

House Energy & Commerce Health Subcommittee: Markup of 15 Bills

EXECUTIVE SUMMARY

The House Energy & Commerce (E&C) Committee Health Subcommittee convened a [markup](#) of 15 bills advanced out of the Health Subcommittee last week ([IHPP Summary](#)). Notable changes since the subcommittee markup include bipartisan updates to the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act Reauthorization including removing the Medicaid institutions for medical disease (IMD) exclusion and compromise language to improve Medicaid coverage for some justice-involved individuals. Legislative efforts to reauthorize the Pandemic and All-Hazards Preparedness Act (PAHPA) remained partisan, although Republicans stated they are still open to compromise with Democrats. Both the SUPPORT Act and PAHPA expire at the end of the fiscal year. Other bills addressed access to care, some special diseases, and the Children's Hospital GME Support Reauthorization. The markup included:

- [H.R. 824](#), the *Telehealth Benefit Expansion for Workers Act of 2023*
- [H.R. 3226](#), the *Prematurity Research Expansion and Education for Mothers who Deliver Infants Early (PREEMIE) Reauthorization Act of 2023*
- [H.R. 3838](#), the *Preventing Maternal Deaths Reauthorization Act of 2023*
- [H.R. 3843](#), the *Action for Dental Health Act of 2023*
- [H.R. 3884](#), the *Sickle Cell Disease and Other Heritable Blood Disorders Research, Surveillance, Prevention, and Treatment Act of 2023*
- [H.R. 3821](#), the *Firefighter Cancer Registry Reauthorization Act of 2023*
- [H.R. 3391](#), the *Gabriella Miller Kids First Research Act 2.0*
- [H.R. 4421](#), the *Preparing for All Hazards and Pathogens Reauthorization Act*
- [H.R. 4420](#), the *Preparedness and Response Reauthorization Act*
- [H.R. 4529](#), the *Public Health Guidance Transparency and Accountability Act of 2023*
- [HR 4381](#), the *Public Health Emergency Congressional Review Act*
- [HR 3813](#), the *CDC Leadership Accountability Act of 2023*
- [H.R. 3836](#), the *Medicaid Primary Care Improvement Act*
- [HR 4531](#), the *Support for Patients and Communities Reauthorization Act*
- [H.R. 3887](#), the *Children's Hospital GME Support Reauthorization Act of 2023*
- **Political Landscape.** Despite finding a bipartisan path forward on the SUPPORT ACT, political divisiveness was on display throughout the markup. Democrats continue to oppose the proposed PAHPA reauthorization, citing Republican failure to address drug shortages and adequately fund

the Strategic National Stockpile (SNS). Members were also forcefully divided on Republicans' proposal to reauthorize the Children's Hospitals Graduate Medical Education (CHGME) program, which included a provision that would prohibit children's hospitals that provide gender-affirming care from receiving federal funding for residency positions. At one point during the discussion, Democrats left the room when **Rep. Kat Cammack (R-FL)** was allowed to play a video testimonial over Democratic opposition, citing the video was unverified, solely for political points, and not germane to the bill at hand.

- **Policy Outlook.** All 15 bills were favorably advanced out of Committee , 8 of which were forwarded unanimously. The bills related to PAHPA reauthorization and public health agencies, telehealth for some workers, and CHGME reauthorization were split along party lines. House Democrats are hopeful the bipartisan efforts from the Senate to reauthorize PAHPA ([IHPP Summary](#)) will result in a bill they can eventually support.
- **Related Congressional Activity.** This markup follows an E&C Health Subcommittee markup ([IHPP Summary](#)) and hearings on similar topics, including the [SUPPORT Act](#) and [PAHPA](#). The subcommittee also held a [hearing](#) in June on eight of the bills that are not related to PAHPA or the SUPPORT Act, seven of which are bipartisan with the exception of CHGME reauthorization in which Republicans would prohibit CHGME funding for hospitals that provide gender-affirming care for minors. CHGME has also been tied up in debate over gender-affirming care in the House Education and Labor Committee, as was evident during a recent [hearing](#).

