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ACEP Responds to Request from Senate Work Group on OON

ACEP [submitted its response](#) to the Senate Price Transparency Work Group request for data. The [request, which the Workgroup](#) sent to ACEP and several other medical organizations, included specific questions regarding out-of-network coverage and reimbursement (separate questions were posed to health insurance plans). This is one aspect of the ongoing advocacy efforts by the DC staff to address Congress' concerns about what has been termed "surprise bills." ACEP developed and submitted its [framework](#) on how best to address this issue at the end of January. Since then, ACEP has focused its efforts on educating members of the congressional committees that have jurisdiction over this issue, including the Senate HELP Committee, House Energy and Commerce Committee, House Ways and Means Committee, and the House Education and Labor Committee. Last week, ACEP President Dr. Vidor Friedman came to DC to meet with several of these key stakeholders from the Senate HELP Committee, including Chairman Lamar Alexander (R-TN), Ranking Member Patty Murray (D-WA), Sen. Johnny Isakson (R-GA), and Sen. Maggie Hassan (D-NH).

ACEP Member Advocates for SUD Funding on Capitol Hill

On Wednesday, Eric Ketcham, MD, FACEP, participated in a congressional briefing sponsored by the Coalition to Stop Opioid Overdose (CSOO) and the Mental Health Liaison Group (MHLG), to share his perspective as an emergency physician who treats individuals with substance use disorders (SUDs) and to encourage Congress to continue their important efforts to help address the nation's opioid epidemic.



Dr. Eric Ketcham briefs Members of Congress and congressional staff on ED care for SUD patients.

The briefing opened with remarks from Rep. Annie Kuster (D-NH) and Rep. Hal Rogers (R-KY) who shared how their districts have been affected by the opioid epidemic, with both reiterating Congress' continued support to help frontline providers. In addition to Dr. Ketcham, the panelists included a broad spectrum of experts representing the perspectives of patient and peer support groups, nonprofit health organizations providing SUD treatment services, and other health organizations and health systems that have implemented innovative SUD treatment programs in their communities. The briefing was well attended by congressional staff, media, and other health organizations.

Dr. Ketcham's remarks focused on the unique role of emergency medicine and how emergency departments can better coordinate with resources in the community to ensure patients receive both appropriate short-term and long-term care. He also reinforced the need for Congress to appropriate necessary funding for the Alternatives to Opioids (ALTO) and Preventing Overdoses While in Emergency Rooms (POWER) Acts that were passed into law by Congress last year as part of H.R. 6, the SUPPORT Act. These two ACEP-developed bills were authorized by Congress last year to help emergency physicians address the opioid epidemic from the aspect of both prevention and treatment, and now require funding to ensure these critical resources can help expand the reach of emergency medicine to better serve patients with SUDs.

House Committee Holds Hearing on CDC Firearms Violence Research

On Thursday, the House Appropriations Committee's Subcommittee on Labor, Health and Human Services, Education, and Related Agencies Subcommittee (Labor/HHS) held a hearing titled, "[Addressing the Public Health Emergency of Gun Violence](#)." The hearing centered around the role of the Centers for Disease Control and Prevention (CDC) in researching firearms violence, including questions about the "Dickey Amendment" that many believe has limited the ability of CDC to conduct research on the topic.

The Dickey Amendment, named after former Rep. Jay Dickey, was passed in 1996 and stripped the CDC of its funding to conduct firearms research for the 1997 fiscal year. The language of the amendment states that no federal funds for CDC injury prevention and control research could be "used to advocate or promote gun control," and while not explicitly banning any research on firearms injuries and violence, the effect of the language has essentially served as a de facto ban on any CDC research of the topic. In 2018, legislators finally came to a bipartisan agreement that the amendment does not prevent the CDC from conducting this research, with the debate now shifting to actually providing federal funding to do so. ACEP, along with numerous other physician and health care organizations, has supported a request of \$50 million to provide the CDC with funding for this

purpose.

As with other hearings and debates on firearms, Thursday's hearing was contentious at times. A particularly notable moment occurred when Rep. Cheri Bustos (D-IL) addressed the committee and shared that as the hearing was taking place, an active shooter was on the loose in her district in Rockford, IL, highlighting the issue as public health emergency. While the House Appropriations Committee under the Democratic Majority is likely to include CDC funding for firearms violence research, it appears unlikely that such funding would make it through the Republican Majority in the Senate.

House Committee Conducts Legislative Hearing on ACA Programs

Also on Wednesday, the House Energy and Commerce Health Subcommittee held a hearing to discuss three legislative proposals related to health care cost and access. The first bill, H.R. 1385, the "State Allowance for a Variety of Exchanges (SAVE) Act," was introduced by Reps. Andy Kim (D-NJ) and Brian Fitzpatrick (R-PA). It would provide states with \$200 million in federal funds to establish state-based marketplaces. These funds, established by the ACA, expired on Jan. 1, 2015,

The second bill, H.R. 1386, the "Expand Navigators' Resources for Outreach, Learning, and Longevity (ENROLL) Act," was sponsored by Rep. Kathy Castor (D-FL). This legislation would provide \$100 million annually for the federally-facilitated Marketplace (FFM) Navigator program; require HHS to award the grants to organizations with a demonstrated capacity to carry out the duties specified in the ACA; reinstate the requirement that each state have at least two Navigators; expand some Navigator duties related to enrollment; and prohibit HHS from considering whether a Navigator entity has demonstrated how it will provide information relating to association health plans or short-term, limited-duration insurance (STLDI) plans.

