank you, Mr. Chairman.

2178 One of my top priorities is making sure that pregnant and
2179 postpartum women have what they need during the crisis when they
2180 are addicted and expecting.

2181 During CARA last Congress, I championed the Pregnant and
2182 Postpartum Women Act, which supports facilities all over the
2183 country with the primary goal of treating mothers and their
2184 babies.

2185 I think we can all agree that we must do whatever we can
2186 for mothers and babies struggling with neonatal absence syndrome.

2187 If we are truly going to end this epidemic we must focus on the
2188 next generation and I believe that starts with moms and healthy
2189 pregnancies.

2190 Mothers and babies need access to the full range of services
2191 that they are entitled to through the Medicaid program. There
2192 should be no ambiguity about the services that they deserve and
2193 have access to.

2194 Treating moms and babies together is important for
2195 struggling families. That's why this bill is important and I
2196 hope we can all work together to make it a reality.

2197 Thank you, Mr. Chairman, and I yield back.

2198 The Chairman. I thank the gentleman for his good work on

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2199 this and the gentleman yields back.

2200 The chair recognizes the gentleman from Kentucky, Mr.
2201 Guthrie.

2202 Mr. Guthrie. Thank you, Mr. Chairman. I move to strike the
2203 last word.

2204 The Chairman. Without objection, the gentleman is
2205 recognized for five minutes.

2206 Mr. Guthrie. I thank -- I thank Mr. Lujan for this
2207 amendment. This is a very important issue and it needs our
2208 attention. He explained it well so I won't re-explain.

2209 But one infant is born every 15 minutes with some form of
2210 opioid withdrawal. I look forward to further discussions and
2211 bipartisan work on this important issue and I do urge my colleagues
2212 to support this amendment and I yield -- if no one needs time
2213 I'll yield back.

2214 Mrs. Blackburn. I'll --

2215 The Chairman. Does anyone else -- would the gentleman yield
2216 to the gentlelady?

2217 Mrs. Blackburn. If the gentleman would yield.

2218 Mr. Guthrie. Gentleman yields to the lady -- my friend from
2219 Tennessee.

2220 The Chairman. The gentlelady is recognized.

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2221 Mrs. Blackburn. Thank you, Mr. Chairman, and I thank the
2222 gentleman for yielding.

2223 And I think this is such an important piece of legislation.
2224 How we are addressing the pregnant women and the moms postpartum
2225 with these babies, and I appreciate so much that we have put in
2226 here the education and supportive counseling and case management
2227 of family members of such infants, making these services
2228 available.

2229 As I have visited with the neonatal unit at Vanderbilt where
2230 they are treating the opioid babies, and with some of our
2231 facilities in Nashville that are providing care, Tennesseans are
2232 hard at work on this. They know the importance of keeping these
2233 families together, continuing to work with these mothers who are
2234 facing addiction, and with these precious little babies that are
2235 going through this withdrawal process.

2236 So I appreciate the fact that we have this legislation, that
2237 we are moving it forward. I urge support.

2238 Mr. Guthrie. Thank you. And anyone else seeking some of
2239 my time?

2240 If not, I will yield back.

2241 The Chairman. I thank the gentleman for his good work on
2242 this.

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2243 Other members seeking recognition on this?

2244 Then I think the question now arises on approval of the Lujan
2245 substitute amendment.

2246 Those in favor will say aye.

2247 Those opposed, nay.

2248 The ayes appear to have it. The ayes have it. The amendment
2249 is adopted.

2250 Are there other members seeking recognition on the bill as
2251 amended?

2252 If not, the question now comes on approving the bill as
2253 amended and reporting favorably to the House floor H.R. 5789.

2254 All those opposed will say -- all those in support will say
2255 aye.

2256 Those opposed, nay.

2257 The ayes appear to have it. The ayes have it and H.R. 5789
2258 as amended is reported favorably to the House.

2259 The chair now calls up H.R. 5797 -- that would be number
2260 25 -- and asks the clerk to report.

2261 [The bill follows:]

2262

2263 *****INSERT 22*****

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2264 The Clerk. H.R. 5797, to amend Title 19 of the Social
2265 Security Act to allow states to provide under Medicaid services
2266 for certain individuals with opioid use disorders in institutions
2267 for mental diseases.

2268 The Chairman. Without objection, the first reading of the
2269 bill is dispensed with. The bill will be open for amendment at
2270 any point.

2271 Are there any bipartisan amendments?

2272 Are there any amendments?

2273 Mr. Rush. Mr. Chairman.

2274 The Chairman. For what -- for what purpose does the
2275 gentlelady from California seek recognition?

2276 Mrs. Walters. I have an amendment.

2277 The Chairman. The clerk will report the Walters amendment.

2278 The Clerk. Amendment to H.R. 5797, offered by Mrs. Walters.

2279 The Chairman. Without objection, the reading of the
2280 amendment is dispensed with and the gentlelady is recognized for
2281 five minutes in support of her amendment.

2282 [The amendment of Mrs. Walters follows:]

2283

2284 *****COMMITTEE INSERT 23*****

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2285 Mrs. Walters. Thank you, Mr. Chairman.

2286 In my home of Orange County, California, there were 361
2287 overdose deaths in 2015. That accounts for a 50 percent increase
2288 in overdose deaths since 2006.

2289 The Orange County Health Care Agency's 2017 Opioid Overdose
2290 and Death in Orange County Report found that the rate of
2291 opioid-related emergency room visits increased by over 140
2292 percent in 2005.

2293 Between 2011 and 2015, Orange County emergency rooms treated
2294 nearly 7,500 opioid overdose and abuse cases. We have repeatedly
2295 heard that to address such tragic statistics, we need to ensure
2296 patients have full access to the continuum of care.

2297 That includes increasing access to inpatient substance use
2298 disorder treatment to ensure patients the most clinically
2299 appropriate care.

2300 Current law prohibits the federal government from providing
2301 federal Medicaid matching funds to states in order to provide
2302 Medicaid-eligible patients aged 21 to 64 care for mental disorders
2303 which, by definition, includes substance use disorders in
2304 facilities defined as institutes of mental diseases.

2305 The IMD exclusion means that federal dollars cannot be
2306 provided for the care of Medicaid-eligible patients in this age

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2307 group for substance use disorder treatments at hospitals, nursing
2308 facilities or other institutions with more than 16 beds.

2309 It is time to repeal the IMD exclusion and remove this
2310 outdated barrier to inpatient treatment. This bill would allow
2311 state Medicaid programs by filling a state plan amendment for
2312 fiscal years 2019 through 2023 to remove the IMD exclusion from
2313 Medicaid beneficiaries aged 21 to 64 who have an opioid use
2314 disorder.

2315 Medicaid would pay for up to 30 total days of beneficiaries'
2316 care in an IMD during a 12-month period. The term opioid use
2317 disorder is based on the Diagnostic and Statistical Manual of
2318 Mental Disorders, Fourth Edition.

2319 This includes but not limited to heroin, fentanyl,
2320 oxycodone, and tramadol. The bill would also require states to
2321 include in their state plan amendment information on, one, how
2322 the state will improve access to outpatient care during the state
2323 plan amendment period, the process for transitioning individuals
2324 to appropriate outpatient care and a description of how
2325 individuals will receive appropriate screening and assessment.

2326 States would also report information including the number
2327 of individuals with opioid use disorder under this plan, length
2328 of stay, and type of treatment received upon discharge.

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2329 This bill helps ensuring patient treatment to the most
2330 vulnerable members of society.

2331 Mr. Chairman, I would also like to submit for the record
2332 two support letters for H.R. 5797, one from the National
2333 Association of Behavioral Health Care, the other from Association
2334 for Community Affiliated Plans.

2335 The Chairman. Without objection.

2336 [The information follows:]

2337

2338 *****COMMITTEE INSERT 24*****

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2339 Mrs. Walters. The amendment makes technical improvements
2340 to H.R. 5797 in response to CBO and stakeholder input. It
2341 includes language to ensure that a Medicaid beneficiary
2342 receiving treatment for an IMD for opioid use disorder will still
2343 be considered an IMD patient if that individual requires medical
2344 services that are required to be provided outside the IMD.

2345 This language ensures that such patients can receive other
2346 medical services while receiving inpatient opioid use disorder
2347 care in an IMD.

2348 The amendment also would ensure that all states submit
2349 important information regarding the number of eligible
2350 individuals with opioid use disorder who receive services, the
2351 length of each inpatient stay, the type of outpatient treatment
2352 including the type of medication-assisted treatment.

2353 I urge my colleagues to support this amendment to make
2354 technical improvements to H.R. 5797, and I yield back.

2355 The Chairman. Are there other members seeking recognition
2356 to speak on the Walters amendment?

2357 The chair recognizes the gentlelady from Illinois, Ms.
2358 Schakowsky, for five minutes to strike the last word.

2359 Ms. Schakowsky. Thank you, Mr. Chairman.

2360 I am troubled that this bill would expand treatment only

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2361 to people with opioid use disorder as opposed to those with other
2362 substance abuse -- substance use disorders like alcohol, crack
2363 cocaine, methamphetamine.

2364 This not only is blind to reality faced by people suffering
2365 from substance abuse disorders but it is also discriminatory.

2366 Under this bill, if you suffer from any substance use disorder
2367 that is not opioids you will not be eligible for this expanded
2368 inpatient treatment.

2369 This exclusion ignores the fact that many with substance
2370 use disorders suffer many addictions and most do not start with
2371 opioids. If you are addicted to alcohol, this bill would require
2372 that addiction to -- would require that addiction to escalate
2373 to opioid use disorder before you're eligible for this treatment.

2374 Also this bill would not cover illegal fentanyl addiction,
2375 which is one of the deadliest substances that those with substance
2376 use disorder can use.

2377 Moreover, this limited expansion to only opioid use disorder
2378 underscores a larger trend in the differences in how opioid users
2379 are treated versus how others with substance abuse disorders are
2380 treated, particularly those with crack addiction, who have been
2381 called junkies and criminals while facing mandatory minimum
2382 sentences instead of treatment.

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2383 It is these same mandatory minimum sentences that have
2384 resulted in a half century of criminalizing an entire subset of
2385 the population, the effect of which are still felt every day,
2386 particularly in communities of color.

2387 We cannot let this legacy of treating those with crack
2388 cocaine use disorder differently than those with opioid use
2389 disorders to continue.

2390 Currently, states that have flexibility to increase funding
2391 for inpatient care for all substance abuse use disorders through
2392 its -- through its -- is it 1115 -- 1115 waiver. So, currently,
2393 that's what states have.

2394 The waiver would allow a fund range of preventative
2395 treatment, recovery, recovery services provided in accordance
2396 with evidence-based standards for all substance use disorders.

2397 So I urge my colleagues to be sure that nothing in this bill
2398 would prevent states from seeking flexibility waivers that would
2399 allow them to receive enhanced funding for inpatient treatment
2400 and the ability to shift funds to home and community-based
2401 services as they are needed.

2402 Thank you, and I yield back.

2403 The Chairman. The gentlelady yields back.

2404 The chair recognizes the Gentlelady from Tennessee for five

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2405 minutes to strike the last word.

2406 Mrs. Blackburn. Thank you, Mr. Chairman.

2407 I am speaking in favor of the amendment and, of course, the
2408 bill. I think it's important for us to realize that
2409 one-size-fits-all approaches to health care just do not work.

2410 And when it comes to drug addiction and abuse, in working
2411 with these issues what we hear from our providers, what we hear
2412 from families and survivors is one-size-fits-all does not work.

2413 Now, we would all love to see a repeal of the IMD exclusion.

2414 That would be wonderful, and while I am glad that this bill is
2415 before us -- and it is a step in the right direction and I applaud
2416 Mrs. Walters for the work on this -- I remain committed to allowing
2417 states to provide IMD treatment for those with substance abuse
2418 -- disorder abuse.

2419 This is right step. This gets us on the right track. It
2420 moves us toward getting rid of this one-size-fits-all approach,
2421 and I applaud the gentlelady from California and I yield back
2422 the balance of my time.

2423 The Chairman. I think the gentlelady from California would
2424 be open to you yielding her some time.

2425 Mrs. Blackburn. I yield to the gentlelady.

2426 Mrs. Walters. Thank you. Thank you, Mr. Chairman.

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2427 With 115 Americans dying each day, we have to focus on the
2428 opioid crisis. While we agree that all substance use disorders
2429 are important, we are prioritizing our resources to address the
2430 opioid crisis. This limited repeal of the IMD is for five years.

2431 Again, this is in reaction to addressing the crisis
2432 immediately. The term opioid use disorder includes heroin and
2433 fentanyl. It is clearly in the bill language.

2434 Patients who have opioid use disorder also often have other
2435 substance use disorders and will benefit under this bill.
2436 According to the 2016 National Survey on Drug Use and Health,
2437 92 percent of individuals dependent on opioids in the past year
2438 also were dependent on another drug.

2439 According to the 2016 National Survey on Drug Use and Health,
2440 66 percent of individuals dependent on opioids in the past year
2441 also had a mental illness. According to CDC data, deaths caused
2442 by opioids in 2014 were 434 percent greater than deaths caused
2443 by cocaine that same year.

2444 So it is imperative that we focus on that crisis right now.
2445 According to CDC, the entire category of stimulant drugs --
2446 cocaine, methamphetamine -- only account for 20 percent of drug
2447 overdose deaths. According to researchers from the University
2448 of Colorado Hospital and Kaiser Permanente, the most dramatic

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2449 rise in drug overdose deaths in the years 1999 to 2009 were from
2450 pharmaceutical opioids -- nearly a fourfold increase. That is
2451 why we are specifically focusing in on opioids.

2452 And I yield back.

2453 The Chairman. And does the Gentlelady yield back?

2454 Mrs. Blackburn. I yield back.

2455 The Chairman. Or does she want to yield to the gentleman
2456 from Texas -- final two minutes?

2457 Mrs. Blackburn. I yield to the gentleman from Texas.

2458 Mr. Burgess. I was just going to see about asking a question
2459 of counsel, if I could, Chairman.

2460 Mrs. Blackburn. I yield.

2461 Mr. Burgess. So a question for counsel --

2462 The Chairman. Would you get a little closer to your
2463 microphone, too?

2464 Mr. Burgess. The question for counsel would be -- in my
2465 training and experience, fentanyl is an opioid. Is that correct?

2466 The Staff. That's right, and it's covered in the
2467 legislation.

2468 Mr. Burgess. Okay. So it would be covered? Fentanyl
2469 would be covered under the Mimi Walters bill?

2470 The Staff. Yes. It's mentioned by name in the legislation

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2471 with a definition.

2472 Mr. Burgess. And then, further, I have some CMS data from
2473 medicaid.gov on the length of time to get a substance use disorder
2474 1115 waiver in 2017. Are you familiar with that list?

2475 The Staff. Yes.

2476 Mr. Burgess. So the state of Illinois took one year and
2477 seven months to get their 1115 waiver. Is that correct?

2478 The Staff. I think that's correct. They applied in October
2479 of 2016 and were approved in May of 2018.

2480 Mr. Burgess. So 579 days in a crisis where we are losing
2481 X number of people every day. That seems like a cause for moving
2482 with -- moving expeditiously on this, which is why I am grateful
2483 that Ms. Walters has offered this.

2484 Let me just ask you one other question about the 1115 waiver
2485 process more in general. Does it preclude a state asking for
2486 a waiver to treat any of these other disorders that have been
2487 mentioned -- alcoholism, stimulant misuse?

2488 The Staff. No. The 1115 waiver is for substance abuse
2489 disorder, which is broader.

2490 The Chairman. Could you pull that mic a little closer?

2491 The Staff. The 1115 CMS process as focused on substance
2492 use disorder is broader to cover those conditions that you

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2493 specified.

2494 Mr. Burgess. Okay. So but the bill that we are considering
2495 -- Mrs. Walters' bill -- is a narrow focus on opiate abuse because
2496 of the crisis that the country is facing.

2497 I am asking you to make an editorial statement, which is
2498 not fair, so I'll withdraw that question.

2499 Thank you, Mr. Chairman. I --

2500 The Chairman. We appreciate the clarification. The
2501 gentlelady's time has expired.

2502 Mrs. Blackburn. I yield back.

2503 The Chairman. And are there -- Ms. Matsui is recognized
2504 for five minutes to strike the last word.

2505 Ms. Matsui. Mr. Chairman, I move to strike the last word.

2506 Mr. Chairman, increasing access to care is one of our main
2507 goals here. Inpatient treatment is one type of care that is
2508 necessary for some patients and we do need to work to ensure we
2509 are not placing arbitrary limits in it.

2510 However, I am concerned that this bill does nothing to move
2511 the needle. States like California are already participating
2512 in waivers that are more comprehensive than this one, providing
2513 access to inpatient care, and to a comprehensive set of services.

2514

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2515 Any state has the option to seek this existing waiver. Under
2516 this proposed new option, states can only expand access to
2517 inpatient care for individuals with an opioid use disorder.

2518 Where does that leave people with other substances use
2519 disorders or other mental health conditions and where does that
2520 leave people who many need care elsewhere along the continuum?

2521 I am also concerned that this legislation will spend a large
2522 amount of precious resources on something that is not as
2523 comprehensive as what is currently available.

2524 I'd rather investment in making any needed improvements to
2525 the current waiver process and work to ensure that services are
2526 available across the entire spectrum of care.

2527 Thank you, and I yield back.

2528 The Chairman. The gentlelady yields back.

2529 The chair now recognizes the gentleman from Indiana, Dr.
2530 Bucshon, for five minutes to strike the last word.

2531 Mr. Bucshon. Yes. I move to strike the last word.

2532 I just want to speak in general on the IMD exclusion and
2533 say that I am supportive of this amendment and this underlying
2534 legislation because the IMD exclusion is a relic of the past and
2535 when we were deinstitutionalizing our treatment of mental health
2536 patients.

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2537 But it is that -- it's a relic of the past -- and any change
2538 in the IMD exclusion specifically for this particular indication
2539 is something that I would be very supportive of, as a physician.

2540 And I do think we do need to continue to look at ways to
2541 address the overall IMD exclusion. It makes no sense. We have
2542 heard testimony in this committee about the failure of that, about
2543 patients being stuck in the emergency room and having nowhere
2544 to go and being discharged with inadequate mental health care
2545 treatment.

2546 So I just wanted to -- wanted to bring that back up and I
2547 understand that there is a cost to eliminating the IMD exclusion.

2548 But when you try to explain to constituents that we can't allow
2549 access to care and that there is such a large population of people
2550 that need it but that we are limiting it, that's a pretty hard
2551 concept for people to understand.

2552 And therefore, any dent in the IMD exclusion I am supportive
2553 of, and with that, I can yield to Mrs. Walters.

2554 Mrs. Walters. Well, the -- thank you. Thank you for
2555 yielding.

2556 I agree that Medicaid waivers are important. In fact, there
2557 is nothing in the bill that prevents states from applying of a
2558 waiver. This bill removes a barrier to inpatient treatment and

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2559 allows for states to get more timely approval of the IMD limited
2560 repeal.

2561 A state plan amendment can be approved in about 90 days.
2562 However, Section 1115 substance use disorder waivers take
2563 significant time to review and approve.

2564 I note the number of days to consider recent waivers:
2565 Illinois, 579 days; Kentucky, 506 days; Indiana, 366 days;
2566 Maryland, 499 days.

2567 We need to repeal the IMD exclusion for opioid use disorders.
2568 This crisis demands that we not rely on waivers that require
2569 such extended review times.

2570 And I yield back.

2571 Mr. Bucshon. I yield back, Mr. Chairman.

2572 The Chairman. Gentleman yields back.

2573 The chair recognizes the gentleman from Massachusetts, Mr.
2574 Kennedy, for five minutes to strike the last word on the Walters
2575 amendment.

2576 Mr. Kennedy. Thank you, Mr. Chairman.

2577 I want to thank my colleague for offering this amendment
2578 and for the recognition, I think, across this committee for the
2579 need to adjust the IMD exclusion, particularly in the midst of
2580 an opioid epidemic and the crisis that we are in the midst of

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2581 at the moment.

2582 I would point out, however, that there is a broader and deeper
2583 -- or a broad and deep, I should say -- crisis in access to mental
2584 health care across this country as well.

2585 We have, I think when you take a step back and look at it,
2586 systemically an acknowledgment of the three largest -- that the
2587 three largest institutions providing psychiatric care in our
2588 country are the jails in Chicago, New York, and Los Angeles.

2589 We have to recognize that African-American children visit
2590 mental health professionals nearly half as often as white
2591 classmates.

2592 We have to acknowledge the fact that families living below
2593 the poverty line are more likely to experience serious
2594 psychological distress and yet we still are putting in structural
2595 barriers for them to access their care.

2596 We have to acknowledge the fact that 60 percent of -- excuse
2597 me, 60 million Americans are living with mental health care --
2598 with mental health crises -- millions of Americans are living
2599 with mental health crises and 60 percent of them don't get any
2600 access to treatment at all.

2601 We have to recognize that at every level and in every way
2602 this country fails to treat those with mental illness the same

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2603 as it does with physical illness.

2604 And so while we are addressing the aspects of an IMD exclusion
2605 when it comes to the opioid epidemic which, yes, we need to do,
2606 the idea that there is not an absolute crisis in this country
2607 for access to mental behavioral health care is just -- it is just
2608 not true.

2609 And we see it in our emergency rooms, as this committee has
2610 heard. We see it -- you talk to any hospital administrator, you
2611 talk to any emergency room doctor, it's all they talk about.

2612 I was -- I was a prosecutor before I came to office. You
2613 see this -- our jails end up being the safety net system for our
2614 mental behavioral health system, and we have an opportunity now,
2615 given the acknowledgment of the fact that this is an outdated
2616 policy that needs to be addressed. Then let's address it, and
2617 let's address it systemically and let's use this as an opportunity
2618 to address the other underlying issues and access to our mental
2619 behavioral health care across this country.

2620 I appreciate the focus from my colleague in offering this
2621 legislation. But I do think that if we are going to acknowledge
2622 the crisis that exists in opioids and fail to acknowledge the
2623 broader access to care crises that exist around the nation, we
2624 do an extraordinary disservice to, again, the 20 percent of

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2625 Americans that are struggling with mental behavioral illness
2626 across our nation.

2627 I yield back.

2628 The Chairman. Did the gentleman yield back?

2629 Mr. Kennedy. I am sorry?

2630 The Chairman. The gentleman yields back the balance of his
2631 time.

2632 Are there other members seeking recognition on the
2633 Republican side?

2634 If not, the gentleman -- the chairman recognizes -- do you
2635 want me to go down to Mrs. Dingell -- for five minutes to strike
2636 the last word.

2637 Mrs. Dingell. Strike the last word. Thank you, Mr.
2638 Chairman.

2639 I am going to be very brief. But I want to talk about this
2640 from a real-world perspective. I agree, and I think everybody
2641 here is acknowledging that the system is broken and it needs to
2642 be fixed.

2643 But to do it, and as my other colleagues have said, to do
2644 it in such a narrow way, I've, unfortunately, had real-world
2645 experience in this and cannot address why people begin taking
2646 drugs.

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2647 Many are suffering from depression or anxiety, and you may
2648 start on prescription drugs, and I appreciated my colleague, Dr.
2649 Burgess, asking for a clarification.

2650 But if you've ever lived with someone that has a drug
2651 addiction, they will take whatever they can get on the street.

2652 So it may be OxyContin one day. It may be Percocet another day,
2653 and they very quickly can go to cocaine, heroin, back to anything
2654 else.

2655 And we are going to kick somebody out of a program because
2656 they used heroin one day? We need to fix the problem and you'll
2657 never know the desperation of trying to get somebody into a program
2658 until you've walked in those shoes.

2659 But it just isn't limited to just this. We need to fix it
2660 for everybody.

2661 And I yield back the balance of my time.

2662 The Chairman. The gentleman yields back -- the gentlelady,
2663 I am sorry, yields back the balance of her time.

2664 The chair recognizes himself to speak on the amendment, and
2665 I'd like to submit for the record a letter from the Oregon Hospital
2666 Association that we just received outlining their views on a
2667 number of the bills that are before us.

2668 Oregon is one of those states with a waiver and yet that

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2669 still presents some issues. And so the Oregon Hospital
2670 Association supports limited repeal of the IMD exclusion for adult
2671 Medicaid beneficiaries with substance use disorder.

2672 They've long supported elimination of the IMD exclusion and
2673 believe that this measure is a step in the right direction and
2674 that's what we are doing here today is taking a lot of good steps
2675 in the right direction.

2676 We all know there is more work to be done, going forward.
2677 But I would like to submit this for the record and support the
2678 gentlelady's amendment.

2679 [The information follows:]

2680

2681 *****COMMITTEE INSERT 25*****

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2682 The Chairman. With that, I yield back and recognize the
2683 ranking member of the committee, Mr. Pallone of New Jersey.

2684 Mr. Pallone. Thank you, Mr. Chairman.

2685 I'd like to strike the last word and I am speaking about
2686 the underlying bill.

2687 The so-called Medicaid IMD exclusion is a tough issue.
2688 Absolutely we need all the tools available to us to address this
2689 crisis in patient treatment centers that focus on the treatment
2690 of behavioral health needs are indisputably part of that and we
2691 need to do what we can to ease access to care.

2692 And that's why I support CMS' guidance, both the guidance
2693 from the Obama and Trump administrations, that allow states to
2694 waive the IMD exclusion if the state also takes steps to ensure
2695 that people with SUDs have access to other care they need including
2696 preventive treatment and recovery services.

2697 So far, 22 states have waivers approved or pending before
2698 the administration. I think these waivers are important to
2699 support and that's why I also support legislation before this
2700 committee that would help states expand provider treatment
2701 capacity across the continuum of care to help states meet SUD
2702 waiver requirements, and I support doing whatever we can to make
2703 it easier for states to apply for SUD waivers.

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2704 My own home state of New Jersey has approval for a waiver
2705 right now. Under that waiver, they have total flexibility, for
2706 instance, to provide as many or as little inpatient days in an
2707 IMD as are needed.

2708 New Jersey has committed to larger milestones to redesign
2709 their full system and build out all SUD benefits. So this
2710 flexibility certainly makes sense.

2711 And I think the administration's policy to allow for IMD
2712 reimbursement while also incentivizing states to expand community
2713 treatment options is a good one.

2714 MACPAC has found that most states have gaps in substance
2715 use disorder SUD coverage, covering an average of just six of
2716 nine services described by the American Society of Addiction
2717 Medicine as necessary to address the continuum of care.

2718 And as we heard in our legislative hearing on this issue
2719 we can't push a system where people cycle in and out of
2720 institutions. People with substance use disorders need a range
2721 of supports to stay well long term.

2722 But, unfortunately, I have to express my opposition to this
2723 bill. This bill will cost a great deal of money out of Medicaid
2724 for a short-term policy.

2725 Fundamentally, I can't support creating a new financing

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2726 cliff in Medicaid that we must offset now and every five years
2727 from now of this magnitude.

2728 Further, this policy limits residential treatment to adults
2729 with opiate use disorders and does not help people with such other
2730 SUDs such as the use of alcohol, cocaine, and methamphetamines.

2731 Now, I have concerns about creating a system in states
2732 whereby only some of our Medicaid beneficiaries with SUD have
2733 access to the full range of care they need.

2734 And, finally, I am concerned that the bill still lacks the
2735 incentives the waivers provide for improving the full continuum
2736 of care for people with SUDs and could instead push states to
2737 overinvest in IMDs relative to community-based SUD services.

2738 So in the short time this legislation has been publicly
2739 available, stakeholders have weighed in vehemently on both sides
2740 of the particulars of this bill and I think we need to work
2741 additional work with our stakeholders here.

2742 So I think this issue is too important to get wrong and so
2743 I don't support the legislation at this time.

2744 And I yield back, Mr. Chairman.

2745 The Chairman. The gentleman yields back.

2746 Any other member seeking recognition? If not, we can go
2747 to an amendment -- or a vote on the Walters amendment.

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2748 Those in favor will say aye.

2749 Those opposed, nay.

2750 The ayes appear to have it. The ayes have it. The amendment
2751 is agreed to.

2752 Are there other amendments to the underlying bill?

2753 For what purpose does my friend from Illinois seek
2754 recognition?

2755 Mr. Rush. Mr. Chairman, I have an amendment at the desk.

2756 The Chairman. The clerk will report the Rush amendment.

2757 The Clerk. Amendment to H.R. 5797, offered by Mr. Rush.

2758 The Chairman. Without objection, the first reading --

2759 further reading of the amendment is dispensed with and the

2760 gentleman is recognized for five minutes to speak on his

2761 amendment.

2762 [The amendment of Mr. Rush follows:]

2763

2764 *****COMMITTEE INSERT 26*****

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2765 Mr. Rush. I want to thank you, Mr. Chairman.

2766 Mr. Chairman, my amendment, Rush 25, simply expands
2767 treatment options for addicts in the U.S. While are here and
2768 discussing the opioid addiction, Mr. Chairman, we are ignoring
2769 other acute addiction issues that continue to face our nation.

2770 Addressing the opioid epidemic is important but that does
2771 not mean that we can ignore long-standing killers like alcohol
2772 and other intoxicants.

2773 So remember this, Mr. Chairman -- my amendment expands the
2774 underlying treatment option to those suffering from substance
2775 abuse which includes, among other things, alcohol, stimulants
2776 such as cocaine, and opiate use disorder, in too many communities,
2777 including mine, many of the primary causes of drug-related deaths.

2778 While I am glad, Mr. Chairman, that we are addressing the
2779 opioid issue, ignoring other addicts and other addictions is not
2780 only a grave disservice -- it is a gross injustice.

2781 Too often, Mr. Chairman, this committee and this House have
2782 paid attention to issues only when they affect the majority --
2783 the majority white population. This leaves far too many black
2784 and other brown Americans behind.

2785 These other Americans have suffered because of the inaction
2786 and the indifference of elected officials. In my eyes, Mr.

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2787 Chairman, that means that we have failed as a legislative body.

2788 Why it is -- why is that instead of treatment -- why is it,
2789 Mr. Chairman, that instead of treatment, minority Americans are
2790 subject to incarceration?

2791 Why is it, Mr. Chairman, that issues of this degree only
2792 generate headlines and action by this Congress when they come
2793 to a white face?

2794 Even more insulting, Mr. Chairman, when a crises impacts
2795 the African-American community, it's seen by this body as a
2796 criminal justice crises but when it affects the white community
2797 it's seen as a public health crisis?

2798 This bill as written, Mr. Chairman, adds insults to injury
2799 by once again excluding treatment for those who are primarily
2800 addicted to crack cocaine even though it serves as a gateway to
2801 the opioid addiction that we are seeing in every community across
2802 this nation.

2803 So, Mr. Chairman, I think it is crucial that we -- that this
2804 committee ceases disregarding these long-forgotten Americans.

2805 And before I close, Mr. Chairman, I really want to express my
2806 displeasure at attempts by staff to persuade me to tone down my
2807 remarks.

2808 This adds intolerable insult to this deeply-felt injury.

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2809 This issue is one that should park outrage in all of us -- outrage
2810 for the untold numbers of families that have been torn apart --
2811 outrage for those who suffer too long with too little help, and
2812 outrage for those who are languishing even today in our jails
2813 instead of receiving the treatment that they so badly and
2814 desperately need.

2815 With that, Mr. Chairman, I yield back the balance of my time
2816 and I withdraw my amendment.

2817 The Chairman. I appreciate the gentleman's passion on this
2818 issue and we look forward to continuing to work with him, and
2819 the gentleman withdraws his amendment.

2820 Are there other members wishing to comment on this
2821 legislation, to speak on it, or to offer amendments?

2822 If not, if there is no -- if there is no further discussion,
2823 the question now arises on approving and favorably reporting H.R.
2824 5797 as amended to the House.

2825 All those in favor will signify by saying aye.

2826 Those opposed, no.

2827 The ayes appear to have it. The ayes have it and the measure
2828 is favorably reported to the House.

2829 The chair now calls up H.R. 5799 -- this would be number
2830 26 -- and asks for the clerk to report.

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2831

[The bill follows:]

2832

2833

*****INSERT 27*****

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2834 The Clerk. H.R. 5799, to amend Title 19 of the Social
2835 Security Act to require as a condition of receipt a full federal
2836 medical assistance percentage under Medicaid that state Medicaid
2837 plans have in place certain drug utilization review activities.

2838 The Chairman. Without objection, the first reading of the
2839 bill is dispensed with. The bill will be open for amendment at
2840 any point.

2841 Are there any bipartisan amendments?

2842 For what purpose does the gentleman from New York seek
2843 recognition?

2844 Mr. Collins. I have an amendment.

2845 The Chairman. The gentleman has an amendment at the desk
2846 -- the Collins amendment. The clerk will report the amendment.

2847 The Clerk. Amendment to H.R. 5799, offered by Mr. Collins.

2848 The Chairman. Without objection, the reading of the
2849 amendment is dispensed with. The gentleman from New York is
2850 recognized for five minutes to speak in support of his amendment.

2851 [The amendment of Mr. Collins follows:]

2852

2853 *****COMMITTEE INSERT 28*****

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2854 Mr. Collins. Thank you, Mr. Chair. The opioid epidemic
2855 has had devastating impacts on American communities. The abuse
2856 and overutilization of an addictive opioid prescription drug can
2857 fundamentally change who you are.

2858 It can rob you of your ambitions, dreams, dignity, and of
2859 what makes you you. The federal government and all 50 states
2860 have a duty to serve its Medicaid enrollees to the best of their
2861 ability.

2862 I commend the bills we are passing through committee today
2863 as they will help in preventing substance abuse disorder.

2864 The Medicaid Drug Improvement Act builds on current state
2865 Medicaid drug utilization review activities that combat the
2866 opioid epidemic. Building on the efforts of this committee and
2867 Congresswoman Blackburn, I would like to submit an amendment with
2868 my colleagues, Mr. Peters and Mr. Welch, to this bill.

2869 Our bipartisan amendment requires states to identify and
2870 address inappropriate prescribing and billing practices under
2871 Medicaid. States are currently authorized to implement their
2872 prescription drug monitoring activities through their
2873 prescription drug monitoring programs and claims data. But not
2874 all states have adopted such activities.

2875 We have identified this gap in policy along with the

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2876 Department of Health and Human Services. The current and former
2877 administration's presidential budgets requested that state
2878 Medicaid programs track high prescribers and users of
2879 prescription drugs in Medicaid as part of their current drug
2880 utilization review process.

2881 This amendment will serve as a sound check and balance,
2882 protecting America's low-income populations including children,
2883 pregnant women, adults, individuals with disabilities, and
2884 seniors.

2885 It is a common sense bipartisan proposal and I urge my
2886 colleagues to adopt this amendment.

2887 With that, Mr. Chair, I yield back.

2888 The Chairman. Gentleman yields back the balance of his
2889 time.

2890 Mrs. Blackburn. If the gentleman would yield.

2891 The Chairman. Are there other members seeking recognition?

2892 The gentleman from Vermont, Mr. Welch, recognized for five
2893 minutes to speak on the amendment.

2894 Mr. Welch. Thank you, Mr. Chairman, and I thank you
2895 colleague, Mr. Collins, for a very good explanation about a very
2896 serious problem.

2897 You know, the Medicaid program does pay for the dispensation

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2898 of pain-relieving medication and it has a vantage point where
2899 it can practically oversee where there may be excessive
2900 prescriptions in patterns that are developing that raise really
2901 serious questions.

2902 This over prescription of opioids has been a major
2903 contributor to the ongoing epidemic. Some individuals become
2904 addicted through the well-intentioned use of prescription
2905 medications. Other may seek out prescriptions to basically
2906 supply an ongoing addiction.

2907 And while the majority of doctors -- overwhelming majority
2908 -- are acting with the patient's best interest in mind, there
2909 is been an immense amount of pressure from pharma to peddle these
2910 products as the magic answer to everybody's pain.

2911 And there has also been, I think, a misstatement that there
2912 is not in life some pain that we have to endure when the relief
2913 that is being offered is worse than the pain itself.

2914 So this legislation would allow and require actually state
2915 Medicaid programs to identify, to inform, and to educate doctors
2916 to limit their over prescribing and it also must work to detect
2917 the few bad actors and respond accordingly.

2918 I yield back the balance of my time.

2919 The Chairman. Gentleman yields back the balance of his

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2920 time.

2921 Are there other members seeking recognition on this
2922 legislation?

2923 The chair recognizes the gentlelady from Tennessee, Mrs.
2924 Blackburn, for five minutes to strike the last word.

2925 Mrs. Blackburn. Thank you, Mr. Chairman.

2926 I want to just say to Mr. Collins and Mr. Welch I appreciate
2927 the amendment. I think it's a good amendment. It improves the
2928 bill and I urge its inclusion.

2929 The Chairman. And the gentlelady yields back the balance
2930 of her time.

2931 Other members seeking recognition to speak on the Collins
2932 amendment?

2933 If not, the question now arises on approving the Collins
2934 amendment.

2935 All those in favor will say aye.

2936 Those opposed, nay.

2937 The ayes appear to have it. The ayes have it. The Collins
2938 amendment is agreed to.

2939 Are there other members seeking recognition on the bill or
2940 -- yes, for what purpose does the gentlelady seek recognition?

