

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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February 11, 2019

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Chairwoman
Subcommittee on Health
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Diana DeGette
Chair
Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone, Chairwoman Eshoo, and Chair DeGette:

In the 115th Congress, Republicans and Democrats on the Energy and Commerce Committee worked together in a bipartisan way to combat the nation's opioid crisis, which included bipartisan investigations into several key issues that have contributed to the crisis as well as numerous legislative initiatives. Our efforts culminated in the signing into law of H.R. 6, the SUPPORT for Patients and Communities Act,¹ which is considered the most significant congressional effort against a single drug crisis in history. We write to request that the Committee continue our legislative and investigative work to combat the opioid crisis. While we made great strides working together last Congress, our work is far from done. As the Committee with primary jurisdiction over public health issues in the U.S. House of Representatives, we must address the scourge that is sadly claiming 130 American lives per day² and continue our work of the last two Congresses.

¹ Public Law No: 115-271.

² Wide-ranging online data for epidemiologic research (WONDER). Atlanta, GA: CDC, National Center for Health Statistics; 2017. Available at <http://wonder.cdc.gov>.

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Oversight of the Implementation of H.R. 6, SUPPORT for Patients and Communities Act

We ask that you schedule hearings to review the implementation of the SUPPORT for Patients and Communities Act and discuss additional efforts to address the ongoing opioid crisis.

The SUPPORT for Patients and Communities Act represents numerous breakthrough bipartisan initiatives championed by current and former members of this Committee to combat the opioid crisis. The law is an important step in our fight to prevent diversion, abuse, and overdoses resulting from prescription and synthetic pharmaceuticals. It provides resources to combat the crisis by improving treatment and recovery, implementing new prevention methods, protecting communities from illicit drugs, and fighting the illicit use of fentanyl.

The SUPPORT for Patients and Communities Act followed the passage of the Comprehensive Addiction and Recovery Act³ and the 21st Century Cures Act⁴ in the 114th Congress, along with additional efforts in the 115th Congress, such as the \$4 billion appropriated in the Consolidated Appropriations Act of 2018⁵ and the \$6.7 billion included in the Defense Labor-HHS appropriations package⁶ to boost programs that fight, treat, and stop substance use disorders, and support access to mental health services, as well as House passage of H.R. 6082, the Overdose Prevention and Patient Safety Act.⁷ In each of these cases, Congress made clear that it intended to legislate and then evaluate; as the nation's opioid crisis changed and evolved, so should the response.

While the SUPPORT for Patients and Communities Act was a historic accomplishment, there is still much work to be done. The exploitation of patients and families impacted by substance use disorder through patient brokering remains a major problem; the failure of the Drug Enforcement Administration (DEA) and some of the country's largest drug distributors to stop a massive flow of opioids into rural West Virginia warrants further investigation; and the impediments to patient safety and quality care caused by substance use disorder confidentiality laws and regulations will require a legislative solution by the Committee. In addition, synthetic drugs continue to devastate our communities, with more individuals dying from overdoses associated with synthetics than heroin and prescription opioids combined.⁸ Families are desperate for solutions to stop the flow of synthetic drugs, especially their illegal importation, and law enforcement is ready for Congress to give them additional tools to arrest and prosecute these criminals.

Review the Recommendations of the Energy and Commerce Committee's Investigation into Opioid Distribution

³ Public Law No: 114-198.

⁴ Public Law No: 114-255.

⁵ Public Law No: 115-141.

⁶ Public Law No: 115-245.

⁷ <http://clerk.house.gov/evs/2018/roll278.xml>.

⁸ Jones CM, Einstein EB, Compton WM. Changes in Synthetic Opioid Involvement in Drug Overdose Deaths in the United States, 2010-2016. JAMA. 2018;319(17):1819-1821.

In May 2017, the Committee opened a bipartisan investigation into the distribution of prescription opioids by wholesale drug distributors, with a specific focus on distribution practices in West Virginia, and enforcement practices by the DEA during the opioid epidemic. During the course of the investigation, the Committee sent 11 bipartisan letters to the DEA and wholesale drug distributors, held two hearings, one with the then-Acting Administrator of the DEA, and a second with the leadership of national and regional drug distributors.

