



October 17, 2018

## **Federal Legislation Addresses the Opioid Epidemic**

*(see below for key findings and provisions)*

One year ago, on October 26, 2017, President Donald Trump declared the opioid epidemic a national public health emergency. Every day, roughly 115 people in the United States die after overdosing on opiates.

The CDC reports,

“In 2016, 63,632 drug overdose deaths occurred in the United States. The age-adjusted rate of overdose deaths increased significantly by 21.5% from 2015 (16.3 (per 100,000) to 2016 (19.8 per 100,000). Opioids—prescription and illicit—are currently the main driver of drug overdose deaths. Opioids were involved in 42,249 overdose deaths in 2016 (66.4% of all drug overdose deaths). In 2016, the states with the highest rates of death due to drug overdose were West Virginia (52.0 per 100,000), Ohio (39.1 per 100,000), New Hampshire (39.0 per 100,000), the District of Columbia (38.8 per 100,000), and Pennsylvania (37.9 per 100,000).”

In New York alone, according to data provided by the NYS Department of Health, Bureau of Health Informatics, the number of New Yorkers who have died from an opioid overdose has increased 1,000% since 2003. The total raw number of opioid deaths across the state in 2003 was 279, in 2016 the number of opioid related deaths had increased to 3,069. [[See NYSAC's resources on Battling the Opioid Crisis in Our Counties.](#)]

Counties in New York State are the front-line defense and combat force to respond to this epidemic. Our local health, human services and law enforcement agencies are responding to this crisis every day.

At the Federal level, Congress has been exploring ways to assist states and local governments. On October 3, 2018, Congress took action. Both houses resolved differences between H.R. 6 and S. 2680, sending the SUPPORT for Patients and Communities Act, the single largest piece of legislation addressing the opioid and heroin epidemic, to the President for his signature. Language from many bills that had been introduced in the House and Senate to combat this crisis have been included in this legislation.

The legislative analysis below provides a brief description of the major provisions included in the SUPPORT for Patients and Communities Act.

The National Council for Behavioral Health has also included a short breakdown of the legislation. Their blog post can be found [here](#). The National Association of Counties (NACo) has also posted a short analysis of the legislation which can be found [here](#).

A full legislative analysis prepared by the Majority and Minority Committee's staff can be accessed [here](#).

## **Key Findings & Provisions**

- At-risk Youth Medicaid Protection
  - State Medicaid programs must suspend, not terminate a juvenile's medical assistance eligibility when they are incarcerated.
- Health Insurance for Former Foster Care Youth
  - States must ensure that former foster care youth are able to keep their Medicaid coverage across state lines until the age of 26.

- Guidance to improve care for infants with neonatal abstinence syndrome and their mothers
  - The Act requires the Secretary of HHS to issue best practices, recommendations, and guidance to improve care for infants with neonatal abstinence syndrome.
- Medicaid Health Homes for Substance-Use-Disorder (SUD) Medicaid Enrollees
  - This provision extends the enhanced matching rate for qualified activities for Medicaid health homes targeted towards Medicaid beneficiaries with substance use disorders from eight quarters to 10 quarters. It also includes a requirement for state Medicaid programs to provide coverage for medication-assisted treatment.
- Medicaid SUD Treatment via Telehealth
  - This provision directs CMS to issue guidance to states on options for providing services via telehealth that address substance use disorders under Medicaid. It requires guidance to cover state options for federal reimbursement for substance use disorder services and treatment using telehealth including, services addressing high-risk individuals, provider education through a hub-and-spoke model, and options for providing telehealth services to students in school-based health centers.
- Enhancing Patient Access to Non-Opioid Treatment Options
  - This provision directs CMS to issue guidance on states' options for treating and managing beneficiaries' pain through non-opioid pain treatment and management options under Medicaid.
- Help for Moms and Babies
  - This language modifies Section 1905(a) of the Social Security Act to ensure that pregnant and postpartum women receiving care for substance use disorders in an institution for mental disease (IMD) can continue to receive other Medicaid-covered care outside of the IMD, such as prenatal services.
- Securing Flexibility to Treat Substance Use Disorders
  - This provision clarifies flexibilities around Medicaid's IMD exclusion where, in some cases, managed care plans may provide alternative services in lieu of other services that are not permitted under the state plan.
- Report on MAT Utilization Controls Under State Medicaid Programs
  - The bill directs the Medicaid and CHIP Payment and Access Commission (MACPAC) to conduct a study on utilization management controls applied to medication-assisted treatment options in both fee-for-service and managed care Medicaid programs.
- Report on Innovative State Initiatives and Strategies to Provide Housing-Related Services and Supports to Individuals Struggling with Substance Use Disorders Under Medicaid
  - This provision directs HHS to provide technical assistance to states initiatives and covered housing-related services that state Medicaid programs may use to provide supports to Medicaid enrollees with substance use disorders who are experiencing homelessness or are at risk of homelessness.
- Expanding the Use of Telehealth Services for the Treatment of Opioid Use Disorder and Other Substance Use Disorders (\$3M in Funding)
  - This provision expands the use of telehealth services by eliminating certain statutory originating site requirements for telehealth services furnished to Medicare beneficiaries for the treatment of substance use disorders and co-occurring mental health disorders, beginning July 1, 2019.
- Medicare Coverage of Certain Services Furnished by Opioid Treatment Programs
  - The bill expands Medicare coverage to include Opioid Treatment Programs (OTPs) for the purposes of delivering Medication-Assisted Treatment (MAT) to expand access to treatment options for Medicare beneficiaries.
- Evidence-based opioid analgesic prescribing guidelines and report
  - This language requires FDA to develop evidence-based opioid analgesic prescribing guidelines for the indication-specific treatment of acute pain.
- Allows More Flexibility with Respect to Medication-Assisted Treatment for Opioid Use Disorders
  - This provision will increase the number of waived health care providers that can prescribe or dispense medication assisted treatment (MAT) by authorizing clinical nurse specialists, certified nurse midwives and certified registered nurse anesthetists to prescribe MAT for five years.
- Grants to Enhance Access to Substance Use Disorder Treatment (\$4M FY 2019-2023)