2941 Mrs. Blackburn. Thank you, Mr. Chairman. I move --

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2942 The Chairman. Recognized --

2943 Mrs. Blackburn. -- to strike the last word.

2944 The Chairman. -- she's recognized to strike the last word
2945 -- five minutes.

2946 Mrs. Blackburn. Okay. Thank you, Mr. Chairman.

2947 Part of the work that we have been doing in this committee
2948 is ensuring that our state, our local, and our federal officials
2949 have all the tools that are necessary in the tool box, and as
2950 we have listened and held meetings and worked with all of our
2951 stakeholders, there are things that come forward.

2952 Thus, we have all of this group of bills today. These tools
2953 include not only funds but also additional authorities and
2954 policies that will allow patients to get the treatment they need
2955 and prevent more of our friends and neighbors, those that are
2956 close to us and that we love, from facing this addiction.

2957 A majority of states have been using medical management tools
2958 and techniques to address this crisis -- the opioid crisis. The
2959 Medicaid Drug Improvement Act looks at states' drug utilization
2960 review, or DUR, programs and puts in place minimum standards for
2961 these programs.

2962 I think this is an important step to take to get that minimum
2963 in place. Tennessee's TennCare program recently implemented new

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2964 policies in this area including a five-day limit on initial
2965 prescriptions for acute pain, prior authorization for refills
2966 and robust pharmacy lock-in programs.

2967 Many of these programs have seen positive outcomes for
2968 enrollees but not every state puts these tools and techniques
2969 in place. So under this bill, states would be required at a
2970 minimum to have refill guidelines in place for opioids, place
2971 safety guidelines in place related to maximum daily morphine
2972 equivalent for patients undergoing treatment for chronic
2973 conditions, institute claims review process that flag fills
2974 violating the state's limitations, monitor concurrent
2975 prescribing of opioids and other drugs, and monitor the
2976 anti-psychotic prescribing for children.

2977 Because of the forward-thinking good work already done by
2978 some of the states' Medicaid programs, this bill does not mandate
2979 specific policies or thresholds for these standards.

2980 It simply says at a minimum these requirements are made.

2981 It does give the states flexibility to determine the best
2982 approach for their enrollees. Requiring these minimum standards
2983 will benefit Medicaid enrollees in every state while allowing
2984 individual states to determine the best way to implement these
2985 standards.

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2986 So I urge my colleagues to support the bill and I yield back
2987 my time.

2988 The Chairman. Gentlelady yields back her time.

2989 Other members seeking recognition to speak on the bill?

2990 There is no further.

2991 So the question now occurs on favorably reporting H.R. 5799
2992 as amended to the House.

2993 All those in favor will signify by saying aye.

2994 Those opposed, no.

2995 The ayes appear to have it. The ayes have it and the bill
2996 is favorably reported.

2997 The chair now calls up H.R. 5800 -- this would be number
2998 27 and ask the clerk to report.

2999 [The bill follows:]

3000

3001 *****INSERT 29*****

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3002 The Clerk. H.R. 5800, to require the Medicaid and CHIP
3003 Payment and Access Commission to conduct an exploratory study
3004 and report on requirements applicable to the practices of
3005 institutions for mental diseases under the Medicaid program.

3006 The Chairman. Without objection, the first reading of the
3007 bill is dispensed will and they bill will be open for amendment
3008 at any point.

3009 Are there any bipartisan amendments to the bill or any
3010 amendments?

3011 For what purpose does the gentleman from Michigan seek
3012 recognition?

3013 Mr. Upton. Mr. Chairman, I have no amendments but I ask
3014 to strike the last word.

3015 The Chairman. Without objection, the gentleman is
3016 recognized for five minutes to strike the last word.

3017 Mr. Upton. And I won't use my full five minutes. This is
3018 a -- what should be a pretty routine bipartisan noncontroversial
3019 bill.

3020 What this act requires is that Medicaid and CHIP Payment
3021 and Access Commission no later than January 1st of 2020 submit
3022 to Congress a report on information about services furnished to
3023 Medicaid enrollees who are patients in an IMD -- Institute of

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3024 Mental Disease -- standard that IMDs must follow including quality
3025 standards and recommendations on how CMS can improve the data
3026 collection for IMDs.

3027 As we know, an IMD refers to a facility of more than 16 beds
3028 that's primarily engaged in providing diagnosis treatment or care
3029 of folks with mental diseases including treatment for individuals
3030 with substance use disorder.

3031 According to SAMHSA's 2014 National Survey on Drug Use and
3032 Health, about 8 million people have had both a mental disorder
3033 and substance use disorder, also known as co-occurring mental
3034 and substance use disorders.

3035 So the goal of this legislation is to better help Congress
3036 and CMS understand how currently Medicaid dollars are being used
3037 to provide care for patients with substance use disorder and
3038 mental disease in an IMD.

3039 So the GAO office has produced a study on IMD services in
3040 recent years. The goals of this bill is to identify gaps in our
3041 knowledge and leverage MACPAC's research capabilities to help
3042 address those gaps.

3043 And I yield back the balance of my time.

3044 The Chairman. The gentleman yields back the balance of his
3045 time.

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3046 Other members seeking recognition to speak on this
3047 legislation?

3048 If not, the question now occurs on favorably reporting H.R.
3049 5800 to the House.

3050 All those in favor, say aye.

3051 Those opposed, no.

3052 The ayes appear to have it. The ayes have it and H.R. 5800
3053 is favorably reported to the House floor.

3054 The chair now calls up H.R. 5801 -- number 28 on your list
3055 -- and asks the clerk to report.

3056 [The bill follows:]

3057

3058 *****INSERT 30*****

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3059 The Clerk. H.R. 5801, to amend Title 19 of the Social
3060 Security Act to provide for requirements under the Medicaid
3061 program relating to the use of qualified prescription drug
3062 monitoring programs in prescribing certain controlled
3063 substances.

3064 The Chairman. Without objection, the first reading of the
3065 bill is dispensed with. The bill will be open for amendment at
3066 any time.

3067 The chair recognizes the gentleman from Virginia for
3068 purposes of offering an amendment.

3069 Mr. Griffith. Mr. Chairman, I have an amendment at the desk.

3070 The Chairman. The clerk will report the amendment.

3071 The Clerk. Amendment to H.R. 5801, offered by Mr. Griffith.

3072 The Chairman. And without objection, the reading of the
3073 amendment is dispensed with.

3074 The gentleman is recognized for five minutes to speak on
3075 his amendment.

3076 [The amendment of Mr. Griffith follows:]

3077

3078 *****COMMITTEE INSERT 31*****

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3079 Mr. Griffith. Thank you, Mr. Chairman. I will take this
3080 opportunity to speak on the underlying act as well.

3081 The Partnership Act, H.R. 5801, is being marked up today
3082 -- is a critical step in the right direction to ensuring the
3083 appropriate providers have the information they need to make the
3084 best most informed choices for their patients.

3085 Studies have shown that in states where the provider is
3086 required to check the prescription drug monitoring program, PDMP,
3087 before prescribing prescriptions and doctor shopping decreased.

3088

3089 Mortality rates decreased as well. In fact, implementation
3090 of Florida's PDMP was associated with a 25 percent decrease in
3091 mortality related to oxycodone.

3092 In addition, President Obama's 2016 CMS informational
3093 bulletin notes that "PDMPs are most effective when they are used
3094 by all clinicians," end quote, and in fact, according to Pew,
3095 33 states have some form of mandated checks in their state law.

3096 This bill would require that all state Medicaid programs
3097 integrate prescription drug monitoring data into the provider's
3098 clinical workflow and requires the provider to check the PDMP
3099 system before prescribing a Schedule II controlled substance.

3100 This bill will also help incentivize increased communication

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3101 among border states, reducing and hopefully eliminating the
3102 challenges some providers face accessing information across state
3103 lines.

3104 This has been a significant barrier to curbing abuse,
3105 especially in my district. Importantly, this bill also includes
3106 exemptions for Hospice or palliative care patients, patients
3107 suffering from cancer, and allows for the waiver of the
3108 requirements laid out in the bill in the case of natural disasters
3109 and emergencies.

3110 PDMP technology exists now that can help save lives by
3111 identifying those who may be at risk and I hope my colleagues
3112 on both sides of the aisle will support this measure to help ensure
3113 these tools are used in a way that can make a critical difference
3114 in the fight against the opioid epidemic.

3115 I also have the amendment previously referenced that will
3116 address concerns my counterparts on the other side of the aisle
3117 raised. This amendment addresses those concerns and is proof
3118 of the good work being done by Republicans and Democrats alike
3119 to address this devastating crisis.

3120 I thank both the chairman and the ranking member for their
3121 work on this important piece of legislation and encourage all
3122 members to support the amendment and the bill and, as we discussed

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3123 previously on 1925, H.R. 58701 still has some technical things
3124 that we are trying to get worked out, which we will do before
3125 we reach the floor, working together.

3126 Thank you. I yield back.

3127 The Chairman. Gentleman yields back. Thank you for your
3128 good work.

3129 Any other members seeking recognition on the Griffith
3130 amendment?

3131 Seeing none, the question now arises on approving the
3132 Griffith amendment.

3133 All those in favor say aye.

3134 Those opposed, no.

3135 The ayes appear to have it. The ayes have it.

3136 Is there anyone else with an amendment or seeking to speak
3137 on the bill?

3138 If not, the question now arises on favorably reporting H.R.
3139 5801 as amended to the House.

3140 All those in favor will signify by saying aye.

3141 Those opposed, no.

3142 The ayes appear to have it. The ayes have it and H.R. 5801
3143 as amended is reported to the House floor.

3144 The chair now calls up H.R. 5808 -- this is number 29 --

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3145 and asks the clerk to report.

3146 [The bill follows:]

3147

3148 *****INSERT 32*****

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154

3149 The Clerk. H.R. 5808, to amend Title 19 of the Social
3150 Security Act to require states to operate drug management programs
3151 for at-risk beneficiaries and for other purposes.

3152 The Chairman. Without objection, the first reading of the
3153 bill is dispensed with. The bill will be open for amendment at
3154 any point.

3155 Are there any bipartisan amendments?

3156 Are there any amendments?

3157 Is there anyone seeking recognition to speak in support of
3158 this bill?

3159 The chair recognizes the gentleman from Florida for five
3160 minutes to strike the last word.

3161 Mr. Bilirakis. Thank you, Mr. Chairman. I appreciate it.

3162 H.R. 5808, the Medicaid Pharmaceutical Home Act, which I
3163 introduced with my good friend and colleague, Ben Ray Lujan, would
3164 codify the lock-in program within the -- within the Medicaid and
3165 require all 50 states and territories to be in the Medicaid
3166 program.

3167 Patient review and restriction programs are a common tool
3168 to address the opioid crisis. These programs, often called
3169 lock-in, directly address the problem of drug diversion through
3170 doctor shopping or pharmacy shopping by locking in a patient to

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3171 a single designated provider, pharmacy, or both.

3172 This successful tool has been utilized by TRICARE and the
3173 commercial insurance. The opioid crisis is taking a toll across
3174 America. We all know that.

3175 But it's an even heavier toll on Medicaid beneficiaries who
3176 are more likely to both be addicted to opioids and to overdose
3177 on them, unfortunately.

3178 According to the Kaiser Family Foundation, about 38 percent
3179 of opioid-dependent nonelderly adults -- about 2 million people
3180 -- are insured by Medicaid. This means that Medicaid covers four
3181 in 10 nonelderly adults with an opioid addiction, sadly.

3182 In 2013, the Trust for America's Health issued a report on
3183 strategies to stop the prescription drug epidemic and number 10
3184 was Medicaid lock-in.

3185 They wrote, and I quote, "In order to help health care
3186 providers monitor potential abuse or inappropriate utilization
3187 of controlled prescription drugs, states have implemented
3188 programs requiring high users of certain drugs to use only one
3189 pharmacy and get prescriptions for controlled substances from
3190 only one medical office. Lock-in programs can help avoid doctor
3191 shopping while ensuring appropriate pain care for patients," end
3192 quote.

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3193 The formula that every state uses is different and varies.
3194 In the April opioid hearing, two witnesses talked about how their
3195 Medicaid managed care plans provide lock-in programs and how
3196 successful it has been in reducing utilization and hospital
3197 admissions.

3198 But one common theme that they mentioned is that Medicaid
3199 is fundamentally different than Medicare. We have one Medicare
3200 program, obviously, throughout the United States. But we have
3201 50 Medicaid programs.

3202 Every Medicaid program is different and built to fit the
3203 needs of their states. We can't do a one-size-fits-all approach
3204 to lock-in under Medicaid.

3205 The Medicaid Pharmaceutical Home Act tries to strike the
3206 right balance to bring some uniformity to the Medicaid lock-in
3207 program while allowing states the flexibility to design to fit
3208 their needs -- design it to fit their needs.

3209 The bill would also require several reports from CMS and
3210 MACPAC on lock-in and also establish some best practices so that
3211 states can improve their programs and improve outcomes for the
3212 populations.

3213 I support this bill, obviously, the bill that I filed with
3214 my friend, Ben Ray Lujan. I look forward to advancing the bill

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3215 on the floor of the House and I want to thank the committee for
3216 working with us and my staff and Ben's staff as well.

3217 And I believe I want to yield some time to my friend, Ben
3218 Ray Lujan. Is that good? I yield -- I yield the time -- the
3219 rest of my time to Ben Ray.

3220 Thank you.

3221 Mr. Lujan. Thank you, Mr. Bilirakis.

3222 The bill we are considering today will build off of work
3223 done in the Comprehensive Addiction Recovery Act and I want to
3224 thank Mr. Bilirakis and his staff for working on this issue
3225 together.

3226 This bill is an important step forward to help everyone stay
3227 as safe as possible when it comes to prescription opioids and
3228 pharmacy choice. This bill would require all states to have a
3229 lock-in program that identifies at-risk Medicaid beneficiaries
3230 and sets limits on the number of prescribers and dispensers that
3231 people can use.

3232 This particular draft makes significant changes to the
3233 discussion draft that we considered previously. The scope has
3234 been narrowed as well as grandfathering in all fee-for-service
3235 Medicaid programs.

3236 I want to especially note all beneficiary appeals and

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3237 protections have been significantly strengthened and for the most
3238 part track appeals and beneficiary choice for lock-in under the
3239 Medicare program.

3240 I know there was a lot of work that went into negotiating
3241 to get this bill to a bipartisan place and I appreciate that time
3242 and energy, Mr. Chairman.

3243 This is truly a compromise bill and, again, I appreciate
3244 the work of Mr. Bilirakis, his staff, and Kimberly Espinoza for
3245 the important work that they did.

3246 And with that, I yield back to Mr. Bilirakis.

3247 The Chairman. The gentleman yields back.

3248 Mr. Bilirakis. I yield back.

3249 The Chairman. Does the gentleman from Florida yield back?

3250 He does?

3251 Are there other members seeking recognition to speak on H.R.

3252 5808?

3253 If not, the question now occurs on favorably reporting H.R.

3254 5808 to the House.

3255 All those in favor will say aye.

3256 Those opposed, no.

3257 The ayes appear to have it. The ayes have it and the measure

3258 is reported to the House floor.

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3259 The chair calls up H.R. 5810 -- this would be number 30 --
3260 and asks the clerk to report.

3261 [The bill follows:]

3262

3263 *****INSERT 33*****

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3264 The Clerk. H.R. 5810, to amend Title 19 of the Social
3265 Security Act to provide for an extension of the Enhanced Act MAT
3266 for certain Medicaid health homes for individuals with substance
3267 use disorders.

3268 The Chairman. Without objection, the first reading of the
3269 bill is dispensed with. The bill will be open for amendment at
3270 any time.

3271 I believe there is a bipartisan amendment in order, Mr.
3272 Lance. Would that be right?

3273 Mr. Lance. Yes.

3274 The Chairman. With Mr. Green?

3275 Mr. Lance. Yes. Thank you, Mr. Chairman. I move to strike
3276 the last word.

3277 The Chairman. The clerk will report the Lance-Green --
3278 Green-Lance amendment. I don't know who's leading on that.

3279 Mr. Lance. I think maybe Congressman Green.

3280 The Chairman. Oh.

3281 Mr. Green. I move to strike the last word, Mr. Chairman.

3282 The Chairman. All right.

3283 Mr. Green. I'll lead.

3284 The Chairman. Well is it your amendment, Mr. Green? Is
3285 it --

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3286 Mr. Lance. All of us. It's --

3287 The Chairman. Let's have the clerk report the amendment.

3288 The Clerk. Amendment to H.R. 5810, offered by Mr. Lance
3289 and Mr. Green.

3290 The Chairman. All right. And now the chair recognizes the
3291 gentleman from New Jersey, Mr. Lance, to strike the last word
3292 on this amendment.

3293 [The amendment of Mr. Lance and Mr. Green follows:]

3294

3295 *****COMMITTEE INSERT 34*****

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3296 Mr. Lance. Thank you, Mr. Chairman.

3297 I commend you and your staff for working with our office
3298 on this piece of legislation and I certainly commend Mr. Green.

3299 The -- according to the American Society of Addiction
3300 Medicine, access to opiate addiction treatment is a critical
3301 component of the federal government's response to the public
3302 health crisis.

3303 Medication-assisted treatment refers to combining psycho
3304 social behavioral treatments with the FDA-approved medications
3305 for opiate or drug or alcohol use disorders.

3306 Currently, two medications -- methadone and buprenorphine
3307 -- are approved for opiate replacement treatment and a third,
3308 a long-acting injectable, is approved for preventing relapse.

3309 However, while many state Medicaid programs cover these
3310 drugs they do not cover methadone treatment. This amendment,
3311 bipartisan in nature by Congressman Green and by me, seeks to
3312 remedy this issued by providing a five-year authorization of
3313 funding to ensure state Medicaid programs can offer all available
3314 treatment modalities.

3315 Making sure all treatment options are available to
3316 beneficiaries will ensure that the patient can have access to
3317 appropriate treatments as determined by his or her physician.

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3318 While some medication may work for certain individuals it
3319 may not work for another and we do not want to limit any
3320 individual's efforts to get well by covering arbitrarily some
3321 treatments while denying others.

3322 This amendment will state Medicaid plans to provide coverage
3323 for all medication-assisted treatment over a targeted five-year
3324 period.

3325 Once state begin to implement changes to their Medicaid
3326 plans, Congress can review the impact of the expansion of
3327 treatment access and determine whether it should extend the
3328 authorization.

3329 The amendment provides sensible exemptions for states such
3330 as Wyoming, who do not have a methadone clinic in the state.
3331 I hope the committee will take up this bipartisan amendment and
3332 pass it favorably.

3333 The Chairman. Does the gentleman want to yield to one of
3334 his colleagues?

3335 Mr. Lance. I certainly -- I certainly yield to my colleague,
3336 Congressman Green.

3337 Mr. Green. Thank you.

3338 I thank my colleague for yielding to me. I want to thank
3339 both my colleague from Vermont and New Jersey for working on this

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3340 amendment. Supporting the amendment would require state
3341 Medicaid plans to provide coverage for all medication-assisted
3342 treatments, or MATs.

3343 Through our committee hearings on the opioid crisis, we had
3344 heard from our public health agencies and treatment professionals
3345 on the importance of medication-assisted treatment.

3346 Research shows that a combination of medication and therapy
3347 can successfully treat substance use disorders and for some people
3348 struggling with addiction, MAT can help sustain recovery.

3349 The Kaiser Family Foundation recently reviewed MAT coverage
3350 in state Medicaid programs. They found that while every Medicaid
3351 program provides coverage for at least one MAT medication, there
3352 are 14 state Medicaid programs that do not cover methadone.

3353 My amendment -- our amendment would ensure that Americans
3354 struggling with opioid abuse and other substance use disorder
3355 would have access to the most appropriate MAT for their recovery
3356 under Medicaid.

3357 The amendment does provide for an exception for states that
3358 do not have enough qualified medication-assisted treatment
3359 providers or facilities. This amendment would focus on what
3360 Americans struggling with opioid abuse need the most -- access
3361 to the treatment.

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3362 And I'll yield back my time.

3363 The Chairman. It's Mr. Lance's time and the ever-patient
3364 Mr. Welch would probably like to speak on this.

3365 Mr. Lance. Thank you, and I would like to yield to Mr. Welch,
3366 who has been so influential in this whole issue.

3367 Mr. Welch. I move to strike the last word.

3368 The Chairman. Do you want your own time? That's fine.

3369 Then, Mr. Lance, do you want to yield back?

3370 Mr. Lance. I yield back the balance of my time.

3371 The Chairman. The chair recognized for a complete dose of
3372 time, the full five minutes, to the gentleman from Vermont.

3373 Mr. Welch. I'll be -- I'll be less than five minutes.

3374 You know, there is some interesting history here, though.

3375 You know, chronic conditions are a huge part of the health care

3376 expense -- very difficult to treat -- and one of the provisions

3377 in the Affordable Care Act, Section 2103, created an optional

3378 Medicaid state plan benefit that allowed states -- so it was a

3379 local decision -- to establish health homes to coordinate care

3380 for people on Medicaid who have chronic conditions. And the

3381 number of chronic conditions included mental health, substance

3382 abuse, diabetes, and heart disease and under current law states

3383 receive a two-year 90 percent enhanced federal medical assistance

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3384 percentage -- FMAP -- if they establish those homes.

3385 And the data shows that if you actually have a chronic care
3386 plan you get better health outcomes and lower expense, and Vermont
3387 is one of the states that currently participates in this program
3388 and would benefit from an additional half year of that federal
3389 matching funding.

3390 So what this would do is continue to provide that incentive
3391 to states to set up their own plan that included chronic care
3392 for folks who have a substance abuse disorder program.

3393 Vermont has had pretty good success with its hub-and-spoke
3394 program and new guidelines and limits for providers who would
3395 prescribe the appropriate medical assistance for folks with
3396 substance abuse disorders, and we are one of four states that's
3397 utilized the home health program and is part of what is called
3398 our hub-and-spoke model.

3399 By increasing that length of the FMAP, we can accomplish
3400 this goal of better chronic care and lower incidence of the use
3401 of inappropriate opioids.

3402 So I am delighted to work with Mr. Lance and Mr. Green and
3403 hope that our committee will find this something they can support,
3404 and I yield back.

3405 Thank you, Mr. Chairman.

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3406 The Chairman. I thank the gentleman for his good work on
3407 this -- all our colleagues.

3408 Are there other members seeking recognition on this Lance
3409 amendment?

3410 If not, the question now arises on approving the Lance-Green
3411 et. al. amendment.

3412 And those in favor will say aye.

3413 Those opposed -- those opposed, no.

3414 The ayes appear to have it. The ayes have it. The amendment
3415 is adopted.

3416 Are there other members seeking recognition to speak on the
3417 bill as amended?

3418 Seeing none, the question now arises on favorably reporting
3419 H.R. 5810 to the House floor.

3420 All those -- as amended -- all those in favor will say aye.

3421 Those opposed, no.

3422 The ayes appear to have it. The ayes have it. The bill
3423 is reported favorably as amended.

3424 Okay. The chair now calls up H.R. 5715 -- 5715 -- that's
3425 number 15 on your programs -- and asks the clerk to report.

3426 [The bill follows:]

3427

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3428

*****INSERT 35*****

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3429 The Clerk. H.R. 5715, to amend Title 18 of the Social
3430 Security Act to provide for certain program integrity
3431 transparency measures under Medicare Part C and D.

3432 The Chairman. Without objection, the first reading of the
3433 bill is dispensed with. The bill will be open for amendment at
3434 any point.

3435 I understand there are -- are there any bipartisan
3436 amendments?

3437 The chair recognizes Mr. Guthrie for purposes of offering
3438 an amendment.

3439 Mr. Guthrie. Thank you.

3440 The Chairman. The clerk will report the Guthrie amendment.

3441 The Clerk. Amendment to H.R. 5715, offered by Mr. Guthrie.

3442 The Chairman. And without objection, the reading of the
3443 amendment is dispensed with. The gentleman is recognized for
3444 five minutes in support of his amendment.

3445 [The amendment of Mr. Guthrie follows:]

3446

3447 *****COMMITTEE INSERT 36*****

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3448 Mr. Guthrie. Thank you, Mr. Chairman.

3449 This is a technical amendment so I'll talk also of the
3450 underlying bill. In 2016, over 500,000 Medicare beneficiaries
3451 were written prescriptions for opioids at nearly 22 times the
3452 recommended maximum for long-term usage.

3453 Nearly 70,000 beneficiaries were written prescriptions at
3454 almost five times that recommended max. The Centers for Medicare
3455 and Medicaid Services does have an opioid misuse strategy, which
3456 aims to lower opioid over prescribing, drug diversion, and fraud
3457 within the Medicare Part D program.

3458 While these are laudable goals, CMS in itself is handicapped
3459 in its ability to measure progress. CMS currently requires all
3460 health insurers offering Part D or Medicare Advantage plans to
3461 institute a compliance program to detect fraud, waste, and abuse
3462 and take corrective action against providers engaging in
3463 misconduct.

3464 However, while it encourages them to report this fraud,
3465 waste, and abuse they find, it doesn't actually require them to
3466 do so.

3467 Furthermore, the plan sponsors do share information with
3468 CMS and asks for help in their investigations. They often find
3469 the agency to be a black box.

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3470 CMS is not required to share with them the results of its
3471 own investigations and corrective actions as well as information
3472 on misconduct, fraud schemes reported by other plans.

3473 The lack of transparency and communication significantly
3474 undermines each's ability to combat fraud and abuse within the
3475 Part D program.

3476 The Strengthening Partnership to Prevent Opioid Abuse Act
3477 will make common sense changes recommended by both GAO and HHS
3478 inspector general to encourage greater data sharing and
3479 coordination between CMS and insurers.

3480 This will help each of them to reduce opiate prescribing
3481 fraud and abuse within Medicare Part D. It requires Part D and
3482 Medicare Advantage Plan sponsors to share information on the
3483 investigations and actions they take to providers who prescribe
3484 dangerously high volumes of opioids.

3485 It also requires CMS to respond to plans regarding their
3486 referrals and results of investigations. Finally, it creates
3487 the online portal for facilities -- to facilitate this exchange
3488 of information so that each can find the providers who are over
3489 prescribing or committing fraud and take appropriate action.

3490 When fraudulent providers are removed from plan networks
3491 in the Medicare system, then opiate prescribers are better

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3492 educated on appropriate prescribing methods. Fewer seniors will
3493 be at risk for overdose and addiction.

3494 So fraudulent providers will be removed from plans and what
3495 the amendment does -- it's technical in nature -- it would clarify
3496 and make technical changes dealing with fraud hotlines.

3497 Fraud hotlines are established to allow for anonymous
3498 reporting. Allowing anonymous reporting is commendable and it
3499 is necessary to encourage reporting of suspected fraud and abuse.

3500 However, a system that relies solely on anonymous reporting
3501 without other evidence is susceptible to receiving baseless or
3502 exaggerated complaints against providers that are innocent of
3503 any fraud.

3504 False claims could result in suspension of payment, causing
3505 undue hardships and irreparable damage to an innocent provider.

3506 So this amendment states -- makes clear that an anonymous tip
3507 alone cannot be the basis for action.

3508 But, hopefully, it is the basis to begin an investigation
3509 that leads to evidence if there is abuse and to action taken.

3510 If there are not any other questions, anyone seeking my time,
3511 I will yield back.

3512 The Chairman. The gentleman yields back.

3513 Other members seeking recognition on the Guthrie amendment?

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3514 If not, there is no further discussion. The vote occurs
3515 on the Guthrie amendment.

3516 Those in favor signify by saying aye.

3517 Those opposed, nay.

3518 The ayes appear to have it. The ayes have it. The Guthrie
3519 amendment is adopted.

3520 Are there other members seeking recognition on the bill as
3521 amended or have amendments?

3522 Seeing none, the question now occurs on favorably reporting
3523 H.R. 5715 as amended to the House.

3524 All those in favor will signify by saying aye.

3525 Those opposed, no.

3526 The ayes appear to have it. The ayes have it. The bill
3527 is favorably reported as amended to the House floor.

3528 The chair calls up H.R. 5716 -- this is number 16 -- and
3529 asks the clerk to report.

3530 [The bill follows:]

3531

3532 *****INSERT 37*****

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3533 The Clerk. To amend Title 18 of the Social Security Act
3534 to require the secretary of Health and Human Services to provide
3535 notifications under the Medicare program to outlier prescribers
3536 of opioids.

3537 The Chairman. Without objection, the first reading of the
3538 bill is dispensed with. The bill will be open for amendment at
3539 any point.

3540 Are there any bipartisan amendments?

3541 For what purpose does the -- that's what I thought.

3542 Are there any amendments?

3543 Seeing none, the chair recognizes the gentlelady from
3544 Indiana to speak on the bill for five minutes.

3545 Mrs. Brooks. Move to strike the last word.

3546 The Chairman. Without objection. I don't believe -- there
3547 you go.

3548 Mrs. Brooks. Thank you. This legislation takes one more
3549 step in the right direction to ensure prescribers of opioids are
3550 held accountable for their prescribing practices.

3551 According to the CDC, the amount of opioids that have been
3552 prescribed and sold in the United States has quadrupled in the
3553 last 20 years. Yet, the overall amount of pain Americans have
3554 reported has not changed.

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3555 In 2013, health care providers wrote 249 million
3556 prescriptions for opioids to treat pain. That's enough
3557 prescriptions to provide every American adult with one bottle
3558 of pills and, in fact, in one of my counties in Indiana, in Madison
3559 County, in 2016, 110 opioid prescriptions were written for every
3560 100 residents, so even more than one, according to the CDC.

3561 One way we can reduce the prevalence of opioids in our homes
3562 and communities is to equip prescribers with the information and
3563 education necessary to ensure good prescribing practices.

3564 This legislation, which I've introduced with my colleagues,
3565 Mr. Welch and our colleagues on the Ways and Means Committee,
3566 will require CMS to establish a threshold for which a prescriber
3567 would be considered an outlier opioid prescriber.

3568 CMS would then be responsible for notifying outlier
3569 prescribers of their status and providing them with information
3570 on proper prescribing methods.

3571 In order to ensure accuracy, this threshold would be
3572 established in consultation with stakeholders and would take
3573 specialty and geographic location into consideration -- a process
3574 modeled after the comparative billing reports that CMS
3575 successfully released in January.

3576 Ensuring prescriber education regarding the risks of opioid

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3577 use, alternative treatments for pain and addiction, will change
3578 the projection of this epidemic and the ability to identify and
3579 notify health care professionals who over prescribe opioids and
3580 provide them with information on proper opioid prescribing
3581 practices is one more step forward in our goal to end this opioid
3582 epidemic.

3583 I look forward to working with my colleagues to ensure
3584 practitioners have the education necessary to utilize proper
3585 prescribing practices and better pain management techniques as
3586 well as adequately identify and treat patients who may show signs
3587 of drug misuse and addiction.

3588 I believe this is one more important step and I hope we
3589 continue to focus on and continue to discuss ways that we can
3590 continue to educate more prescribers about opioids.

3591 With that, I encourage my colleagues to support this
3592 legislation and yield back.

3593 The Chairman. Gentlelady yields back the balance of her
3594 time.

3595 Other members seeking recognition to speak on H.R. 5716?

3596 Seeing none, the question now occurs on favorably reporting
3597 H.R. 5716 to the House floor.

3598 All those in favor will signify by saying aye.

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3599

Those opposed, no.

3600

The aye appears to have it and the bill is favorably reported.

3601

The chair calls up H.R. 5796 -- this is number 17 -- asks

3602

the clerk to report.

3603

[The bill follows:]

3604

3605

*****INSERT 38*****

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3606 The Clerk. H.R. 5796, to require the secretary of Health
3607 and Human Services to provide grants for eligible entities to
3608 provide technical assistance to outlier prescribers of opioids.

3609 The Chairman. Without objection, the first reading of the
3610 bill is dispensed with. The bill will be open for amendment at
3611 any time.

3612 Are there any bipartisan amendments?

3613 Are there any amendments?

3614 Does anyone seek recognition to speak on the bill?

3615 Mr. Shimkus. Mr. Chairman.

3616 The Chairman. The chairman of the Subcommittee on
3617 Environment is recognized for five minutes to speak on the bill.

3618 Mr. Shimkus. Thank you, Mr. Chairman.

3619 Mr. Chairman, this bill would provide technical assistance
3620 grants to further educate, spread best practices, and in turn,
3621 reduce the amount of opioid prescriptions from outlier providers.

3622 During our legislative hearing we heard testimony that
3623 detailed how many of the providers identified as outlier
3624 prescribers simply didn't realize they were prescribing more
3625 opioids than their peers with similar patients, geography, and
3626 practice specialty.

3627 CMS and the quality improvements already provide technical

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3628 assistance to improve provider feedback and, given the urgency
3629 of this crisis, additional focus on this issue is warranted.

3630 Doctors already want to do the right thing by their patients
3631 and by providing peer-to-peer support for prescribers who are
3632 credible outliers, we can begin to share best practices that are
3633 clinically appropriate for patients.

3634 I urge my colleagues to support this bipartisan bill and
3635 yield back the balance of my time.

3636 The Chairman. The gentleman yields back.

3637 The chair recognizes the gentleman from New Jersey to strike
3638 the last word.

3639 Mr. Pallone. Thank you, Mr. Chairman.

3640 I just wanted to engage in a brief colloquy with you on this
3641 bill.

3642 I am supportive of the underlying legislation as well as
3643 the companion bill that would notify outlier prescribers of
3644 opioids of their prescribing practices.

3645 Together, these two pieces of legislation could help
3646 education outlier prescribers on how to return to the appropriate
3647 prescribing range for their specialty and could help to reduce
3648 over prescribing of opioids.

3649 However, I am concerned with the proposes funding included

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3650 in this bill for the purposes of implementing technical assistance
3651 for outlier prescribers and believe we need more information on
3652 whether this is an appropriate funding level for the purposes
3653 of this legislation.

3654 Additionally, while I understand that on occasion we have
3655 used Medicare trust fund transfers as a way to facilitate certain
3656 legislative actions.

3657 I strongly believe we must be good stewards of the Medicare
3658 trust fund and for this reason I've also -- I also have concerns
3659 with the funding provision as it's currently drafted.

3660 So given that the intent of this legislation has bipartisan
3661 support, it's my hope that we could continue working on improving
3662 the bill to achieve bipartisan consensus on how to implement this
3663 policy.

3664 So if I could just ask you, Mr. Chairman, if you're willing
3665 to commit to working with us to improve this policy.

3666 The Chairman. Does the chairman -- does the gentleman
3667 yield?

3668 Mr. Pallone. I yield.

3669 The Chairman. I appreciate the colloquy and the member's
3670 desire to ensure we are being fiscally responsible with this
3671 legislation and I share your desire.

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3672 As you noted, this is a bipartisan policy agreement on the
3673 underlying issue of educating providers who are outlier
3674 prescribers. We need to provide physicians with the tools to
3675 ensure they are acting within clinically approved guidelines.

3676 As you know, language in the bill is based on preliminary
3677 technical assistance from CMS. Our staffs have re-engaged CMS
3678 and are currently working on various pathways that we believe
3679 can be easily executed once there is a final sign-off with our
3680 colleagues on the Ways and Means Committee to accomplish the
3681 policy and ideally reduce the needed funding.

3682 We need the balance of being fiscally responsible with
3683 ensuring these policies are operational. The lowest number to
3684 achieve both goals is the one I want and I think you do as well.

3685 So I appreciate your very important point. We are happy
3686 to continue to work with you and your team on this issue, and
3687 I yield back.

3688 Mr. Pallone. Well, thank you, Mr. Chairman, and I
3689 appreciate your willingness to continue work on the funding
3690 provisions. I look forward to finding a path forward that we
3691 can all support.

3692 And with that, I will yield back.

3693 The Chairman. The gentleman yields back.

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3694 Other members seeking recognition? Seeing none, the
3695 question now occurs on favorably reporting H.R. 5796 to the House.

3696 All those in favor will say aye.

3697 Those opposed, nay.

3698 The ayes appear to have it. The ayes have it. The bill
3699 is favorably reported to the House.

3700 The chair calls up H.R. 5590 -- this would be number nine
3701 -- number nine -- and asks the clerk to report.

3702 [The bill follows:]

3703

3704 *****INSERT 39*****

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3705 The Clerk. H.R. 5590, to require the secretary of Health
3706 and Human Services to provide for an action plan on
3707 recommendations for changes under Medicare and Medicaid to
3708 prevent opioid addictions and enhanced access to
3709 medication-assisted treatment and for other purposes.

3710 The Chairman. Without objection, the first reading of the
3711 bill is dispensed with. The bill will be open for amendment at
3712 any point.

3713 The chair recognizes the gentleman from Illinois, Mr.
3714 Kinzinger, for to offer an amendment -- the Kinzinger amendment.

3715 Mr. Kinzinger. Thank you, Mr. Chairman. I have an
3716 amendment at the desk.

3717 The Chairman. The clerk will report the amendment.

3718 The Clerk. Amendment to H.R. 5590, offered by Mr.
3719 Kinzinger.

3720 The Chairman. Without objection, the reading of the
3721 amendment is dispensed with. The gentleman is recognized for
3722 five minutes to speak on this amendment.

3723 [The amendment of Mr. Kinzinger follows:]

3724

3725 *****COMMITTEE INSERT 40*****

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3726 Mr. Kinzinger. Well, thank you, Mr. Chairman. I'll speak
3727 on the amendment and the underlying bill in the interests of time.

