

HOUSE ENERGY & COMMERCE HEALTH SUBCOMMITTEE: “RESPONDING TO AMERICA'S OVERDOSE CRISIS: AN EXAMINATION OF LEGISLATION TO BUILD UPON THE SUPPORT ACT”

EXECUTIVE SUMMARY

The House Energy & Commerce (E&C) Health Subcommittee convened a [hearing](#) to discuss the reauthorization of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act) ([P.L. 115-271](#)), and opportunities to expand or improve upon federal efforts to address opioid overdose. The hearing featured several Administration officials from the Drug Enforcement Agency (DEA), the Centers for Disease Control and Prevention (CDC), the Substance Abuse and Mental Health Services Administration (SAMHSA), the Health Resources and Services Administration (HRSA), and the Centers for Medicare and Medicaid Services (CMS).

Key Takeaways

- **Political Landscape.** Members expressed bipartisan support for reauthorizing many existing initiatives, including support for pregnant and parenting women, prescription drug monitoring programs, and increasing access to medication-assisted treatment (MAT). However, today's hearing illuminated some of the differences between Republican and Democrats approaches to increasing available services, especially concerning Medicaid policy. Authorizations in the SUPPORT Act expire September 30, 2023.

Additionally, during yesterday's Senate Committee on Health, Education, Labor & Pensions (HELP) hearing, Ranking Member Bill Cassidy (R-LA) indicated that they do not have a process forward yet on the SUPPORT Act. It remains to be seen which of the pieces of legislation considered in this hearing could potentially make it into reauthorization this fall.

- **Policy Outlook.** Members indicated that they intend to keep working together in a bipartisan manner to reauthorize the SUPPORT Act. However, it is unclear how provisions in the reauthorization will fare in current appropriations discussions. Last week, the House Appropriations Committee agreed on funding totals that amount to about \$119 billion less than the spending caps the debt deal set and about \$130 billion less than current government funding, including a 30 percent cut for the Labor-Department of Health and Human Services (HHS) bill. With the Senate using the spending totals agreed upon in the debt ceiling package, Congress has set the stage for a very contentious fall.
- **Related Congressional Activity.** Yesterday, the Senate Banking, Housing, and Urban Affairs Committee unanimously passed the [FEND Off Fentanyl Act](#) aimed at imposing sanctions on transnational criminal organizations. The proposed legislation specifically targets Mexican drug cartels involved in the trafficking of illicit fentanyl. Earlier this month the Senate HELP Committee

convened a [hearing](#) on youth mental health. In the hearing, Republicans expressed support for bipartisan work to reauthorize the SUPPORT Act ([Impact Health Summary](#)). In May, the Senate HELP Subcommittee on Primary Health and Retirement convened a [hearing](#) to discuss gaps and opportunities in communities to increase access to mental health and substance use disorder treatment services. Members called for access to data-driven and community-led behavioral health services and came to a consensus on policy solutions to reduce the negative impacts of social media ([Impact Health Summary](#)). In today's committee hearing, members considered [28 pieces of legislation](#) and members advocated for the inclusion of additional legislation including:

- **Rep Dan Crenshaw (R-TX)** called for Food and Drug Administration (FDA) guidelines on clinical trials on psychedelics and their use to treat post-traumatic stress disorder and substance use disorder. He requested the committee consider bipartisan legislation on this topic in the future; and
- **Rep Ann Kuster (D-NH)** called on the committee to consider and pass [H.R.1359 Modernizing Opioid Treatment Access Act](#).
- **Related Administrative Activity.** Last week, according to the Bipartisan Safer Communities Act (BSCA), HHS in conjunction with the Department of Education (ED) [announced](#) actions to address youth mental health and gun violence. Additionally, last month the Biden Administration announced new steps to address mental health, including expanding Medicaid and CHIP services in schools ([Impact Health Summary](#)). Specifically, in support of the President's [Strategy to Address the Mental Health Crisis](#), the Biden Administration [announced](#) new actions in the following key objective areas: strengthening the mental health workforce and system capacity; and connecting more Americans to care, and creating a continuum of support. Previously, HHS had unveiled the HHS Roadmap for Behavioral Health Integration ([Impact Health Summary](#)).
- **Next Steps.** The full E&C Committee will need to consider the bills before the subcommittee prior to advancing them to the House floor. The Senate HELP Committee will also need to decide on a path forward for reauthorization.

