



**February 15, 2019**

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### **Congress Avoids Another Shutdown, President Declares Emergency at Border**

On Thursday, the House and Senate agreed to a government funding bill for the remainder of fiscal year 2019, taking another government shutdown off the table at least until September 30, 2019. The agreement was not without requisite drama, as the bipartisan contingent of negotiators was surprised with news on Thursday that President Trump was again wavering on his willingness to sign the agreement, after previously indicating he would sign the bill.

The legislation funds the Department of Homeland Security (DHS) and the six other departments whose funding would have otherwise expired on Friday at midnight, and includes \$1.375 billion to be used for physical barriers on the U.S.-Mexico border.

Noting his displeasure with the specifics of the agreement, the President issued an emergency declaration on Friday morning to build a physical wall along the southern border. The declaration is intended to help the President move funds from a variety of different federal sources to spur construction of the physical barrier; however, many expect the declaration to be snarled in the courts for the foreseeable future.

### **House Judiciary Committee Advances Background Checks Legislation**

On Thursday, the House Judiciary Committee held a markup of legislation intended to expand background checks for firearms transactions, the ACEP-supported H.R. 8, the "Bipartisan Background Checks Act of 2019," as well as H.R. 1112, the "Enhanced Background Checks Act of 2019," which would eliminate what some lawmakers have referred to as the "Charleston loophole."

H.R. 8, introduced by Reps. Mike Thompson (D-CA) and Peter King (R-NY), would extend the existing system of background checks for firearms transactions to all sales, with certain exceptions for law enforcement, gifts to family members, and transfers for hunting, target shooting, and self-defense purposes. The legislation was approved by the Judiciary Committee in a 21-14 vote. ACEP's own [policy](#) supports universal background checks for firearms, and ACEP has supported similar legislation in the past.

The legislation now awaits consideration before the full House of Representatives, which is expected to take up the bills at the end of February. However, both bills are unlikely to be taken up in the Senate.

To read ACEP's letter of support for H.R. 8, please click [here](#).

### **Senate Committee Conducts Hearing on Chronic Pain Management**

On Tuesday, the Senate Health, Education, Labor and Pensions (HELP) Committee held a hearing entitled, "Managing Pain During the Opioid Crisis." The focus of the hearing was on patients with chronic pain and senators discussed causes of chronic pain, prescriber education, non-addictive pain treatments, and improving care for these patients, including through expanded use of telemedicine to provide e-consultations. The hearing witnesses included Helena Gazelka, M.D., director of inpatient pain services and chair of the opioid stewardship program at Mayo Clinic; Cindy Steinberg, national director of policy and advocacy for the U.S. Pain Foundation; Andrew Coop, professor and associate dean for academic affairs at the University of Maryland School of Pharmacy; and Anuradha Rao-Patel, M.D., lead medical director for Blue Cross and Blue Shield of North Carolina.

To view the hearing, click [here](#).

### **CMS Announces New Emergency Triage, Treat, and Transport (ET3) Model**

On Thursday, the Centers for Medicare & Medicaid Services (CMS) released a five-year, voluntary payment model through the Center for Medicare and Medicaid Innovation (CMMI) called the [Emergency Triage, Treat and Transport \(ET3\) Model](#). The stated goal of the model is to provide greater flexibility to ambulance care teams to address emergency health care needs of Medicare beneficiaries following a 911 call.

Currently, Medicare typically only pays for unscheduled ambulance services to take patients to hospital EDs. The ET3 model would provide for two alternative ambulance payments: (1) payment for treating the patient in place with a qualified health care practitioner (NPs, PAs, or physicians), either on the scene or connected using telehealth; and 2) payment for unscheduled transportation to alternative destinations such as primary care providers or urgent care clinics. These new payments would be accompanied by a value incentive strategy, in which participating providers would earn up to a 5 percent payment adjustment based on quality measures. The model will apply to Medicare fee-for-service beneficiaries, but CMS hopes to involve other public and private payers as well.

CMS only released a fact sheet on Thursday. The agency plans on issuing a request for applications this summer. The request for applications should include more details about how the model would operate.

CMS hopes to attract applicants from across the country. Once provider participants have been announced, CMS will offer funding to up to 40 entities that run 911 dispatches in communities where providers have been selected to participate. The model will officially start on January 1, 2020.

### **CMS and ONC Release Long-Awaited Interoperability and Data Blocking Proposed Rules**

On Monday, CMS and the Office of the National Coordinator (ONC) for Health Information Technology released two rules related to interoperability and data blocking. These rules are required in part by the 21st Century Cures Act.

The CMS Interoperability and Patient Access [Proposed Rule](#) outlines opportunities to make patient data transparent, useful, and transferable through secure and standardized formats. Notably, CMS includes a proposal to add a new Medicare Condition of Participation (COP) that, if finalized, would require hospitals, psychiatric hospitals, and critical access hospitals to send electronic notifications when a patient is admitted, discharged, or transferred.

The ONC proposed Interoperability, Information Blocking and ONC Health IT Certification Program

[Proposed Rule](#) includes detailed proposals that further advance interoperability and patient access to health information. The rule also implements certain provisions of the 21st Century Cures Act, including defining what activities do and do not constitute information blocking.

ACEP is reviewing these regulations and will submit comments to CMS and ONC in the next few weeks.

### **ACEP Responds to HIPAA Request or Information**

On Tuesday, ACEP responded to a Request for Information (RFI) released by the Office of Civil Rights (OCR) within the U.S Department of Health and Human Services on ways that Health Insurance Portability and Accountability Act (HIPAA) can be revised to promote the transformation to value-based health care and encourage coordinated care. The RFI included over 50 questions, and ACEP responded to those that had an impact on emergency physicians and the patients we serve.

In our comments, we state that providers are afraid to release any information out of fear of breaching data, violating HIPAA, and receiving a penalty. We therefore urge OCR to provide better educational materials that will help health care providers understand what is and is not permissible under federal law.

ACEP's full comment letter can be found [here](#).

### **Advocacy Efforts to Engage the New 116th Congress**

ACEP is mounting an aggressive push to connect ACEP members back home with as many of the 110 new members of Congress and legislators who are new to important health care committees. We will be setting up local meetings between ACEP 911 Network members and the new members to introduce them to emergency medicine and our role in the health care delivery system and to establish a local contact in the health care space. The meetings will most likely be 30 minutes or less and we will provide tips for the hosting ACEP member as well as a [fact sheet](#) for the legislator. If you are interested in hosting or participating in one of these meetings, please contact [Jeanne Slade](#) or [Caitlin Demchuk](#) in the ACEP Washington DC office for more details.

Please "Save the Date" for the 2019 ACEP Leadership and Advocacy Conference in Washington, DC which will be held May 5-8, 2019. If you want to make a difference or aspire to be a leader in emergency medicine, this is a must attend conference with something for everyone. Opportunities abound to interact with elected officials and policymakers, and network with emergency medicine's top leaders.

This conference will highlight reimbursement issues in EM and how we can work with Congress to improve the EM work environment along with combatting insurance company bad behavior and addressing patient access issues.

LAC 2019 will also bring back Wednesday's Solutions Forum, where this year we will present and discuss emergency medicine-led solutions in telemedicine and the mental health crisis.

For more information, please go to <https://www.acep.org/lac/>



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