3728 This amendment makes changes to my bipartisan bill, H.R.
3729 5590, the Opioid Addiction Action Plan Act, which passed out of
3730 the Health Subcommittee on a voice vote.

3731 Specifically, this amendment combines the creation of an
3732 opioid addiction action plan with a report to Congress on ways
3733 to prevent and treat addiction for Medicaid and Medicare.

3734 Based on feedback from HHS, this amendment also provides
3735 the secretary six months instead of three to convene a public
3736 stakeholder meeting to provide feedback on the plan and to
3737 formally report their findings to Congress.

3738 Additionally, at the suggestion of Congresswoman
3739 Schakowsky, we have added a report on the price trend for drugs
3740 used to reverse overdoses like naloxone.

3741 Overall, this amendment makes H.R. 5590 a better, even more
3742 bipartisan bill and I encourage my colleagues to support the
3743 amendment.

3744 The Opioid Addiction Act plan is a common sense bill that
3745 directs HHS to examine and report on existing obstacles to
3746 responding to the opioid crisis. Medicaid covers close to four
3747 in 10 adults with an opioid addiction and one in three individuals

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3748 on Medicare were prescribed an opioid in 2016.

3749 So much of what we are doing today is looking at how we can
3750 encourage innovation and nonopioid pain treatments and increase
3751 access to treatment for substance use disorder.

3752 This bill simply says that we have got to make sure that
3753 government policies and regulations aren't standing in the way
3754 of these folks accessing these treatments. Patients deserve an
3755 options in a system that is flexible, adaptable, and focused on
3756 preventing and treating addiction and H.R. 5590 gets us much
3757 closer to that.

3758 With that, I encourage my colleagues to support this
3759 legislation and I yield back.

3760 The Chairman. Gentleman yields back.

3761 Other members seeking recognition?

3762 Gentlelady from I guess Illinois I should go to next -- Ms.
3763 Schakowsky -- for five minutes.

3764 Ms. Schakowsky. Thank you, Mr. Chairman. I move to strike
3765 the last word, and I am pleased that this amendment includes a
3766 study on the price of the lifesaving drug naloxone.

3767 With approximately 115 Americans dying each day from an
3768 opioid overdose, unaffordable and therefore inaccessible
3769 naloxone is a national crisis.

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3770 Opioid overdose deaths have reached epidemic proportions.
3771 Naloxone has the lifesaving power to instantly --
3772 instantaneously revive those who have overdosed.

3773 It is a highly effective drug with few adverse side effects.
3774 The FDA approved naloxone in 1971 and it has been used by
3775 emergency responders in hospitals for over 40 years.

3776 Given the rise in the opioid overdose deaths, the surgeon
3777 general has issued a rare public health advisory urging
3778 individuals to carry naloxone.

3779 Despite naloxone's generic availability, formulation of
3780 this drug has seen huge price increases within the last few years.

3781 The generic version now sells for double its price and Evzio,
3782 an auto-injectable, has increased its price 500 percent to \$4,500
3783 for a double pack. The price of naloxone is a huge barrier to
3784 this critically important drug and the skyrocketing prices have
3785 put huge burdens on states and localities and individuals as they
3786 try to stock these drugs.

3787 Recently, Baltimore City Health Department wrote to the
3788 Trump administration outlining that the price of naloxone has
3789 inhibited the ability of its public health system and communities
3790 to respond to the opioid crisis.

3791 Given the serious and exploitative price gouging occurring

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3792 and the severity of the crisis on our hands, we must know why
3793 these prices have spiked.

3794 So this study, which I am grateful is part of the bill, will
3795 ensure that we will have all relevant data and recommendations
3796 on how to lower these prices because access to this drug is
3797 literally the difference between life and death.

3798 And I thank you and yield back.

3799 The Chairman. The gentlelady yields back.

3800 Other members seeking recognition on this bill?

3801 The gentleman from Vermont is recognized for five minutes
3802 to strike the last word.

3803 Mr. Welch. Well, I thank my colleague, Congresswoman
3804 Schakowsky. You know, this situation we have with pharma is
3805 totally out of hand.

3806 Essentially, what they are doing with these incredible price
3807 increases -- you know, \$575 was the price one day. The next day
3808 it's \$4,500.

3809 They see suffering as a profit center. That's what it is.

3810 They are holding hostage the suffering of American families who
3811 have loved ones that need the medication they have.

3812 And what is the difference between a stickup and what they
3813 are doing? You've got somebody who needs this cancer drug. You

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3814 need -- someone who needs this drug that's going to save them
3815 from dying, and what pharma is they say, you want it -- how much
3816 is in your bank account. Oh, we have bled that dry -- what about
3817 a second mortgage. Oh, by the way, you still have a retirement
3818 account. They want it all, and that's what's happening.

3819 We are the only country where the government that represents
3820 consumers and all of its citizens refuses to stand up and help
3821 against price gouging by the pharmaceutical industry.

3822 It is a broken market. This not a supply demand situation.
3823 This is not what the market will bear. This is what pharma
3824 dictates we have to pay, and I find the contradiction between
3825 many people who went into the pharmaceutical industry,
3826 particularly our scientists, who were dedicated to using the
3827 skills they have to create products that were going to extend
3828 life and relieve suffering, their aspirations have been hijacked
3829 by the financial wizards who have one goal and one goal only and
3830 that's maximization of profit.

3831 You know, the head of one of our pharma industries over 10
3832 years made \$631 million -- \$631 million. So this proposal is
3833 modest and necessary. We have got to stop the pickup by pharma
3834 that is holding hostage the suffering of American families.

3835 I yield back.

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3836 Mr. Upton. [Presiding.] Gentleman yields back.

3837 Other members wishing to speak on the amendment?

3838 Seeing none, the vote occurs on the amendment offered by
3839 the gentleman from Illinois, Mr. Kinzinger.

3840 All those in favor will say aye.

3841 Those opposed, say no.

3842 In the opinion of the chair, the ayes have it. The amendment
3843 is agreed to.

3844 Are there further amendments to the bill?

3845 Seeing none, the vote occurs on H.R. 5590 as amended.

3846 Those in favor will say aye.

3847 Those opposed say no.

3848 In the opinion of the chair the ayes have it. The bill is
3849 approved by the committee and sent to the floor.

3850 The chair will now call up H.R. 5603 and ask the clerk to
3851 report.

3852 [The bill follows:]

3853

3854 *****INSERT 41*****

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3855 The Clerk. H.R. 5603, to amend Title 18 of the Social
3856 Security Act to provide the secretary of Health and Human Services
3857 authority to waive certain Medicare telehealth requirements in
3858 the case of certain treatment of an opioid use disorder or
3859 co-occurring mental health disorder.

3860 Mr. Upton. And without objection, the first reading of the
3861 bill is dispensed with. The bill will be open for amendment at
3862 any point.

3863 Are there any bipartisan amendments?

3864 The gentlelady has an amendment to the bill. The gentlelady
3865 from California is -- the clerk will report the title of the
3866 amendment.

3867 The Clerk. Amendment in the nature of a substitute to H.R.
3868 5603 offered by Ms. Matsui.

3869 Mr. Upton. And the staff will distribute the substitute
3870 and the gentlelady from California is recognized for five minutes
3871 in support of her amendment.

3872 [The amendment of Ms. Matsui follows:]

3873

3874 *****INSERT 42*****

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3875 Ms. Matsui. Thank you, Mr. Chairman.

3876 Mr. Chairman, I've been working in a bipartisan way with
3877 the chairman, the co-sponsor of this bill, Representative Bill
3878 Johnson, and other members of our committee for many years now
3879 on expanding access to medical services using telemedicine.

3880 We know that if you can get patients the care they need as
3881 early as possible before their disease progresses to a crisis
3882 point, we can improve their health outcomes.

3883 We also know that managing chronic conditions like substance
3884 use disorder or a mental illness requires consistent ongoing
3885 access to treatment.

3886 However, especially when we are talking about the opioid
3887 epidemic, treatment is not always readily available when and where
3888 patients may need it.

3889 Telehealth can change that. We have seen successes across
3890 the country. Academic medical centers with expertise and
3891 specialties such as pain management or addiction services can
3892 reach patients where such expertise is not otherwise available.

3893 Telehealth can allow patients to work with their providers
3894 remotely to monitor their conditions and identify problems before
3895 they become emergencies.

3896 This especially makes sense for psychotherapy services

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3897 because a video visit with a clinician can be just as effective
3898 as an in-person visit, and convenience is not a trivial factor
3899 here for both the doctor and the patient.

3900 For the patient, having to miss work, drive or take public
3901 transportation across town, or schedule appointments weeks in
3902 advance can be major barriers to seeking care.

3903 Ease of access to treatment may be the determining factor
3904 as to whether or not patients seek treatment at all. For
3905 clinicians who may only be able to drive to a remote clinic once
3906 a month, telemedicine opens up opportunities for them to see more
3907 patients remotely once a week or even every day.

3908 In the end, this would decrease costs because patients will
3909 be able to better manage their conditions rather than end up in
3910 the emergency room or rehospitalized.

3911 This bill allows the secretary of HHS to waive current
3912 Medicare restrictions on telehealth services for substance use
3913 disorder and co-occurring mental illnesses. There are existing
3914 services for which telehealth is currently allowed but only under
3915 very limited geographic and originating site restrictions.

3916 We want to lift those arbitrary restrictions. And while
3917 the bill leaves the discretion to the secretary to decide exactly
3918 what services are appropriate for expanded access to

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3919 telemedicine, the intention here is to ensure that a robust set
3920 of services is considered and included so that providers can
3921 really integrate telemedicine into their practice.

3922 Providers can't adopt the technology that enables secure
3923 video visits or other telemedicine services or update the work
3924 flows to incorporate that practice if only one or two services
3925 are allowed.

3926 There are a few bills we are considering today that really
3927 expand access to substance use and mental health treatment, and
3928 this is one of them. We have to do everything we can to break
3929 down barriers to care and technology holds a unique potential
3930 to help us do that.

3931 I urge my colleagues to support this amendment and the
3932 underlying bill. I thank you and I yield back.

3933 Mr. Upton. Gentlelady yields back.

3934 Other members wishing to speak?

3935 The gentleman from Ohio, Mr. Johnson, is recognized for five
3936 minutes.

3937 Mr. Johnson. Thank you, Mr. Chairman.

3938 I move to strike the last word.

3939 I support this amendment and the underlying bill. I've been
3940 pleased to work with my colleague, Representative Matsui, to

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3941 expand the availability of telehealth to all patients.

3942 Today we notch a win in that mission by passing H.R. 5603,
3943 the Access to Telehealth Services for Opioid Use Disorder. This
3944 legislation sets up a process to allow patients suffering from
3945 substance use disorder or co-occurring mental health issues to
3946 access the care they need through telehealth regardless of where
3947 they live.

3948 For people living in rural eastern and southeastern Ohio,
3949 for example, access to health care professionals can be a
3950 challenge. But patients in urban cities and suburban areas can
3951 face similar challenges.

3952 Through technology we can connect patients directly to
3953 health care where they are and when they need it, and that can
3954 be a powerful tool in combating substance use disorder where a
3955 wait of even a few days for treatment could be the difference
3956 between life and death.

3957 I encourage the secretary of HHS who will implement this
3958 legislation to use this tool to the fullest extent possible.
3959 I've said many times that effectively addressing the opioid crisis
3960 is an all-hands-on-deck effort and that includes federal policies
3961 removing barriers to effective treatment.

3962 I also want to highlight the connection between this

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3963 legislation and another bill we are considering today to allow
3964 for substance use disorder records to be included in a person's
3965 full medical record fully protected by HIPAA.

3966 For providers to give effective treatment whether in person
3967 or through telehealth, they must know the full scope of a patient's
3968 medical history and that includes the disease of addiction.

3969 After all, it is a disease, and if we are going to effectively
3970 treat it as such, we should make sure that health care providers
3971 are given the tools to do so.

3972 So I urge my colleagues to support this amendment and the
3973 underlying bill and I yield back the balance of my time.

3974 Mr. Upton. Gentleman yields back. The chair would
3975 recognize the gentlelady from California, Ms. Eshoo, five
3976 minutes.

3977 Ms. Eshoo. Thank you, Mr. Chairman. I move to strike the
3978 last word.

3979 I am very pleased to support H.R. 5603, and when I was
3980 listening to my friend, Congresswoman Doris Matsui, I couldn't
3981 help but think that she has a very soft voice. But her words
3982 are weighty and especially in this bill because it is a bill that
3983 represents the expansion of services to those that need them in
3984 a very smart new way and that is through telehealth.

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3985 At one of our hearings I asked the CMS person that was
3986 testifying whether telemedicine saves the federal government
3987 money and if it should be available to patients regardless of
3988 where they live, and our witness responded favorably.

3989 This bill makes important changes that will bring changes
3990 for substance abuse and opioid use disorders to patients in a
3991 more efficient and cost effective manner.

3992 The bill also benefits both rural and urban patients and
3993 I think that that's another plus on the bill. Our committee is
3994 made up of many members that represent rural areas and there is
3995 a real plus for their constituents in this and, obviously, this
3996 addiction is in every congressional district in the country.

3997 So telemedicine, I think, is the -- is one of the real futures
3998 for treatment in our country. My congressional district is in
3999 the Bay Area, northern California, and even patients who live
4000 locally and, for example, wish to get to Stanford University
4001 Hospital or their clinics, we face horrendous traffic.

4002 And so it's hard for people to get to where they want to
4003 go, even though they may live in that general area. And so, again,
4004 this legislation -- this telehealth services -- speaks to not
4005 only where people live but what they have to get through in order
4006 to obtain services.

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4007 Telehealth fits right into this. The bill removes the
4008 reimbursement barriers that prevent addiction treatment
4009 providers from providing medical or psychiatric evaluations to
4010 a patient through telehealth. That's very important.

4011 Here we are in the second decade of the 21st century and
4012 to think that we have a law that bars patients from using
4013 telehealth shows you why this bill is important, because it
4014 removes that barrier.

4015 And the billing -- the billing associated with psychotherapy
4016 evaluation and management codes -- that's very important. So
4017 I think that this is -- leapfrogs the issue of moving into the
4018 future and telehealth is so important to that and the delivery
4019 of opioid and substance use disorder treatment.

4020 Everyone in the country -- every member and their
4021 constituents in the country can benefit from this. So I am proud
4022 to support it. I thank the gentlewoman for offering it, as well
4023 as her partner. It's good bipartisan legislature.

4024 And I yield back the balance of my time.

4025 Mr. Upton. Gentlelady yields back.

4026 Other members wishing to speak on the amendment?

4027 The gentleman from New Jersey, Mr. Pallone, is recognized.

4028 Mr. Pallone. Thank you. I just wanted to quickly express

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4029 my support for the legislation. I commend my colleagues, Ms.
4030 Matsui and Mr. Johnson, for their work on this important bill.

4031 When used appropriately, telehealth technology can be an
4032 effective and lower cost method for expanding services to
4033 underserved areas. Unfortunately, under current law Medicare
4034 beneficiaries in the traditional Medicare can only receive
4035 services via telehealth in limited circumstances.

4036 In most cases, reimbursement for services delivered via
4037 telehealth are only available at certain facilities in rural
4038 health professional shortage area, and we can't afford to not
4039 use the full potential of technology to connect folks struggling
4040 with opiate addictions to an already limited behavioral health
4041 workforce.

4042 So the legislation before us expands access to telehealth
4043 services for Medicare beneficiaries with opiate use disorders
4044 by giving the secretary the authority to lift the rural and
4045 originating site requirements for the treatment of substance use
4046 disorders and co-occurring mental health disorders.

4047 Effectively, the bill will expand the ability for people
4048 to receive the essential counseling services they need to find
4049 and maintain recovery without the need to drive hundreds of miles
4050 or forgo care entirely, especially in the context of this crisis,

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4051 which comes with significant stigma.

4052 We should work to ensure that people can find treatment where
4053 they feel capable and safe to do so. The bill is a targeted
4054 cost-effective approach to the opioid crisis that will expand
4055 access to services for those hardest hit, and I urge my colleagues
4056 to support the bill, which is also supported by a number of patient
4057 organization providers, including the Alliance for Connected
4058 Care, the American Telemedicine Association, the National
4059 Association of Mental Illness, Health IT Now, and Mental Health
4060 America.

4061 And I will yield back, Mr. Chairman.

4062 Mr. Upton. Gentleman yields back.

4063 Other members wishing to speak on the amendment?

4064 Seeing none, the vote occurs on the gentlelady's amendment
4065 in the nature of a substitute.

4066 All those in favor will say aye.

4067 Those opposed say no.

4068 In the opinion of the chair, the ayes have it. The amendment
4069 in the nature of a substitute is agreed to.

4070 Are there further amendments to the bill?

4071 Seeing none, the vote occurs on H.R. 5603 as amended.

4072 Those in favor will say aye.

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4073 Those opposed say no.

4074 In the opinion of the chair, the ayes have it and the bill
4075 is approved.

4076 The chair now calls up H.R. 5605 and asks the clerk to report.

4077 [The bill follows:]

4078

4079 *****INSERT 43*****

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4080 The Clerk. H.R. 5605, to amend Title 18 of the Social
4081 Security Act to provide for an opioid use disorder treatment
4082 demonstration program.

4083 Mr. Upton. Without objection, the first reading of the bill
4084 is dispensed with and the bill will be open for amendment at any
4085 point.

4086 Are there any bipartisan amendments?

4087 The gentleman from California is -- is there an amendment
4088 at the desk?

4089 Mr. Ruiz. Yes, I have an amendment in the nature of a
4090 substitute.

4091 Mr. Upton. The clerk will report the title of the amendment
4092 in the nature of a substitute.

4093 The Clerk. Amendment in the nature of a substitute to H.R.
4094 5605, offered by Mr. Ruiz.

4095 Mr. Upton. And the staff that -- the amendment will be
4096 considered as read. The staff will distribute the amendment and
4097 the gentleman is recognized for five minutes in support of his
4098 amendment.

4099 Mr. Ruiz. Thank you for considering the Advancing
4100 High-Quality Treatment for Opioid Use Disorders in Medicare Act.

4101 The bill will help ensure our seniors have access to

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4102 high-quality evidence-based opioid misuse disorder treatment.

4103 This crisis is complicated and there is no silver bullet
4104 that is going to magically fix it all. We need to think outside
4105 of the box and adopt policies that give individuals seeking
4106 treatment the tools they need to overcome their addiction.

4107 Opioid use among seniors is on the rise and the Substance
4108 Abuse and Mental Health Services Administration projects that
4109 the number of older adults who misuse prescription opioids will
4110 have doubled between 2004 and 2020.

4111 This makes sense when you consider how many seniors are being
4112 prescribed opioids. According to a July 2017 HHS OIG data brief,
4113 approximately one-third of Medicare beneficiaries received an
4114 opioid prescription in 2016 with over half a million receiving
4115 a high dose.

4116 Despite heightened risk factors, many seniors still do not
4117 have access to comprehensive evidence-based treatment under
4118 traditional Medicare. This is why this legislation is so
4119 critical.

4120 This voluntary demonstration project will create an
4121 alternative payment model through Medicare for comprehensive
4122 treatment and care programs for opioid misuse disorder and will
4123 establish quality measures that provide incentive payments to

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4124 coordinated care teams that meet the quality benchmark
4125 established by the secretary of HHS.

4126 Participating providers or institutions will receive a case
4127 management fee to enable them to provide wraparound services to
4128 Medicare beneficiaries and will receive a higher fee if the
4129 coordinated care team includes an addiction specialist.

4130 For Medicare beneficiaries participating in this program
4131 in addition to medication-assisted treatment, they will receive
4132 psycho social support such as psychotherapy, treatment planning,
4133 and appropriate social services to treat substance use disorders.

4134 This coordinated care approach is considered the gold
4135 standard of care if we want to successfully address this crisis.

4136 We need to ensure that individuals have access to treatments
4137 that will result in successful outcomes.

4138 I have seen firsthand the importance of this with my own
4139 patients in the emergency department. Getting
4140 medication-assisted treatment is important and the success of
4141 that treatment is enhanced if that patient is also participating
4142 in behavioral therapy, psychotherapy and receiving the
4143 appropriate social services.

4144 It is of the utmost importance that all Americans regardless
4145 of their age or how much money they make have access to

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4146 high-quality comprehensive treatment.

4147 This bill will help ensure that seniors get the gold standard
4148 for opioid addiction care and strengthen Medicare for them and
4149 they deserve no less.

4150 Seniors are at higher risk of being prescribed opioids
4151 because they have more chronic illnesses, more chronic pain
4152 issues, with arthritis and other issues related to their muscular
4153 skeletal system.

4154 Their physiology also has them prone to not be able to deal
4155 with the opioids that they are taking and therefore are prone
4156 for addiction in their elderly age.

4157 So this is why it's so important. They are more at risk
4158 of receiving opioids. They are more at risk of being addicted.
4159 But they don't currently have the gold standard of care through
4160 Medicare.

4161 So my bill will give them the gold standard of care and
4162 strengthen Medicare so that we can get our seniors off of their
4163 opioid addiction.

4164 So thank you again for considering this critical legislation
4165 and I urge the committee to support this legislation today.

4166 I yield back --

4167 Mr. Upton. Would the gentleman yield? Would the gentleman

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4168 yield?

4169 Mr. Ruiz. Sure.

4170 Mr. Upton. Let me just say, I want to note that from our
4171 side of the aisle we don't object to this bill or to your
4172 substitute. Appreciate your hard work and we have a pretty good
4173 history of working on a bipartisan basis and we welcome that
4174 cooperation with the members and staff.

4175 I appreciate the steps that minority has already taken to
4176 engage with us and lower the potential budget impact of the
4177 legislation, which the ANS reflects.

4178 However, I just might say that we want to work -- we need
4179 to have additional conversations with CBO to encompass the impact
4180 of the substitute and we will need to perhaps adjust and define
4181 some of those talks, in short.

4182 We think it needs a little but more work but we commit to
4183 have those conversations -- ultimately, get the bill to the House
4184 floor and I just want to say we will accept this and but we want
4185 to continue to say that the -- we need to have further dialogue.

4186 Mr. Ruiz. In the -- in the spirit of bipartisanship and
4187 my willingness to work in order to save lives and to do the right
4188 thing for our seniors, I am so willing to have any bipartisan
4189 conversation to help our seniors and to strengthen Medicare.

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4190 Thank you very much.

4191 Mr. Upton. Thank you.

4192 Other members wishing to speak on the amendment in the nature
4193 of a substitute?

4194 Seeing none, the vote occurs on the amendment in the nature
4195 of a substitute.

4196 Those in favor, say aye.

4197 Those opposed say no.

4198 In the opinion of the chair, the ayes have it. The amendment
4199 in the nature of a substitute is agreed to.

4200 Are there further amendments to the bill?

4201 Seeing none, the vote occurs on H.R. 5605 as amended.

4202 Those in favor will say aye.

4203 Those opposed say no.

4204 In the opinion of the chair the ayes have it. The amendment
4205 -- the bill in the nature of -- the bill as amended is agreed
4206 to.

4207 The chair will now call up H.R. 5798 and ask the clerk to
4208 report.

4209 [The bill follows:]

4210

4211 *****INSERT 44*****

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4212 The Clerk. H.R. 5798, the amend Title 18 of the Social
4213 Security Act to require a review of current opioid prescriptions
4214 for chronic pain and screening for opioid use disorder to be
4215 included in the Welcome to Medicare initial preventive physical
4216 examination.

4217 Mr. Upton. The amendment will be considered as read.

4218 Are there any amendments? Any bipartisan amendments to the
4219 bill?

4220 Are there any amendments to the bill?

4221 The gentleman from Indiana, Dr. Bucshon, has an amendment
4222 at the bill -- to the bill?

4223 Mr. Bucshon. I don't have an amendment. I am going to speak
4224 on the underlying bill.

4225 Mr. Upton. Strike the last word. The gentleman is
4226 recognized for five minutes.

4227 Mr. Bucshon. Move to strike the last word in support of
4228 the underlying bill.

4229 Mr. Chairman, H.R. 5798, the Opioid Screening and Chronic
4230 Pain Management Alternatives for Seniors Act, is a common sense
4231 legislation to help prevent seniors from becoming dependent on
4232 opioids.

4233 The bill would update the requirements to the Welcome to

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4234 Medicare initial assessment to include screening for seniors,
4235 for current opioid use for chronic pain, assessing whether that
4236 person is at risk for misuse or addiction, educating the patient
4237 on nonopioid alternatives to manage their chronic pain, and a
4238 referral to a specialist for pain management if needed.

4239 We know many seniors suffer from chronic pain. In fact,
4240 one in three Medicare Part D beneficiaries were prescribed an
4241 opioid in 2016. By screening seniors as they enter the Medicare
4242 system, practitioners can use this milestone as an opportunity
4243 to address their patients' concerns and manage their chronic pain
4244 while reducing risks associated with opioid use.

4245 As opioid use disorder continues to increase amongst older
4246 Americans, our seniors need to understand the risks of opioid
4247 use and discuss with their physicians the best course of
4248 treatment.

4249 I believe this legislation is a step forward in the fight
4250 against opioid dependence and I ask my colleagues to support H.R.
4251 5798.

4252 Thank you, Mr. Chairman. I yield back.

4253 Mr. Upton. Yields back.

4254 Other members wishing to speak or have an amendment?

4255 The gentlelady from Michigan, the great state.

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4256 Mrs. Dingell. Thank you, Mr. Chair. I move to strike the
4257 last word.

4258 Mr. Upton. Gentlelady is recognized for five minutes.

4259 Mrs. Dingell. Thank you, Mr. Upton. I am going to be brief
4260 but I do -- first of all I want to tell you what an honor it was
4261 to work with Dr. Bucshon on this but I want to offer a few words
4262 of support.

4263 Medicare is a lifeline for millions of constituents across
4264 the country and we have got to ensure we are doing everything
4265 we can to stop the opioid epidemic from spreading among our
4266 seniors.

4267 The Welcome to Medicare initial preventative physical
4268 examination is an important entry point to the health care system
4269 for many seniors and we should make sure that it is as
4270 comprehensive as possible addressing urgent health care needs.

4271 This common sense bill simply says ensure that the initial
4272 Welcome to Medicare exam includes a review of the opioid
4273 prescriptions for chronic pain and a screening for opioid use
4274 disorder.

4275 This would ensure that patients have information about
4276 nonopioid pain alternatives, which is important for many reasons.

4277 As I have said before, I know all the sides of this and we cannot

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4278 let the pendulum swing too far in either direction.

4279 We have got to make sure we are not stigmatizing people with
4280 chronic pain so patients still have access to the medication that
4281 they need to live a comfortable life.

4282 Improving awareness of nonopioid pain alternatives is
4283 essential. This bill will help ensure that new Medicare
4284 beneficiaries have their opioid prescriptions reviewed and that
4285 they have a discussion about nonaddictive alternatives available
4286 to them.

4287 I urge my colleagues to vote in favor of this important
4288 legislation and I yield back the balance of my time.

4289 Mr. Upton. Gentlelady yields back.

4290 Other members having an amendment wishing to speak on the
4291 bill?

4292 Seeing none, the vote occurs on H.R. 5798.

4293 Those in favor will say aye.

4294 Those opposed, say no.

4295 In the opinion of the chair, the ayes have it and the bill
4296 is agreed to.

4297 The chair will now call up H.R. 4684 as forwarded by the
4298 Subcommittee on Health on April 25th and ask the clerk to report.

4299 Oh, I am sorry. It's number two. I am sorry. It's number

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4300 two on your list.

4301 [The bill follows:]

4302

4303 *****INSERT 45*****

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4304 The Clerk. H.R. 4684, to direct the secretary of Health
4305 and Human Services acting through the director of the Center for
4306 Substance Abuse Treatment of the Substance Abuse and Mental Health
4307 Services Administration to publish and disseminate best practices
4308 for operating a recovery housing and other purposes.

4309 Mr. Upton. Without objection, the first reading of the bill
4310 is dispensed with. The bill will be open for amendment at any
4311 point.

4312 Are there any bipartisan amendments to the bill?

4313 Seeing none, are there any amendments to the bill?

4314 Seeing none, the vote occurs on H.R. 4684.

4315 Those in favor will say aye.

4316 I am sorry. Oh, I am sorry.

4317 Mrs. Walters asks for recognition. Strike the last word?

4318 Mrs. Walters. Yes. Yes, thank you, Mr. Chairman.

4319 Mr. Upton. The gentlelady is recognized for five minutes.

4320 Mrs. Walters. Thank you, Mr. Chairman.

4321 Like so many other communities, the scourge of opioid
4322 addiction has devastated Orange County, California. However,
4323 unlike most communities, Orange County has suffered the negative
4324 effects of fraudulent recovery residences, also known as sober
4325 living homes.

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4326 More importantly, the patients seeking to reclaim their
4327 lives are harmed by the most -- are harmed the most by these
4328 fraudulent recovery residences. Many recovery residences play
4329 a vital role in providing those in recovery with a safe and sober
4330 haven.

4331 Unfortunately, some fraudulent facilities have exploited
4332 patients by providing minimal care and dumping patients on the
4333 street once the insurance money is depleted, which also fuels
4334 Orange County's growing homelessness crisis.

4335 The Orange County DA, the Los Angeles DA, and the DOJ are
4336 conducting investigations into fraudulent recovery residences
4337 in southern California, an area often referred to as the Rehab
4338 Riviera.

4339 A lack of regulation, oversight, and accountability,
4340 particularly at the state level, has resulted in death, chaos,
4341 and false hope for those struggling with addiction.

4342 H.R. 4684, the Ensuring Access to Quality Sober Living Act,
4343 is a first step toward creating industry standards by requiring
4344 SAMHSA to develop and disseminate best practices for recovery
4345 residences to ensure safe environments for those seeking
4346 treatment.

4347 These standards are desperately needed to help patients

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4348 successfully recover while keeping Orange County community safe.

4349 I am proud to join Congresswoman Chu as a co-sponsor on this
4350 important bill and I thank her for her work on this issue.

4351 I yield back.

4352 Mr. Upton. Did she yield back? I am sorry.

4353 The gentleman from Florida is recognized to strike the last
4354 word.

4355 Mr. Bilirakis. Thank you. I move to strike the last word.

4356 Thank you so much, Mr. Chairman.

4357 Patient brokering is and continues to be an issue in the
4358 state of Florida. An increased demand for recovery from
4359 substance use disorder has, sadly, attracted bad actors into the
4360 recovery space in order to make a quick buck by taking advantage
4361 of patients and families in crisis. This is despicable.

4362 Currently, regulations for addiction recovery providers
4363 vary from state to state and are virtually nonexistent in some
4364 states. We have to do something about it.

4365 As a result, patients and families are unable to confidently
4366 identify quality sober living environments. Upon learning that
4367 various mental health and substance use disorder facilities were
4368 making payments to individuals for the referral of patients
4369 identified in Alcoholics Anonymous meetings, homeless shelters,

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4370 and other similar environments.

4371 Florida's legislature recently passed a patient brokering
4372 act to prevent it by making the perverse practice a third-degree
4373 felony punishable by five years in prison.

4374 However, monitoring and enforcing -- enforcement continue
4375 to challenge my state and I am sure all over the country. As
4376 communities and states like Florida crack down, these parasites
4377 simply relocate, rebrand, and victimize a new community, leaving
4378 broken patients and families searching for quality recovery in
4379 their wake.

4380 Unfortunately, the lack of an adherence to an industry wide
4381 standard in the addiction recovery space has led to the industry
4382 becoming an incubator for fraud, waste, and abusive practices.

4383 Law enforcement cannot solve this problem alone. It is
4384 vital that we work in a bipartisan manner to address laws and
4385 regulations or lack thereof, which exacerbates this national
4386 crisis.

4387 H.R. 4684, the Ensuring Access to Quality Sober Living Act,
4388 does just that. H.R. 4684 would authorize The Substance Abuse
4389 and Mental Health Services Administration to develop best
4390 practices for sober living facilities in addition to providing
4391 technical assistance and support to states, providing renewed

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4392 confidence to families whose loved ones are in recovery in sober
4393 homes across the country.

4394 Ryan Hampton's testimony reminds us that no one should have
4395 to learn their friend died of an overdose in a sober living
4396 facility due to a lack of basic operational training.

4397 Lisa Daniels and Gail Smith's testimony reminds us that no
4398 one should lose a child and learn later that their child was a
4399 victim of patient brokering and only ended up in a substandard
4400 recovery facility due to a criminal business practice.

4401 I urge my colleagues to support adoption of this amendment
4402 in the nature of a substitute and, of course, the bill, and we
4403 have got to pass this as soon as possible and get it to the
4404 president's desk.

4405 Thank you very much, Mr. Chairman.

4406 Mr. Upton. The gentleman yields back.

4407 Other members wishing to speak on the bill?

4408 Any amendments to the bill?

4409 Seeing none --

4410 Mr. Ruiz. I move to strike the last word.

4411 Mr. Upton. Gentleman from California is recognized for five
4412 minutes.

4413 Mr. Ruiz. Thank you, Mr. Chairman, for bringing this

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4414 important piece of legislation before the committee today.

4415 I am proud to have joined together with colleagues on both
4416 sides of the aisle to introduce the Ensuring Access to Quality
4417 Sober Living Act. I would like to thank Representatives Chu,
4418 Walters, and Bilirakis for their hard work on this bipartisan
4419 legislation.

4420 This bill, which directs the Substance Abuse and Mental
4421 Health Agency to develop best practices for substance use disorder
4422 recovery houses that's critical to ensuring that individuals in
4423 treatment are in a safe and supportive environment.

4424 The current lack of guidance or oversight has led to some
4425 bad actors taking advantage of individuals and their families
4426 who are seeking treatment.

4427 Recovery is a long and difficult road under the best of
4428 circumstances and I am disgusted to know that already vulnerable
4429 patients are being taken advantage of.

4430 Please join me in supporting this important legislation,
4431 which is a positive step towards ensuring that all patients
4432 seeking treatment receive the appropriate care that they need
4433 and deserve.

4434 I yield back.

4435 Mr. Upton. The gentleman yields back.

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4436 Other members wishing to speak on the bill?

4437 Seeing none, the vote occurs on H.R. 4684.

4438 Those in favor will say aye.

4439 Those opposed say no.

4440 In the opinion of the chair, the ayes have it. The bill
4441 is passed.

4442 This will be the last bill before votes have been called
4443 so we will try to do this bill and then we will recess.

4444 The chair calls up H.R. 5329, number three on your list,
4445 and asks the clerk to report.

4446 [The bill follows:]

4447

4448 *****INSERT 46*****

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4449 The Clerk. H.R. 5329, to amend the Public Health Service
4450 Act to reauthorize and enhance the Poison Center national
4451 toll-free number, national media campaign, and the grant program,
4452 and for other purposes.

4453 Mr. Upton. Without objection, the first reading of the bill
4454 is dispensed with. The bill will be open for amendment at any
4455 point.

4456 Are there any bipartisan amendments to the bill?

4457 Mrs. Brooks. Mr. Chairman, I have an amendment at the desk.

4458 Mr. Upton. The gentlelady has an amendment. The clerk will
4459 report the title of the amendment.

4460 The Clerk. Amendment in the nature of a substitute to H.R.
4461 5329, offered by Mrs. Brooks.

4462 Mr. Upton. And the amendment will be considered as read.
4463 The staff will distribute the amendment in the nature of a
4464 substitute. The gentlelady is recognized for five minutes in
4465 support of her amendment.

4466 [The amendment of Mrs. Brooks follows:]

4467

4468 *****INSERT 47*****

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4469 Mrs. Brooks. Thank you, Mr. Chairman, and I'll be speaking
4470 on the amendment and on the underlying piece of legislation.

4471 This amendment makes technical clarifying changes to the
4472 bill that incorporates technical assistance provided by the
4473 Department of Health and Human Services.

4474 Specifically, the amendment allows for more flexibility for
4475 HRSA to administer program with input from the Poison Centers.

4476 Additionally, the amendment clarifies the use of the Poison
4477 Control Center's nationwide public awareness campaign to include
4478 information on poisoning, toxic exposure, and drug misuse.

4479 Finally, the amendment reauthorizes the Poison Control
4480 Center Network through fiscal year 2023 and sets the funding level
4481 equal to the current authorization.

4482 According to the CDC National Center for Injury Prevention
4483 and Control, poisoning is the leading cause of injury death in
4484 the United States and Poison Control Centers, of which we have
4485 55 throughout the country, save countless lives.

4486 The prevent toxic exposure and poisoning injury, reducing
4487 billions of dollars in unnecessary health care costs while
4488 increasing public health awareness and access to tens of millions
4489 of Americans currently under served by the present health care
4490 system.

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4491 They also provide local, state, and federal governments and
4492 health agencies near real-time data and a current surveillance.

4493 Our bill will reauthorize funding for the Poison Control Center's
4494 toll-free phone number and if you have ever called that number,
4495 especially as a parent, it is an incredible lifesaving type of
4496 phone number.

4497 The national media campaign, which educates the public and
4498 health care providers -- because health care providers also call
4499 this poison control number -- about poison prevention and it also
4500 provides for the state grant program through fiscal year 2023.