We request that you hold a hearing to review the recommendations from the Republican staff report, issued at the conclusion of our 18-month bipartisan investigation. The report included recommendations for Congress, the DEA, and wholesale drug distributors, such as considering additional suspicious order requirements to clarify registrant responsibilities and supplement the suspicious order requirements codified in the SUPPORT for Patients and Communities Act. It is critical that we ensure that the recommendations culminating from our bipartisan investigation be reviewed and implemented by the government and wholesale drug distributors.

Continue the Committee's Investigation into Opioid Manufacturers

In an effort to further examine the potential causes of the opioid epidemic, in August 2018, the Committee opened a bipartisan investigation into three opioid manufacturers—Purdue Pharma L.P., Insys Therapeutics, Inc., and Mallinckrodt Pharmaceuticals—requesting detailed information about each manufacturer's potential role in the opioid crisis, including when each manufacturer learned that prescription opioids could be addictive and how each one has marketed opioids. While we have made great strides in this investigation to date, we encourage you to continue this work and hold hearings as appropriate.

Continue the Committee's Investigation into Patient Brokering

In July 2017, the Committee opened a bipartisan investigation into allegations of "patient brokers" profiting from the recruitment of patients seeking treatment for substance use disorder, which highlighted the need for greater oversight and accountability of treatment centers. As part of its investigation, the Committee sent 15 letters to the federal government, state governments, and "call aggregators" who play a role in connecting individuals seeking treatment to treatment facilities and sober living homes. The Subcommittee on Oversight and Investigations also held two hearings, one generally examining patient brokering schemes and other concerns of fraud and abuse in the treatment industry, and a second examining advertising and marketing practices within the substance use disorder treatment industry.

The Committee's investigation has already resulted in reforms within the substance use disorder treatment industry. For example, Committee staff and stakeholders have noticed an increase in transparency and disclosures in television and online advertising that more clearly state which treatment facilities or companies the advertisement or website is affiliated with, or who answers the phone when you call the telephone number. In addition, the National Association of Addiction Treatment Providers updated its standards for advertising and

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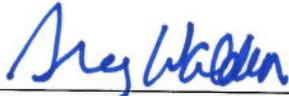
marketing and subsequently, did not renew member facilities who were unable to meet the Association's new standards. While improvements to the industry have been made, challenges and concerns remain.

The need for quality substance use disorder treatment facilities is crucial. While prospective patients now have more treatment facilities from which to choose, the array of new options has not always translated to better care. Media reports and criminal investigations have identified serious concerns about the quality of care provided at some facilities. We encourage you to continue this investigation and hold hearings examining (1) the difference in regulatory structures for the substance use disorder treatment industry across the nation, and (2) how quality treatment should be defined. These hearings would identify problems in the industry and existing state regulations, as well as best practices that will ensure individuals seeking treatment for a substance use disorder receive quality treatment.

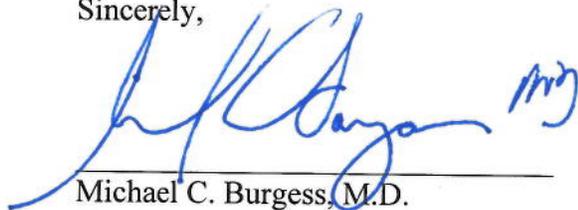
We urge you to hold hearings to review current implementation efforts of the SUPPORT for Patients and Communities Act, discuss additional legislative solutions necessary to address the opioid crisis, and further the Committee's investigative work into the causes and effects of the opioid crisis.

Thank you for your consideration of this request, and we look forward to continuing to work with you in a bipartisan manner to combat the nation's opioid crisis.

Sincerely,



Greg Walden
Republican Leader
Committee on Energy and Commerce



Michael C. Burgess, M.D.
Republican Leader
Subcommittee on Health



Brett Guthrie
Republican Leader
Subcommittee on Oversight
and Investigations