OPENING STATEMENTS

- **Chairman Brett Guthrie (R-KY)** ([statement](#)) highlighted numerous bipartisan pieces of legislation before the subcommittee and the ability of the proposed legislation to meaningfully address substance use disorder and overdose, including the following:
 - [H.R. 1839](#), the Combating Illicit Xylazine Act
 - [H.R. 3892](#), the Improving Mental Health and Drug Treatment Act
 - [H.R. 1502](#), the Comprehensive Opioid Recovery Centers Reauthorization Act of 2023
 - [H.R. ___](#), To amend the 21st Century Cures Act to expressly authorize the use of certain grants to implement substance use disorder and overdose prevention activities with respect to fentanyl and xylazine test strips.

The Chair also called for additional resources for individuals involved with the justice system and supporting re-entry, but cautioned against the two proposals before the subcommittee as they represent a potential massive cost-shifting from state to federal spending without solving the issues at hand.

- **Ranking Member Anna Eshoo (D-CA)** expressed the need for increasing access to substance use disorder (SUD) treatment and medication-assisted treatment (MAT), expanding access to treatment for those in prison, shortages of qualified healthcare providers, and addressing Medicaid's institutions for mental disease (IMD) policy. Ranking Member Eshoo specifically called out the following:
 - [H.R. 3074](#), the Due Process Continuity of Care Act
 - [H.R. 2400](#), the Reentry Act of 2023
 - [H.R. 1502](#), the Comprehensive Opioid Recovery Centers Reauthorization Act of 2023
 - [H.R. 4092](#), the Protecting Moms and Infants Reauthorization Act
 - [H.R. _____](#), To amend the 21st Century Cures Act to expressly authorize the use of certain grants to implement substance use disorder and overdose prevention activities with respect to fentanyl and xylazine test strips

The full committee Chair and Ranking Member also gave opening remarks:

- **Chairwoman Cathy McMorris Rodgers (R-WA)** ([statement](#)) highlighted the Committee's leadership in addressing this issue, including passage of the HALT Fentanyl Act. The Chairwoman expressed support for addressing root causes such as supply, increasing public awareness about fentanyl, and increasing treatment and support for people in recovery. She also highlighted legislation before the committee:
 - [H.R. 4092](#), the Protecting Moms and Infants Reauthorization Act
 - [H.R. 4089](#), the Safer Response Act
 - [H.R. 4099](#), the RECONNECTS Act of 2023

Chairwoman Rodgers also called on Congress to permanently end Medicaid's institutions for mental disease (IMD) exclusion and expressed concern with proceeding with [H.R. 2400](#), the Reentry Act of 2023.

- **Ranking Member Frank Pallone (D-NJ)** called on the committee to reauthorize critical programs in the SUPPORT Act and pass [H.R. 2400](#), the Reentry Act of 2023. His policy priorities are to train first responders, support recovery centers, bolster the behavioral health workforce, connect schools with mental health services and increase access to trauma-informed care. He objected to the committee's path forward on permanently removing the IMD exemption, [H.R. 824](#), the Telehealth Benefit Expansion for Workers Act of 2023, and [H.R. 1839](#), the Combating Illicit Xylazine Act.

WITNESS TESTIMONY

- **Dr. Christopher Jones, PharmD, DrPH, MPH, Director of the National Center for Injury Prevention and the CDC** ([testimony](#)) presented CDC efforts under the SUPPORT Act to address the opioid crisis including improving fatal and non-fatal overdose data, increasing expanding state, local, territorial and tribal capacity, broadening harm reduction strategies such as treatment

and prevention of infections commonly associated with illicit drug use, data-informed prevention, and reducing stigma. Dr. Jones emphasized the importance of continued federal funding of a comprehensive opioid overdose prevention program, especially given the recent poor mental health indicators among youth and the need to address the earliest risk factors for substance use, mental health, and overdose.