4501 Poison Control Centers receive about 15 percent of their funding
4502 through this program.

4503 So our bill clarifies that they can be called upon to assist
4504 in public health emergencies. It also ensures that FCC will work
4505 with HHS to ensure that calls to our 1-800 number are properly
4506 routed, because right now they are routing to an individual's
4507 prefix rather than to their actual location.

4508 And so we need to ensure a more timely response and we need
4509 to extend our nationwide public awareness campaign with HHS to
4510 promote the use of this number, particularly -- and I think people
4511 don't often realize that overdoses are poisoning and that's why
4512 so many people are calling.

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4513 About 3 million calls are coming in annually and the Poison
4514 Control Centers are fielding about 192 cases a day of opioid misuse
4515 and abuse.

4516 With that, I yield back the balance of my time and I also
4517 want to thank my colleagues for working with me.

4518 Mr. Engel. Would the -- would the gentlewoman yield to me?

4519 Mrs. Brooks. And I would yield to my colleague and want
4520 to thank the gentleman, Mr. Engel, for working with me on the
4521 bill.

4522 Mr. Engel. Well, thank you very much. The Poison Center
4523 Network Enhancement Act will extend our nation's poison center
4524 program for an additional five years and, in turn, will ensure
4525 that poison centers can continue aiding our fight to end the opioid
4526 crisis. There are 55 Poison Centers across the United States
4527 available 24 hours a day, seven days a week, 365 days a year.

4528 They offer real-time life-saving assistance and since 2011
4529 have handled almost 200 cases daily involving opioid misuse.

4530 Poison Centers have also helped detect trends in the opioid
4531 epidemic and experts have educated Americans about ways they could
4532 potentially save the lives of their loved ones.

4533 The Upstate New York Poison Center, for example, used the
4534 New York State Fair as an opportunity to educate New Yorkers about

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4535 proper use of naloxone, the overdose reversal drug.

4536 I urge my colleagues to vote for this legislation and ensure
4537 that these important activities continue. I want to do a special
4538 thank you to Congresswoman Brooks for working with me on this
4539 bill and for her tireless work in moving this forward, and also
4540 to Congresswoman DeGette and Congressman Barton for being
4541 original co-sponsors.

4542 I thank my colleagues. It makes sense. This is a common
4543 sense bipartisan bill and I urge everyone to support it, and I
4544 yield back the balance of my time.

4545 Mr. Barton. Will the gentlelady yield?

4546 Mrs. Brooks. And I yield the balance of my time to
4547 Congresswoman Barton.

4548 Mr. Barton. I yield simply to give my support to this bill.
4549 In the past, I was the lead Republican sponsor. But this year,
4550 we prevailed on Congresswoman Brooks to be the lead sponsor and
4551 she has surpassed all expectations in her hard work.

4552 She's up to the reauthorization level, which was a fight,
4553 and she's kept the coalition together and made improvements to
4554 the existing law.

4555 I also want to commend Mr. Engel for his hard work on this
4556 bill and I hope we pass it unanimously.

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4557 And with that, I yield back to the gentlelady.

4558 Mr. Upton. Gentleman yields back. I was wondering if you
4559 were going to put her in the starting lineup.

4560 Mr. Barton. If she'll come out. She's got a chance.

4561 Mr. Upton. Are there other members wishing to speak on the
4562 amendment?

4563 Seeing none, the vote occurs on H.R. 5329 as amended.

4564 Those in favor will say aye.

4565 Those opposed, say no.

4566 In the opinion of the chair the ayes have it. The bill is
4567 agreed to.

4568 The chair would note that we have three votes on the House
4569 floor. There is seven and a half minutes left and those votes
4570 will recess until -- come back immediately following those votes.

4571 [Whereupon, at 1:40 p.m., the subcommittee recessed, to
4572 reconvene at 2:38 p.m., the same day.]

4573 The Chairman. [Presiding.] We will call the full
4574 committee back to order.

4575 For the members -- shh, if I can get members' attention just
4576 because this is something we don't usually do, but as it turns
4577 out we did not vote appropriately on Mrs. Brooks' amendment before
4578 we recessed to go vote on the House floor. Even though it was

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4579 approved I think on a voice vote, technically, we did not.

4580 So we voted the bill but we did not vote the amendment, and
4581 so now I would call up the amendment to H.R. 5329, Mrs. Brooks'
4582 amendment. Clerk will report the amendment.

4583 The Clerk. Amendment in the nature of a substitute to H.R.
4584 5329, offered by Mrs. Brooks.

4585 The Chairman. And without objection, further reading of
4586 the amendment is dispensed with. Mrs. Brooks has already spoken
4587 on the amendment and everybody else has. So the -- I am not seeing
4588 anybody else wants to -- the question now arises on passage of
4589 the Brooks amendment to H.R. 5329.

4590 Those in favor will say aye.

4591 Those opposed, no.

4592 The ayes appear to have it. The ayes have it.

4593 Now we will vote on the bill as amended, H.R. 5329, to
4594 favorably report it to the House.

4595 All in favor will say aye.

4596 Those opposed, no.

4597 The ayes appear to have it. The ayes have it. The bill
4598 is now officially approved.

4599 The chair now calls up H.R. 5580 -- this is number four on
4600 your sheets, number four -- and asks the clerk to report.

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4601

[The bill follows:]

4602

4603

*****INSERT 48*****

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4604 The Clerk. H.R. 5580, to authorize the secretary of Health
4605 and Human Services to conduct programs to address the usage of
4606 illicit drugs, particularly fentanyl, and for other purposes.

4607 The Chairman. Without objection, the first reading of the
4608 bill is dispensed with. The bill will be open for amendment at
4609 any point.

4610 Are there any bipartisan amendments?

4611 Are there any amendments? Does anyone seek recognition to
4612 speak on H.R. 5580?

4613 If not, the question now arises on favorably reporting H.R.
4614 5580 to the House.

4615 All those in favor will signify by saying aye.

4616 Those opposed, no.

4617 The ayes appear to have it. The ayes have it. The bill
4618 is favorably reported to the House.

4619 The chair now calls up H.R. 5587 -- this would be number
4620 five, number five -- and asks the clerk to report.

4621 [The bill follows:]

4622

4623 *****INSERT 49*****

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4624 The Clerk. H.R. 5587, to amend the Public Health Service
4625 Act to authorize certain recovery services grants to be used to
4626 establish regional technical assistance centers.

4627 The Chairman. Without objection, the first reading of the
4628 bill is dispensed with. The bill will be open for amendment at
4629 any point.

4630 The chair recognizes -- we should have Mr. Lujan.

4631 Mr. Lujan, I believe you're seeking recognition to offer
4632 your amendment and the clerk will report the Lujan amendment.

4633 The Clerk. Amendment in the nature of a substitute to H.R.
4634 5587, offered by Mr. Lujan.

4635 The Chairman. And without objection, the reading of the
4636 amendment is dispensed with and the gentleman is recognized for
4637 five minutes in support of his amendment.

4638 [The amendment of Mr. Lujan follows:]

4639

4640 *****INSERT 50*****

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4641 Mr. Lujan. Thank you, Mr. Chairman, and thanks to Mr.
4642 Johnson of Ohio for being so willing to work on this peer support
4643 bill. I acknowledge his leadership and his staff and the work
4644 of the majority staff and minority staff on this.

4645 The ANS incorporates HHS technical assistance to ensure that
4646 expanded peer support services are effectively enhancing
4647 substance use disorder treatment and recovery.

4648 The bill seeks to increase the delivery of peer support
4649 services to greater regional coordination and technical
4650 assistance to improve care coordination and availability of
4651 services.

4652 Anyone who has heard me speak about opioids know that I
4653 believe strongly that to address this epidemic we must address
4654 our nation's workforce challenges. We have phenomenal providers
4655 in New Mexico. Mr. Johnson has them in Ohio.

4656 However, we both know that we do not have enough of them.
4657 This is a numbers game and, unfortunately, the numbers of people
4658 with substance use disorder far surpass the number of providers
4659 and treatment staff.

4660 That's where peer support recovery specialists come in.
4661 For those of you who haven't heard me talk about this or who did
4662 not have the pleasure of hearing from our witness a few hearings

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4663 back, peer support recovery specialists are people who lived
4664 experience of substance use who have fought against their
4665 addiction and received training to help others who are in the
4666 midst of the fight now.

4667 Peer support recovery specialists provide immediate and
4668 ongoing support and treatment linkages to individuals in
4669 recovery. As Carlene Deal-Smith, the peer support specialist
4670 at Totah Behavioral Health Center, the program in Farmington,
4671 New Mexico, testified, "Being able to connect to our patients
4672 both through our shared heritage and shared struggles with
4673 addiction has allowed me to function as a bridge between them,
4674 the staff, and the community. This work has enabled me to being
4675 effective as a community support worker and mentor. Most
4676 importantly, I am living proof that recovery can happen," she
4677 said.

4678 These people provide an incredibly important service to the
4679 community but peer support programs also mean jobs. As Ms.
4680 Deal-Smith explained to us, this job got her through hard times
4681 in her own journey with substance use and it made her feel proud
4682 to serve the community and help her people in such an important
4683 way.

4684 I am grateful that both the Energy Commerce Committee and

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4685 the Senate HELP Committee have acknowledged the importance of
4686 these programs and includes this bill and the package is moving
4687 forward.

4688 I thank you very much and I yield back.

4689 Mr. Upton. [Presiding.] The gentleman yields back.

4690 Other members wishing to speak on the amendment?

4691 Mr. Johnson. Mr. Chairman.

4692 Mr. Upton. Gentleman from Ohio.

4693 Mr. Johnson. Mr. Chairman, I move to strike the last word.

4694 Mr. Upton. The gentleman is recognized for five minutes.

4695 Mr. Johnson. I support the amendment and the underlying
4696 bill and I too am pleased to have worked with my colleague, Mr.
4697 Lujan, on the Peer Support Communities Recovery Act.

4698 The impact of the opioid epidemic is felt most acutely at
4699 the community level as friends as neighbors as well as law
4700 enforcement and health care professionals witness the terrible
4701 toll drug abuse takes on those who are struggling with addiction
4702 as well as their families.

4703 East Liverpool, Ohio, in my district gained national
4704 attention in 2016 when their police department posted a photo
4705 of two adults passed out from drug use in the front seat of a
4706 car with a small child looking on from the car seat in the back.

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4707 That images graphically portrays the reality of the epidemic
4708 playing out across the country. While our communities are being
4709 ravaged, I also believe that the solution will come from our
4710 communities because, despite that heartbreaking image, East
4711 Liverpool is taking action.

4712 Part of their effort is a partnership between the city and
4713 Family Care Ministries, a faith-based peer support ministry in
4714 the city. Through that partnership, anyone arrested with a drug
4715 problem by the East Liverpool police is giving the opportunity
4716 to seek immediate help 24/7 at Family Care Ministries.

4717 Mayor Ryan Stovall speaks highly of this partnership and
4718 Family Care Ministries founder, Joseph Lytle, himself a recovered
4719 addict. The mayor credits the partnership with a dramatic
4720 decrease in the number of overdoses the police department has
4721 seen from 72 in September of 2016 when that devastating photo
4722 was taken to two incidents in September of 2017.

4723 He also told me about the desperate need for more resources
4724 to maintain and expand their partnership and replicate it in other
4725 cities.

4726 Peer support is an often overlooked but extremely effective
4727 component of long-term recovery for an addict because it meets
4728 them where they are and offers support, guidance, and hope for

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4729 a long-term recovery and a better life.

4730 I urge all my colleagues to support this bill to give cities
4731 like East Liverpool and others across the country the resources
4732 they need to save their families, friends, and neighbors from
4733 the scourge of addiction.

4734 And with that I yield back, Mr. Chair.

4735 The Chairman. Gentleman yields back the balance of his
4736 time.

4737 Other members seeking recognition?

4738 Seeing none, the vote now arises on the amendment -- on the
4739 amendment.

4740 All those in favor will say aye.

4741 Those opposed, no.

4742 The ayes appear to have it. The ayes have it. The amendment
4743 is adopted.

4744 Other members seeking recognition on this legislation?

4745 The question now occurs on favorably reporting H.R. 5580
4746 -- is that right -- okay, I got the wrong one here -- 5587 --
4747 here we go -- to the House as amended.

4748 Those in favor will say aye.

4749 Those opposed, nay.

4750 The ayes appear to have it. The ayes have it and the bill

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4751 as amended is favorably reported.

4752 The chair now calls up H.R. 5804 -- this would be number
4753 13 -- and asks the clerk to report number 13.

4754 [The bill follows:]

4755

4756 *****INSERT 51*****

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4757 The Clerk. H.R. 5804, to amend Title 18 of the Social
4758 Security Act to provide for modifications and payment for certain
4759 outpatient surgical services.

4760 The Chairman. Without objection, the first reading of the
4761 bill is dispensed with. The bill will be open for amendment at
4762 any time.

4763 Chair recognizes the gentleman from Illinois, Mr. Shimkus,
4764 to strike the last word.

4765 Mr. Shimkus. Thank you, Mr. Chairman.

4766 I want to do this because I know there is going to be an
4767 amendment offered and I want to make sure I talked about the
4768 original bill so then when we talk about the amendment why I'll
4769 move to, obviously, defeat that amendment.

4770 One consistent theme that we have heard from not only expert
4771 witnesses including health care providers, families, and
4772 individuals suffering from addiction and other members of
4773 Congress is the need to stop addiction before it starts.

4774 In fact, studies have estimated that over 10 percent
4775 reduction in surgery-related opioid prescribing in the U.S. would
4776 result in 300,000 fewer people each year transitioning to
4777 long-term use and make 332 million fewer opioid pills available
4778 for potential diversion and misuse.

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4779 But as we have heard in testimony, opioids, especially
4780 traditional nonextended release formulations, are relatively
4781 inexpensive and easy to prescribe, dispense, and administer.

4782 However, when the cost of potential addiction treatment are
4783 taken into account, we all know the cost of these cheap therapies
4784 skyrockets both in terms of dollars and patient suffering.

4785 So I think a lot of us were surprised -- and this is the
4786 meat of the portions of this bill -- a lot of us were surprised
4787 to see CMS reduce the reimbursement rate for nonopioid pain
4788 treatments like epidurals for post-surgery pain back over the
4789 past couple years.

4790 So not only did they not keep it the same, they reduced
4791 reimbursement, and that's really the crux of this for five
4792 provisions, not all provisions.

4793 Given the influence Medicare reimbursements have on health
4794 care utilization both within the Medicare program and on a greater
4795 health care industry due to its size, I believe we are justified
4796 in taking a second look at not only the rates but also the available
4797 data to ensure we are making the best use of our scarce dollars.

4798 That said, my bill does two things. First it would turn
4799 back the clock on the recent reimbursement cuts on targeted number
4800 of procedures most commonly used as post-surgical pain opioid

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4801 alternatives for five years.

4802 And we actually changed that from the original bill because
4803 of suggestions or at least comments by the minority -- the minority
4804 side.

4805 During subcommittee markup my colleagues on the other side
4806 of the aisle expressed concern over the length of the payment
4807 adjustment so we made this adjustment and it was never intended
4808 to be anything more than a temporary reversal to recent cuts by
4809 limiting the duration of five years.

4810 And second, we asked GAO to collect data during this period
4811 of time on the settings on which these procedures are being
4812 performed to determine whether such procedures are being properly
4813 coded based upon the setting.

4814 So what we are doing is temporarily reversing cuts to
4815 nonopioid treatment we all agree save money and lives, then
4816 collecting to help ensure we are reimbursing providers at the
4817 most appropriate levels possible, moving forward.

4818 While Medicare reimbursements may never be perfectly
4819 accurate and will always skew the market for each increment by
4820 which we are able to be more accurate, we can prevent addiction
4821 and save lives.

4822 As they say, if you can't measure it, you can't manage it.

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4823 I encourage my colleagues to support this legislation.

4824 And Mr. Chairman, I'll yield back my time.

4825 The Chairman. Gentleman yields back the balance of his
4826 time.

4827 The chair recognizes the ranking member of the committee,
4828 Mr. Pallone, from New Jersey for five minutes to strike the last
4829 word.

4830 Mr. Pallone. Thank you, Mr. Chairman.

4831 I'd like to thank Representative Shimkus and Krishnamoorthi
4832 for the work on this bill. I think we all share the goal of making
4833 sure that patients have access to evidence-based nonopioid
4834 alternatives for the treatment of pain.

4835 I also want to thank the chairman and the staff for working
4836 to address our concerns regarding the bill. The bill we are
4837 marking up today is an improvement from the bill we marked up
4838 in the subcommittee because it reverses a -- well, I should say
4839 this.

4840 The legislation reverses a reimbursement reduction that CMS
4841 made to certain codes for post-surgical injections in ambulatory
4842 surgical centers by freezing payment levels for five years at
4843 2016 levels.

4844 But I am continually -- I continue to oppose the bill for

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4845 the following reasons. First and foremost, I remain skeptical
4846 that increasing reimbursement for these particular codes will
4847 have a meaningful impact on the opioid epidemic.

4848 I don't think there is any evidence to suggest that this
4849 legislation will lead to decreased opioid prescribing or a
4850 decreased prevalence of addiction.

4851 Second, I think we are setting a bad precedent with the bill.

4852 I don't think that we, as Congress, are in a good position to
4853 pick and choose winners amongst therapies and procedures.

4854 I just don't think we know enough to understand the
4855 consequences of doing that to understand the relative value and
4856 the efficacy of different therapies and procedures on the market.

4857 So my preference would be and my approach would be to ask
4858 the agency to take a look at the outpatient prospective payment
4859 system and examine whether there are financial disincentives to
4860 use these injections and other nonopioid alternatives for pain
4861 management vis-a-vis opiate therapies.

4862 Give the agency the authority to revise the outpatient
4863 prospective payment system to address any disincentives and let
4864 them do this systematically and examine all of the nonopioid
4865 alternatives on the market whether pharmacological,
4866 interventional devices, nerve blocks, or any other techniques.

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4867 Now, one of my colleagues, Mr. Welch, is going to be offering
4868 an amendment to do exactly what I am suggesting and I think this
4869 would be a preferable approach to what we are considering here
4870 today.

4871 So I just think that we should -- I don't think is the way
4872 we should legislate with this bill. This is not how we should
4873 use scarce resources during a public health crisis and I would
4874 urge my colleagues to oppose the bill and support the Welch
4875 amendment, Mr. Chairman.

4876 I yield back.

4877 The Chairman. The gentleman yields back.

4878 Are there other members seeking recognition?

4879 Mr. Welch, for what purpose do you seek recognition?

4880 Mr. Welch. I have an amendment at the desk.

4881 The Chairman. The clerk will report the amendment.

4882 The Clerk. Amendment to H.R. 5803, offered by Mr. Welch.

4883 The Chairman. Without objection, further reading of the
4884 amendment is dispensed with and the chair recognizes the gentleman
4885 from Vermont, Mr. Welch, for five minutes to speak on his
4886 amendment.

4887 [The amendment of Mr. Welch follows:]

4888

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4889

*****COMMITTEE INSERT 52*****

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4890 Mr. Welch. Thank you.

4891 Mr. Shimkus has -- he's onto something here, which I want
4892 to acknowledge. But there is, I think, a question for us in terms
4893 of how, as a congressional body, we can influence outcomes.

4894 Is it by what I would characterize as micro managing on prices
4895 that will be paid for particular procedures or is it by giving
4896 general direction to the agencies that have to make these micro
4897 decisions, and then having strict oversight by which we exercise
4898 our authority?

4899 They are measuring up to the standard we set or they don't,
4900 and I think what's in common with what Mr. Shimkus is saying and
4901 what my amendment would propose to do is get an outcome where
4902 we are emphasizing nonopioid pain treatment.

4903 But the question of how -- in my view, micro managing versus
4904 broad policy objective is really the critical question and the
4905 amendment that I am offering is an amendment that was adopted
4906 just yesterday on a bipartisan basis in the Ways and Means
4907 Committee, which is also grappling with this question.

4908 The amendment -- this amendment would require CMS to conduct
4909 a comprehensive review of the outpatient prospective payment
4910 system and examine whether in fact there are financial
4911 disincentives to use nonopioid alternatives for pain management.

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4912 So they would be doing a comprehensive study, which we are
4913 not doing here. But that is information we want. They would
4914 do it systematically and include all of the various modalities
4915 that are not using opioids -- you know, the devices, injections,
4916 nerve blocks, neuromodulation, and be evidence based and also
4917 have to come to conclusion it was effective in reducing pain or
4918 improving function.

4919 And by the way, we all know that what might work for Mr.
4920 Shimkus might not work for me. So he could get a treatment that
4921 works and that's a doctor-patient deal, not a committee deal,
4922 and what might work for me is entirely different.

4923 Second in this amendment, CMS would be instructed to consider
4924 the extent to which changes to the outpatient prospective payment
4925 system could reduce any payment incentives to use opioids instead
4926 of nonopioid alternatives for pain management.

4927 Third, the agency would be empowered to go ahead and make
4928 these revisions to the payment system on a budget-neutral basis
4929 -- a concern to all of us -- and the message I think we would
4930 be sending as a committee to the agency would be clear.

4931 This committee wants the agency to address any inequities
4932 in the current payment system that may favor opioid prescribing
4933 but it would be done systematically, looking at all, not some

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4934 -- all of the nonopioid pain alternatives currently on the market.

4935 In my opinion, that would be a better way for us to do it,
4936 not micro manage, impose responsibility, and then to follow up
4937 with oversight.

4938 I yield back.

4939 Mr. Pallone. Would the gentleman just yield a minute?

4940 Mr. Welch. Yes, I will.

4941 Mr. Pallone. I don't want to repeat what he said.

4942 Obviously, I agree. But I just want to stress that the budget
4943 neutral aspect, which basically says that CMS has to offset the
4944 cost of changes across the OPPS, unlike the underlying bill,
4945 because, again, when CMS looks at these reimbursement rates, you
4946 know, they've got to look at this across the board and so I think
4947 it's important to put that budget-neutral provision in there.

4948 Just wanted to add that.

4949 I thank the gentleman.

4950 The Chairman. The gentleman yields back.

4951 Other members seeking recognition?

4952 The chairman recognizes the gentleman from Illinois, Mr.
4953 Shimkus, to speak on the amendment.

4954 Mr. Shimkus. Thank you, Mr. Chairman, and I appreciate the
4955 comments.

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4956 A couple things -- we want to rely on CMS to make the decision
4957 but many of us believe it's a CMS decision that reduced the
4958 payments that brought us into this position.

4959 So what we are attempting to do is -- they cut the payments
4960 so even this budget neutral thing, if they cut the payments and
4961 this cost benefit analysis they do more harm in the future, and
4962 our budget system is broken anyway, as I've said numerous times,
4963 because we don't do a cost benefit analysis -- the money we save
4964 here versus the cost -- the outlays of the cost.

4965 So I find it hard to trust CMS when those of us in this arena
4966 think that their cut has led to more opioid use. You push to
4967 the cheaper alternative and you've -- and you've really caused
4968 -- if it's a crisis that we are all seeing every day, it's a crisis
4969 that we need to stop, and this is a short-term stop while we do
4970 this investigation now, when the bill goes to the floor there
4971 is, obviously, cross-jurisdictional concerns. The Ways and
4972 Means amendment will be, obviously, part of this debate of how
4973 we -- how we move them together.

4974 So, one, I wouldn't -- I don't want to jettison this provision
4975 of immediately trying to address pain medication and this look
4976 at the CMS and how they do those aspects.

4977 The -- I also will note that, as drafted, the amendment --

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4978 if the secretary were to find treatments that are under
4979 reimbursed, any adjustments to the reimbursement rates would
4980 result in cuts to other codes.

4981 You know, mine is very specific and I understand the broad
4982 width but I am concerned about the immediacy of this crisis and
4983 the fact that it was CMS' intervention that could have imparted
4984 the result.

4985 I think the ranking member wants to respond and I'll yield
4986 to him.

4987 Mr. Pallone. You know, again, I appreciate that you've made
4988 some changes here. I know that I think originally the bill said
4989 that, you know, the -- we put the CMS cut back in place forever
4990 and you reduced it to five years.

4991 But, again, see, the basic -- one of the basic problems I
4992 have here is I don't remember -- there may have been a case but
4993 I certainly don't remember in the, you know, almost 30 years that
4994 I've been here where we have actually reinstated an old
4995 reimbursement rate that was cut.

4996 I know we have delayed cuts but I don't remember where we
4997 actually said okay, you cut it -- we don't agree -- we are going
4998 to put it back, and then say that that has to be in place for
4999 five years.

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5000 I mean, regardless of everything else that I said and that
5001 Mr. Welch said, it just sets a very bad precedent that now we
5002 are going to decide what the reimbursement rate is -- we are going
5003 to say it has to be in place for five years, and given the fact
5004 that we don't really know whether, you know, these treatments
5005 really are a good alternative, you know, it just sets a bad
5006 precedent.

5007 So, I mean, I just wanted to add that because that's one
5008 of the things that really bothers me. I mean, maybe you can cite
5009 and example where we did this but I don't ever remember it,
5010 frankly.

5011 Mr. Shimkus. Yes, reclaiming my time.

5012 And I don't think in my 21 years we have ever had this crisis
5013 -- an opioid type event in this country. So I think we have never
5014 moved a bazillion bills in two weeks through the process and we
5015 are doing that because there is a national concern and so that's
5016 the response.

5017 The five-year period of time is based upon the five years
5018 to collect data to objectively evaluate whether this is being
5019 underfunded and it -- and it does, as a lot of people believe,
5020 the inability to use epidurals to treat pain and prescribe opioids
5021 is not healthy for our country and that's really the basic premise

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5022 of what we are trying to do.

5023 Mr. Pallone. Would the gentleman yield again?

5024 Mr. Shimkus. I will.

5025 Mr. Pallone. I mean, again, I haven't seen any real
5026 objective evidence that this is going to do the trick. I mean,
5027 and so to take what I consider sort of an extreme example of saying
5028 that, you know, we are going to set the reimbursement rate --
5029 we are going to say you have to do it for five years -- we are
5030 taking away that authority from CMS without some, you know, real
5031 objective evidence that this is going to matter. I mean, that's
5032 the problem, from my perspective.

5033 Mr. Shimkus. Yes, and reclaiming my time.

5034 Respectfully, I appreciate the comments and we will have
5035 to cast our votes likewise.

5036 So with that, I'll yield back my time.

5037 The Chairman. Gentleman yields back the balance of his
5038 time.

5039 Other members seeking recognition?

5040 My friend from California, Ms. Eshoo, for five minutes to
5041 strike the last word.

5042 Ms. Eshoo. Thank you, Mr. Chairman.

5043 I've listened very carefully to the debate on this and it's

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5044 an important one. But I don't think this is the only offering
5045 in the two large markups that -- where we are still left with
5046 some questions.

5047 We are trying our best to come up with ideas that are going
5048 to put a dent in these prices and I think it's very important
5049 that out of all of this agencies will be instructed to bring about
5050 alternatives to opioids.

5051 And, you know, what is -- works for me, as Mr. Welch said,
5052 may not work for him, and doctors find that out when the
5053 medications are applied.

5054 So I am worried that we are being pulled in a direction
5055 because it's -- I understand what the ranking member is saying,
5056 that it's precedent setting and whatever.

5057 But I don't agree that epidurals are not an alternative
5058 already. They are. They are. I just had a conversation with
5059 a surgeon about that. So that's not so.

5060 And if we can move forward and have -- imagine being able
5061 to manage pain without taking an opioid. We could do 20 other things
5062 together and it wouldn't equal that.

5063 So I think that we -- I think that this needs to be one of
5064 the major drivers of what we want to accomplish here. I'd be
5065 happy to yield to Mr. Welch.

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5066 Mr. Welch. Thank you.

5067 You know, I agree with what you said and, Mr. Shimkus, you
5068 made a compelling case and we want to do something. In fact,
5069 we have got the STOP Act that Mr. McKinley and I are co-sponsoring.

5070 It would be having research done on alternatives to opioids.
5071 So we have got to have this policy and I think there is general
5072 agreement here.

5073 But I do think there is a serious question about how -- what's
5074 the way Congress can be effective, and my view is that it's not
5075 by really making micro decisions. It's setting broad policy,
5076 and then our responsibility is to follow up.

5077 We give policy instructions to achieve what Mr. Shimkus is
5078 aiming to achieve in his legislation and then we have the agency
5079 in to determine whether in fact they are getting a job done and
5080 we hold them accountable.

5081 So it's really a question of how best we use the authority
5082 and responsibility we have.

5083 So, Mr. Shimkus, I completely agree with your objectives.
5084 But my suggestion is that getting that specific is not our best
5085 talent.

5086 I yield back to Ms. Eshoo.

5087 Ms. Eshoo. Anyone want time? I'll yield back.

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5088 The Chairman. The gentlelady yields back.

5089 The chair recognizes the gentleman from Indiana, Dr.

5090 Bucshon.

5091 Mr. Bucshon. Move to strike the last word.

5092 The Chairman. Yes, for five minutes?

5093 Mr. Bucshon. Am I recognized? Thank you.

5094 I just -- I just want to say as a physician, you know,
5095 physicians make treatment decisions based on what they believe,
5096 based on their training, is the best therapy for each individual
5097 patient.

5098 But the reality is reimbursement issues do matter, and if
5099 there is a disincentive to use nonopioid alternatives based on
5100 cost, it's not only the physician but it's the -- it's the hospital
5101 or the clinic that will also direct some of that.

5102 And so I do think it's important in this crisis to be specific
5103 with CMS to make sure that we are not discouraging the use of
5104 nonopioid alternatives based on reimbursement-related issues.

5105 So I'd be supportive of Mr. Shimkus' approach. I yield back.

5106 Mr. Shimkus. Will the gentleman yield?

5107 Mr. Bucshon. I will yield to Mr. Shimkus.

5108 Mr. Shimkus. Thank you.

5109 And, again, a point I want to make is CMS cut the

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5110 reimbursement. If they wouldn't have cut the reimbursement, we
5111 wouldn't be having this amendment, and if we wait for a study
5112 to decide whether their cut should have been cut, then we may
5113 have the -- we might lose whatever percentage of opioid-addicted
5114 individuals who become addicted because they are being prescribed
5115 opioids.

5116 So I don't -- I agree with the broad let's look at all these
5117 things. But I think there is a crisis now that part of it has
5118 been a result of the cutting of the reimbursement and I don't
5119 think these -- I am on the Health Subcommittee.

5120 We have been through these markups. I think one thing I've
5121 learned about this is folks, we can't wait. We can't wait for
5122 another study. A study's going to take two years. We are going
5123 to have tens of thousands more people addicted to opioids because
5124 they are the cheaper alternative -- versus doing something else.

5125 So I don't mind looking, especially as we go to the floor
5126 -- we take the Ways and Means amendments. I am never really
5127 excited about taking a Ways and Means product but -- just a joke.

5128 Yeah.

5129 But that will be part of the decisions when we go to the
5130 floor. But I would like to at least address this small sliver
5131 of what we can do here to what a lot of us feel in rectifying

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5132 a wrong with the cuts and how it adversely affects this population
5133 that we are concerned about.

5134 Mr. Pallone. Mr. Bucshon.

5135 Mr. Bucshon. I reclaim my time.

5136 Mr. Pallone. Could I ask --

5137 Mr. Bucshon. Yes, sir. I'll yield to -- I yield.

5138 Mr. Pallone. See, my problem is this. I don't think we
5139 have gotten any objective criteria to suggest that what CMS did
5140 is going to lead to more people taking opiates.

5141 I think that, you know, basically what you're saying, Mr.
5142 Shimkus, is well, that might happen and so therefore we should
5143 -- we should go back to the old reimbursement rate for five years.
5144 But there is nothing objectively to indicate --

5145 Mr. Shimkus. Would the gentleman -- would the gentleman
5146 yield so I can respond to that?

5147 Mr. Pallone. Yes, and CMS is saying the opposite. They
5148 are, you know, strongly telling us that, you know, they've cut
5149 back on this reimbursement rate because it was, you know, it was
5150 -- because it's adequate and these doctors will continue to --

5151 Mr. Bucshon. I am going to -- I am going to reclaim my time.

5152 Mr. Pallone. Sure.

5153 Mr. Bucshon. I just briefly want to say that in my -- in

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5154 my experience over the years, CMS makes reimbursement decisions
5155 based on the financial incentives to do so, not necessarily, in
5156 my opinion, based on what is the appropriate therapy.

5157 And occasionally they make -- they make reimbursement
5158 decisions that influence the direction that therapy goes, whether
5159 that's in cardiac surgery in my area, thoracic surgery, or in
5160 pain management.

5161 And so I don't necessarily agree with some of the -- what
5162 I consider arbitrary reimbursement cuts based on -- based on the
5163 amount of money that is involved.

5164 So I'll yield to Mr. Shimkus.

5165 Mr. Shimkus. And I'll just be quick on a response and that
5166 the ambulatory surgery centers that do this, obviously, have
5167 received a great decrease in, obviously, clients because of this.
5168 They are the ones who are managing the individual pain.

5169 If they are not here with these interventionists, then their
5170 prescription is going to be opioids. That's just the default
5171 and --

5172 Mr. Pallone. Mr. Bucshon, if I could just take it --

5173 Mr. Bucshon. Yes, I'll yield.

5174 Mr. Pallone. I mean, then that basically says that we are
5175 going to listen to what the doctors say and we are going to say

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5176 that CMS is wrong and we don't have any objective criteria to
5177 believe that other than the doctors are saying that. I mean,
5178 that's the problem. We shouldn't be making this decision, in
5179 my opinion.

5180 Mr. Bucshon. I'll reclaim my time for five seconds.

5181 In all due respect, I'd much rather rely on the physician's
5182 assessment than on the assessment of bureaucrats at CMS based
5183 on the finances.

5184 I yield back.

5185 The Chairman. Gentleman yields back the balance of his
5186 time.

5187 The chair now recognizes the gentleman from Texas, Mr. Green,
5188 for five minutes to strike the last word.

5189 Mr. Green. Mr. Chairman, I want to strike the last word
5190 and ask my colleague -- is Congressman Shimkus still here?

5191 There you are. When I read this -- your amendment and I
5192 think the ranking member is correct -- we don't have data. But
5193 because the reimbursement was cut for medication that's
5194 post-surgical injections, we don't have any evidence that the
5195 -- that would limit the after-surgery medication.

5196 But it seems like it would be common that if you get
5197 pre-surgical injections then you may not need pharmaceuticals

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5198 afterwards. But we'd have to have -- I don't know if our doctors
5199 could do it -- Dr. Ruiz or Dr. Burgess or Dr. Bucshon or whoever
5200 else -- because I am not really big on just giving somebody --
5201 second guessing the folks who made the decision CMS has.

5202 But if we could use this as a way that we are going to go
5203 back so we could not have as many opioids or whatever medication
5204 afterwards, is that --

5205 Mr. Bucshon. Will the gentleman yield?

5206 Mr. Green. Yes, I'll be glad to.

5207 Mr. Bucshon. Yes. You know, there is evidence in the
5208 medical literature about free -- using blocks. I am not an
5209 anesthesiologist but their literature will tell you that if you
5210 do blocks ahead of a surgical procedure that the need for
5211 post-operative pain management is dramatically reduced.

5212 That is in the literature. There is data there to show that
5213 that's the case. I yield.

5214 The Chairman. Dr. Burgess.

5215 Mr. Burgess. Will the gentleman yield?

5216 Well, first off, to answer Mr. Pallone's question, on issues
5217 like this we need to remember that the doctor is always right.

5218 [Laughter.]

5219 So it would --

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5220 Mr. Green. They have more lawyers that they grill.

5221 Mr. Shimkus. I want to withdraw my -- no.

5222 Mr. Burgess. When it comes to questions of CMS or
5223 physicians, the doctor is always right.

5224 Look, there are -- and I think Mr. Bucshon is exactly right
5225 -- there is ample evidence that there are things that can be done
5226 pre-operatively and interoperatively -- the administration of
5227 intravenous Tylenol -- the administration of anti-inflammatories
5228 like Toradol that will significantly reduce the needs for
5229 post-operative pain relief.

5230 Now, the codes that are in question that Mr. Shimkus has
5231 been concerned about we have heard from some of our stakeholders
5232 that this is going to be a problem.

5233 We have got the question about how effective reducing these
5234 codes is going to be in reducing -- in deterring opiate use or
5235 abuse. There may be no issue here.

5236 But, really, there shouldn't be any objection to wanting
5237 to find out. So I think Mr. Shimkus has a valid plan and I think
5238 it should be supported and, once again, I can't emphasize strongly
5239 enough always trust the doctor over the agency.

5240 And I'll yield back.

5241 Mr. Upton. [Presiding.] Thank you, Dr. Welby.

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5242 Are there other members wishing to speak?

5243 Mr. Green. Reclaiming my time, Mr. Chairman.

5244 My good friend, Chairman Burgess, and I think when we first
5245 met I explained my daughter tells me the doctor is always right.

5246 But I said that doesn't work in the courtroom.

5247 And I yield back my time.

5248 No, I yield to Dr. Ruiz. We are going to get all our doctors.

5249 Mr. Ruiz. This is -- no, this is a very interesting
5250 conversation. I take slight -- a slight difference approach
5251 because I always like to believe in the emergency department when
5252 patients come in that the patient's right. You got to listen
5253 to patient, first and foremost.

