



## January 11, 2019

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### **House Approves Disaster Preparedness Bill (Again)**

On Tuesday, the House overwhelmingly approved the ACEP-supported H.R. 269, the "Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019" (PAHPAI), by a vote of 401 to 17. This is the same bill language the House approved on Dec. 20. However, the Senate failed to approve that bill (H.R. 7328) before the 115th Congress expired. Approving PAHPAI has been one of our top priorities over the past year and the legislation includes several important emergency care-related provisions, such as improved regionalization of emergency services, access for military trauma teams to provide services at civilian trauma centers (MISSION ZERO), NDMS improvements, and expanded CDC biosurveillance capabilities.

The bill has been sent to the Senate, but it's remains unclear when the Senate intends to consider it due to an unrelated dispute between two senators.

### **Partial Government Shutdown Continues**

By the end of today, the partial government shutdown will set a record as the longest in U.S. history. The House this week approved four stand-alone appropriations measures to fund most of the agencies and departments that remain closed, but Senate Majority Leader Mitch McConnell has vowed not to consider any bills that President Trump will not sign. The president is considering other options to obtain funding for the border wall/border security, such as declaring a national emergency, while congressional Democrats are weighing a lawsuit to challenge the president's actions if he pursues that course of action.

Today, the House approved legislation (S. 24) that would ensure federal employees receive retroactive pay once the shutdown ends. The Senate passed the bill late Thursday, so it will be sent to President Trump, who has stated he would sign the measure into law.

### **Congressional Committees**

Assignments for the various House committees in the 116th Congress continued this week, but committee chairs and ranking members are still being determined, as well as the final ratio of seats between the two parties. We expect most, if not all, of those decisions to be finalized next week.

## **Meeting the New Members of the 116th Congress**

ACEP is mounting an aggressive push throughout the next two months to meet as many of the new members as possible before or just after they are sworn in. Although we supported quite a few in their election bids, there may be more than 100 new members coming to Congress. 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 hosting](#) ACEP members as well as a [fact sheet](#) for the new member. If you live or work in a congressional district of a new member of congress and 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.

## **ACEP's Alternative Payment Model (APM) Cited in a New HHS Resource**

Last Friday, January 4, HHS released [a fact sheet](#) describing new considerations that the Center for Medicare & Medicaid Innovation (CMMI) will employ when evaluating alternative payment models (APMs) that are submitted to a federal advisory committee called the PTAC for consideration. ACEP is extremely pleased that the fact sheet included specific supportive references to ACEP's APM, the Acute Unscheduled Care Model (AUCM).

In the fact sheet, CMMI states, "HHS is currently working to develop new potential model tests that build on ideas from the proposed models recommended by PTAC. These include proposed models from... the American College of Emergency Physicians (ACEP) to encourage improved transitions of care."

On September 6, 2018, the Physician-Focused Payment Model Technical Advisory Committee (PTAC) voted in favor of recommending ACEP's APM to the Secretary of Health and Human Services (HHS) for full implementation. This was a big win for emergency physicians and emergency patients, as our APM is the first proposed payment model that gives emergency physicians a leading role when it comes to accountability for patient care and care coordination.

While we are still waiting for the HHS Secretary to formally respond to PTAC's recommendation, we are encouraged by the reference to our APM in the CMMI fact sheet and we look forward to continuing to work with HHS to improve emergency patient care through the implementation of this model.

To read ACEP's proposed APM, please click [here](#).

## **House Ways & Means Leadership Requests More Transparency on CMMI Models**

On Wednesday, House Committee on Ways & Means Chairman Richard Neal (D-MA) and Ranking Member Kevin Brady (R-TX) expressed concern at what they saw as a lack of transparency and public input in CMMI's demonstration models. In a [letter](#) to Centers for Medicare & Medicaid Services (CMS) Administrator Seema Verma, Chairman Neal and Ranking Member Brady warn that "significant policy changes made unilaterally by the executive branch without sufficient transparency" could harm beneficiaries and the healthcare system. The lawmakers specifically criticize what they see as CMMI's infrequent use of the formal rulemaking process, instead subjecting only mandatory models to the process and developing non-mandatory models without the formal, transparent process required of most agency-level policy changes.

In their letter, Chairman Neal and Ranking Member Brady specifically request that CMS provide a detailed list of the models under active consideration by the agency, saying that stakeholders have alerted them to new models under development. They also ask the agency to describe any activities that CMMI plans to "promote transparency and engage Congress, stakeholders, Medicare

beneficiaries, and the public” before finalizing forthcoming models. Chairman Neal and Ranking Member Brady expect CMS to follow Congress’s intent when it created CMMI, writing that they expect it to test and promote innovative delivery system models but not to “bypass Congress and the public to rewrite Medicare law.”

### **ACEP Responds to FDA Drug Shortages Task Force Meeting**

On Thursday, ACEP submitted our official response to a Food and Drug Administration (FDA) Task Force meeting on drug shortages that occurred on November 27, 2018.

This meeting, as well as ACEP’s ongoing conversations with the FDA, was a testament to the effectiveness of advocacy by emergency physicians. During the 2018 Leadership and Advocacy Conference, emergency physicians urged legislators to ask the FDA to look into the root causes of drug shortages and deliver recommendations to Congress on how to fix these significant problems affecting patient care. Thanks to the efforts of EM advocates, these letters secured more than 100 bipartisan signatories in the House and more than 30 in the Senate. In response only a few short weeks later, FDA Commissioner Scott Gottlieb announced the creation of this FDA Drug Shortage Task Force, and the Commissioner himself has made this issue one of his top priorities.

In our response letter, we state that the ongoing shortage of life-saving medicines is one of the greatest problems that emergency physicians deal with on a day to day basis. Each day in EDs throughout the country, there are multiple conversations around what medicines might or might not be available for care. Having to constantly find alternatives to drugs causes emergency providers to take longer to respond to an emergency, and furthermore, staff has to be trained and re-trained on what drugs to use in particular cases, and new processes and protocols have to be created each time a new medication shortage is announced. We also state that drug shortages seriously jeopardize the safety of our patients and that in many cases, medication substitutions often have side effects, are less effective, or do not work at all. Finally, we reference an ACEP survey conducted in May 2018 that found that 9 out of 10 emergency physicians had experienced a drug shortage in the last month.

ACEP’s full comment letter can be found [here](#). We will continue to be active in this effort as the FDA Drug Shortages Task Force delves further into this critical issue.

### **ACEP Responds to Medicaid Managed Care Proposed Rule**

On Thursday, ACEP responded to a CMS proposed rule that that would revise current Medicaid and CHIP managed care regulations. Of note, CMS is proposing to give states more flexibility when establishing network adequacy requirements that Medicaid Managed Care Organizations (MCOs) must follow. In our response, we state that we have long advocated for CMS to enforce strong network adequacy standards in Medicaid managed care and that we strongly believe that all Medicaid patients must have access to a full range of health care services. We also strongly recommend that CMS require states to include emergency physicians and other safety net providers in the list of provider types for which states are required to establish network adequacy standards.

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



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