- **Mr. Tom Coderre, Acting Deputy Assistant Secretary for Mental Health and Substance Use at SAMHSA** ([testimony](#)) highlighted how the SUPPORT Act enables SAMHSA to achieve its mission, and how reauthorization will equip the agency to address the ongoing challenges of drug overdoses in the country, particularly related to synthetic and illicitly manufactured opioids. He emphasized the importance of prevention, evidence-based treatment, and recovery support in combating the overdose crisis. Mr. Coderre also expanded upon specific SAMHSA components of the SUPPORT Act, such as the First Responder Training for Opioid Overdose-Related Drugs (FR-CARA) program and the Pregnant and Postpartum Women Program (PPW), which increase comprehensive substance use disorder treatment and support services.
- **Ms. Diana Espinosa, MPP, Principal Deputy Administrator of HRSA, Acting Deputy Assistant Secretary for Mental Health and Substance Use** ([testimony](#)) recommended the re-authorization of several key HRSA programs to address overdose. These programs support primary care in rural and underserved communities, fund substance use disorder services, provide scholarships and loan repayment assistance to clinicians, and support the care and treatment of individuals with HIV, among other initiatives. HRSA has implemented various workforce training programs to address the shortage of behavioral health providers, including the HRSA Substance Use Disorder Treatment and Recovery Loan Repayment Program. The testimony also highlighted the role of HRSA in supporting behavioral health training, expanding mental health and substance use disorder services in health centers, addressing substance use disorders in rural communities, and utilizing telehealth to increase access to care.
- **Mr. Jonathan Blum, MPP, Principal Deputy Administrator and Chief Operating Officer for CMS** ([testimony](#)) discussed the agency's efforts to combat the opioid crisis and implement the SUPPORT Act. CMS has taken various actions, such as expanding access to Medication-Assisted Treatment (MAT) for Medicare beneficiaries, providing guidance to state Medicaid agencies on MAT coverage, and launching demonstration projects like the Medicaid Reentry Section 1115 Demonstration Opportunity and the Maternal Opioid Misuse (MOM) Model. CMS is also working on improving crisis services and expanding telehealth payment for substance use disorder treatment. Mr. Blum also discussed CMS efforts to address the overutilization of prescription drugs, establish drug management programs, implement qualified prescription drug monitoring programs (PDMPs), and promote consistent use of quality measures in Medicaid and CHIP.
- **Mr. Matthew Strait, Deputy Assistant Administrator, Office of Diversion Control for the DEA** ([testimony](#)) discussed the agency's work in implementing the SUPPORT Act. On the enforcement side, DEA is prioritizing the fight against illicit fentanyl, specifically against the Sinaloa and Jalisco cartels. On the regulatory side, DEA is implementing the SUPPORT Act through data-sharing initiatives and regulatory measures to prevent opioid diversion and expand access to medication for opioid use disorder. This includes adapting current waiver policies to increase access to buprenorphine and methadone and spread awareness of the elimination of the DATA-Waiver registration requirement.

MEMBER DISCUSSION

State Opioid Response (SOR) Grants

- **Members of both parties expressed interest in broadening SOR funds to cover alcohol use disorder.** Chairman Guthrie proposed including alcohol use disorder in a discussion about being more targeted with SOR funding, while **Rep. Robin Kelly (D-IL)** cautioned against including alcohol use disorder without increasing resources.
- **Republicans expressed caution on increasing SOR funding.** Chairman Guthrie questioned SAMSHA on discrepancies between their state spending numbers and those from Government Accountability Office (GAO). Mr. Coderre responded that states have expressed difficulty in spending their funds during the time period allowed. **Rep Diana Harshbarger (R-TN)** questioned the lack of clinical outcomes data from SOR-funded programs.

Medicaid Policy

- **Republicans and Democrats disagreed on permanently ending the Medicaid IMD exclusion.** Democrats are concerned that ending the IMD exclusion will encourage the use of institutional care at the expense of in-home and community-based care. **Rep Tony Cardenas (D-CA)** spoke out against ending the IMD exclusion without setting up guardrails to ensure accountability and high-quality care. Ranking Member Pallone argued that the 1115 waiver is an effective policy solution for states seeking an exemption to the IMD exclusion and further action is not required. **Rep Michael Burgess (R-TX)** argued that the IMD exclusion is contributing to homelessness and worsening the mental health crisis in emergency departments. He also countered that states cannot plan around an 1115 waiver, echoing Committee Chair McMorris Rodgers that states need a permanent solution.
- **Republicans and Democrats disagreed over legislation to increase Medicaid coverage for inmates.** **Rep Paul Tonko (D-NY)** joined the hearing to advocate for [H.R. 2400](#), the *Reentry Act of 2023* to allow inmates to receive Medicaid services 30 days before release. Rep Kuster also advocated for H.R. 2400 and [H.R. 3074](#), the *Due Process Continuity of Care Act*. Chairman Rodgers emphasized that the Committee should not consider any program to increase coverage in carceral settings that are not budget neutral.
- **Some members want CMS to address the overuse of anti-psychotics among Medicaid beneficiaries.** **Rep Buddy Carter (R-GA)** implored CMS to examine this issue and advocated for his bill [H.R. 4096](#), *A bill to amend title XIX of the Social Security Act to expand the application of Medicaid State programs to monitor antipsychotic medications to all Medicaid beneficiaries*. **Rep Jan Schakowsky (D-IL)** joined the hearing as a co-sponsor of H.R. 4096 to oppose the overuse of anti-psychotics for the purpose of restraint.