5254 But in terms of whether or not you have pre-operative
5255 injections that can help reduce the necessity for opioids,
5256 absolutely.

5257 There are epidurals, there is nerve blocks, and there is
5258 others where the scientific literature shows that the patient
5259 outcome is better and their pain scores are lower and it actually
5260 reduces the need for more opioids post-operatively.

5261 Mr. Green. Well, and I am almost out of time. But our whole
5262 point on this whole package of bills we have been doing for the
5263 last two months was to reduce the need for opioids that's not

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5264 controlled by a physician and to get them out of the market or
5265 out of somebody's medicine cabinet.

5266 So I yield back my time.

5267 Mr. Upton. The gentleman yields back.

5268 Other members wishing to speak on the amendment?

5269 The gentleman from Maryland is recognized for five minutes.

5270 Mr. Sarbanes. Move to strike the last word.

5271 Who -- is there someone here who can tell us who at CMS makes
5272 these decisions about reimbursement?

5273 The Staff. Reimbursement on the -- if you're talking about
5274 the outpatient -- hospital outpatient procedure is determined
5275 via a rule, notice and comment rulemaking every year.

5276 Mr. Sarbanes. Uh-huh. And does that -- does that
5277 information come back to a committee at the agency?

5278 The Staff. The rule, because it's noticed in comment at
5279 rulemaking, the rule yearly on the payment systems for both
5280 inpatient, hospital outpatient, and physician fee schedule are
5281 published in draft form or proposed form every year, then opened
5282 for comment, and then finalized by the agency.

5283 Mr. Sarbanes. So the agency publishes these proposals and
5284 then invites comment back?

5285 The Staff. Yes.

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5286 Mr. Sarbanes. But in order to publish them the first --
5287 at the first stage of the process, who's coming up with that
5288 proposal that then -- is then being put out? I mean, what human
5289 beings are doing it?

5290 The Staff. I do not have a name for you, sir. It would
5291 be just CMS.

5292 Mr. Sarbanes. Just CMS.

5293 Mr. Bucshon. Will the gentleman yield for a second here?

5294 Mr. Sarbanes. Yes. Yes.

5295 Mr. Bucshon. I'll speak at least for cardiac surgery.

5296 There are -- there is an advisory group that -- outside group
5297 that meets and gives recommendations on reimbursement levels --

5298 Mr. Sarbanes. Okay.

5299 Mr. Bucshon. -- to CMS, which they routinely ignore.

5300 Mr. Sarbanes. Okay. But that -- and that outside group
5301 -- so those would be non -- faceless -- non -- those would be
5302 nonbureaucrats with faces on those -- in those advisory groups,
5303 presumably would include, I guess, experts, physicians, and so
5304 forth.

5305 So there is a process for getting the kind of perspective
5306 and information that you would be interested in having the agency
5307 exposed to into the process.

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5308 And I take your point that maybe they don't always follow
5309 the recommendation or whatever. But I am just trying to respond
5310 to this idea that this -- these faceless unqualified bureaucrats
5311 at CMS are coming up with these crazy ideas around reimbursement.

5312 And I'll just stipulate that however faceless the bureaucrat
5313 over there might be they know a hell of a lot more than I do about
5314 these kinds of decisions, which makes me reluctant to weigh in
5315 in the way that this proposal would do.

5316 And I'll yield back.

5317 Mr. Shimkus. Would the gentleman -- just for one second.
5318 I just want to respond.

5319 Yes, and I don't -- I don't -- I am not meaning any disrespect
5320 to the -- to the agencies and the work they do. I am just pointing
5321 out that it was reduced. We are trying to fix it. So please
5322 take that in the spirit it intended to provide.

5323 Mr. Upton. The gentleman yields back.

5324 Other members wishing to speak on the amendments?

5325 Seeing none, the vote -- a recorded vote has been asked.

5326 A recorded vote has been requested on the Welch amendment.

5327 Those in favor will vote aye.

5328 Those opposed vote no.

5329 The clerk will call the roll.

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5330 The Clerk. Mr. Barton

5331 [No response.]

5332 Mr. Upton.

5333 Mr. Upton. Votes no.

5334 The Clerk. Mr. Upton votes no.

5335 Mr. Shimkus.

5336 Mr. Shimkus. No.

5337 The Clerk. Mr. Shimkus votes no.

5338 Mr. Burgess.

5339 Mr. Burgess. No.

5340 The Clerk. Mr. Burgess votes no.

5341 Mrs. Blackburn.

5342 [No response.]

5343 Mr. Scalise.

5344 [No response.]

5345 Mr. Latta.

5346 [No response.]

5347 Mrs. McMorris Rodgers.

5348 Mrs. McMorris Rodgers. No.

5349 The Clerk. Mrs. McMorris Rodgers votes no.

5350 Mr. Harper.

5351 Mr. Harper. No.

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5352 The Clerk. Mr. Harper votes no.
5353 Mr. Lance.
5354 Mr. Lance. No.
5355 The Clerk. Mr. Lance votes no.
5356 Mr. Guthrie.
5357 Mr. Guthrie. No.
5358 The Clerk. Mr. Guthrie votes no.
5359 Mr. Olson.
5360 Mr. Olson. No.
5361 The Clerk. Mr. Olson votes no.
5362 Mr. McKinley.
5363 Mr. McKinley. No.
5364 The Clerk. Mr. McKinley votes no.
5365 Mr. Kinzinger.
5366 Mr. Kinzinger. No.
5367 The Clerk. Mr. Kinzinger votes no.
5368 Mr. Griffith.
5369 Mr. Griffith. No.
5370 The Clerk. Mr. Griffith votes no.
5371 Mr. Bilirakis.
5372 Mr. Bilirakis. No.
5373 The Clerk. Mr. Bilirakis votes no.

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5374 Mr. Johnson.
5375 Mr. Johnson. No.
5376 The Clerk. Mr. Johnson votes no.
5377 Mr. Long.
5378 Mr. Long. No.
5379 The Clerk. Mr. Long votes no.
5380 Mr. Bucshon.
5381 Mr. Bucshon. No.
5382 The Clerk. Mr. Bucshon votes no.
5383 Mr. Flores.
5384 [No response.]
5385 Mrs. Brooks.
5386 Mrs. Brooks. No.
5387 The Clerk. Mrs. Brooks votes no.
5388 Mr. Mullin.
5389 Mr. Mullin. No.
5390 The Clerk. Mr. Mullin votes no.
5391 Mr. Hudson.
5392 Mr. Hudson. No.
5393 The Clerk. Mr. Hudson votes no.
5394 Mr. Collins.
5395 Mr. Collins. No.

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5396 The Clerk. Mr. Collins votes no.
5397 Mr. Cramer.
5398 [No response.]
5399 Mr. Walberg.
5400 Mr. Walberg. No.
5401 The Clerk. Mr. Walberg votes no.
5402 Mrs. Walters.
5403 Mrs. Walters. No.
5404 The Clerk. Mrs. Walters votes no.
5405 Mr. Costello.
5406 Mr. Costello. No.
5407 The Clerk. Mr. Costello votes no.
5408 Mr. Carter.
5409 Mr. Carter. No.
5410 The Clerk. Mr. Carter votes no.
5411 Mr. Duncan.
5412 Mr. Duncan. No.
5413 The Clerk. Mr. Duncan votes no.
5414 Mr. Pallone.
5415 Mr. Pallone. Aye.
5416 The Clerk. Mr. Pallone votes aye.
5417 Mr. Rush.

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5418 Mr. Rush. Aye.

5419 The Clerk. Mr. Rush votes aye.

5420 Ms. Eshoo.

5421 Ms. Eshoo. Aye.

5422 The Clerk. Ms. Eshoo votes aye.

5423 Mr. Engel.

5424 Mr. Engel. Aye.

5425 The Clerk. Mr. Engel votes aye.

5426 Mr. Green.

5427 Mr. Green. Aye.

5428 The Clerk. Mr. Green votes aye.

5429 Ms. DeGette.

5430 [No response.]

5431 Mr. Doyle.

5432 [No response.]

5433 Ms. Schakowsky.

5434 Ms. Schakowsky. Aye.

5435 The Clerk. Ms. Schakowsky votes aye.

5436 Mr. Butterfield.

5437 Mr. Butterfield. Aye.

5438 The Clerk. Mr. Butterfield votes aye.

5439 Ms. Matsui.

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5440 Ms. Matsui. Aye.
5441 The Clerk. Ms. Matsui votes aye.
5442 Ms. Castor.
5443 Ms. Castor. Aye.
5444 The Clerk. Ms. Castor votes aye.
5445 Mr. Sarbanes.
5446 Mr. Sarbanes. Aye.
5447 The Clerk. Mr. Sarbanes votes aye.
5448 Mr. McNerney.
5449 Mr. McNerney. Aye.
5450 The Clerk. Mr. McNerney votes aye.
5451 Mr. Welch.
5452 Mr. Welch. Aye.
5453 The Clerk. Mr. Welch votes aye.
5454 Mr. Lujan.
5455 Mr. Lujan. Aye.
5456 The Clerk. Mr. Lujan votes aye.
5457 Mr. Tonko.
5458 Mr. Tonko. Aye.
5459 The Clerk. Mr. Tonko votes aye.
5460 Ms. Clarke.
5461 Ms. Clarke. Aye.

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5462 The Clerk. Ms. Clarke votes aye.
5463 Mr. Loeb sack.
5464 Mr. Loeb sack. Aye.
5465 The Clerk. Mr. Loeb sack votes aye.
5466 Mr. Schrader.
5467 Mr. Schrader. Aye.
5468 The Clerk. Mr. Schrader votes aye.
5469 Mr. Kennedy.
5470 Mr. Kennedy. Aye.
5471 The Clerk. Mr. Kennedy votes aye.
5472 Mr. Cardenas.
5473 Mr. Cardenas. Aye.
5474 The Clerk. Mr. Cardenas votes aye.
5475 Mr. Ruiz.
5476 Mr. Ruiz. Aye.
5477 The Clerk. Mr. Ruiz votes aye.
5478 Mr. Peters.
5479 Mr. Peters. Aye.
5480 The Clerk. Mr. Peters votes aye.
5481 Mrs. Dingell.
5482 Mrs. Dingell. Aye.
5483 The Clerk. Mrs. Dingell votes aye.

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5484 Chairman Walden.

5485 Mr. Upton. Chairman Walden?

5486 The Chairman. No.

5487 The Clerk. Chairman Walden votes no.

5488 Mr. Upton. Other members wishing to cast a vote?

5489 Mr. Doyle.

5490 The Clerk. Mr. Doyle.

5491 Mr. Doyle. Aye.

5492 The Clerk. Mr. Doyle votes aye.

5493 Mr. Upton. Mr. Latta.

5494 Mr. Latta. No.

5495 The Clerk. Mr. Latta votes no.

5496 Mr. Upton. Mr. Flores.

5497 The Clerk. Mr. Flores.

5498 Mr. Flores. No.

5499 The Clerk. Mr. Flores votes no.

5500 Mr. Upton. Other members wishing to cast a vote or change
5501 a vote?

5502 Seeing none, the clerk will report -- how is the gentlelady
5503 from California, Ms. Eshoo, recorded?

5504 The Clerk. Ms. Eshoo is not recorded. Oh, sorry.

5505 Ms. Eshoo is recorded as aye.

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5506 Mr. Upton. Other members wishing to cast a vote?

5507 Seeing none, the clerk will report the tally.

5508 The Clerk. Mr. Chairman, on the vote there were 23 ayes
5509 and 27 noes.

5510 Mr. Upton. Twenty-three noes -- excuse me, 23 ayes, 27 noes.
5511 The amendment is not agreed to.

5512 Are there further amendments to the bill?

5513 Seeing none, the vote occurs on H.R. 5804. A recorded vote
5514 has been asked so the clerk will read -- will read the names for
5515 final passage on H.R. 5804.

5516 The Clerk. Mr. Barton.

5517 [No response.]

5518 Mr. Upton.

5519 Mr. Upton. Votes aye.

5520 The Clerk. Mr. Upton votes aye.

5521 Mr. Shimkus.

5522 Mr. Shimkus. Aye.

5523 The Clerk. Mr. Shimkus votes aye.

5524 Mr. Burgess.

5525 Mr. Burgess. Aye.

5526 The Clerk. Mr. Burgess votes aye.

5527 Mrs. Blackburn.

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5528 [No response.]

5529 Mr. Scalise.

5530 [No response.]

5531 Mr. Latta.

5532 [No response.]

5533 Mrs. McMorris Rodgers.

5534 [No response.]

5535 Mr. Harper.

5536 [No response.]

5537 Mr. Lance.

5538 Mr. Lance. Aye.

5539 The Clerk. Mr. Lance votes aye.

5540 Mr. Guthrie.

5541 Mr. Guthrie. Aye.

5542 The Clerk. Mr. Guthrie votes aye.

5543 Mr. Olson.

5544 Mr. Olson. Aye.

5545 The Clerk. Mr. Olson votes aye.

5546 Mr. McKinley.

5547 Mr. McKinley. Aye.

5548 The Clerk. Mr. McKinley votes aye.

5549 Mr. Kinzinger.

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5550 Mr. Kinzinger. Aye.
5551 The Clerk. Mr. Kinzinger votes aye.
5552 Mr. Griffith.
5553 Mr. Griffith. Aye.
5554 The Clerk. Mr. Griffith votes aye.
5555 Mr. Bilirakis.
5556 Mr. Bilirakis. Aye.
5557 The Clerk. Mr. Bilirakis votes aye.
5558 Mr. Johnson.
5559 Mr. Johnson. Aye.
5560 The Clerk. Mr. Johnson votes aye.
5561 Mr. Long.
5562 Mr. Long. Aye.
5563 The Clerk. Mr. Long votes aye.
5564 Mr. Bucshon.
5565 Mr. Bucshon. Aye.
5566 The Clerk. Mr. Bucshon votes aye.
5567 Mr. Flores.
5568 Mr. Flores. Aye.
5569 The Clerk. Mr. Flores votes aye.
5570 Mrs. Brooks.
5571 Mrs. Brooks. Aye.

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5572 The Clerk. Mrs. Brooks votes aye.

5573 Mr. Mullin.

5574 Mr. Mullin. Aye.

5575 The Clerk. Mr. Mullin votes aye.

5576 Mr. Hudson.

5577 [No response.]

5578 Mr. Collins.

5579 Mr. Collins. Aye.

5580 The Clerk. Mr. Collins votes aye.

5581 Mr. Cramer.

5582 [No response.]

5583 Mr. Walberg.

5584 Mr. Walberg. Aye.

5585 The Clerk. Mr. Walberg votes aye.

5586 Mrs. Walters.

5587 [No response.]

5588 Mr. Costello.

5589 Mr. Costello. Aye.

5590 The Clerk. Mr. Costello votes aye.

5591 Mr. Carter.

5592 Mr. Carter. Aye.

5593 The Clerk. Mr. Carter votes aye.

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5594 Mr. Duncan.
5595 Mr. Duncan. Aye.
5596 The Clerk. Mr. Duncan votes aye.
5597 Mr. Pallone.
5598 Mr. Pallone. No.
5599 The Clerk. Mr. Pallone votes no.
5600 Mr. Rush.
5601 Mr. Rush. No.
5602 The Clerk. Mr. Rush votes no.
5603 Ms. Eshoo.
5604 [No response.]
5605 Mr. Engel.
5606 Mr. Engel. No.
5607 The Clerk. Mr. Engel votes no.
5608 Mr. Green.
5609 [No response.]
5610 Ms. DeGette.
5611 [No response.]
5612 Mr. Doyle.
5613 Mr. Doyle. No.
5614 The Clerk. Mr. Doyle votes no.
5615 Ms. Schakowsky.

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5616 Ms. Schakowsky. No.

5617 The Clerk. Ms. Schakowsky votes no.

5618 Mr. Butterfield.

5619 Mr. Butterfield. Yes.

5620 The Clerk. Mr. Butterfield votes aye.

5621 Ms. Matsui.

5622 Ms. Matsui. No.

5623 The Clerk. Ms. Matsui votes no.

5624 Ms. Castor.

5625 Ms. Castor. No.

5626 The Clerk. Ms. Castor votes no.

5627 Mr. Sarbanes.

5628 Mr. Sarbanes. No.

5629 The Clerk. Mr. Sarbanes votes no.

5630 Mr. McNerney.

5631 Mr. McNerney. Aye.

5632 The Clerk. Mr. McNerney votes aye.

5633 Mr. Welch.

5634 Mr. Welch. No.

5635 The Clerk. Mr. Welch votes no.

5636 Mr. Lujan.

5637 Mr. Lujan passes.

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5638 Mr. Tonko.
5639 Mr. Tonko. No.
5640 The Clerk. Mr. Tonko votes no.
5641 Ms. Clarke.
5642 Ms. Clarke. No.
5643 The Clerk. Ms. Clarke votes no.
5644 Mr. Loeb sack.
5645 Mr. Loeb sack. No.
5646 The Clerk. Mr. Loeb sack votes no.
5647 Mr. Schrader.
5648 Mr. Schrader. No.
5649 The Clerk. Mr. Schrader votes no.
5650 Mr. Kennedy.
5651 Mr. Kennedy. Aye.
5652 The Clerk. Mr. Kennedy votes aye.
5653 Mr. Cardenas.
5654 Mr. Cardenas. Aye.
5655 The Clerk. Mr. Cardenas votes aye.
5656 Mr. Ruiz.
5657 Mr. Ruiz. Aye.
5658 The Clerk. Mr. Ruiz votes aye.
5659 Mr. Peters.

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5660 Mr. Peters. Aye.

5661 The Clerk. Mr. Peters votes aye.

5662 Mrs. Dingell.

5663 Mrs. Dingell. Aye.

5664 The Clerk. Mrs. Dingell votes aye.

5665 Chairman Walden.

5666 The Chairman. Aye.

5667 The Clerk. Chairman Walden votes aye.

5668 Mr. Upton. Other members wishing to change their vote?

5669 The gentlelady from California, Ms. Eshoo.

5670 Ms. Eshoo. Aye.

5671 The Clerk. Ms. Eshoo votes aye.

5672 Mr. Lujan.

5673 Mr. Lujan. No.

5674 The Clerk. Mr. Lujan votes no.

5675 Mr. Upton. Mr. Latta.

5676 Mr. Latta. Aye.

5677 The Clerk. Mr. Latta votes aye.

5678 Mr. Upton. Mrs. Kathy McMorris Rodgers.

5679 Mrs. McMorris Rodgers. Aye.

5680 The Clerk. Mrs. McMorris Rodgers votes aye.

5681 Mr. Upton. Mr. Harper.

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5682 Mr. Harper. Aye.

5683 The Clerk. Mr. Harper votes aye.

5684 Mr. Upton. Mr. Hudson.

5685 Mr. Hudson. Aye.

5686 The Clerk. Mr. Hudson votes aye.

5687 Mr. Upton. Mr. Green.

5688 Mr. Green. Votes aye.

5689 The Clerk. Mr. Green votes aye.

5690 Mr. Upton. Ms. Clarke.

5691 The Clerk. Mrs. Walters.

5692 Mrs. Walters. Aye.

5693 The Clerk. Mrs. Walters votes aye.

5694 Mr. Upton. Other members wishing to change their vote or
5695 cast a vote? Yeah, he did. Hudson voted.

5696 Seeing none, the clerk will report the tally.

5697 The Clerk. Mr. Chairman, on that vote there were 36 ayes
5698 and 14 nays.

5699 Mr. Upton. Thirty-six ayes, 14 nays. The bill is agreed
5700 to and favorably reported.

5701 The chair will now call up H.R. 2018 -- I am sorry -- sorry,
5702 5809, number 14 on your cheat sheet, and ask the clerk to report.

5703 [The bill follows:]

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5704

5705

*****INSERT 53*****

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5706 The Clerk. H.R. 5809, to amend Title 18 of the Social
5707 Security Act to encourage the use of nonopioid analgesics for
5708 the management of post-surgical pain under the Medicare program
5709 and for other purposes.

5710 Mr. Upton. And without objection, the first reading of the
5711 bill is dispensed with and the bill will be open for amendment
5712 at any point.

5713 Are there any amendments to the bill?

5714 Mrs. Dingell, do you have an amendment?

5715 The clerk will report the Dingell amendment.

5716 The Clerk. Amendment to H.R. 5809, offered by Mrs. Dingell.

5717 Mr. Upton. And the amendment is considered as read. The
5718 staff will distribute the amendment and gentlelady from the great
5719 state of Michigan is recognized for five minutes in support of
5720 her amendment.

5721 [The amendment of Mrs. Dingell follows:]

5722

5723 *****COMMITTEE INSERT 54*****

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5724 Mrs. Dingell. Thank you, Mr. Chairman.

5725 I really want to commend my colleagues, Mr. Peters and Dr.
5726 Bucshon, for their hard work on this important topic, and I have
5727 to tell you, this last amendment and this amendment has been really
5728 difficult to sort of sort our way through because I am somebody
5729 that knows that injections does work and it's a complicated
5730 subject.

5731 This amendment, I think, would address the issue raised by
5732 all of you but in a more systematic way and at the same time improve
5733 the bill by reducing cost to taxpayers as well as the out-of-pocket
5734 expenses for seniors.

5735 The amendment would require CMS to do a review of the
5736 outpatient prospective payment system of payments for opioids
5737 and evidence-based nonopioid alternatives for pain management
5738 with the goal of ensuring that there are not financial incentives
5739 to use opioids instead of nonopioid alternatives. Then CMS could
5740 revise the outpatient prospective payment system to address any
5741 inequity so that it would get all inequities that exist between
5742 opioids and nonopioid, which would include creating new groups
5743 of covered OPD services to classify separately those procedures
5744 that utilize opioids and nonopioid alternatives for pain
5745 management.

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5746 In other words, CMS could create separate bundles, for
5747 instance, for a surgical procedure that includes opioids and one
5748 that does not. The agency would do this systematically and
5749 examine all of the nonopioid alternatives on the market whether
5750 a drug or a device or an injection.

5751 This would address the problem that the bill's sponsors have
5752 raised but have the agency approach the issue systematically or
5753 all of the different -- really get at the heart of it.

5754 It would also do it in a budget-neutral fashion by requiring
5755 CMS to offset the cost of these changes across the OPPI rather
5756 than costing taxpayers hundreds of millions of dollars.

5757 And, as noted in the previous amendment, this is the approach
5758 that -- and Lord knows, I am married to someone that would never
5759 take the approach the Ways and Means Committee did -- but I do
5760 think that it's a bipartisan way to address the problem and it's
5761 a thoughtful approach to the issue at hand.

5762 So I would urge my colleagues to support this amendment and
5763 I yield back the balance of my time.

5764 Mr. Upton. The gentlelady yields back.

5765 The chair would recognize Dr. Bucshon from Indiana for five
5766 minutes.

5767 Mr. Bucshon. I move to strike the last word to speak against

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5768 the amendment and in favor of the underlying bill.

5769 Mr. Upton. The gentleman is recognized.

5770 Mr. Bucshon. I appreciate my colleague's focus and
5771 commitment to ensuring our payer system is creating positive
5772 incentives and I believe we have done some good work on that,
5773 most recently, the bill we just passed with Mr. Shimkus' bill.

5774 As Congresswoman Dingell noted, our friends at Ways and Means
5775 passed a bill similar -- with similar language yesterday and we
5776 will continue to work with them as we have throughout this process
5777 to move our opiate bills to the floor and merge our efforts with
5778 theirs.

5779 Making sure we are properly reimbursing current nonopioid
5780 treatments is a good positive step. But we must also think about
5781 the future.

5782 I have no -- we have no objections to the -- to the language
5783 but it doesn't serve as an alternative to the original bill.
5784 It replaces the original bill.

5785 I'll note that, as drafted, if the secretary were to find
5786 treatments that are under reimbursed, any adjustment to those
5787 reimbursement rates would result in cuts to other codes and I
5788 think it's important to keep in mind -- that in mind as we discuss
5789 this, going forward.

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5790 We think that incentivizing more innovative and superior
5791 nonopioid drugs is an important piece in our response to this
5792 crisis and while asking the secretary to review codes of products
5793 on the market is important, no doubt, it does not incentivize
5794 or reward those who are doing the hard work right now to develop
5795 and bring to market new superior and nonopioid alternatives.

5796 So I urge rejection of the amendment since it strikes out
5797 -- strikes the impact of the bipartisan approach to the underlying
5798 bill. But I want to continue to work with everyone including
5799 Congresswoman Dingell to include this idea, going forward.

5800 And so, Mr. Chairman, we do have a -- on the underlying bill
5801 we do have a serious crisis on our hands and the American public
5802 needs solutions. We all want that on both sides of the aisle.

5803 This committee has been working diligently in a bipartisan
5804 manner to address the opioid crisis. I believe H.R. 5809, which
5805 my colleague, Scott Peters, and I have worked together on
5806 complements work the committee accomplished last week and builds
5807 upon the important work we did in CARA, the Comprehensive
5808 Addiction and Recovery Act.

5809 This bill is vitally important for the physician and patient
5810 communities, in my view. As a surgeon, I've used nerve blocks
5811 and other nonopioid drugs to help limit the number of opioids

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5812 I would need to prescribe a patient after surgery. But,
5813 ultimately, there aren't many alternatives.

5814 Physicians need new and innovative options to treat patients
5815 without putting them at an unnecessary risk for misuse and
5816 addiction.

5817 We need companies innovating and developing nonopioid
5818 options for post-surgical pain. However, current Medicare
5819 bundled payments disincentivize the use of nonopioid
5820 alternatives, which can be more expensive than opioids.

5821 I believe this legislation will help to address the lack
5822 of nonopioid options and spur numerous companies to innovate and
5823 develop nonopioid alternatives. There has been an attempt to
5824 create, I think, a little bit of a false narrative about the
5825 intentions of the legislation.

5826 But I ask everyone to consider the fact that I am one of
5827 the few doctors on the committee and have performed hundreds of
5828 surgeries and worried about my patients' ability to cope with
5829 severe pain afterward.

5830 And I've prescribed opioids as an option to help alleviate
5831 for a long time. I know from the actual experience doctors and
5832 patients need more options that come with fewer risks.

5833 This legislation will help to accomplish that so I ask my

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5834 colleagues to support this important bill, reject the amendment,
5835 and vote yes on the underlying bill.

5836 And with that, I yield back the balance of my time. Thank
5837 you.

5838 Mr. Upton. The gentleman yields back.

5839 The chair recognizes the ranking member of the full
5840 committee, Mr. Pallone, for five minutes.

5841 Mr. Pallone. Thank you, Mr. Chairman.

5842 The bill we are marking up today is an improvement from the
5843 bill we marked up in the subcommittee. It requires companies
5844 to show substantial clinical improvement over at least one other
5845 therapy on the market in order to qualify for an additional two
5846 years of pass-through status.

5847 However, I have to express my continuing opposition to the
5848 bill for the following reasons. First, new drugs already get
5849 three years of pass-through in the OPFS.

5850 I've heard no evidence to establish that an additional two
5851 years of pass-through status is necessary to incentivize the
5852 development of new nonopioid analgesics.

5853 Moreover, I am troubled by the precedent set by this bill.
5854 What will prevent other drug companies from coming in and asking
5855 for an additional two years of pass-through status?

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5856 How should Congress make principled decisions amongst all
5857 the competing drug therapies? And, again, this is picking
5858 winners and losers amongst different therapies and it's not
5859 something I think Congress should be in the business of doing
5860 nor has the expertise to attempt.

5861 If we want to have a discussion about pass-through status
5862 for drugs more broadly let's have that conversation. Are there
5863 issues with how the agency administers pass-through status? Are
5864 there ways to improve it?

5865 I don't think we need to extend pass-through but at least
5866 let's have an honest conversation about what that would cost and
5867 what it would do to our health care system.

5868 What I don't want is continuing to pick winners. We did
5869 this in the BBA that we just passed as well and it's not how I
5870 think we should legislate.

5871 And finally, I want to point out that we need to think about
5872 how this bill and future bills like it would impact drug spending
5873 and out-of-pocket costs for beneficiaries, who we know are already
5874 struggling with high costs of drugs.

5875 Putting a drug on pass-through status for two more years
5876 means higher out-of-pocket costs for seniors, and there is no
5877 way around that. This is not how I think we should legislate

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5878 and how we should use scarce resources during a public health
5879 crisis.

5880 Now, I do support Mrs. Dingell's amendment because I think
5881 that it would improve the bill by reducing the cost to taxpayers
5882 and the out-of-pocket costs for seniors. It would also address
5883 the issue raised by the bill's sponsors in a more systematic way.

5884 I don't want go through all the details of the amendment
5885 but it would require CMS to do a review of the outpatient
5886 prospective payment system and CMS could revise the payment system
5887 to address any inequities that exist between opioids and
5888 nonopioids.

5889 In other words, CMS could create separate bundles, for
5890 instances, for a surgical procedure that includes opioids and
5891 one that does not. But what they would be doing is systematically
5892 examining all the nonopioid alternatives on the market and whether
5893 a drug or a device or an injection, and that's how we should
5894 approach the problem that the bill's sponsors have raised by
5895 having the agency approach the issue systematically.

5896 The amendment would also do this in a budget-neutral fashion
5897 by requiring CMS to offset the cost of these changes rather than
5898 costing taxpayers hundreds of millions of dollars.

5899 So I think Mrs. Dingell's approach is thoughtful. I know

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5900 that we don't like to talk about Ways and Means. They took a
5901 -- you know, basically, they took the same approach and usually
5902 I don't like to say I agree with them, but I do in this case.

5903 And so I urge my colleagues to support this amendment.

5904 Mr. Upton. Yield back?

5905 Mr. Pallone. I yield.

5906 Mr. Upton. Other members wishing to speak?

5907 Mr. Upton. Mr. Peters, recognized for five minutes.

5908 Mr. Peters. Thank you, Mr. Chairman.

5909 I oppose the amendment and would like to address that and
5910 a little bit about the underlying bill.

5911 Look, when you go in for, say, hip replacement surgery,
5912 Medicare reimburses the hospital for everything that goes into
5913 that surgery. It's called a bundled payment.

5914 So that includes the cost of the physician, the nurses, the
5915 anesthesiologist, surgical supplies, everything, including
5916 post-operative pain medication.

5917 So the incentive now is to use the cheapest alternative at
5918 each point, right, because money you don't spend on the doctor
5919 or the post-operative pain you get to keep as the provider.

5920 If physicians want to use a more expensive post-operative
5921 nonopioid analgesic, the amount of the bundled payment doesn't

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5922 increase. And so the physician or the hospital doesn't get
5923 reimbursed for the extra cost.

5924 So there is a strong incentive. We are incentivizing use
5925 of opioids, which are cheap. The cost of opioids is \$20 for 120
5926 tablets of 5 milligrams of oxycodone. Okay. So we are -- we
5927 are telling providers it's in your economic interest to use these
5928 opiates.

5929 Our legislation opens up another avenue. It says, listen,
5930 if you can prove to CMS -- and, again, some people have suggested
5931 Congress is making the decision or the doctor.

5932 No, you have to prove to CMS that there is a substantial
5933 benefit in terms of clinical performance or an alternative. They
5934 can -- they are allowed to pay extra for a certain amount of time.

5935 An effect of that is to create an incentive to develop
5936 alternatives. You know, the fact that there are few existing
5937 options is in part because there is no market. If Medicare says
5938 to you you have to compete against a \$20 pill or a \$20 bottle
5939 of pills, what incentive is that for someone to develop
5940 alternatives? There is none.

5941 But it's not an open door. You have to prove to CMS -- the
5942 exact language -- that there is demonstrated clinical improvement
5943 as a result of this bill. Then they can pay you extra. That's

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5944 all this is.

5945 I've heard concerns that the policy is addressing a problem
5946 that doesn't exist. But my staff and I have heard from dozens
5947 of patient groups, patient advocates, doctors, anesthesiologists and
5948 anesthesiologists who don't agree, and there are people on the
5949 ground who are telling us that it's critical that patients have
5950 access to new innovative therapies to treat post-surgical pain.

5951 We have the support of the American Society of Interventional
5952 Pain Physicians, which represents over 4,500 interventional pain
5953 physicians across the country, the American Society of
5954 Anesthesiologists, and patient groups like Hope United.

5955 And the policy is not -- was not dreamed up here. It was
5956 from a 2003 MedPAC recommendation that, quote, "The secretary
5957 should introduce clinical criteria for eligibility of drugs and
5958 biologicals to receive pass-through payments -- these extra
5959 payments -- under the outpatient prospective payment system."

5960 So this makes -- this makes a lot of sense to get us out
5961 away from this. Why would we want to stay in the situation where
5962 we are incentivizing the use of opioids, which we know are cheap?

5963 Opioid-related adverse events cost hospitals billions or
5964 the potential to develop new persistent -- I am sorry -- we are
5965 talking about something that's costing us a total of \$78 billion

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5966 a year for this problem -- \$78 billion a year.

5967 We got a CBO score on our bill of over 10 years \$150 million
5968 to \$200 million, all right, and the point is if you use an
5969 alternative that's not an opioid at the end of that you come out
5970 not addicted.

5971 So we have to find better ways to treat this problem where
5972 it starts. I urge my colleagues to support this legislation and
5973 I appreciate the co-sponsorship of Mr. Bucshon and Ms. Eshoo,
5974 which is very greatly appreciated.

5975 With respect to the amendment, the problem with the amendment
5976 is that it starts by striking my entire bill. So you can't have
5977 the amendment and the bill. The first part of it is strike Section
5978 2. That's the whole bill. So you can't add this amendment in.
5979 It's very -- it's by definition inconsistent.

5980 I don't have a particular problem with the amendment in that
5981 it creates a public comment process. But that's not an
5982 alternative to creating market. We are in a crisis. Let's not
5983 go back for a government study and pat ourselves on the back like
5984 we did something. Let's create a market for these alternatives.

5985 And second, the budget neutrality -- there is a down side
5986 to the budget neutrality which sounds good, which is that to pay
5987 more for opioid alternatives you have to take money away from

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5988 something else.

5989 We know we are going to hear from hospitals about how thin
5990 the margins are already. We have to create a market. This is
5991 a sensible way to do it. I urge you -- I urge my colleagues to
5992 reject the amendment and to support the underlying bill and I
5993 thank --

5994 Mr. Bucshon. Will the gentleman yield for the last 30
5995 seconds?

5996 Mr. Peters. Yes, sir.

5997 Mr. Bucshon. Yes. I just want to point out a point that
5998 was just made about, you know, a little bit of expenditure up
5999 front to save a lot of money downstream.

6000 If you prevent millions of people from becoming addicted
6001 to opioids, you will save billions of dollars on the back end.
6002 That's really important.

6003 Thank you. I yield.

6004 Mr. Peters. Yield back.

6005 Mr. Upton. The gentleman from California yields back.

6006 Other members wishing to speak on the amendment?

6007 The gentlelady from California is recognized for five
6008 minutes.

6009 Ms. Eshoo. Thank you, Mr. Chairman.

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6010 I move to strike the last word.

6011 I am pleased to be a co-sponsor of Mr. Peters' bill because
6012 it incents the use of nonopioid alternatives and I think,
6013 colleagues, you've heard me just have my needle stuck on the same
6014 tune here because I think that it's essential that we really move
6015 to alternatives for pain that are not opioids.

6016 So one in six patients who is prescribed opioids for chronic
6017 pain goes on to misuse them. One in six -- that's a lot of people
6018 -- and 4 to 6 percent of those patients, which I think is really
6019 stunning, will transition to heroin.

6020 Between 8 and 12 percent of patients develop a substance
6021 abuse disorder. So part of the reason this committee is
6022 addressing the epidemic is because of the over prescription of
6023 opioids.

6024 I've said it before. I'll say it again. Patients who
6025 undergo knee and hip surgeries are sent home with 60 pills-six
6026 oh. Children who have their wisdom teeth removed are sent home
6027 with 30. I know people across the country who have been sent
6028 home with 100 tablets of oxycodone after hip surgery, the second
6029 most common surgery performed in our country.

6030 So over prescribing is a problem in our country and we know
6031 what the addiction rates are. We need fewer pills in the system,

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6032 as far as I am concerned, if we are going to stop this crisis.

6033 And people do have legitimate pain and they need treatment,
6034 and I think they would -- I would rather see nonopioids prescribed
6035 in more situations than not.

6036 So there are alternatives to opioids on the market that have
6037 been approved by the FDA. I don't know -- earlier today I heard
6038 -- I don't know from what side -- it doesn't matter what side
6039 of the aisle -- but it was suggested that there are not
6040 alternatives that have been approved by the FDA. There have been,
6041 both drugs and medical devices.

6042 I've met with constituent companies about their innovative
6043 drug formulations that provide the same pain relief as opioids
6044 but do not result in addiction. Injections can replace pills.
6045 Disposable medical devices can target pain relief to a specific
6046 part of the body.

6047 So I am pleased that we are considering this legislation
6048 because it does incent nonopioid alternatives and I think that
6049 that is a must that should come out of this markup. I think that
6050 there are incredible innovations in pain treatment that are ready
6051 to go to the market, some that already are.

6052 But if these products can't reach patients because the
6053 reimbursement structure doesn't promote their use, then I think

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6054 that we will have collectively failed to address this crisis in
6055 our country.

6056 So for all those reasons and others that I didn't mention,
6057 I am pleased to support the legislation, and I yield back.