Earlier this month, the Senate Health, Education, Labor, and Pensions (HELP) committee released a bipartisan [discussion draft](#) for PAHPA reauthorization and will hold a markup on July 20th. Also in the Senate, Health, Education, Labor and Pensions (HELP) Committee Chairman Bernie Sanders (I-VT) unveiled a sweeping piece of legislation, the [Primary Care and Health Workforce Expansion Act](#), to overhaul the nation's primary care health system ([IHPP Summary](#)).

- **Next Steps.** It is unclear how House leadership will choose to bring these 15 bills forward to the floor for a vote. Chairman Sanders announced [markups](#) for both the Pandemic and All-Hazards [S. 2333](#), and his Primary Care and Health Workforce Expansion Act in the next week. As PAHPA and the SUPPORT Act expire September 30, the House and Senate will need to reconcile their versions prior to passage. The 13 remaining bills could potentially be wrapped into a larger package with other health-related legislation, but the partisan divide may prevent such a package from gaining support.

Our summary of the marked up bills and any amendments follows:

- [H.R. 824](#), the *Telehealth Benefit Expansion for Workers Act of 2023* (Cosponsors: 3D, 3R) – This bill would treat benefits for telehealth services offered by group health plans as excepted benefits, meaning that employers could offer special telehealth-only plans. Employers would be required to provide notice that this does not constitute minimum essential coverage and employees may still be eligible for coverage through the Marketplace. **Rep. Tim Walberg (R-MI)** offered an [amendment](#) to allow employers to offer stand-alone telehealth benefits to workers without any existing benefits, such as seasonal or part-time workers. Democrats opposed the amendment for not including necessary consumer protections for instance controlling out-of-pocket costs. The amendment was agreed to by voice vote. **The bill was favorably reported to the House as amended with a 29-20 vote.**
- [H.R. 3226](#), the *Prematurity Research Expansion and Education for Mothers who Deliver Infants Early (PREEMIE) Reauthorization Act of 2023* (Cosponsors: 18 D, 7R) – This is a bipartisan bill that reauthorizes programs through FY 2028 and directs the HHS Secretary to partner with the National Academies of Sciences, Engineering and Medicine to convene a committee of maternal health experts to study premature births in the US including the financial costs to society, factors impacting pre-term births, and gaps in public health programs that have contributed to premature births. The report must be submitted to Congress within 24 months. **The bill was favorably reported to the House with a 48-0 vote.**
- [H.R. 3838](#), the *Preventing Maternal Deaths Reauthorization Act of 2023* (Cosponsors: 4 D, 3 R) – This is also bipartisan and reauthorizes federal support for state efforts to address maternal mortality through 2028. The bill modifies the Maternal Mortality Review Committee section of the Public Health Services Act to require the inclusion of obstetricians and gynecologists. It also creates a requirement for coordination with death certifiers to improve the collection of death record reports and the quality of death records, including cause-of-death information. Last, the bill adds a section entitled, “Best Practices Relating to the Prevention of Maternal Mortality” which directs the HHS Secretary to collaborate with CDC and HRSA to disseminate best practices for preventing maternal mortality and morbidity to hospitals, professional society groups, and perinatal quality collaboratives on at least a yearly basis. **The bill was favorably reported to the House with a 50-0 vote.**
- [H.R. 3843](#), the *Action for Dental Health Act of 2023* (Cosponsors: 3D, 2R) – This legislation would reauthorize grants for the dental workforce through FY 2028. **The bill was favorably reported to the House with a 50-0 vote.**