Fentanyl and Xylazine Overdose Data Tracking

- **Members are overwhelmingly concerned about illicit fentanyl and xylazine and the potential of these two substances to continue to increase overdose deaths.** Ranking

Member Eshoo sought to understand if CDC data capabilities to track emerging drug threats and prevent overdose. Mr. Jones assured the subcommittee that CDC Overdose Data to Action Program is working. Republicans and Mr. Strait argued for the permanent classification of fentanyl as a Schedule 1 substance to curb overdose rates. Mr. Strait also spoke to the differences in regulating xylazine as this medication has a legitimate use in veterinary medicine that needs to be protected.

- **Reps. Gus Bilirakis (R-FL) and Lori Trahan (D-MA) advocated for a better understanding of the capacity of wastewater epidemiology to provide information on drug trends.** Rep Bilirakis argued that wastewater surveillance could provide more reliable data as it does not require a person to access care to get indicators and better protects privacy. Mr. Jones stated that there is an interagency group at HHS considering if this approach could work for the overdose crisis.

Non-Opioid Pain Management

- **Members of both parties expressed frustration at the slow progress to increase non-opioid therapeutics for pain management, especially for Medicare beneficiaries.** Ranking Member Eshoo and **Rep. Larry Bucshon (R-IN)** criticized CMS for the delay in producing the Todd Graham Pain Management Study to better understand non-opioid treatments for pain available to Medicare beneficiaries due to Congress in 2019. Rep Bucshon asserted his belief that Medicare contractors are limiting access to non-opioid therapeutics because they are more expensive. **Rep Mariannette Miller-Meeks (R-IA)** called out high rates of opioid prescribing for acute pain and increasing opioid prescription rates under Medicare. **Rep Bill Johnson (R-OH)** wants CMS to commit to a strategic plan to increase the dissemination of the [Pain Management Best Practices Inter-Agency Task Force Report](#) among clinicians.

Telemedicine and Increasing Services in Rural Communities

- **Democrats objected to telehealth legislation that could threaten access to more comprehensive coverage.** **Rep John Sarbanes (D-MD)** and Ranking Member Pallone opposed [H.R. 824](#), the Telehealth Benefit Expansion for Workers Act of 2023.
- **Members of both parties want to ensure the DEA and SAMHSA extend COVID-19 telemedicine flexibilities for prescribing controlled medications.** Rep Kuster spoke out in favor of maintaining telehealth prescribing for buprenorphine. Rep Carter pushed DEA to commit to extending the flexibilities past November if a decision has not yet been made. Mr. Strait asserted that they are confident six months will be sufficient to review the comments on the rule and assured the committee they would not let these services lapse.
- **Reps. Kim Schrier (D-WA) and John Joyce (R-PA) questioned witnesses on how to increase the capacity of the SUPPORT Act to increase services in rural communities.** Ms. Espinosa outlined numerous programs currently bolstering rural workforces including family supports through community health workers and peer recovery support services and addiction medicine fellowship programs. She encouraged Congress to continue its support of programs that train clinicians in rural and underserved settings.

Improving Care for Pregnant/Parenting Women and Children

- **Members of both parties expressed support for increasing treatment options for pregnant women and foster children.** Rep Kelly pushed for CMS to increase diversity in and access to CMS Innovation Center’s Maternal Opioid Misuse, or “MOM” Model. Rep. Bilirakis advocated for his bill, [H.R. 4056](#), the *Ensuring Medicaid Continuity for Children in Foster Care Act of 2023*.