6058 Mr. Upton. The gentlelady yields back.

6059 Other members wishing to speak on the amendment?

6060 Seeing none -- the gentleman from Maryland is recognized
6061 for five minutes.

6062 Mr. Sarbanes. Thank you, Mr. Chairman. I don't need five
6063 minutes.

6064 I certainly understand the motivation behind the bill and
6065 I respect it and I am sympathetic with it, in large part. The
6066 anxiety I have about it is -- well, first of all, my impression
6067 is that CMS currently has sufficient tools for revisiting and
6068 redesigning the incentives in this space so that we can advance
6069 in terms of an option -- these alternatives to opioids -- and
6070 is about the business right now and my impression is it's trying
6071 to be pretty forward thinking and aggressive in looking at those
6072 incentives.

6073 What I worry about is this kind of single shooting on finding
6074 a specific payment methodology or category and having us go in
6075 and change it in ways that can benefit a particular manufacturer

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6076 while in this, you know, particular instance maybe you could argue
6077 that it doesn't have sinister consequences.

6078 If this starts to become a mechanism that industry can use
6079 to come in and sort of through lawmakers lean on the agency that's
6080 supposed to make these decisions it could open up a Pandora's
6081 Box in terms of undue influence being exercised over time.

6082 So, again, that may not be the either specific motivation
6083 here or the potential outcome. But I am worried about creating
6084 a precedent of us going in and, in a sense, meddling with agency
6085 determinations in a way that could allow that to intensify over
6086 time.

6087 And for that reason, I am reluctant to support the bill,
6088 and I yield back.

6089 Mr. Upton. Gentleman yields back.

6090 Other members wishing to speak on the amendment?

6091 Seeing none, the vote occurs on the Dingell amendment to
6092 H.R. 5809. A roll call vote has been requested. The clerk will
6093 call the roll.

6094 All those in favor on the amendment will say aye.

6095 Those opposed say no.

6096 Clerk will call the roll.

6097 The Clerk. Mr. Barton.

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6098 [No response.]

6099 The Clerk. Mr. Upton.

6100 Mr. Upton. No.

6101 The Clerk. Mr. Upton votes no.

6102 Mr. Shimkus.

6103 [No response.]

6104 Mr. Burgess.

6105 Mr. Burgess. No.

6106 The Clerk. Mr. Burgess votes no.

6107 Mrs. Blackburn.

6108 [No response.]

6109 Mr. Scalise.

6110 [No response.]

6111 Mr. Latta.

6112 Mr. Latta. No.

6113 The Clerk. Mr. Latta votes no.

6114 Mrs. McMorris Rodgers.

6115 [No response.]

6116 Mr. Harper.

6117 Mr. Harper. No.

6118 The Clerk. Mr. Harper votes no.

6119 Mr. Lance.

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6120 Mr. Lance. No.
6121 The Clerk. Mr. Lance votes no.
6122 Mr. Guthrie.
6123 Mr. Guthrie. No.
6124 The Clerk. Mr. Guthrie votes no.
6125 Mr. Olson.
6126 Mr. Olson. No.
6127 The Clerk. Mr. Olson votes no.
6128 Mr. McKinley.
6129 Mr. McKinley. No.
6130 The Clerk. Mr. McKinley votes no.
6131 Mr. Kinzinger.
6132 Mr. Kinzinger. No.
6133 The Clerk. Mr. Kinzinger votes no.
6134 Mr. Griffith.
6135 Mr. Griffith. No.
6136 The Clerk. Mr. Griffith votes no.
6137 Mr. Bilirakis.
6138 Mr. Bilirakis. No.
6139 The Clerk. Mr. Bilirakis votes no.
6140 Mr. Johnson.
6141 Mr. Johnson. No.

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6142 The Clerk. Mr. Johnson votes no.
6143 Mr. Long.
6144 Mr. Long. No.
6145 The Clerk. Mr. Long votes no.
6146 Mr. Bucshon.
6147 Mr. Bucshon. No.
6148 The Clerk. Mr. Bucshon votes no.
6149 Mr. Flores.
6150 Mr. Flores. No.
6151 The Clerk. Mr. Flores votes no.
6152 Mrs. Brooks.
6153 Mrs. Brooks. No.
6154 The Clerk. Mrs. Brooks votes no.
6155 Mr. Mullin.
6156 Mr. Mullin. No.
6157 The Clerk. Mr. Mullin votes no.
6158 Mr. Hudson.
6159 Mr. Hudson. No.
6160 The Clerk. Mr. Hudson votes no.
6161 Mr. Collins.
6162 Mr. Collins. No.
6163 The Clerk. Mr. Collins votes no.

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6164 Mr. Cramer.
6165 [No response.]
6166 Mr. Walberg.
6167 Mr. Walberg. No.
6168 The Clerk. Mr. Walberg votes no.
6169 Mrs. Walters.
6170 Mrs. Walters. No.
6171 The Clerk. Mrs. Walters votes no.
6172 Mr. Costello.
6173 Mr. Costello. No.
6174 The Clerk. Mr. Costello votes no.
6175 Mr. Carter.
6176 Mr. Carter. No.
6177 The Clerk. Mr. Carter votes no.
6178 Mr. Duncan.
6179 Mr. Duncan. No.
6180 The Clerk. Mr. Duncan votes no.
6181 Mr. Pallone.
6182 Mr. Pallone. Aye.
6183 The Clerk. Mr. Pallone votes aye.
6184 Mr. Rush.
6185 Mr. Rush. Aye.

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6186 The Clerk. Mr. Rush votes aye.
6187 Ms. Eshoo.
6188 Ms. Eshoo. Aye.
6189 The Clerk. Ms. Eshoo votes aye.
6190 Mr. Engel.
6191 Mr. Engel. Aye.
6192 The Clerk. Mr. Engel votes aye.
6193 Mr. Green.
6194 Mr. Green. Aye.
6195 The Clerk. Mr. Green votes aye.
6196 Ms. DeGette.
6197 [No response.]
6198 Mr. Doyle.
6199 Mr. Doyle. Aye.
6200 The Clerk. Mr. Doyle votes aye.
6201 Ms. Schakowsky.
6202 Ms. Schakowsky. Aye.
6203 The Clerk. Ms. Schakowsky votes aye.
6204 Mr. Butterfield.
6205 Mr. Butterfield. Aye.
6206 The Clerk. Mr. Butterfield votes aye.
6207 Ms. Matsui.

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6208 Ms. Matsui. Aye.

6209 The Clerk. Ms. Matsui votes aye.

6210 Ms. Castor.

6211 Ms. Castor. Aye.

6212 The Clerk. Ms. Castor votes aye.

6213 Mr. Sarbanes.

6214 Mr. Sarbanes. Aye.

6215 The Clerk. Mr. Sarbanes votes aye.

6216 Mr. McNerney.

6217 Mr. McNerney. Aye.

6218 The Clerk. Mr. McNerney votes aye.

6219 Mr. Welch.

6220 Mr. Welch. Aye.

6221 The Clerk. Mr. Welch votes aye.

6222 Mr. Lujan.

6223 Mr. Lujan. Aye.

6224 The Clerk. Mr. Lujan votes aye.

6225 Mr. Tonko.

6226 Mr. Tonko. Aye.

6227 The Clerk. Mr. Tonko votes aye.

6228 Ms. Clarke.

6229 Ms. Clarke. Aye.

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6230 The Clerk. Ms. Clarke votes aye.
6231 Mr. Loeb sack.
6232 Mr. Loeb sack. Aye.
6233 The Clerk. Mr. Loeb sack votes aye.
6234 Mr. Schrader.
6235 Mr. Schrader. Aye.
6236 The Clerk. Mr. Schrader votes aye.
6237 Mr. Kennedy.
6238 Mr. Kennedy. Aye.
6239 The Clerk. Mr. Kennedy votes aye.
6240 Mr. Cardenas.
6241 Mr. Cardenas. Aye.
6242 The Clerk. Mr. Cardenas votes aye.
6243 Mr. Ruiz.
6244 Mr. Ruiz. Aye.
6245 The Clerk. Mr. Ruiz votes aye.
6246 Mr. Peters.
6247 Mr. Peters. No.
6248 The Clerk. Mr. Peters votes no.
6249 Mrs. Dingell.
6250 Mrs. Dingell. Aye.
6251 The Clerk. Mrs. Dingell votes aye.

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6252 Chairman Walden.

6253 The Chairman. No.

6254 The Clerk. Chairman Walden votes no.

6255 Mr. Barton.

6256 Mr. Barton. No.

6257 The Clerk. Mr. Barton votes no.

6258 Mr. Shimkus.

6259 Mr. Shimkus. No.

6260 The Clerk. Mr. Shimkus votes no.

6261 Mrs. McMorris Rodgers.

6262 Mrs. McMorris Rodgers. No.

6263 The Clerk. Mrs. McMorris Rodgers votes no.

6264 The Chairman. [Presiding.] Are there other members

6265 wishing to be recorded?

6266 Are there any other members wishing to be recorded?

6267 If not, the clerk will report the tally.

6268 The Clerk. Mr. Chairman, on that vote, there were 22 ayes
6269 and 29 nays.

6270 The Chairman. Twenty-two ayes, 29 nays. The amendment is
6271 not agreed to.

6272 We now move to -- unless there is any other discussion on
6273 the underlying bill, we will move to a vote on the bill. This

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6274 will be a recorded vote. This will be a recorded vote on the
6275 underlying bill, H.R. 5809.

6276 So the question now occurs on favorably reporting H.R. 5809
6277 to the House.

6278 All those in favor will signify by saying aye.

6279 Those, no.

6280 The clerk will call the roll.

6281 The Clerk. Mr. Barton.

6282 Mr. Barton. Aye.

6283 The Clerk. Mr. Barton votes aye.

6284 Mr. Upton.

6285 [No response.]

6286 Mr. Shimkus.

6287 Mr. Shimkus. Aye.

6288 The Clerk. Mr. Shimkus votes aye.

6289 Mr. Burgess.

6290 Mr. Burgess. Aye.

6291 The Clerk. Mr. Burgess votes aye.

6292 Mrs. Blackburn.

6293 [No response.]

6294 Mr. Scalise.

6295 [No response.]

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6296 Mr. Latta.
6297 Mr. Latta. Aye.
6298 The Clerk. Mr. Latta votes aye.
6299 Mrs. McMorris Rodgers.
6300 [No response.]
6301 Mr. Harper.
6302 Mr. Harper. Aye.
6303 The Clerk. Mr. Harper votes aye.
6304 Mr. Lance.
6305 Mr. Lance. Aye.
6306 The Clerk. Mr. Lance votes aye.
6307 Mr. Guthrie.
6308 Mr. Guthrie. Aye.
6309 The Clerk. Mr. Guthrie votes aye.
6310 Mr. Olson.
6311 Mr. Olson. Aye.
6312 The Clerk. Mr. Olson votes aye.
6313 Mr. McKinley.
6314 Mr. McKinley. Aye.
6315 The Clerk. Mr. McKinley votes aye.
6316 Mr. Kinzinger.
6317 Mr. Kinzinger. Aye.

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6318 The Clerk. Mr. Kinzinger votes aye.

6319 Mr. Griffith.

6320 Mr. Griffith. Aye.

6321 The Clerk. Mr. Griffith votes aye.

6322 Mr. Bilirakis.

6323 Mr. Bilirakis. Aye.

6324 The Clerk. Mr. Bilirakis votes aye.

6325 Mr. Johnson.

6326 Mr. Johnson. Aye.

6327 The Clerk. Mr. Johnson votes aye.

6328 Mr. Long.

6329 Mr. Long. Aye.

6330 The Clerk. Mr. Long votes aye.

6331 Mr. Bucshon.

6332 Mr. Bucshon. Aye.

6333 The Clerk. Mr. Bucshon votes aye.

6334 Mr. Flores.

6335 Mr. Flores. Aye.

6336 The Clerk. Mr. Flores votes aye.

6337 Mrs. Brooks.

6338 Mrs. Brooks. Aye.

6339 The Clerk. Mrs. Brooks votes aye.

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6340 Mr. Mullin.
6341 Mr. Mullin. Aye.
6342 The Clerk. Mr. Mullin votes aye.
6343 Mr. Hudson.
6344 Mr. Hudson. Aye.
6345 The Clerk. Mr. Hudson votes aye.
6346 Mr. Collins.
6347 Mr. Collins. Aye.
6348 The Clerk. Mr. Collins votes aye.
6349 Mr. Cramer.
6350 [No response.]
6351 Mr. Walberg.
6352 Mr. Walberg. Aye.
6353 The Clerk. Mr. Walberg votes aye.
6354 Mrs. Walters.
6355 Mrs. Walters. Aye.
6356 The Clerk. Mrs. Walters votes aye.
6357 Mr. Costello.
6358 Mr. Costello. Aye.
6359 The Clerk. Mr. Costello votes aye.
6360 Mr. Carter.
6361 Mr. Carter. Aye.

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6362 The Clerk. Mr. Carter votes aye.

6363 Mr. Duncan.

6364 Mr. Duncan. Aye.

6365 The Clerk. Mr. Duncan votes aye.

6366 Mr. Pallone.

6367 Mr. Pallone. No.

6368 The Clerk. Mr. Pallone votes no.

6369 Mr. Rush.

6370 Mr. Rush. No.

6371 The Clerk. Mr. Rush votes no.

6372 Ms. Eshoo.

6373 Ms. Eshoo. Aye.

6374 The Clerk. Ms. Eshoo votes aye.

6375 Mr. Engel.

6376 [No response.]

6377 Mr. Green.

6378 Mr. Green. Aye.

6379 The Clerk. Mr. Green votes aye.

6380 Ms. DeGette.

6381 [No response.]

6382 Mr. Doyle.

6383 [No response.]

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6384 Ms. Schakowsky.
6385 Ms. Schakowsky. No.
6386 The Clerk. Ms. Schakowsky votes no.
6387 Mr. Butterfield.
6388 Mr. Butterfield. Aye.
6389 The Clerk. Mr. Butterfield votes aye.
6390 Ms. Matsui.
6391 Ms. Matsui. No.
6392 The Clerk. Ms. Matsui votes no.
6393 Ms. Castor.
6394 Ms. Castor. No.
6395 The Clerk. Ms. Castor votes no.
6396 Mr. Sarbanes.
6397 Mr. Sarbanes. No.
6398 The Clerk. Mr. Sarbanes votes no.
6399 Mr. McNerney.
6400 Mr. McNerney. No.
6401 The Clerk. Mr. McNerney votes no.
6402 Mr. Welch.
6403 Mr. Welch. No.
6404 The Clerk. Mr. Welch votes no.
6405 Mr. Lujan.

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6406 Mr. Lujan. No.
6407 The Clerk. Mr. Lujan votes no.
6408 Mr. Tonko.
6409 Mr. Tonko. No.
6410 The Clerk. Mr. Tonko votes no.
6411 Ms. Clarke.
6412 Ms. Clarke. No.
6413 The Clerk. Ms. Clarke votes no.
6414 Mr. Loeb sack.
6415 Mr. Loeb sack. No.
6416 The Clerk. Mr. Loeb sack votes no.
6417 Mr. Schrader.
6418 Mr. Schrader. No.
6419 The Clerk. Mr. Schrader votes no.
6420 Mr. Kennedy.
6421 Mr. Kennedy. No.
6422 The Clerk. Mr. Kennedy votes no.
6423 Mr. Cardenas.
6424 Mr. Cardenas. Aye.
6425 The Clerk. Mr. Cardenas votes aye.
6426 Mr. Ruiz.
6427 Mr. Ruiz. Aye.

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6428 The Clerk. Mr. Ruiz votes aye.

6429 Mr. Peters.

6430 Mr. Peters. Aye.

6431 The Clerk. Mr. Peters votes aye.

6432 Mrs. Dingell.

6433 Mrs. Dingell. No.

6434 The Clerk. Mrs. Dingell votes no.

6435 Chairman Walden.

6436 The Chairman. Aye.

6437 The Clerk. Chairman Walden votes aye.

6438 Mr. Upton.

6439 Mr. Upton. Aye.

6440 The Clerk. Mr. Upton votes aye.

6441 The Chairman. Are there other members wishing to be
6442 recorded? Okay.

6443 The Clerk. Mr. Engel.

6444 The Chairman. Mr. Engel.

6445 Mr. Engel. No.

6446 The Clerk. Mr. Engel votes no.

6447 The Chairman. Does Mrs. McMorris Rodgers want to vote aye?

6448 Mrs. McMorris Rodgers. Aye.

6449 The Clerk. Mrs. McMorris Rodgers votes aye.

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6450 The Chairman. Mr. Doyle.

6451 Mr. Doyle. No.

6452 The Clerk. Mr. Doyle votes no.

6453 The Chairman. Are there other members wishing to be
6454 recorded who are not recorded?

6455 If not, the clerk will report the tally.

6456 The Clerk. Mr. Chairman, on that vote there were 34 ayes
6457 and 17 noes.

6458 The Chairman. Thirty-four ayes, 17 noes. The question --
6459 the H.R. 5809 is approved favorably and referred to the House
6460 for consideration. Okay.

6461 The chair now calls up H.R. 5795 -- this would be number
6462 six -- number six -- and ask the clerk to report, please.

6463 [The bill follows:]

6464

6465 *****INSERT 55*****

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315

6466 The Clerk. H.R. 5795, to amend the Public Health Service
6467 Act to protect the confidentiality of substance use disorder
6468 patient records.

6469 The Chairman. Without objection, the first reading of the
6470 bill is dispensed with and the bill will be open for amendment
6471 at any point.

6472 The chair recognizes the vice chair of the full committee,
6473 the gentleman from Texas, Mr. Barton, for purposes of an
6474 amendment.

6475 The clerk will report the amendment.

6476 The Clerk. Amendment to H.R. 4795, offered by Mr. Barton.

6477 The Chairman. And the chair recognizes the gentleman from
6478 Texas for five minutes to speak on his amendment.

6479 [The amendment of Mr. Barton follows:]

6480

6481 *****COMMITTEE INSERT 56*****

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6482 Mr. Barton. Thank you, Mr. Chairman. I'll try to be brief.

6483 First, I want to commend you and Subcommittee Chairman
6484 Burgess for -- and your staffs for working with me to try to resolve
6485 the conflict between protecting an individual's privacy and the
6486 need to improve the current standards and efficiency of providing
6487 coverage or health care services to people that have substance
6488 use disorders.

6489 Your staff was working with me as late as 8:00 o'clock last
6490 night and basically we just agreed to disagree that we couldn't
6491 reconcile the need for privacy or the privacy protections under
6492 the existing CFR Part II regulations and the basic underlying
6493 purpose of this bill.

6494 So at the appropriate time, if there is a roll call vote
6495 I will vote no on the underlying bill, and having said that, there
6496 was a compromise that was offered that I do believe improves the
6497 bill and it would require the secretary of Health and Human
6498 Services to update the current HIPAA privacy notice so that you
6499 can actually understand it.

6500 It needs to be in plain English, it needs to specifically
6501 state what the rights are of the individual, and I think that
6502 is an improvement to the bill.

6503 I will say this before I yield back, Mr. Chairman. CFR Part

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6504 2 has been pilloried that it's out of date and it's antiquated.

6505 But it has worked, because people that have substance use

6506 disorder, their privacy has been protected.

6507 And it's not the intention of the underlying bill but if
6508 the underlying bill passes in, basically, the current form, that
6509 protection is going -- it's not going to totally go away because
6510 they will still be covered under HIPAA. But the absolutely
6511 guarantee of privacy will go away and I think that's not good
6512 public policy.

6513 I understand the need and I must also commend Mr. Mullin.

6514 He and I have had personal discussions. He's been very open
6515 and willing to try to compromise. It's just what I want to try
6516 to protect in this bill is, apparently, not going to happen.

6517 So I do think my amendment improves the bill and I would
6518 encourage the members to accept it.

6519 With that, I yield back.

6520 The Chairman. Gentleman -- do you want to yield to Mr.
6521 Mullin?

6522 Mr. Barton. Oh, sure. I didn't -- I didn't realize he had
6523 asked for --

6524 Mr. Mullin. I just had a clarification.

6525 So are you saying that if your bill passes you will support

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6526 the bill or even if your bill -- your amendment passes you're
6527 not going to support the bill?

6528 Mr. Barton. I will -- I am not going to vote for the bill
6529 in final passage.

6530 Mr. Mullin. All right. Thank you.

6531 The Chairman. Even if your amendment is adopted?

6532 Mr. Barton. Even if my amendment is adopted.

6533 The Chairman. Okay.

6534 Mr. Barton. Thank you. I yield back.

6535 The Chairman. The gentleman yields back to the gentleman.

6536

6537 The gentleman yields back to me.

6538 Mr. Barton. Yes, sir.

6539 The Chairman. I mean, no. I mean, yields back.

6540 Mr. Barton. I'll yield to anybody that wants to be yielded,
6541 including yourself, Mr. Chairman.

6542 The Chairman. I am going to offer a secondary amendment.

6543 The gentleman yields back.

6544 The chair recognizes the gentlelady from California for five
6545 minutes.

6546 Ms. Eshoo. Thank you, Mr. Chairman.

6547 Sometimes in these undertakings we miss what is somewhat

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6548 obvious but nonetheless very important and that is that there
6549 isn't any opt-in or opt-out with HIPAA.

6550 HIPAA is HIPAA. Those privacy protections are there,
6551 period. So this is not like going onto Facebook. Okay. Maybe
6552 that's the best analogy I can use in this day and time.

6553 But I think -- I just want to state for the record as we're
6554 -- and there are a lot of feelings and emotions around this and
6555 I think that that's healthy and good. It means that people care
6556 a great deal and I like that.

6557 But I just wanted to state this about HIPAA because HIPAA
6558 is -- again, you don't opt in. You don't opt out. It is there.
6559 It is there to protect privacy.

6560 So thank you, and I yield back.

6561 The Chairman. The gentlelady yields back.

6562 The chair recognizes himself for purposes of offering a
6563 second degree amendment to the Barton amendment.

6564 The clerk will report the amendment.

6565 The Clerk. Amendment offered by Chairman Walden to the
6566 Barton Amendment to H.R. 5795.

6567 The Chairman. Without objection, further reading of the
6568 amendment is dispensed with and I recognize myself for five
6569 minutes to speak on the amendment.

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6570

[The amendment of Chairman Walden follows:]

6571

6572

*****COMMITTEE INSERT 57*****

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6573 The Chairman. The only change in the second degree
6574 amendment is an increase to the penalties in the event of a
6575 disclosure. So if a bad actor knowingly obtains or discloses
6576 substance use disorder treatment information in violation of the
6577 Part 2 statute, then that bad actor will faced enhanced fines
6578 and criminal penalties including potential imprisonment --
6579 including potential imprisonment.

6580 Again, by fully aligning the penalties with HIPAA, this
6581 straightforward amendment adds protections for patient privacy,
6582 which I know we all care about -- and I know, Mr. Barton, you
6583 deeply care about -- I consider this to be a simple friendly
6584 meaningful amendment.

6585 Bad actors should be strongly punished for compromising an
6586 individual's trust and privacy. So I urge the committee to adopt
6587 this second degree amendment and I urge support for the underlying
6588 bill.

6589 I would also like to, again, place into the record the letter
6590 from the Oregon Hospital Association from April 11th where they
6591 say, "We are especially supportive of one aspect of the
6592 committee's work -- modernizing outdated substance use disorder
6593 privacy policies. Specifically, the Oregon Hospital and Health
6594 Systems strongly supports aligning the privacy regulations in

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6595 42 CFR Part 2 with the Health Insurance Portability and
6596 Accountability Act, HIPAA, for the purposes of treatment,
6597 payment, and health care operations.

6598 Coordinating care for patients and treatment for substance
6599 use disorder is fundamental to successful treatment," they write.

6600 "However, the requirements of 42 CFR Part 2 makes it very
6601 difficult or prevents the sharing of patient information
6602 necessary to deliver effective and coordinated care.

6603 This conflict forces hospitals and health systems now to
6604 go to extraordinary lengths to deliver needed care. We urge the
6605 committee to adopt legislation that would fully align the 42 CFR
6606 Part 2 regulations with the HIPAA rules."

6607 I would also like to put into the record the document from
6608 January 18th from the National Governor's Association and share
6609 with our colleagues their position on aligning 42 CFR Part 2 with
6610 HIPAA.

6611 The write, and this is the bipartisan governors association
6612 -- the National Governors Association and, specifically, Governor
6613 Brown of Oregon has indicated her support for this -- they write,
6614 "Protecting patient records is critical, particularly for those
6615 who have or are undergoing treatment for substance use disorder,
6616 given the negative consequences of stigma often attributed to

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6617 those individuals.

6618 However, federal privacy rules impede care coordination and
6619 threaten patients safety by prohibiting substance use disorder
6620 treatment providers from fully participating electronic health
6621 information exchange, leaving treating providers without the full
6622 picture of a patient's health.

6623 The current restrictions on the ability of opioid treatment
6624 programs to report medications dispensed to their state PDMP limit
6625 providers' ability to prevent overdose and diversion as well as
6626 potentially deadly medication interactions.

6627 Congress should pass legislation aligning 42 CFR Part 2 with
6628 HIPAA to bring substance use disorder information into alignment
6629 with privacy protections governing other types of health data."

6630 And so that's from the National Governors Association.
6631 That's from my own Governor Brown as well as the Oregon Hospital
6632 Association.

6633 I ask unanimous consent to place these into the record,
6634 without objection, and I encourage support for the secondary
6635 amendment, the Barton amendment, and the underlying bill. So

6636 --

6637 [The information follows:]

6638

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6639

*****COMMITTEE INSERT 58*****

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6640 Mr. Barton. Would the gentleman yield?

6641 The Chairman. I would be happy to yield to the gentleman
6642 from Texas.

6643 Mr. Barton. At this time, I am strongly supportive of the
6644 Chairman Walden amendment.

6645 The Chairman. I appreciate that.

6646 Mr. Barton. I appreciate -- I really -- it does -- it needed
6647 to be done and it's to your credit that you're willing to
6648 strengthen those penalties. So that's probably the best thing
6649 about the bill.

6650 [Laughter.]

6651 But I do appreciate it.

6652 The Chairman. Somehow, I don't think that was a yes on the
6653 underlying bill.

6654 [Laughter.]

6655 So with that, I yield back my time and are there members
6656 on the Democratic side seeking recognition on the Walden
6657 amendment, to the Barton amendment, to the underlying bill? Are
6658 there -- Ms. Matsui is recognized for five minutes to strike the
6659 last word.

6660 Ms. Matsui. Thank you, Mr. Chairman. I move to strike the
6661 last word.

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6662 Mr. Chairman, I am convinced that 42 CFR Part 2 regulations
6663 do put up barriers to proper patient care and care coordination.

6664 We need to work to solve this.

6665 For patients who are receiving care we need to make sure
6666 that care supports them along the road to recovery and I do think
6667 that ensuring care is effective will encourage more people to
6668 seek treatment.

6669 I also think we have made great strides to reduce the stigma
6670 of substance use and addiction but have much more work to do.

6671 Real harm has come to patients whose information has been shared
6672 with employers or landlords and that threat of harm is not going
6673 away anytime soon.

6674 A person who is actively using an illegal substance is not
6675 protected against discrimination by civil rights laws. That
6676 makes substance use different from other health conditions like
6677 mental illness or HIV.

6678 I understand that HIPAA does not allow sharing of information
6679 with employers or landlords without a court order. But I am
6680 worried that the freer flow of information under HIPAA could
6681 increase the likelihood of a breach, which does happen.

6682 HIPAA certainly has stronger penalties and enforcement than
6683 42 CFR but that may not matter to the victim of a breach if the

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6684 damage is already done. We cannot take lightly the decision to
6685 roll back the patient's current right of consent to share their
6686 information.

6687 It's true that the patient currently only has that right
6688 in a limited set of circumstances, even for substance use, but
6689 is still a heavy legal and philosophical question.

6690 Some of my colleagues feel very strongly one way and some
6691 feel just as strongly the other way. The place where I think
6692 we could all agree upon is that information should be shared when
6693 a patient does consent to that sharing.

6694 Under updated SAMHSA rules, a patient is allowed to consent
6695 to share, for example, to their entire health care system, or
6696 ACO, rather than needing to consent every single time information
6697 is shared.

6698 However, due to technological and operational challenges,
6699 Part 2 patients' information is more often than not still kept
6700 under lock and key, even if they do consent to sharing.

6701 Barriers to sharing that remain even when a patient does
6702 consent is the first problem we should solve and I think there
6703 is a way to do this. In those cases where the patient does
6704 consent, some of the onerous requirements of Part 2 could be lifted
6705 for the purposes of treatment, payment, and health care

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6706 operations, especially if the more protective HIPAA enforcement
6707 and penalties apply in case of a breach.

6708 I am concerned with including such a complicated issue that
6709 has not yet reached resolution in the markup today just one week
6710 after we heard varying viewpoints from a range of expert witnesses
6711 at the hearing on this topic.

6712 I am hopeful that we can make headway on this issue and look
6713 forward to continuing to work with my colleagues and stakeholders
6714 to do so.

6715 I am prepared to vote no on this bill today with the hopes
6716 that I can continue to work to improve it before it reaches the
6717 House floor.

6718 With that, I yield back the balance of my time.

6719 The Chairman. Gentlelady yields back the balance of her
6720 time. The chair recognizes the gentleman from Indiana, Mr.
6721 Bucshon, for five minutes to strike the last word.

6722 Mr. Bucshon. Move to strike the last word.

6723 Mr. Chairman, as I spoke at the subcommittee level, this
6724 -- as a physician, this is a medical issue. I mean, it is a privacy
6725 issue, yes. But we have HIPAA and I'll talk about that in a little
6726 bit.

6727 But I can tell you as a practicing physician not knowing

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6728 the complete information of a patient's medical background has
6729 real practical implications.

6730 I did heart surgery for many years and when we did not know
6731 all the medical history of people -- that people had and what
6732 medications they are on it had real impacts on our -- on not only
6733 the ability to anesthetize the patients but also whether or not
6734 they were on other substances that affected their ability, for
6735 example, for their blood to clot post-operatively so that we
6736 wouldn't have post-operative bleeding.

6737 And I can tell you from direct experience I had many, many
6738 episodes where we were trying to figure out and scramble in the
6739 ICU about what patients must be on and why we have -- why we are
6740 having problems with low blood pressure, with excess bleeding,
6741 and come to find out that patients were on narcotics or had
6742 substance abuse issues that we didn't know about or they were
6743 taking dietary supplements for vascular health which are
6744 anticoagulants which lead people to have bleeding problems.

6745 I described one particular patient -- and it's related to
6746 alcohol, too. People don't tell you how much alcohol they drink
6747 also, and so any history related to any substance abuse is really
6748 important.

6749 This bill only permits disclosures to a covered entity or

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6750 a Part 2 program for the purposes of a treatment payment and health
6751 care operations. Covered entities under HIPAA only include
6752 certain health care providers, health plans, and health care
6753 clearinghouses.

6754 Disclosures to third parties that are not considered
6755 HIPAA-covered entities would not be allowed. Employers,
6756 landlords, life insurance companies, marketers, and the courts
6757 are not covered entities and would not be allowed.

6758 Disclosure to these entities or individuals would not be
6759 allowed under the legislation. As you've just heard, we have
6760 strengthened the penalties for those unwanted disclosures.

6761 It's important to note that the bill does not expressly
6762 allow for disclosures to or by HIPAA business associates which
6763 are third parties that carry out distinct operations and tasks
6764 for covered entities.

6765 So I think the concerns about privacy are not as significant,
6766 I think, as is being described, and then I want to go back to
6767 the ability of physicians to properly treat and evaluate patients
6768 as one of the main factors why we have to address this.

6769 And the other thing is we are, I think, singling out people
6770 with substance abuse disorders and actually preventing them from
6771 getting help in the way that they're -- they don't want to disclose

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6772 this potentially to their primary care physicians and many times
6773 patients won't disclose this.

6774 At the subcommittee level people were saying, well, you know
6775 -- one of the people testifying said, well, just ask the patient
6776 or their family, and I can tell you that many times that's not
6777 necessarily going to get you the answer that you want.

6778 Past medical history, though, of these -- this disorder is
6779 something that if it's in the medical record that you can address
6780 working with the patient and the family and yourself as a physician
6781 to get a more complete history, which is really critically
6782 important, and in many cases can have life-threatening
6783 implications if you don't know what they are taking.

6784 So I would urge support for the amendments and the underlying
6785 bill, and I yield back.

6786 The Chairman. The gentleman yields back.

6787 The chair recognizes the gentleman from Pennsylvania, Mr.
6788 Doyle, for five minutes, to strike the last word.

6789 Mr. Doyle. Thank you, Mr. Chairman.

6790 I want to speak in support of the underlying bill because
6791 I think we need to break down barriers in care. The reason we
6792 are all here is to improve the quality care available to all
6793 people.

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6794 That means value-based care models, care coordination, and
6795 whole person care. I believe that this bill will help achieve
6796 these goals and help patients receive the highest quality health
6797 care, both mental health care and physical health care.

6798 We have heard even from detractors of the bill that when
6799 providers talk to patients about the benefits of sharing this
6800 information, they overwhelmingly do share.

6801 This shows that the system can work and that patients do
6802 want to receive coordinated high-quality care. You know, to my
6803 mind, the worst case scenario is that a doctor doesn't know about
6804 a patient's current or history of substance use disorder treatment
6805 and prescribes a medication that interferes or reverses progress
6806 or in some cases may even kill the patient.

6807 I think that the authors of this bill have done a pretty
6808 good job putting as many protections in place as possible and
6809 to tailor this bill to focus on the information being shared just
6810 within the health care system.

6811 I think it's something that we need to do and I want to add
6812 my support to the bill. I yield back.

6813 The Chairman. And I assume your support to the Walden
6814 amendment to the Barton amendment to the bill to make it even
6815 extraordinarily better?

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6816 Mr. Doyle. Of course, Mr. Chairman.

6817 The Chairman. Thank you.

6818 Are there other members seeking recognition?

6819 The chair recognizes the gentleman from Georgia, Mr. Carter,
6820 for five minutes.

6821 Mr. Carter. Move to strike the last word, Mr. Chairman.

6822 Mr. Chairman, I want to thank my colleagues, Representative
6823 Mullin and Representative Blumenauer, for introducing this
6824 critical legislation.

6825 Since this committee began tackling the opioid epidemic we
6826 have heard time and time again from families not knowing that
6827 their relative was addicted to opioids. Back in my district,
6828 I've spoken with families who spoke about the stigma associated
6829 with substance abuse disorder.

6830 Current laws that separate substance abuse disorder from
6831 every single other health record only emphasize the stigma and
6832 do nothing to combat it. It's time to bring this disease into
6833 the health care system just like cancer, HIV, and diabetes.

6834 The solution to this crisis is to put an end to the stigma
6835 and allow those 22 million Americans that are currently addicted
6836 to opioids to come out of the shadows and receive the treatment
6837 the need.

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6838 Mr. Chairman, ladies and gentlemen, if I could have your
6839 attention for a second. You know, I feel like I am in a very
6840 unique situation here because, you see, I had a front row seat
6841 to this.

6842 I saw this when it evolved. I've seen it evolve through
6843 the years. As a practicing pharmacist, I've seen people addicted
6844 to opioids and I've seen people with substance use disorders and
6845 I've seen the stigma that's -- that is associated with that.

6846 I saw it first hand when I was practicing pharmacy. It was
6847 not a Democrat or Republican thing. It was not -- it had nothing
6848 to do with ethnicity. It had nothing to do with gender.

6849 But it was a problem. When I was in the Georgia state
6850 legislature in the state senate, I sponsored the legislation
6851 creating the prescription drug monitoring program in 2009.

6852 We had tried to get that program going two years earlier
6853 and we couldn't get it going because people still didn't recognize
6854 what the problem was, and when we finally did get it going --
6855 when we finally got the legislation passed, we had to do something
6856 very similar to the amendment that Chairman Walden has offered.

6857 I remember having to add penalties in there that called for
6858 a half a million dollar fine and five years of incarceration in
6859 order to -- in order to get the legislation passed, if anyone

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6860 was misusing the prescription drug monitoring program.

6861 I remember admittedly abuse deterrent formulations, a bill
6862 that now, here I am in Congress, sponsoring that bill. Well,
6863 when I was in the state senate, I didn't want to sponsor it because
6864 I didn't think it was necessary.

6865 And now here I am and I recognize how important it is and
6866 how necessary it is. Representative Hal Rogers from Kentucky
6867 has been hosting the Prescription Drug Abuse and Heroin Abuse
6868 Conference in Atlanta for the past four or five years.

6869 This year when we were there, last month, we talked about
6870 the stigma -- the stigma that is associated with substance use
6871 disorders and there were families telling that they did not want
6872 to put in the obituary that it was an addiction. Instead, they
6873 would just put a sudden illness or even suicide.

6874 That's what we are talking about. Folks, we have got to
6875 open up that curtain and bring this out. We cannot continue to
6876 stigmatize this disease, and it is a disease.

6877 This legislation would do that. I support Chairman Walden's
6878 amendment. Let's put more penalties in there if it's abused.

6879 But we have got to have that information.

6880 As a pharmacist, I can tell you we need that information
6881 in order to intervene -- in order to counsel patients. Physicians

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6882 certainly need it. It is essential.