- This provision authorizes grants to support the development of curriculum that will help health care practitioners obtain a waiver to prescribe MAT.
- CHIP Mental Health and Substance Use Disorder Parity
  - The Act equires state CHIPs to cover mental health benefits, including substance use disorder services for eligible pregnant women and children.
- Grants to Provide Technical Assistance to Outlier Prescribers of Opioids
  - Grants to provide outreach and education to outlier prescribers of opioids to reduce the amount of opioid prescriptions prescribed. This section makes \$75M from the Supplementary Medical Insurance Trust Fund available for these education activities.
- Pilot Program for Public Health Laboratories to Detect Fentanyl and Other Synthetic Opioids (\$15M)
  - This bill includes grants to state and local agencies to improve coordination between public health laboratories and laboratories operated by law enforcement to improve detection of fentanyl, its analogues, and other synthetic opioids.
- Early Interventions for Pregnant Women and Infants
  - This provision requires SAMHSA to develop, in cooperation with CDC, educational materials for clinicians to use with pregnant women for shared decision-making regarding pain management during pregnancy.
- Program to Support Coordination and Continuation of Care for Drug Overdose Patients (\$10M)
  - This aspect of the bill provides resources for hospitals and other entities to develop protocols on discharging patients who have presented with an opioid overdose. These protocols would address the provision of overdose reversal mediation upon discharge, connection with peer-support specialists, and referral to treatment and other services that best fit the patient’s needs.
- Improving Recovery and Reunifying Families (\$15M)
  - This provision provides for \$15M to HHS to replicate a “recovery coach” program for parents with children in foster care due to parental substance abuse, which has been shown to reduce the length of time children spend in foster care.
- Building Capacity for Family-Focused Residential Treatment (\$20M)
  - This provision authorizes \$20M for HHS to award to states to develop, enhance, or evaluate family-focused treatment programs to increase the number of evidence-based programs that will later qualify for funding under the Family First Prevention Services Act.
- Reauthorize the Comprehensive Opioid Abuse Grant Program (\$330M)

## Conclusion & Summary

Congress has passed the single largest piece of legislation aimed at combating the heroin and opioid epidemic. Some of the key features of The SUPPORT for Patients and Communities Act, which is with the President for his signature include:

- The reauthorization of the opioid abuse grant program.
- Improved access to treatment for people suffering with an opioid addiction through telemedicine.
- Permits prescribers with a waiver to immediately treat 100 people at a time with buprenorphine.
- Expands authorized waived health care providers that can prescribe or dispense medication assisted treatment (MAT) to include clinical nurse specialists, certified nurse midwives and certified registered nurse anesthetists to prescribe MAT for five years.

Many key pieces of legislation introduced in the House and Senate to combat this crisis have been included in this legislation. This legislation is a good first step which will enable local governments to continue to work together, make system improvements, and expand access to treatment for people grappling with addiction.