- [H.R. 3884](#), the *Sickle Cell Disease and Other Heritable Blood Disorders Research, Surveillance, Prevention, and Treatment Act of 2023* (Cosponsors: 1 D, 2R) – This bill would reauthorize the Sickle Cell Disease and Other Heritable Blood Disorders Research Surveillance, Prevention and Treatment Act that provides grant funding for research on these diseases. Funding for these programs would be reauthorized at \$8.25 million for each of FYs 2024 through 2028. **The bill was favorably reported to the House with a 50-0 vote.**
- [H.R. 3821](#), the *Firefighter Cancer Registry Reauthorization Act of 2023* (Cosponsors: 6D, 2R) – This act would reauthorize the registry for firefighter cancer incidence at \$5.5 million for each of FYs 2024 through 2028. **The bill was favorably reported to the House with a 51-0 vote.**
- [H.R. 3391](#), the *Gabriella Miller Kids First Research Act 2.0* (Cosponsors: 21 D, 13 R) – The legislation would extend the Gabriella Miller Kids First Research Act with \$25 million in funding for each of FYs 2024 through 2028 into pediatric cancers and other birth defects and direct the National Institutes of Health (NIH) to coordinate pediatric research. **The bill was favorably reported to the House with a 50-0 vote.**
- [H.R. 4421](#), the *Preparing for All Hazards and Pathogens Reauthorization Act* (Sponsored by **Rep. Richard Hudson (R-NC)**) – This bill reauthorizes the current Administration for Strategic Preparedness and Response (ASPR) program mostly at current funding levels and includes provisions to enhance transparency across agencies, support targeted research into certain medical countermeasures, and streamline emergency response authorities, among others.

Republicans and Democrats accused each other of playing politics with PAHPA reauthorization and the issue of drug shortages. Republicans argued that holding a hearing on drug shortages and announcing an upcoming discussion draft demonstrates Republican willingness to address this issue outside of PAHPA reauthorization. Democrats accused Republicans of distracting from the issue by promising legislation without a concrete timeline. The following amendments were offered on the bill:

- **Rep. Kim Schrier (D-WA)** offered a Democratic [amendment in the nature of a substitute \(AINS\)](#) including provisions such as increased funding for the Strategic National Stockpile (SNS) and striking provisions that require input from industry in procurement decisions. The AINS failed a roll call vote of 22-27.
- **Rep. Larry Bucshon (R-IN)** offered an amendment to better protect hospital data from cyber-attacks and it passed via voice vote.
- **Rep. Frank Pallone (D-NJ)** offered an [amendment](#) to give the Food and Drug Administration (FDA) authority to issue mandatory drug recalls. Republicans argued that

the proposal was too broad and not applicable to public health preparedness and it failed a vote 23-27.

- **Rep. Kathy Castor (D-FL)** offered an [amendment](#) to require manufacturers of critical medical devices to report interruptions that are likely to result in delays or shortages during a public health emergency. Republicans said the proposal needs additional work and it failed a vote of 22-28.
 - **Rep. Diana DeGette (D-CO)** offered and withdrew an amendment to give the FDA authority to review diagnostic testing.
 - Rep. Hudson offered an [AINS](#) which was passed by voice vote. **The AINS was favorably reported to the House with a 28-23 vote.**
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- [H.R. 4420](#), the *Preparedness and Response Reauthorization Act* (Sponsored by Rep. Hudson) – This legislation reauthorizes current Centers for Disease Control and Prevention (CDC) programs mostly at current funding levels and includes provisions to support the distribution of medical countermeasures, control of biological agents and mosquito-borne disease, and epidemiological monitoring, among others. **Rep. Jeff Duncan (R-SC)** offered an [amendment](#) to reduce proposed funding levels for public health agencies to FY 2022 levels. The amendment was agreed to by a vote of 26-22. Rep. Castor offered an amendment to promote data sharing between federal agencies. Republicans argued that Congress should not increase data available to CDC until there is more understanding of how that data is used. The amendment failed by a vote of 22-27. Rep. Hudson introduced an [AINS](#) including some language from the Senate bill such as necessary provisions for the CDC to implement the public health emergency preparedness program and hospital preparedness program, and continuation of the council to combat antibiotic resistant bacteria. **The AINS was agreed to by voice vote and the bill was favorably reported to the House with a 27-22 vote.**
 - [H.R. 4529](#), the *Public Health Guidance Transparency and Accountability Act of 2023* (Sponsored by **Rep. Cathy McMorris Rodgers (R-WA)**) – Rep. Rodgers continued to advocate for implementation of the same requirement for public input for CDC guidance as is required for the FDA, and to clarify the difference between CDC guidance and regulation. Democrats argued that the bill is counter to the lessons learned from the COVID-19 pandemic and would tie the hands of the CDC and slow down its public health response efforts. Chair McMorris Rodgers offered an [AINS](#) which was agreed to by a voice vote. **The bill was favorably reported as amended to the House with a 25-21 vote.**
 - [HR 4381](#), the *Public Health Emergency Congressional Review Act* (2 R) – This bill would allow Congress to hold a vote on a joint resolution every six months during an officially declared public health emergency to determine whether the emergency shall be terminated. **Rep. Tony Cardenas**