6883 This is good legislation. This will help and I support this
6884 legislation and I hope you will, too.

6885 And I yield back, Mr. Chairman.

6886 The Chairman. Appreciate the gentleman's comments and he
6887 yields back.

6888 Other members seeking recognition?

6889 Dr. Ruiz, you're recognized for five minutes to strike the
6890 last word.

6891 Mr. Ruiz. Yes, I do.

6892 Mr. Chairman, as a practicing emergency physician, there
6893 is no other specialty that would wish to have the luxury of having
6894 scheduled appointments with the patient's medical record nice
6895 and neatly placed in front of me.

6896 We oftentimes practice in life threatening situations with
6897 suboptimal information and we have to make these life or death
6898 decisions based on what we have, and sometimes knowing the
6899 information -- in fact, most of the time, if not all of the time
6900 -- knowing information leads to better clinical outcomes and
6901 better clinical care.

6902 So, you know, I struggled initially with this because I am
6903 also a proponent of privacy. I think that HIPAA is very important

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6904 and those of us who practice understand that it is a very strict
6905 and stringent law and I've seen hospitals get dinged millions
6906 of dollars for violating HIPAA.

6907 I know that employees have been fired for opening patients'
6908 charts when they are not even part of the clinical team for that
6909 patient. They get fired and many of them may even lose their
6910 license to practice.

6911 So there is no taking back or weakening of those very
6912 stringent privacy rules that HIPAA already provides for patients
6913 in this underlying bill. There is no laxity of protecting privacy
6914 that all of us and anybody else enjoys with this -- with this
6915 bill.

6916 And with your amendment, Chairman, I believe that it will
6917 hopefully help to ease some of the concerns of the privacy because
6918 on top of the already HIPAA strict penalties for violation any
6919 privacy rules, this will add even more or harsher penalties above
6920 that.

6921 And so I am in support of the chairman's amendment and I
6922 am also in support of the underlying bill for the sake of being
6923 able to provide better clinical practice, because sometimes when
6924 a patient comes in all we have is their medical records from the
6925 health care system in which you work under.

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6926 And if you have an inpatient mental health or addiction
6927 clinic within your system and if you can't even access those
6928 because of these rules, then you're being handicapped even more
6929 to provide those care.

6930 You have to consider a patient's physiology, their ability
6931 to withstand any pain medications, their ability -- your ability
6932 to address any drug-drug interactions so that you don't make a
6933 problem worse.

6934 And so, you know, I am -- again, as a practicing clinician
6935 my focus is not only the patient's privacy, which, you know, we
6936 know as physicians is, like, a very sacred, sacred trust that
6937 you never, ever, ever, ever violate but and I am also for being
6938 able to provide the best clinical care because ultimately what
6939 matters is that the patient gets better and they live a healthy
6940 life.

6941 And so I am in support of, again, the chairman's amendment
6942 and the underlying bill, and I yield back my time.

6943 The Chairman. I thank the gentleman for his service and
6944 his comments.

6945 The gentleman yields back.

6946 Other members seeking recognition? If not, the question
6947 now arises on the Walden amendment to the Barton amendment to

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6948 the underlying bill. So we are voting on my secondary amendment.

6949 Those in favor will say aye.

6950 Those opposed, no.

6951 The ayes have it and the secondary amendment is agreed to.

6952 Now we will vote on the Barton amendment as amended by the
6953 Walden amendment.

6954 Those in favor will say aye.

6955 Those opposed, no.

6956 The ayes appear to have it. The ayes have it and the Barton
6957 amended amendment is adopted.

6958 Are there further amendments to the bill?

6959 The chair recognizes the gentleman from New Jersey.

6960 Mr. Pallone. Thank you, Mr. Chairman. I have an amendment
6961 at the desk.

6962 The Chairman. The clerk will report the amendment.

6963 The Clerk. Amendment to H.R. 5795, offered by Mr. Pallone.

6964 The Chairman. Without objection, further reading of the
6965 amendment is dispensed with. The chair will recognize the
6966 gentleman from New Jersey, Mr. Pallone, for five minutes to speak
6967 on his amendment.

6968 [The amendment of Mr. Pallone follows:]

6969

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*****COMMITTEE INSERT 59*****

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6971 Mr. Pallone. Thank you, Mr. Chairman.

6972 I have concerns with the proposal to reduce privacy rights
6973 of individuals with substance use disorder, particularly in the
6974 midst of the worst opioid epidemic in our country's history.

6975 Confronting this crisis requires identifying strategies
6976 that promote more people entering and remaining in treatment,
6977 and failure to do so leaves individuals and communities at
6978 increased risk of fatal and nonfatal overdoses as people continue
6979 to seek out illicit opioids.

6980 The increasing presence of fentanyl in our drug supply
6981 heightens this concern. New strategies that increase the uptake
6982 and continuation of treatment are particularly important as it
6983 relates to substance use disorders because major challenges
6984 already to getting people with substance use disorders to enter
6985 treatment.

6986 But, unfortunately, the proposal before us risks doing the
6987 opposite -- reducing the number of people willing to come forward
6988 and remain in treatment. Ensuring strong privacy protections
6989 is critical to maintaining individuals' trust in the health care
6990 system and willingness to obtain needed health services and these
6991 protections are especially important where very sensitive
6992 information is concerned.

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6993 As one of our witnesses pointed out, information that may
6994 be contained in substance use disorder treatment records are
6995 particularly sensitive because disclosure of substance use
6996 disorder information has tangible vulnerabilities that are not
6997 the same as other medical conditions.

6998 For example, you're not incarcerated for having a heart
6999 attack. You can't legally be fired for having cancer and you're
7000 not denied visitation with your children due to severe acne.

7001 And while I understand the rollback of Part 2 to the HIPAA
7002 standard would limit permissible disclosures without patient
7003 consent to health care organizations, this simple explanation
7004 ignores the reality that while it may be illegal for information
7005 to be disclosed outside these entities, information does get out.

7006 While larger scale breaches such as the recent Aetna breach
7007 that disclosed some of their members' HIV status, ironically,
7008 through letters sent in response to a settlement over previous
7009 privacy violation concerns, they get the most attention.

7010 But there are small scale breaches that can have devastating
7011 consequences for patients trying to recover and get treatment.

7012 For example, a recent ProPublica investigation few consequences
7013 for health privacy laws repeat offenders detailed instances where
7014 a health care organization's employee peeked at the record of

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7015 a patient 61 times and posted details on Facebook while another
7016 improperly shared a patient's health information with the
7017 patient's parole officer.

7018 And while I understand that these are exceptions and not
7019 the rule, the implications of such breaches on individuals with
7020 substance use disorder are startling. Such disclosures can place
7021 those individuals at high risk of negative outcomes including
7022 loss of employment, loss of housing, loss of child custody,
7023 discrimination by medical professionals and insurers, arrests,
7024 professionals, and insurers.

7025 And while I understand that the proposed bill proposes
7026 applying HIPAA's civil monetary penalty to Part 2 information
7027 could increase the issuance of fines to organizations who
7028 improperly disclose a patient's record, those fines are paid to
7029 the federal government and not the party harmed and, most
7030 importantly, such harms cannot undo the harm, in some cases,
7031 including lives ruined caused through the improper disclosure
7032 of a patient's substance use disorder records.

7033 And the same concerns apply to the limited
7034 anti-discrimination protections added to the bill. Therefore,
7035 I believe that gutting Part 2's patient consent requirement is
7036 too great a risk at this time.

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7037 And that is my why amendment would maintain the privacy
7038 protections provided to individuals with substance use disorder.
7039 Rather than strip away patients' privacy rights, my amendment
7040 would incorporate Section 509 from the bipartisan
7041 Alexander-Murray bill, the Opioid Crisis Response Act of 2018,
7042 that was reported out of the Senate Health Committee on a
7043 bipartisan basis.

7044 This provision would authorize \$2 million per year for the
7045 secretary to develop and disseminate model training programs for
7046 substance use disorder patient records and it would help ensure
7047 that more patients' families and providers understand how
7048 information can be protected and shared under Part 2.

7049 And my amendment would also help us to better understand
7050 the privacy needs of individuals with substance use disorder as
7051 well as how to balance those needs with the information needs
7052 of our health system to provide the highest quality care.

7053 Specifically, my amendment would require the secretary to
7054 conduct or support a study to better understand the patient
7055 experience with Part 2 through the examination
7056 information-sharing behaviors of individuals who obtain
7057 substance use disorder treatment at Part 2 programs.

7058 It would also support a National Academy of Medicine review

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7059 of the role that privacy plays in substance use disorder
7060 treatments. Both of these studies will provide critical insight
7061 into the central question of what is the appropriate level of
7062 privacy protection that should be applied to substance use
7063 disorder treatment records.

7064 I don't want to get into more details, Mr. Chairman. I just
7065 want to say that I believe in the midst of the worst opioid epidemic
7066 in U.S. history we should not take any action that could result
7067 in any individual with an opioid use disorder not seeking or
7068 remaining in treatment and I do believe that the underlying bill
7069 fails that test.

7070 So I would urge support for my amendment in opposition to
7071 the underlying bill. Thank you.

7072 The Chairman. The gentleman returns the balance of his
7073 time. Are there other members seeking recognition on the Pallone
7074 amendment?

7075 The chair recognizes the gentleman from Oklahoma, Mr.
7076 Mullin, for five minutes to strike the last word.

7077 Mr. Mullin. Mr. Chairman, I move to strike the last word.

7078 I urge a no vote on this amendment because it would simply
7079 destroy the intent of this bill. Eliminating the sharing of
7080 records for the purpose of treatment completely negates the entire

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7081 purpose of this initiative.

7082 You know, aligning 42 CFR Part 2 with HIPAA for the purpose
7083 of treatment payment and health care operations is the entire
7084 purpose of this legislation.

7085 Opponents of this bill have offered no evidence or findings
7086 that can back up their claim is inadequate to protect the sensitive
7087 data contained in substance use disorder treatment.

7088 And, you know, the ranking member and I have agreed on several
7089 issues and we have disagreed on more than our share of issues,
7090 and we have tried multiple times to work with those that oppose
7091 this.

7092 We have debated this. We have had a markup in the
7093 subcommittee. We have had a partial hearing and then a complete
7094 hearing just on Part 2.

7095 At the end of the day, people are going to have to cast their
7096 vote. But to offer an amendment that completely guts the entire
7097 purpose of the bill is going at it all wrong.

7098 If you have an idea or you have a purpose that would make
7099 the bill stronger, than that's fine. We are here about the
7100 patient. But to just gut it and do nothing isn't the answer.

7101 So I urge a no vote and with that, I yield back.

7102 The Chairman. The gentleman yields back.

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7103 Other members seeking recognition?

7104 The chair recognizes the vice chair of the full committee,
7105 Mr. Barton of Texas, for five minutes to strike the last word
7106 on the Pallone amendment.

7107 Mr. Barton. Thank you, and I want to ask counsel a question,
7108 then I want to ask the author a question.

7109 My question to counsel, the author of the bill, Mr. Mullin,
7110 who's worked very hard on this bill, says that the adoption of
7111 this amendment would gut the bill.

7112 Is that true?

7113 The Staff. Yes. It would take away the provision that
7114 allows for sharing of substance use disorder treatment records
7115 for purposes of treatment, payment, and health care operations
7116 between covered entities.

7117 Mr. Barton. Okay. I want to ask the author a question.

7118 Would the author be willing to modify the amendment so that
7119 it only requested a study of how to best protect -- because most
7120 of your amendment deals with asking the distinguished panels to
7121 conduct studies and report back, I believe, if I heard you
7122 correctly. Is that correct?

7123 Mr. Pallone. Yes. But I mean -- I mean, Mr. Mullin is
7124 correct and the counsel is correct in saying that, you know, I

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7125 am opposed to changing the privacy provisions.

7126 So I don't want to just have the study. I think it is
7127 important that we have the study but not in a situation where
7128 you're going to eliminate or gut the privacy protections.

7129 I am not disagreeing with anything counsel or Mr. Mullin
7130 have said. So the answer is no to your question.

7131 [Laughter.]

7132 The Chairman. Good try.

7133 Mr. Barton. And I yield back.

7134 The Chairman. The gentleman yields back.

7135 Other members seeking recognition? I got to go to this side.

7136 Anybody else over here? Going once, twice.

7137 The gentleman from Indiana, Dr. Bucshon, for five minute
7138 to speak on the Pallone amendment.

7139 Mr. Bucshon. Yes, Mr. Chairman, the concern about data
7140 breaches -- look, data breaches happen in every industry in the
7141 country and health care certainly is no exception.

7142 The statute behind 42 CFR Part 2 has done little to protect
7143 records from data breaches. The only thing maybe it has done
7144 is disincentivize the adoption of electronic administrative
7145 information systems.

7146 Substance abuse disorder treatment records have already been

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7147 subjected to data breaches in August 2016. In addition, a
7148 treatment provider in Baltimore was hacking patient addiction
7149 treatment information. It was put up for sale on the dark web.

7150 There was also a breach at Bronx Lebanon Hospital Center, which
7151 released the addiction histories of hundreds of people.

7152 Disclosure of this information without consent is already
7153 illegal. However, in the statute behind 42 CFR Part 2, there
7154 are no breach notification requirements and penalties for
7155 unauthorized disclosure of this information is minimal.

7156 Further, SAMHSA does not have an enforcement program monitor
7157 or respond to violations. This is not the case for all other
7158 protected health information. HITECH Act, amended Section 1176
7159 of the Social Securities Act, which describes applicable fines
7160 and penalties for failure to comply with HIPAA.

7161 The breach notification rule under HIPAA imposes the fines
7162 and penalties included in Section 1176 to violations of that rule.

7163 The legislation before us applies breach notification
7164 requirements, fines, and penalties included in Section 1176 to
7165 a violation the Part 2 statute to the extent and in the same manner
7166 as such provisions apply to a violation of HIPAA.

7167 Thus, a data breach of substance use disorder treatment
7168 records would be considered a punishable offense subjected to

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7169 extensive fines and possible imprisonment.

7170 So, Mr. Chairman, I urge a no vote on the amendment and a
7171 yes on the underlying legislation.

7172 I yield back.

7173 The Chairman. The gentleman yields back the balance of
7174 time.

7175 Other members seeking recognition on the Democratic side?

7176 Seeing none, others on the Republican side?

7177 Mr. Carter is recognized for five minutes.

7178 Mr. Carter. Thank you, Mr. Chairman.

7179 Mr. Chairman, the fact -- the charge that the legislation
7180 discourages people from seeking treatment, as the author of the
7181 amendment has asserted, is simply untrue and there is no hard
7182 evidence to support that.

7183 Even Dr. Westley Clarke, who has opposed the changing part,
7184 stated in his testimony before the committee that of the patients
7185 in need of substance use disorder treatment but not receiving
7186 it, over 95 percent of them perceive no need for treatment, meaning
7187 they are not receiving treatment because they don't yet believe
7188 that they need it.

7189 Specifically, he stated that of the people who met criteria
7190 for needing treatment and did not receive treatment, 95.5 percent

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7191 perceived no need for treatment. In short, 18.7 million people
7192 needed but did not receive treatment. Of these, 17.9 million
7193 perceived no need for treatment at all.

7194 The problem here is that we need to treat addiction like
7195 a medical illness and improve our outreach to patients who meet
7196 the criteria for management. Maintaining the decades-old
7197 ineffective confidentiality law is not going to do that.

7198 Mr. Chairman, again, it is time for us to pull back the
7199 curtains to this disease. We have got to accept it. All of us
7200 remember -- all of us in this room remember when HIV was perceived
7201 as being something that we didn't even want to be close to the
7202 patient.

7203 I can remember servicing nursing homes the first time we
7204 got our first HIV patient. We had -- we had employees quit.
7205 They didn't want to treat that patient. We had family members
7206 take other residents of the nursing home out because they didn't
7207 want to be anywhere near.

7208 Now look how it's evolved now. That's what the stage is
7209 that we are at right now. The author of the amendment states
7210 that now is not the time for us to remove the Part 2 provisions.

7211 I would respectfully submit that there has never been a
7212 better time for us to remove the Part 2 provisions, and I yield

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7213 back.

7214 The Chairman. The gentleman yields back.

7215 Other members seeking recognition? If not, the vote now
7216 arises on passage of the Pallone amendment.

7217 Those in favor will say aye -- those opposed, no.

7218 The clerk will call the roll.

7219 The Clerk. Mr. Barton.

7220 Mr. Barton. Yes.

7221 The Clerk. Mr. Barton votes aye.

7222 Mr. Upton.

7223 [No response.]

7224 Mr. Shimkus.

7225 Mr. Shimkus. No.

7226 The Clerk. Mr. Shimkus votes no.

7227 Mr. Burgess.

7228 Mr. Burgess. No.

7229 The Clerk. Mr. Burgess votes no.

7230 Mrs. Blackburn.

7231 [No response.]

7232 Mr. Scalise.

7233 [No response.]

7234 Mr. Latta.

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353

7235 Mr. Latta. No.

7236 The Clerk. Mr. Latta votes no.

7237 Mrs. McMorris Rodgers.

7238 Mrs. McMorris Rodgers. No.

7239 The Clerk. Mrs. McMorris Rodgers votes no.

7240 Mr. Harper.

7241 Mr. Harper. No.

7242 The Clerk. Mr. Harper votes no.

7243 Mr. Lance.

7244 Mr. Lance. No.

7245 The Clerk. Mr. Lance votes no.

7246 Mr. Guthrie.

7247 Mr. Guthrie. No.

7248 The Clerk. Mr. Guthrie votes no.

7249 Mr. Olson.

7250 Mr. Olson. No.

7251 The Clerk. Mr. Olson votes no.

7252 Mr. McKinley.

7253 Mr. McKinley. No.

7254 The Clerk. Mr. McKinley votes no.

7255 Mr. Kinzinger.

7256 Mr. Kinzinger. No.

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7257 The Clerk. Mr. Kinzinger votes no.
7258 Mr. Griffith.
7259 Mr. Griffith. No.
7260 The Clerk. Mr. Griffith votes no.
7261 Mr. Bilirakis.
7262 Mr. Bilirakis. No.
7263 The Clerk. Mr. Bilirakis votes no.
7264 Mr. Johnson.
7265 Mr. Johnson. No.
7266 The Clerk. Mr. Johnson votes no.
7267 Mr. Bucshon.
7268 Mr. Bucshon. No.
7269 The Clerk. Mr. Bucshon votes no.
7270 Mr. Long.
7271 Mr. Long. No.
7272 The Clerk. Mr. Long votes no.
7273 Mr. Flores.
7274 Mr. Flores. No.
7275 The Clerk. Mr. Flores votes no.
7276 Mrs. Brooks.
7277 Mrs. Brooks. No.
7278 The Clerk. Mrs. Brooks votes no.

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355

7279 Mr. Mullin.
7280 Mr. Mullin. No.
7281 The Clerk. Mr. Mullin votes no.
7282 Mr. Hudson.
7283 [No response.]
7284 Mr. Collins.
7285 Mr. Collins. No.
7286 The Clerk. Mr. Collins votes no.
7287 Mr. Cramer.
7288 Mr. Cramer. No.
7289 The Clerk. Mr. Cramer votes no.
7290 Mr. Walberg.
7291 Mr. Walberg. No.
7292 The Clerk. Mr. Walberg votes no.
7293 Mrs. Walters.
7294 Mrs. Walters. No.
7295 The Clerk. Mrs. Walters votes no.
7296 Mr. Costello.
7297 Mr. Costello. No.
7298 The Clerk. Mr. Costello votes no.
7299 Mr. Carter.
7300 Mr. Carter. No.

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7301 The Clerk. Mr. Carter votes no.
7302 Mr. Duncan.
7303 Mr. Duncan. No.
7304 The Clerk. Mr. Duncan votes no.
7305 Mr. Pallone.
7306 Mr. Pallone. Aye.
7307 The Clerk. Mr. Pallone votes aye.
7308 Mr. Rush.
7309 Mr. Rush. Aye.
7310 The Clerk. Mr. Rush votes aye.
7311 Ms. Eshoo.
7312 Ms. Eshoo. Aye.
7313 The Clerk. Ms. Eshoo votes aye.
7314 Mr. Engel.
7315 Mr. Engel. Aye.
7316 The Clerk. Mr. Engel votes aye.
7317 Mr. Green.
7318 Mr. Green. Aye.
7319 The Clerk. Mr. Green votes aye.
7320 Ms. DeGette.
7321 [No response.]
7322 Mr. Doyle.

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357

7323 Mr. Doyle. No.

7324 The Clerk. Mr. Doyle votes no.

7325 Ms. Schakowsky.

7326 [No response.]

7327 Mr. Butterfield.

7328 [No response.]

7329 Ms. Matsui.

7330 Ms. Matsui. Aye.

7331 The Clerk. Ms. Matsui votes aye.

7332 Ms. Castor.

7333 Ms. Castor. Aye.

7334 The Clerk. Ms. Castor votes aye.

7335 Mr. Sarbanes.

7336 [No response.]

7337 Mr. McNerney.

7338 Mr. McNerney. Aye.

7339 The Clerk. Mr. McNerney votes aye.

7340 Mr. Welch.

7341 Mr. Welch. Aye.

7342 The Clerk. Mr. Welch votes aye.

7343 Mr. Lujan.

7344 Mr. Lujan. Aye.

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7345 The Clerk. Mr. Lujan votes aye.
7346 Mr. Tonko.
7347 Mr. Tonko. Aye.
7348 The Clerk. Mr. Tonko votes aye.
7349 Ms. Clarke.
7350 Ms. Clarke. Aye.
7351 The Clerk. Ms. Clarke votes aye.
7352 Mr. Loeb sack.
7353 Mr. Loeb sack. Aye.
7354 The Clerk. Mr. Loeb sack votes aye.
7355 Mr. Schrader.
7356 Mr. Schrader. Aye.
7357 The Clerk. Mr. Schrader votes aye.
7358 Mr. Kennedy.
7359 Mr. Kennedy. Aye.
7360 The Clerk. Mr. Kennedy votes aye.
7361 Mr. Cardenas.
7362 [No response.]
7363 Mr. Ruiz.
7364 Mr. Ruiz. Aye.
7365 The Clerk. Mr. Ruiz votes aye.
7366 Mr. Peters.

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359

7367 Mr. Peters. Aye.

7368 The Clerk. Mr. Peters votes aye.

7369 Mrs. Dingell.

7370 Mrs. Dingell. Aye.

7371 The Clerk. Mrs. Dingell votes aye.

7372 Chairman Walden.

7373 The Chairman. No.

7374 The Clerk. Chairman Walden votes no.

7375 Mr. Hudson.

7376 Mr. Hudson. No.

7377 The Clerk. Mr. Hudson votes no.

7378 Mr. Upton.

7379 Mr. Upton. No.

7380 The Clerk. Mr. Upton votes no.

7381 Mr. Sarbanes.

7382 Mr. Sarbanes. Aye.

7383 The Clerk. Mr. Sarbanes votes aye.

7384 Mr. Cardenas.

7385 Mr. Cardenas. Aye.

7386 The Clerk. Mr. Cardenas votes aye.

7387 Ms. Schakowsky.

7388 Ms. Schakowsky. Aye.

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7389 The Clerk. Ms. Schakowsky votes aye.

7390 Mr. Butterfield.

7391 Mr. Butterfield. Aye.

7392 The Clerk. Mr. Butterfield votes aye.

7393 The Chairman. Are there other members not recorded who wish
7394 to be recorded? Are there any other members?

7395 [Pause.]

7396 The Clerk. Mr. Chairman, on that vote, there were 23 ayes
7397 and 29 nays.

7398 The Chairman. Twenty-three ayes, 29 nays. The Pallone
7399 amendment is not adopted.

7400 Are there any other amendments?

7401 If not, the question now occurs on favorably reporting H.R.
7402 5795 as amended to the House.

7403 Those in favor will vote aye -- those no, and the clerk will
7404 call the roll. This is on final passage of the bill as amended.

7405 The Clerk. Mr. Barton.

7406 Mr. Barton. No.

7407 The Clerk. Mr. Barton votes no.

7408 Mr. Upton.

7409 [No response.]

7410 Mr. Shimkus.

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361

7411 Mr. Shimkus. Aye.

7412 The Clerk. Mr. Shimkus votes aye.

7413 Mr. Burgess.

7414 Mr. Burgess. Aye.

7415 The Clerk. Mr. Burgess votes aye.

7416 Mrs. Blackburn.

7417 [No response.]

7418 Mr. Scalise.

7419 [No response.]

7420 Mr. Latta.

7421 Mr. Latta. Aye.

7422 The Clerk. Mr. Latta votes aye.

7423 Mrs. McMorris Rodgers.

7424 Mrs. McMorris Rodgers. Aye.

7425 The Clerk. Mrs. McMorris Rodgers votes aye.

7426 Mr. Harper.

7427 Mr. Harper. Aye.

7428 The Clerk. Mr. Harper votes aye.

7429 Mr. Lance.

7430 Mr. Lance. Aye.

7431 The Clerk. Mr. Lance votes aye.

7432 Mr. Guthrie.

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362

7433 Mr. Guthrie. Aye.

7434 The Clerk. Mr. Guthrie votes aye.

7435 Mr. Olson.

7436 Mr. Olson. Aye.

7437 The Clerk. Mr. Olson votes aye.

7438 Mr. McKinley.

7439 Mr. McKinley. Aye.

7440 The Clerk. Mr. McKinley votes aye.

7441 Mr. Kinzinger.

7442 Mr. Kinzinger. Aye.

7443 The Clerk. Mr. Kinzinger votes aye.

7444 Mr. Griffith.

7445 Mr. Griffith. Aye.

7446 The Clerk. Mr. Griffith votes aye.

7447 Mr. Bilirakis.

7448 Mr. Bilirakis. Aye.

7449 The Clerk. Mr. Bilirakis votes aye.

7450 Mr. Johnson.

7451 Mr. Johnson. Aye.

7452 The Clerk. Mr. Johnson votes aye.

7453 Mr. Long.

7454 Mr. Long. Aye.

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363

7455 The Clerk. Mr. Long votes aye.
7456 Mr. Bucshon.
7457 Mr. Bucshon. Aye.
7458 The Clerk. Mr. Bucshon votes aye.
7459 Mr. Flores.
7460 Mr. Flores. Aye.
7461 The Clerk. Mr. Flores votes aye.
7462 Mrs. Brooks.
7463 Mrs. Brooks. Aye.
7464 The Clerk. Mrs. Brooks votes aye.
7465 Mr. Mullin.
7466 Mr. Mullin. Aye.
7467 The Clerk. Mr. Mullin votes aye.
7468 Mr. Hudson.
7469 [No response.]
7470 Mr. Collins.
7471 Mr. Collins. Aye.
7472 The Clerk. Mr. Collins votes aye.
7473 Mr. Cramer.
7474 Mr. Cramer. Aye.
7475 The Clerk. Mr. Cramer votes aye.
7476 Mr. Walberg.

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364

7477 Mr. Walberg. Aye.

7478 The Clerk. Mr. Walberg votes aye.

7479 Mrs. Walters.

7480 Mrs. Walters. Aye.

7481 The Clerk. Mrs. Walters votes aye.

7482 Mr. Costello.

7483 Mr. Costello. Aye.

7484 The Clerk. Mr. Costello votes aye.

7485 Mr. Carter.

7486 Mr. Carter. Aye.

7487 The Clerk. Mr. Carter votes aye.

7488 Mr. Duncan.

7489 Mr. Duncan. Aye.

7490 The Clerk. Mr. Duncan votes aye.

7491 Mr. Pallone.

7492 Mr. Pallone. No.

7493 The Clerk. Mr. Pallone votes no.

7494 Mr. Rush.

7495 Mr. Rush. No.

7496 The Clerk. Mr. Rush votes no.

7497 Ms. Eshoo.

7498 Ms. Eshoo. Aye.

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365

7499 The Clerk. Ms. Eshoo votes aye.

7500 Mr. Engel.

7501 Mr. Engel. No.

7502 The Clerk. Mr. Engel votes no.

7503 Mr. Green.

7504 Mr. Green. Aye.

7505 The Clerk. Mr. Green votes aye.

7506 Ms. DeGette.

7507 [No response.]

7508 Mr. Doyle.

7509 Mr. Doyle. Aye.

7510 The Clerk. Mr. Doyle votes aye.

7511 Ms. Schakowsky.

7512 Ms. Schakowsky. No.

7513 The Clerk. Ms. Schakowsky votes no.

7514 Mr. Butterfield.

7515 Mr. Butterfield. No.

7516 The Clerk. Mr. Butterfield votes no.

7517 Ms. Matsui.

7518 Ms. Matsui. No.

7519 The Clerk. Ms. Matsui votes no.

7520 Ms. Castor.

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366

7521 Ms. Castor. No.

7522 The Clerk. Ms. Castor votes no.

7523 Mr. Sarbanes.

7524 Mr. Sarbanes. No.

7525 The Clerk. Mr. Sarbanes votes no.

7526 Mr. McNerney.

7527 Mr. McNerney. No.

7528 The Clerk. Mr. McNerney votes no.

7529 Mr. Welch.

7530 Mr. Welch. Aye.

7531 The Clerk. Mr. Welch votes aye.

7532 Mr. Lujan.

7533 Mr. Lujan. No.

7534 The Clerk. Mr. Lujan votes no.

7535 Mr. Tonko.

7536 Mr. Tonko. No.

7537 The Clerk. Mr. Tonko votes no.

7538 Ms. Clarke.

7539 Ms. Clarke. No.

7540 The Clerk. Ms. Clarke votes no.

7541 Mr. Loeb sack.

7542 Mr. Loeb sack. No.

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7543 The Clerk. Mr. Loeb sack votes no.
7544 Mr. Schrader.
7545 Mr. Schrader. Aye.
7546 The Clerk. Mr. Schrader votes aye.
7547 Mr. Kennedy.
7548 Mr. Kennedy. No.
7549 The Clerk. Mr. Kennedy votes no.
7550 Mr. Cardenas.
7551 Mr. Cardenas. No.
7552 The Clerk. Mr. Cardenas votes no.
7553 Mr. Ruiz.
7554 Mr. Ruiz. Aye.
7555 The Clerk. Mr. Ruiz votes aye.
7556 Mr. Peters.
7557 Mr. Peters. Aye.
7558 The Clerk. Mr. Peters votes aye.
7559 Mrs. Dingell.
7560 Mrs. Dingell. No.
7561 The Clerk. Mrs. Dingell votes no.
7562 Chairman Walden.
7563 The Chairman. Aye.
7564 The Clerk. Chairman Walden votes aye.

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7565

Mr. Upton.

7566

Mr. Upton. Aye.

7567

The Clerk. Mr. Upton votes aye.

7568

Mr. Hudson.

7569

Mr. Hudson. Aye.

7570

The Clerk. Mr. Hudson votes aye.

7571

The Chairman. Are there other members not recorded who wish

7572

to be recorded?

7573

The clerk will report the tally.

7574

The Clerk. Mr. Chairman, on that vote, there were 35 ayes

7575

and 17 noes.

7576

The Chairman. Thirty-five ayes, 17 noes. The ayes appear

7577

to have it. The ayes have it.

7578

The bill is amended as favorably reported to the House floor,

7579

H.R. 5795.

7580

The chair now -- the chair now calls up H.R. 5812 -- this

7581

would be number eight -- and asks the clerk to report.

7582

[The bill follows:]

7583

7584

*****INSERT 60*****

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7585 The Clerk. H.R. 5812, to amend the Public Health Service
7586 Act to authorize the director of the Centers for Disease Control
7587 and Prevention to carry out certain activities to prevent
7588 controlled substances overdoses and for other purposes.

7589 The Chairman. Without objection, the first reading of the
7590 bill is dispensed with and the bill will be open for amendment
7591 at any point.

7592 Are there any amendments to this legislation?

7593 Mr. Tonko. Mr. Chair, I have an amendment at the desk.

7594 The Chairman. The chairman recognizes the gentleman from
7595 New York for purposes of offering an amendment and the clerk will
7596 report the amendment.

7597 The Clerk. Amendment to H.R. 5812, offered by Mr. Tonko.

7598 The Chairman. Without objection, further reading of the
7599 amendment is dispensed with and the gentleman is recognized for
7600 five minutes to speak on this amendment.

7601 Before I do that, the chair recognizes the gentleman from
7602 Texas for what purpose?

7603 Mr. Barton. I wish to reserve a point of order.

7604 The Chairman. The gentleman reserves a point of order.

7605 Now, the chair recognizes the gentleman from New York, Mr.
7606 Tonko, for five minutes.

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7607

[The amendment of Mr. Tonko follows:]

7608

7609

*****INSERT 61*****

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7610 Mr. Tonko. Thank you, Mr. Chair.

7611 This amendment reflects H.R. 3692, which I've introduced
7612 with Representative Lujan. It invests in our addiction
7613 infrastructure, provides a meaningful expansion to addiction
7614 treatment across the country, especially in rural areas and for
7615 vulnerable populations like pregnant and post-partum women, and
7616 to 13,000 babies born each year with neonatal abstinence syndrome.

7617 This legislation is our small attempt to address the
7618 persistent treatment gap in our country that results in only one
7619 in five individuals with opioid use disorder having effective
7620 addiction treatment.

7621 The bill -- or excuse me, amendment would codify the 2016
7622 rule that allows physician providers who have a Data 2000 waiver
7623 to treat up to 275 patients with buprenorphine.

7624 By codifying this regulation, we can provide the physician
7625 community with the certainly they need to invest in building out
7626 their addiction treatment capabilities.

7627 Physicians that prescribe up to the 275 limit are held to
7628 a rigorous standard under the current SAMHSA regulations.
7629 Notably, every single member of this committee supported and voted
7630 to codify an increased physician patient limit when we debated
7631 CARA in 2016.

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7632 So cries that we should not provide this certainty today
7633 while we have witnessed more and more carnage over the past two
7634 years ring hollow.

7635 I will also note that nothing in this legislation alters
7636 the underlying authority for the secretary of HHS to adjust the
7637 patient cap levels in either direction should it be necessary.

7638 Second, this amendment would expand the classes of
7639 practitioners eligible to prescribe buprenorphine to other
7640 advanced practice nursing professionals to include nurse
7641 midwives, clinical nurse specialists, and certified registered
7642 nurse anesthetists.

7643 This provision was included based on feedback that my office
7644 has received from medical groups such as the American Society
7645 for Addiction Medicine and the American College of Obstetricians
7646 and Gynecologists.

7647 As we heard earlier, the M.D.s should have the say in this
7648 issue. I will remind my colleagues that nothing in this
7649 legislation or the underlying Data 2000 program would supersede
7650 state law or scope of practice authority and any of these classes
7651 of providers does not have independent practice authority or
7652 prescription authority under a given state law.

7653 This legislation would not alter that relationship in any

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7654 way. In many rural areas, advanced practice nurses play an
7655 outsized role in providing care and this legislation will help
7656 expand addiction treatment capacity in these rural areas where
7657 it is most needed.

7658 In addition, these advanced practice nursing professionals
7659 are already providing primary care for some of our most vulnerable
7660 populations -- pregnant and post-partum women.

7661 By allowing these skilled providers to provide addiction
7662 treatment as well, we can bolster continuity of care for our moms
7663 and babies.

7664 Finally, this legislation end the current sunset provision
7665 on non-M.D. providers being able to obtain a DATA 2000 waiver.

7666

7667 I will, again, remind my colleagues that every single member
7668 in this room who was here in 2016 had already voted for permanent
7669 MPPA prescribing authority in this committee room during the CARA
7670 debate.

7671 This provision was never intended as a demonstration
7672 program. I will end with a plea to my colleagues. This
7673 legislation makes modest and common sense changes to the Data
7674 2000 program that will safely expand access to evidence-based
7675 addiction treatment.

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7676 To those who would say we need more data or we need to be
7677 cautious about expanding access to treatment, I would respond
7678 that more and more people are dying in the street every day.
7679 We don't have time to drag our feet any longer.

7680 They aren't dying because there is too much buprenorphine
7681 out there. People aren't dying in the streets from buprenorphine
7682 overdoses.

7683 They are dying because there isn't enough access to
7684 treatment. It's that simple. I had hoped we would get a fair
7685 airing on the bill that now becomes an amendment. But for some
7686 reason, it's been delayed or derailed or denied.

7687 I would just suggest that I've heard over and over today
7688 words like emergency, urgency, epidemic, crisis. If we truly
7689 embrace that notion -- if we believe that, and I hope we do, then
7690 we ought to let the moral compass within each and every one of
7691 us and direct us and do the right thing by providing services
7692 that are required and not scuttle this legislation the day of
7693 markup -- that, obviously, there were no amendments offered to
7694 this legislation. It's been quite a while. We have bipartisan
7695 support for the legislation and sponsorship, and it deserves a
7696 fair hearing -- an airing here before the committee.

7697 Mr. Lujan. Would the gentleman yield?

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375

7698 Mr. Tonko. I yield.

7699 Mr. Lujan. Mr. Chairman, this amendment would help people
7700 suffering from opioid use disorders including pregnant women and
7701 post-partum mothers struggling with addiction.

7702 When we worked on CARA a few years ago, we all agreed that
7703 it was tremendously important that mid-level providers like nurse
7704 practitioners and physician assistants be able to prescribe
7705 medication-assisted treatment.

