

Congress Passes Bipartisan Legislation to Address the Opioid Crisis

Hinckley Allen Health Care

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On October 3, the Senate passed the compromise opioid bill package that had been approved by the House on September 28. This sweeping legislation, known as the “[SUPPORT for Patients and Communities Act](#)” (the “Act”), received overwhelming approval in both chambers, and will now be sent to the President.

Although the compromise legislation retained many of the provisions on [House-sponsored legislation](#), includes noteworthy new features:

- **Expansion of telehealth services.** The Act provides that telehealth services for treatment of substance-use disorders and accompanying mental-health disorders may be reimbursed under Medicare when delivered in the patient’s home, regardless of the patient’s geographic location, effective July 2019. In addition, it would direct Centers for Medicare and Medicaid Services (CMS) to issue guidance for states on options for providing substance-use-disorder services for Medicaid patients through telehealth.
- **Federal institutions for mental disease (IMD) exclusion.** Federal law has long excluded from Medicaid coverage care delivered to adults aged 21 to 64 in mental-health institutions with over 16 beds. The Act would permit state Medicaid programs to cover care in certain IMDs for adults with a substance-use disorder for Fiscal Years 2019 through 2023, for up to 30 days in any 12 month period, provided that the state meets certain program conditions.
- **Medication-assisted treatment (MAT).** The Act would permanently enable MAT-prescribing authority for qualified physician assistants and nurse practitioners, and it establishes a five-year window of MAT prescribing for certain other types of qualified advanced nurse practitioners.
- **Anti-fraud Provisions.** The Act would add criminal penalties for paying or receiving kickbacks in return for referring a patient to a recovery home or clinical treatment facility, with “common sense” exceptions for legitimate referrals. The Act would also enhance civil enforcement authority of the Federal Trade Commission (FTC) for unfair or deceptive acts with respect to substance-use disorder products and services.

Notably, the Act does not provide for changes to the stringent privacy rules for substance-use disorder treatment records. This had become a source of disagreement in prior versions of the legislation. If you have any questions about the above topic, or any Corporate & Business issue related to Health Care, please contact [Anne M. Murphy](#), or the Hinckley Allen attorney with whom you regularly work.

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