(D-CA) argued that political figures should not have additional input in decisions about public health emergencies, and those decisions should be left to public health professionals. **The bill was favorably reported to the House with a 28-21 vote.**

- [HR 3813](#), the *CDC Leadership Accountability Act of 2023* (Sponsored by **Rep. Brett Guthrie (R-KY)**) – This bill would move the requirement for CDC directors to be approved by the Senate from January 20, 2025 to six months after enactment. Rep. Guthrie argued in favor of legislative oversight of the CDC director and Rep. Pallone argued that the bill would politicize the position and tie the hands of the CDC. **The bill was favorably reported to the House with a 27-20 vote.**
- [H.R. 3836](#), the *Medicaid Primary Care Improvement Act* (2 D, 2 R) – This bill would expressly allow Medicaid agencies through state plans or waivers to engage in direct primary care arrangements. **The bill was favorably reported to the House with a 51-0 vote.**
- [HR 4531](#), the *Support for Patients and Communities Reauthorization Act* (6 D, 7 R) – This act would reauthorize programs from the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act through FY 2028. The bill is mostly a continuation of programs but includes some new provisions to expand access to medication assisted treatment (MAT) in Medicaid, include co-occurring disorders in opioid response, and increase funding to address fentanyl. The legislation would also classify xylazine as a Schedule III controlled substance.

Since subcommittee markup of this bill, Democrats and Republicans came to consensus on language to remove the Medicaid Institution for Mental Disease (IMD) exclusion. Lawmakers also agreed to include policy changes to support some justice-involved individuals. States will be prohibited from disenrolling people with Medicaid during incarceration, effectively suspending coverage instead of terminating it. Pregnant women will also be able to maintain Medicaid coverage during pre-trial detention. The following amendments were offered:

- **Rep. August Pfluger (R-TX)** offered an [amendment](#) to make a technical correction to allow the DEA to track the non-animal use of xylazine. The amendment was agreed to by a voice vote.
- Rep. Castor offered and withdrew an [amendment](#) to increase mental health and substance use care professionals in schools.
- Rep. Guthrie offered an [AINS](#) composed of the manager's amendment. The AINS was agreed to by voice vote.

The bill was favorably reported as amended to the House with a 49-0 vote.

- **H.R. 3887**, the *Children’s Hospital GME Support Reauthorization Act of 2023* (4 R) – This legislation would reauthorize funding for CHGME programs but prohibit any federal funding for hospitals that provide gender-affirming care to minors. Republicans claimed that children are being harmed and parents are being forced to comply with care they do not agree with. Democrats argued that the proposal represents government overreach and parents have the right to make care decisions in partnership with their child’s doctor. Ranking Member Eshoo condemned Republican committee members and called the proposal cruel. The following amendments were offered:
 - **Rep. Lori Trahan (D-MA)** offered an **amendment** to double funding for the CHGME program and it was defeated by a vote of 22-26.
 - Rep. Schrier offered an **amendment** to provide a clean reauthorization of the CHGME program. Rep. Burgess stated that a clean reauthorization would not pass the House floor and Rep. Cammack argued that children need to be protected from experimental surgeries. The amendment was defeated by a vote of 17-26.

The bill was favorably reported to the House with a 27-17 vote.