7706 We talked about how important it is that in states where
7707 NPs and PAs are able to prescribe opioids that they are also able
7708 to add to the number of health care professionals providing
7709 treatment to those struggling with opioid use disorder.

7710 We said if they are prescribing opioids that it's important
7711 that we also allow these providers to increase access to
7712 treatment.

7713 We used the funnel principle. We said if large groups of
7714 providers that are prescribing opioids are out there that we need
7715 an equally large group of providers to help our constituents
7716 access treatment services.

7717 We said it's no wonder that it's hard for people to access
7718 treatment when thousands of people prescribe opioids and only
7719 hundreds provide them.

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7720 It's unfortunate that members were forced to cut the time
7721 window to two years. I've heard groups talking about this bill
7722 as if congressional intent was for this two-year window to serve
7723 as a trial balloon.

7724 So let me say for the record that's not true. There were
7725 funding constraints because allowing these providers to increase
7726 access to treatment is expensive. It cost money then and it costs
7727 money now because there is no shortage of people on wait lists.

7728 Passing this bill is the right thing to do. Let me also
7729 take a minute to explain why it is important that certified nurse
7730 midwives as well as nurse practitioners and physician assistants
7731 be allowed to prescribe medication-assisted treatment.

7732 In the state of New Mexico, that's about 122,000 square
7733 miles. We have fewer OB/GYNs than in Washington, D.C. Midwives
7734 are integral to ensuring New Mexican women have access to the
7735 full spectrum of health care, not just prenatal care. Midwives
7736 care for New Mexican women, particularly Native American, from
7737 birth until death. This is a rural America issue.

7738 We all know continuity of care is important. It's simply
7739 not practical to ask moms to go out and find themselves another
7740 provider when they are seeking access to medication-assisted
7741 treatment.

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7742 Life is hard for moms who live an hour away from a grocery
7743 store and two hours away from their health care provider. You
7744 just don't run out for milk. You just don't get another doctor
7745 to prescribe you buprenorphine when you're struggling with
7746 addiction.

7747 Let me offer right now to take anyone to my district and
7748 drive you around. It takes about eight and a half hours to drive
7749 across my district. You may not have cell phone service
7750 everywhere but you'll get a better idea of what it's like to live
7751 in rural America.

7752 These moms are struggling. I don't understand why we can't
7753 come together and get these bills heard, Mr. Chairman. Two weeks
7754 ago, bills were pulled that were scheduled by the majority for
7755 us to hear. This week bills are being scheduled that we may not
7756 get to.

7757 I don't understand why even in the legislation that was
7758 before us today one of the bills that gutted 3692 actually took
7759 nurses out. It took midwives out. It took CRNAs out. Those
7760 very people that can prescribe opioids but for whatever reason
7761 in the language that's actually before us today for bills we may
7762 not here they were taken out. It just doesn't make any sense,
7763 Mr. Chairman.

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7764 The Chairman. The gentleman's time --

7765 Mr. Lujan. So I yield back to Mr. Tonko.

7766 The Chairman. Gentleman's time is expired.

7767 The chair recognizes himself for five minutes to strike the
7768 last word. I sincerely appreciate Mr. Tonko's work on access
7769 to medication-assisted treatment. Along with Dr. Bucshon, Mr.
7770 Tonko has led the effort to make meaningful changes to expand
7771 services to appropriate MAT access and counseling services during
7772 the consideration of the landmark Comprehensive Addiction
7773 Recovery Act.

7774 I know how passionate he is about this. I know how much
7775 he believes in doing the right thing. It's also why we have moved
7776 a couple other bills that he's been a part of in this process.

7777 And so medication-assisted treatment has proven to be
7778 effective treatment for patients with opioid use disorders. We
7779 all know that. It's most effective when combined with counseling
7780 and psychotherapy treatments.

7781 Mr. Tonko's bill, H.R. 3692, which basically this amendment
7782 would be on its own, would make permanent the prescribing
7783 privileges for nurse practitioners and physician assistants first
7784 authorized in CARA.

7785 Expansion of the administration of buprenorphine should be

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7786 done in such a way that we are not compromising care. We have
7787 heard major concerns from members and stakeholders on the bill.

7788 The American Psychiatric Association, Opioid Treatment
7789 Program Consortium, the American Society of Anesthesiologists
7790 have asked the committee not to expand prescription authority
7791 beyond the current law until more data are available.

7792 Just yesterday, as I mentioned earlier this afternoon, we
7793 also heard major concerns from the Drug Enforcement
7794 Administration regarding H.R. 3692 and, as we know, we have had
7795 issues with the DEA on other legislation that was passed only
7796 to find out later they had concerns.

7797 So before we pass this, let me share with you a portion of
7798 what we received yesterday, and I say yesterday, from DEA and
7799 I am going to quote what DEA shared with us, Mr. Tonko.

7800 "Addiction treatment only helps if the treatment is
7801 effective. Practitioners who provide such treatment must be
7802 properly trained and qualified.

7803 Buprenorphine is widely diverted and it cannot be assumed
7804 that simply giving out more buprenorphine will help and not harm.

7805 Thus, merely increasing the categories of practitioners who are
7806 authorized to prescribe buprenorphine to addicts to include those
7807 who are not physicians is a risky proposition.

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7808 The temporary allowance for mid-level practitioners under
7809 current law was supposed to be a five-year trial program.
7810 Sufficient time has not elapsed to conclude that the program is
7811 more beneficial than harmful.

7812 The absence of meaningful data is not proof that the program
7813 should be made permanent."

7814 That's from the DEA, closed quote. The more we study this
7815 issue the more we think that any expansion of Medicaid-assisted
7816 treatment should be accompanied by changes to 42 CFR Part 2.

7817 Prohibiting the sharing of addiction medical records for
7818 treatment, payment, and health care operations makes it more
7819 difficult to prescribe these important medications safely and
7820 even more difficult to know the efficacy of expanded buprenorphine
7821 administration.

7822 And so I share that with you that, you know, perhaps there
7823 is a path forward here but I do not believe there is one, given
7824 this new information today. I don't think we have agreement.

7825 And with that, I would yield to the gentleman from Texas.

7826 Mr. Barton. Yes, sir. Thank you, Mr. Chairman.

7827 Before I insist on my point of order, I just want to recognize
7828 the distinguished visitor in the audience who is a dead ringer
7829 for Congressman John Shimkus and just want to point that out.

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7830 Ms. Eshoo. How do we look from there? How do we look from
7831 there?

7832 [Laughter.]

7833 Mr. Barton. Well, with great reluctance, I just insist on
7834 my point of order.

7835 Obviously, under Clause 7 of Rule 16, this -- the amendment
7836 has to be germane and this amendment is not germane. So insist
7837 on my point of order.

7838 The Chairman. The gentleman insists on the point of order
7839 and the chair will now rule on the point of order.

7840 As the gentleman noted, Clause 7 of Rule 16 of the Rules
7841 of the House prohibit the committee from considering nongermane
7842 amendments. The precedence of the House set forth several
7843 general tests for germaneness.

7844 These include the fundamental purpose test, the jurisdiction
7845 test, and the subject matter test. The underlying bill amends
7846 the Public Health Services Act only -- the Public Health Services
7847 Act only. That's what the underlying bill does.

7848 This amendment amends the Controlled Substances Act, which
7849 is not before us.

7850 Mr. Pallone. Mr. Chairman --

7851 The Chairman. Having -- let me just finish -- having

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7852 reviewed the amendment and listened to the arguments, the chair
7853 finds the amendment violates the subject matter test with respect
7854 to the underlying bill.

7855 Therefore, the chair sustains the point of order, and I
7856 recognize the gentleman from New Jersey.

7857 Mr. Pallone. Mr. Chairman, I would appeal the ruling of
7858 the chair and ask for a recorded vote.

7859 Mr. Barton. Mr. Chairman, I move to table the appeal of
7860 the ruling of the chair.

7861 The Chairman. Representative Pallone moves to table --
7862 Representative Barton moves to table the appeal. The question
7863 is on the motion to table.

7864 The clerk will call the roll.

7865 Ms. Eshoo. Mr. Chairman, can we say anything about the --
7866 nothing?

7867 Mr. Barton. It's not debatable.

7868 Ms. Eshoo. Not debatable.

7869

7870 The Clerk. Mr. Barton.

7871 Mr. Barton. Aye.

7872 The Clerk. Mr. Barton votes aye.

7873 Mr. Upton.

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7874 Mr. Upton. Aye.

7875 The Clerk. Mr. Upton votes aye.

7876 Mr. Shimkus.

7877 Mr. Shimkus. Aye.

7878 The Clerk. Mr. Shimkus votes aye.

7879 Mr. Burgess.

7880 Mr. Burgess. Aye.

7881 The Clerk. Mr. Burgess votes aye.

7882 Mrs. Blackburn.

7883 [No response.]

7884 Mr. Scalise.

7885 [No response.]

7886 Mr. Latta.

7887 Mr. Latta. Aye.

7888 The Clerk. Mr. Latta votes aye.

7889 Mrs. McMorris Rodgers.

7890 Mrs. McMorris Rodgers. Aye.

7891 The Clerk. Mrs. McMorris Rodgers votes aye.

7892 Mr. Harper.

7893 Mr. Harper. Aye.

7894 The Clerk. Mr. Harper votes aye.

7895 Mr. Lance.

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7896 Mr. Lance. Aye.

7897 The Clerk. Mr. Lance votes aye.

7898 Mr. Guthrie.

7899 Mr. Guthrie. Aye.

7900 The Clerk. Mr. Guthrie votes aye.

7901 Mr. Olson.

7902 Mr. Olson. Aye.

7903 The Clerk. Mr. Olson votes aye.

7904 Mr. McKinley.

7905 Mr. McKinley. Aye.

7906 The Clerk. Mr. McKinley votes aye.

7907 Mr. Kinzinger.

7908 [No response.]

7909 Mr. Griffith.

7910 Mr. Griffith. Aye.

7911 The Clerk. Mr. Griffith votes aye.

7912 Mr. Bilirakis.

7913 [No response.]

7914 Mr. Johnson.

7915 Mr. Johnson. Aye.

7916 The Clerk. Mr. Johnson votes aye.

7917 Mr. Long.

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7918 Mr. Long. Aye.
7919 The Clerk. Mr. Long votes aye.
7920 Mr. Bucshon.
7921 Mr. Bucshon. Aye.
7922 The Clerk. Mr. Bucshon votes aye.
7923 Mr. Flores.
7924 Mr. Flores. Aye.
7925 The Clerk. Mr. Flores votes aye.
7926 Mrs. Brooks.
7927 Mrs. Brooks. Aye.
7928 The Clerk. Mrs. Brooks votes aye.
7929 Mr. Mullin.
7930 Mr. Mullin. Aye.
7931 The Clerk. Mr. Mullin votes aye.
7932 Mr. Hudson.
7933 Mr. Hudson. Aye.
7934 The Clerk. Mr. Hudson votes aye.
7935 Mr. Collins.
7936 Mr. Collins. Aye.
7937 The Clerk. Mr. Collins votes aye.
7938 Mr. Cramer.
7939 Mr. Cramer. Aye.

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7940 The Clerk. Mr. Cramer votes aye.
7941 Mr. Walberg.
7942 [No response.]
7943 Mrs. Walters.
7944 Mrs. Walters. Aye.
7945 The Clerk. Mrs. Walters votes aye.
7946 Mr. Costello.
7947 Mr. Costello. Aye.
7948 The Clerk. Mr. Costello votes aye.
7949 Mr. Carter.
7950 Mr. Carter. Aye.
7951 The Clerk. Mr. Carter votes aye.
7952 Mr. Duncan.
7953 Mr. Duncan. Aye.
7954 The Clerk. Mr. Duncan votes aye.
7955 Mr. Pallone.
7956 Mr. Pallone. No.
7957 The Clerk. Mr. Pallone votes no.
7958 Mr. Rush.
7959 [No response.]
7960 Ms. Eshoo.
7961 Ms. Eshoo. No.

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7962 The Clerk. Ms. Eshoo votes no.
7963 Mr. Engel.
7964 Mr. Engel. No.
7965 The Clerk. Mr. Engel votes no.
7966 Mr. Green.
7967 Mr. Green. No.
7968 The Clerk. Mr. Green votes no.
7969 Ms. DeGette.
7970 Ms. DeGette. No.
7971 The Clerk. Ms. DeGette votes no.
7972 Mr. Doyle.
7973 Mr. Doyle. No.
7974 The Clerk. Mr. Doyle votes no.
7975 Ms. Schakowsky.
7976 Ms. Schakowsky. No.
7977 The Clerk. Ms. Schakowsky votes no.
7978 Mr. Butterfield.
7979 [No response.]
7980 Ms. Matsui.
7981 Ms. Matsui. No.
7982 The Clerk. Ms. Matsui votes no.
7983 Ms. Castor.

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7984 Ms. Castor. No.

7985 The Clerk. Ms. Castor votes no.

7986 Mr. Sarbanes.

7987 Mr. Sarbanes. No.

7988 The Clerk. Mr. Sarbanes votes no.

7989 Mr. McNerney.

7990 Mr. McNerney. No.

7991 The Clerk. Mr. McNerney votes no.

7992 Mr. Welch.

7993 Mr. Welch. No.

7994 The Clerk. Mr. Welch votes no.

7995 Mr. Lujan.

7996 Mr. Lujan. No.

7997 The Clerk. Mr. Lujan votes no.

7998 Mr. Tonko.

7999 Mr. Tonko. No.

8000 The Clerk. Mr. Tonko votes no.

8001 Ms. Clarke.

8002 Ms. Clarke. No.

8003 The Clerk. Ms. Clarke votes no.

8004 Mr. Loeb sack.

8005 Mr. Loeb sack. No.

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8006 The Clerk. Mr. Loeb sack votes no.
8007 Mr. Schrader.
8008 Mr. Schrader. No.
8009 The Clerk. Mr. Schrader votes no.
8010 Mr. Kennedy.
8011 Mr. Kennedy. No.
8012 The Clerk. Mr. Kennedy votes no.
8013 Mr. Cardenas.
8014 [No response.]
8015 Mr. Ruiz.
8016 Mr. Cardenas. No.
8017 The Clerk. Mr. Cardenas votes no.
8018 Mr. Ruiz.
8019 Mr. Ruiz. No.
8020 The Clerk. Mr. Ruiz votes no.
8021 Mr. Peters.
8022 Mr. Peters. No.
8023 The Clerk. Mr. Peters votes no.
8024 Mrs. Dingell.
8025 Mrs. Dingell. No.
8026 The Clerk. Mrs. Dingell votes no.
8027 Chairman Walden.

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8028 The Chairman. Aye.

8029 The Clerk. Chairman Walden votes aye.

8030 Mr. Walberg.

8031 Mr. Walberg. Aye.

8032 The Clerk. Mr. Walberg votes aye.

8033 Mr. Kinzinger.

8034 Mr. Kinzinger. Aye.

8035 The Clerk. Mr. Kinzinger votes aye.

8036 The Chairman. Mr. Rush.

8037 The Clerk. Mr. Rush.

8038 Mr. Rush. No.

8039 The Clerk. Mr. Rush votes no.

8040 Mr. Butterfield.

8041 Mr. Butterfield. No.

8042 The Clerk. Mr. Butterfield votes no.

8043 The Chairman. Are there other members who are not recorded
8044 who seek to be recorded?

8045 If not, the clerk will report the tally when ready.

8046 The Clerk. Mr. Chairman, on that vote there were 28 ayes
8047 and 24 nays.

8048 The Chairman. On that vote, 28 ayes, 24 noes, and the motion
8049 to table the appeal is agreed to.

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8050 Are there further amendments to the bill?

8051 Are there other members seeking recognition? Do you want
8052 me to go down?

8053 The chair recognizes his friend from California, Ms. Eshoo,
8054 for five minutes.

8055 Ms. Eshoo. Thank you, Mr. Chairman.

8056 I'd like to strike the last word.

8057 I am very disappointed in what just took place. We have
8058 been in the markup since 9:00 o'clock this morning. We have all
8059 listened to each other. Some have changed their minds after
8060 listening. Some have continued on with how they were going to
8061 vote.

8062 I -- what I think is very important is the following. We
8063 address each other as the gentleman from and then the state is
8064 mentioned, and the gentlewoman from the state that she comes from.

8065 I really think one of the true gentlemen here -- true
8066 gentlemen and gentle man is Paul Tonko. I don't think, Mr.
8067 Chairman, he's been treated fairly.

8068 And I am not casting an aspersion, but for -- he takes his
8069 legislating as seriously as anyone does on the committee. Now,
8070 what was introduced was all the reasons by his legislation was
8071 not only -- I don't even know what the right word is -- chopped

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8072 up last night and further gouged this morning.

8073 I think he had an important idea -- a very important idea
8074 -- and that is that there -- that room would be made for more
8075 that suffer from these addictions would have an opportunity for
8076 rehabilitation.

8077 Now the glory of the DEA has moved in. When in the hell
8078 have they ever taken care of rehabilitating people? I mean, I
8079 just -- that's pretty hard for me to swallow, asking the last
8080 time a corporation changed a diaper.

8081 I mean, this is not -- I don't -- I simply don't think it's
8082 fair and if that is -- I know that you announced that you took
8083 that into consideration. But I have to say that to scrap one
8084 of the major, I think, outcomes here relative to opioids has to
8085 be treatment centers.

8086 People are going to the streets for this -- for this drug
8087 now that should be administered in a -- in a facility where people
8088 have beds. They stay there for a certain length of time, and
8089 this is one of the drugs.

8090 Now, should it be controlled? Yes. It's controlled in
8091 hospitals. It's controlled in skilled nursing facilities. But
8092 to say that the DEA has come in and that they say that we shouldn't
8093 have these treatment centers, I mean, that's gone way out of the

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8094 line, I think, in terms of that agency.

8095 We have made a lot of decisions here today about what we
8096 want agencies to do. Democrats have agreed and disagreed amongst
8097 each other. We have joined with Republicans -- sometimes we
8098 haven't -- on the role of the agency and what we are instructing
8099 them to do.

8100 But I would ask you, Mr. Chairman, maybe you just didn't
8101 want to vote on this thing. But I would ask between the time
8102 this is over -- and it's almost over -- and we go to the floor
8103 that there really be a serious examination of Mr. Tonko's
8104 legislation.

8105 The Chairman. I'd commit to that.

8106 Ms. Eshoo. It deserves that. It really does, Mr. Chairman.

8107 The Chairman. I don't disagree. Would the gentlelady
8108 yield?

8109 Ms. Eshoo. And you're a good man, but please don't allow
8110 the DEA to make the decision for us. Let's not do that.

8111 The Chairman. Would the gentlelady yield?

8112 Ms. Eshoo. Let's not do that. So I think I've said
8113 everything that I wanted to say. But this is an important
8114 element, one of the pillars of the overall plan, and I think if
8115 we cast this aside then we are really shortchanging the overall

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8116 effectiveness of the -- to go after the opioid crisis.

8117 I've got one second but you're the chairman so you can take
8118 as much time as you want.

8119 The Chairman. Well --

8120 Ms. Eshoo. I yield back and I --

8121 The Chairman. The gentlelady yields back.

8122 Ms. Eshoo. -- hope you accept that in the spirit that I
8123 am offering it.

8124 The Chairman. Of course. I would have done that, but I'll
8125 recognize the gentleman from Indiana, Dr. Bucshon.

8126 Mr. Bucshon. Move to strike the last word, Mr. Chairman.

8127 The Chairman. You're recognized five minutes.

8128 Mr. Bucshon. I want to talk about the amendment that was
8129 offered and just say this -- that from a medical standpoint, the
8130 ends doesn't justify the means.

8131 It's a false narrative, I think, to say that if we don't
8132 dramatically expand the things in this space like it was described
8133 in the amendment that all of us here don't want increased access
8134 to therapy.

8135 What we want is increased access to effective and safe
8136 therapy, and I have some issues with the underlying amendment.
8137 You know, I think the intentions are honorable but specifically

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8138 I don't support putting expanded patient caps from 100 to 275
8139 into statute. I believe it's important for the secretary to have
8140 flexibility to lower the caps.

8141 There is little -- very little information regarding the
8142 number of practitioners who have expanded to 275 patients or
8143 outcomes for those patients since the cap was recently increased
8144 by HHS.

8145 I am also concerned that the amendment would permanently
8146 allow nurse practitioners and PAs to prescribe MAT and expands
8147 prescribing ability to additional nonphysician practitioners
8148 such as certified nurse midwives, clinical nurse specialists,
8149 and certified registered nurse anesthetists.

8150 This is not a criticism of those medical professionals.
8151 It is -- it is an assessment of the ability to specifically treat
8152 a person that has substance abuse disorder in a way that is
8153 effective and can be proven to be successful.

8154 Again, the ends doesn't justify the means. It's laudable
8155 to try to expand treatment but we need to do that very carefully.

8156 We need information regarding patient outcomes for NPs and PAs
8157 as we recently expanded it in CARA.

8158 They've been allowed to prescribe, you know, these
8159 medication-assisted treatments but we have no data to show

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8160 outcomes. I want patients suffering from opioid use disorder
8161 to have access to high-quality medical assisted treatment.

8162 I was one of the lead authors of Section 303 of CARA. But
8163 I worry that this amendment would not necessarily provide adequate
8164 patient protections and that, if passed, would be at risk for
8165 a serious risk of fraud and abuse, especially diversion of
8166 buprenorphine, which is one of the most diverted drugs in America.

8167 So I think that, based on that, Mr. Chairman, I think we
8168 have to be very careful about what we do and, again, false
8169 narrative that expanding immediately without information that
8170 doesn't mean that we are not concerned about access. It's a
8171 critical problem.

8172 But in this case, I am concerned that the ends does not
8173 justify the means. I yield back, Mr. Chairman.

8174 The Chairman. The gentleman yields back.

8175 The chair recognizes the gentleman from New Jersey, the
8176 ranking member, Mr. Pallone, for five minutes to strike the last
8177 word.

8178 Mr. Pallone. Thank you, Mr. Chairman.

8179 I am just amazed by what I hear here and what I consider
8180 the inconsistency with so much that's being said now versus what
8181 was said earlier.

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8182 First of all, look, I agree with Ms. Eshoo. I don't know
8183 what DEA has to do with BUP for treatment. I mean, we know that
8184 BUP saves lives.

8185 DEA is saying that it may be diverted. To what, the street?
8186 And so people would get BUP and they would use it to save their
8187 lives and that's a bad thing?

8188 I mean, look, I am not saying that I want stuff to be available
8189 on the street rather than through qualified providers. But
8190 there's -- this whole idea of diversion of BUP is not something
8191 that I quite understand why that's necessarily even a bad thing.

8192 Mr. Bucshon. Will the gentleman yield?

8193 Mr. Pallone. Well, let me just finish and then I will.

8194 The bottom line is we have to eliminate federal regulatory
8195 barriers to providing BUP and we need to do all we can to encourage
8196 more qualified clinicians to care for patients with an opioid
8197 use disorder, and increasing the number of providers, as Mr.
8198 Tonko's bill would do, who would be eligible to treat patients
8199 with MAT, or M-A-T, would allow more Americans to access the
8200 treatment services they need to survive, not die, and move towards
8201 recovery.

8202 And, you know, I don't want to get back into the earlier
8203 debate but so much was said here earlier about how we don't trust

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8204 federal agencies like the FDA or CMS. But now all of a sudden,
8205 we respect DEA, which doesn't have anything to do with treatment
8206 or trying to, you know, keep people from staying alive because
8207 they don't get access to a drug that we know makes a difference?

8208 I am just totally baffled by this and I have to come to the
8209 conclusion that, you know, I don't know, Mr. Tonko's being
8210 punished or something, again. I mean, how many times have we
8211 had this now?

8212 Subcommittee, you didn't bring the bill up, even though it
8213 was noticed. Full committee, we don't bring the bill up because
8214 it's noticed. Now we say okay, we will deal with it on the floor
8215 -- maybe he'll do an amendment on the floor.

8216 But how do I know the Rules Committee is going to allow his
8217 amendment? It may not happen. So I just think that we should
8218 -- we should allow his bill to be debated and voted on today.

8219 We can't just keep delaying and delaying and delaying,
8220 particularly because DEA says, as an enforcement agency, that
8221 this is not a good thing.

8222 I'll be perfectly honest with you. You know, if it's
8223 diverted and you have -- and, you know, people get it through
8224 diversion, I'd rather they get it than they die of an overdose.

8225 I yield to Mr. Bucshon.

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8226 Mr. Bucshon. Yes. First of all, I just want -- I mean,
8227 every prescriber out there that has the ability to provide
8228 schedules drugs has a DEA number -- that the DEA does have
8229 jurisdiction over assessing a person's qualifications to
8230 prescribe a scheduled medication. So in that respect --

8231 Mr. Pallone. Mr. Bucshon -- Doctor, what do they -- when
8232 DEA says -- reclaiming my time -- that it's going to be diverted,
8233 what is the fear? Diverted to what?

8234 Mr. Bucshon. Well, because buprenorphine is not that safe
8235 of a drug. I think in our round table we heard of --

8236 Mr. Pallone. I mean, none of these drugs are safe.

8237 Mr. Bucshon. -- a family member whose loved one --

8238 Mr. Pallone. Reclaiming my time.

8239 Mr. Bucshon. -- got it on the street and had a problem.

8240 Mr. Pallone. I am baffled by that. Look, none of these
8241 drugs are safe. My god, heroin, fentanyl -- all these things
8242 that we are talking about.

8243 But the unsafe character of BUP -- what, because somebody's
8244 going to use it or get infection or something? I mean, we are
8245 talking about people who are dying because they don't get the
8246 drug. I don't see how diversion is even something that I should
8247 be concerned about at this point.

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8248 I yield to the gentleman, but I am baffled.

8249 Mr. Bucshon. I mean, they are dying from opioid overdose,
8250 you know, and, again, to potentially compound that by increasing
8251 the volume of buprenorphine without specific criteria and
8252 qualified treatment that's been proven to be effective and safe
8253 is not an ends that justifies the means.

8254 Mr. Pallone. Well, reclaiming my time. Look, I don't --
8255 you know, if they end up getting an infection or something, at
8256 least they are alive.

8257 You know, it seems to me that having more qualified people
8258 administer this is the right thing to do and if DEA's idea of
8259 diversion is that somebody is going to get it and use it because
8260 -- and get an infection or something else is going to happen,
8261 they are going to die if they don't get it.

8262 So I yield back the balance of my time.

8263 Mr. Barton. Mr. Chairman.

8264 The Chairman. Gentleman yield?

8265 Mr. Pallone. I yield back.

8266 The Chairman. Yield back.

8267 The chair recognizes the gentleman from Texas, the vice chair
8268 of the full committee.

8269 Mr. Barton. I ask to speak, there were actually a number

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8270 of words.

8271 The Chairman. Without objection, the gentleman is
8272 recognized for five minutes.

8273 Mr. Barton. I think it's legitimate to have a policy debate
8274 that Mr. Bucshon just engaged in about the merits of the bill.

8275 But I don't think it's legitimate to somehow impugn our chairman.

8276 Now, I've sat in that chair and, you know, I've served with
8277 six or seven chairman, including probably the greatest of them
8278 all, John Dingell. But we just marked up, what, 30 bills.

8279 I believe two of those bills the primary sponsor was Mr.
8280 Tonko. I just voted against a Republican bill -- Mr. Mullin --
8281 of which at least three or four Democrats voted for.

8282 You can say a lot of things about Chairman Walden but you
8283 can't say that he's unfair or he's too partisan or he plays
8284 favorites or any of that.

8285 Now, this bill is not germane. It's not germane, according
8286 to the rules of the House. Now, that doesn't mean the chairman
8287 and the ranking member can't work together and bring it up at
8288 another time.

8289 It's, obviously, controversial. Mr. Bucshon just pointed
8290 out some of the -- there is a number of stakeholders, as Chairman
8291 Walden pointed out, have real concerns about it.

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8292 So after a markup that started at 10:00 o'clock and which
8293 we passed 31 bills, a lot of -- almost all of those were
8294 bipartisanly supported. To somehow think that Chairman Walden
8295 has some grudge against Congressman Tonko or Democrat bills in
8296 general, that's just patently not true and I think it's unfair.

8297 Ms. Eshoo. Would the gentleman yield?

8298 Mr. Pallone. Would the gentleman yield?

8299 The Chairman. Would the gentleman yield?

8300 Mr. Barton. I'll yield to the chairman, Mr. Walden.

8301 The Chairman. I appreciate that.

8302 Look, there is obviously disagreement about this bill. Now,
8303 we are dealing with -- actually, the amendment has been ruled
8304 out of order. So we are actually on the underlying bill, which
8305 is a Griffith bill.

8306 When the DEA late yesterday informs us that they have serious
8307 concerns, I think that's something we have to take seriously.

8308 I am prepared to work with Mr. Tonko. I am a fan of Mr. Tonko's.
8309 We have moved a couple of bills here. We moved the brownfields
8310 legislation.

8311 This has nothing to do with anything other than there is
8312 an issue with this bill that's not worked out yet.

8313 And I am happy to have our teams work, see if we can find

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8314 common ground like we have done on every other bill. We are now
8315 up to, what, 56 bills moved out of here, almost all of them
8316 bipartisan or by voice.

8317 This one, there are issues with, as we hear on both sides
8318 of the aisle. There is an opportunity, going forward, to work
8319 something out perhaps, if we can. Then we can go to Rules. We
8320 can do it as a manager's amendment.

8321 The gentleman could get cleared to offer his amendment on
8322 the floor. There are lots of vehicles. We can come back another
8323 day, another time. We are not going to be done with this issue
8324 I, unfortunately, think at the end of this markup. There will
8325 be continuing issues we will need to work with on the health care
8326 front.

8327 So happy to work with you on it to see if we can find common
8328 ground. But when the regulating agency, the DEA, raises a very
8329 serious set of objections, that changes the dynamic for me, as
8330 chairman, and I think we have that being voiced by the members
8331 of the committee.

8332 So and NIH has noted diversion of buprenorphine and naloxone
8333 represent a complex medical and social issue and has been widely
8334 documented in various geographical regions throughout the world.

8335 So, I mean, there are issues here. I appreciate both sides

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8336 of the aisle and the work we have done together. This one is
8337 not quite baked and ready as a bill.

8338 So with that, I would yield back to the chairman, who may
8339 want to yield to Mr. Griffith for the remaining 49 seconds and
8340 then can go on his own time.

8341 Mr. Barton. I yield all of my 46 seconds.

8342 The Chairman. Mr. Griffith.

8343 Mr. Griffith. Thank you, Mr. Chairman. I am glad to be
8344 able to discuss the bill. Sorry to cause all this controversy.

8345 Mr. Barton. I will take my time back. No, go ahead.

8346 Mr. Griffith. Sorry to cause all this controversy. But
8347 H.R. 5812, the CONNECTIONS Act, is a good bill. It's a state-run
8348 prescription drug monitoring program.

8349 PDMPs are widely recognized as an important tool in fighting
8350 the opioid epidemic. These programs enable providers to better
8351 identify patients who may be at risk for misuse or abuse of opioid
8352 prescriptions.

8353 This bill will improve federal support for state-run PDMPs
8354 to empower the states to successfully implement improvements and
8355 build off their existing programs.

8356 This legislation helps facilitate without mandating more
8357 widespread use by providers, improves intrastate and interstate

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8358 interoperability, and encourages data integration into the
8359 physician clinical work flow so that all providers have access
8360 to timely and complete data that they need in order to make the
8361 best decisions for their patients.

8362 I would like to thank Ranking Member Pallone for working
8363 with me in a bipartisan manner on this underlying important piece
8364 of legislation, and after 20 or 30 or 40 minutes of debate on
8365 something else I am glad we got to this.

8366 And I yield back.

8367 The Chairman. Gentleman yields back.

8368 Mr. Green. Mr. Chairman --

8369 The Chairman. Just for the record, so you all know, they've
8370 called the votes on the floor.

8371 So the chair recognizes the gentlelady from California for
8372 the purpose of striking the last word.

8373 Ms. Eshoo. Thank you, Mr. Chairman.

8374 To my friend, Joe Barton, I didn't impugn anyone. I think
8375 Greg Walden is terrific. Sometimes we agree. Sometimes we
8376 don't. But we have a very solid relationship and I with you,
8377 Mr. Barton, and you know that I mean that, rain or shine.

8378 What I object to is I don't want people to have to go dragging
8379 around to the Rules Committee, to the I don't know what not.

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8380 We have had two long important markups.

8381 I think everyone here should have the opportunity to have
8382 their bill heard. Then, if there is someone -- Mr. Bucshon wants
8383 to -- Dr. Bucshon wants to weigh in on something, I have learned
8384 more from these two markups listening to my colleagues on both
8385 sides of the aisle.

8386 Did I read the material the night before? Yes. But nothing
8387 takes the place of hearing the opinion and the remarks of each
8388 member.

8389 For the life of me, I don't understand why this -- why Mr.
8390 Tonko's legislation wasn't allowed to be heard and debated. I
8391 mean, what's so awful about that?

8392 So I think that we are suffering from the fact that it wasn't
8393 allowed to be heard, and when you say that it's not germane, well,
8394 what the heck was germane? We have been talking about everything.

8395 Why is anything in the Substance Control Act not germane?

8396 I don't understand that. I don't get that. I mean, you've
8397 already voted on it. But I think these things need to be said
8398 for the record.

8399 And so I hope that this is not going to be -- we said we
8400 are going to work with the gentleman but all of a sudden we are
8401 at the floor and, you know, there -- that he is just snuffed out.

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8402 I don't think that should happen to anyone. Not to anyone
8403 on your side, not to anyone on our side. And so I am just saying
8404 I generally object that the gentleman's idea -- someone finds
8405 it to be a lousy idea. Say so. Maybe someone else thinks it's
8406 a brilliant idea.

8407 But it should be allowed to be heard, and it wasn't and I
8408 just don't find that to be fair.

8409 Mr. Lujan. Would the gentlelady yield?

8410 Ms. Eshoo. I'd be glad too.

8411 Mr. Lujan. Quickly -- thank you, Ms. Eshoo.

8412 Look, I think the hypocrisy of what we are hearing with those
8413 concerns that were shared in the letter from the DEA, Mr. Chairman,
8414 is what the DEA is saying is that all of these -- the CRNAs, the
8415 NPs, the nurses, the midwives, or whoever it may be that they
8416 are addressing, that they are able to prescribe opioids.

8417 But what they are saying is they don't trust them to prescribe
8418 the medication-assisted treatment in the area of buprenorphine.

8419 That just -- I hope that we are hearing what this is -- what
8420 they are saying about this.

8421 And then what I am confused about as well is Mr. Bucshon
8422 offered an amendment to another bill that we are going to hear
8423 today, Mr. Mullin and Mr. Blumenauer's, that was pulled that at

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8424 least recognized that nurse practitioners and physician
8425 assistants should at least have extended authority to 2023. So
8426 it's not a recognition that they shouldn't have that authority.

8427 But then it quickly turned into well, people shouldn't be
8428 prescribing buprenorphine. I don't know where that comes from.

8429

8430 So if people are not going to be able to prescribe
8431 buprenorphine, what are -- what are they going to get pushed to,
8432 to something like Vivitrol? I mean, I am just -- Mr. Chairman,
8433 I yield back to Ms. Eshoo and I hope Mr. Tonko gets some time
8434 as well.

8435 Mr. Tonko. I thank the gentlelady for yielding.

8436 I find the dynamics of this discussion -- that the debate
8437 that we wanted is happening. But now I find the dynamics changing
8438 midstream.

8439 And look, if we have a process that works for 20 percent
8440 of the American public, when I speak to the addiction community,
8441 when I speak to the substance use disorder community, it is about
8442 treatment on demand when they have the moment of clarity, and
8443 if it's there for 20 percent, why don't we want to move and give
8444 it to the other 80 percent?

8445 You know, we talk about the rigid quality of DEA. There

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8446 is flexibility within the program so that we can operate within
8447 a threshold -- a floor and a ceiling.

8448 This has worked, but it hasn't reached the people we need
8449 to. And so every day, every week, every month, every year that
8450 passes that we don't allow this service delivery, we have to
8451 understand that someone is going to lose a loved one. They are
8452 going to lose a sibling, a parent, a child, a neighbor, a friend,
8453 because we are not acting on service delivery.

8454 Let's quit the dynamics that are fake and let's go forward
8455 with a program that has worked --

8456 The Chairman. Gentlelady's time has expired.

8457 Mr. Tonko. -- that will keep people from using
8458 buprenorphine down the street because they can't get treatment.

8459 With that, I yield.

8460 The Chairman. The gentlelady's time has expired.

8461 Are there other members seeking recognition?

8462 As a reminder to members, there is eight minutes left on
8463 the vote on the floor and those votes will go on for some time.

8464 Are there other members seeking recognition?

8465 If not, the question now arises on passage of H.R. 5812.

8466 Those in favor will say aye.

8467 Those opposed, no.

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8468 The ayes appear to have it. The measure is favorably
8469 reported to the House floor.

8470 Without objection, staff is authorized to make technical
8471 conforming changes to the legislation considered by the committee
8472 today. So ordered.

8473 Without objection, the committee now stands adjourned.

8474 [Whereupon, at 5:34 p.m., the committee was adjourned.]

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