The final bill, H.R. 1425, the "State Health Care Premium Reduction Act," sponsored by Reps. Angie Craig (D-MN) and Scott Peters (D-CA), would provide \$10 billion annually to states to establish reinsurance programs or provide financial assistance to reduce out-of-pocket costs for individuals enrolled in qualified health plans. It further requires CMS to establish and implement a reinsurance program in states that do not apply for federal funding under the bill.

Do you have a strong relationship with a Member of Congress? Save the Date for LAC2019!

With the 116th Congress underway and over 100 new lawmakers in office, we are taking a comprehensive look at our 911 Network member list to identify ACEP members around the country whom we consider "grasstops" members of the Network. These ACEP members will have an established, strong working relationship with a federal legislator and have already developed a line of consistent communication through telephone, text, email, social media and or personal meetings. The relationships may originate from:

- repeated meetings in DC during LAC;
- hosting an ED visit or coffee for that legislator;
- getting to know the legislator's staff;
- delivering a NEMPAC check or representing NEMPAC at a local event for that legislator;
- knowing them first on the state level;
- a relative or friend in your community; or
- other contacts.

We are developing this "grasstops" list so that we can be ready to deploy our grassroots influence effectively on a specific issue with targeted and immediate action. While we have a good idea of who qualifies for our "grasstops" or "key contact" list but want to be sure that we are as inclusive as possible.

Please let us know if you would like us to include you on the list and the legislator to whom you are connected. We will be sending you a confirmation email later next month as we will be reaching out to our grassroots in the future through a special communication network under development now. Contact [Jeanne Slade](#) or [Caitlin Demchuk](#) with your information or if you have questions.

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/>.

FDA Commissioner Scott Gottlieb Resigns

On Tuesday, Scott Gottlieb announced that he will step down as Commissioner of the Food and Drug Administration (FDA) in approximately a month, citing personal reasons.

In a resignation letter to the Secretary of the Department of Health and Human Services (HHS), Alex Azar, Gottlieb noted his work to reduce tobacco use, discourage teen use of e-cigarettes, address the opioid epidemic, and improve access to generic drugs.

Secretary Azar called Gottlieb an "exemplary public health leader, aggressive advocate for American patients, and passionate promoter of innovation." President Trump also said that Gottlieb did "an absolutely terrific job as commissioner of the FDA."

It is not clear who will be named Gottlieb's successor.

FDA Releases Guidance on Drug Compounding

Last Friday, March 1, the FDA issued [guidance](#) that addresses current policies for developing a list of bulk drug substances that can be used in compounding under section 503B of the Federal Food, Drug, and Cosmetic Act (FD&C Act), also known as the 503B bulks list.

The FDA had previously issued a [Federal Register notice](#) announcing that it has evaluated two bulk drug substances that were nominated for the 503B bulks list, nifedipine hydrochloride and vasopressin, and decided not to include them on the list. ACEP had [commented](#) on this notice, asking the FDA to consider how not including either of these substances on the 503B bulks list, especially vasopressin, would affect the ongoing issue that we are facing with drug shortages across the country.

CMS Issues Request for Information on Selling Insurance Across State Lines

On Wednesday, the Centers for Medicare & Medicaid Services (CMS) issued a [request for information \(RFI\)](#) on how to sell individual health insurance coverage across state lines. The RFI was issued in response to an Executive Order issued by President Trump in 2017 directing agencies to explore strategies to reduce health insurance costs, including by selling insurance across state lines. In the RFI, CMS asks for advice on how to use Health Care Choice Compacts (HCCCs) to achieve this specific goal. HCCCs, which were authorized under the Affordable Care Act, allow insurers in one

state to offer coverage to individuals in another. Individual states must pass legislation authorizing HCCCs. Although some states have passed authorizing legislation, no HCCCs have been implemented.

MedPAC Holds Meeting to Discuss ED Utilization and Coding

On Thursday, the Medicare Payment Advisory Commission (MedPAC) held a public meeting to discuss ED and Urgent Care Center (UCC) utilization trends and ED coding patterns.

As background, in October 2018, MedPAC began to dive into this issue at a public meeting. After that meeting in October, ACEP staff met directly with MedPAC to present our perspective on utilization and coding trends. ACEP's conversation with MedPAC helped inform MedPAC's follow-up meeting on Thursday.

During Thursday's meeting, MedPAC discussed some of the underlying data contributing to the growth in ED utilization and the increase in the use of higher-level codes.

Two policy options were considered:

- Increase beneficiary education**, including initiating a beneficiary education campaign to improve the understanding of appropriate ED and UCC use related to non-urgent care. However, there was not consensus from the MedPAC Commissioners on what educational approach was the best to implement.

- Establish national guidelines for coding ED visits.** MedPAC referred repeatedly to the ACEP facility ED coding guidelines that ACEP developed but CMS never incorporated. Another guideline MedPAC considered was developed by the American Hospital Association. These national guidelines would be used for the facility ED codes, not the professional codes.

MedPAC Commissioners agreed to the following recommendation:

The Secretary should develop and implement a set of national guidelines for coding hospital emergency department visits under the outpatient prospective payment system by 2022.

MedPAC plans to include an informational chapter on this issue in their June report to Congress. To see a copy of the slide presentation delivered at the MedPAC meeting, please click [here](#).

It is important to note that MedPAC can only make recommendations to Congress or to CMS. None of the policies MedPAC proposes are binding.



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