



**August 3, 2018**

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### **Senate Approves Defense Authorization Bill with ACEP Provision, Awaits President's Signature**

Following last week's House vote, the Senate voted on Wednesday to approve the compromise fiscal year 2019 National Defense Authorization Act (NDAA) in an 87-10 vote. This annual bill provides guidance to the Department of Defense on program initiatives and spending. **Of particular interest to emergency physicians, the bill includes a provision sought by ACEP that requires the DOD to share controlled substance prescribing information of TRICARE beneficiaries with State Prescription Drug Monitoring Programs.** Up to this point, prescribing data for military members and their families has not been available to emergency and other physicians when they seek care at non-military facilities. ACEP members and staff worked closely with Representative Mike Turner (D-OH) to create this program and ensure its inclusion in this year's Defense authorization bill.

Notably, this is the earliest the NDAA has been passed in more than two decades. With the Senate's passage the bill now awaits signature from President Trump, who is expected to sign it into law.

### **Senate Committee Continues Hearings to Examine Health Care Costs**

On Tuesday, the Senate Health, Education, Labor, & Pensions (HELP) Committee held a hearing titled "Reducing Health Care Costs: Decreasing Administrative Spending," as part of the committee's continuing series of health care cost hearings. Tuesday's hearing focused on how federal administrative and regulatory burdens on providers affect health care costs. The hearing witnesses included Becky Hultberg, (Alaska State Hospital & Nursing Home Association), Matt Eyles (America's Health Insurance Plans; AHIP), David Cutler, Ph.D., (Harvard University), and Robert Book, Ph.D. (American Action Forum).

The hearing focused special attention on the burdens associated with electronic health records (EHRs) and how more widespread health information technology has not delivered the savings promised. Committee Democrats, including Ranking Member Patty Murray (D-WA), also capitalized on the opportunity to criticize the Trump Administration's recent proposal to expand short-term limited-duration health plans.

Chairman Alexander and Ranking Member Murray have stated they intend to conduct several additional hearings on reducing health care costs well into the fall.

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

## **CMS Release the Inpatient Prospective Payment System Final Rule**

On August 2, the Centers for Medicare & Medicaid Services (CMS) released the final Fiscal Year 2019 Inpatient Prospective Payment System (IPPS) [final rule](#).

ACEP, along with a coalition of eleven other medical associations and organizations, had submitted a [comment letter](#) to CMS responding to a request for information (RFI) on price transparency that was included in the IPPS proposed rule. In our comment letter, we stated that it is the responsibility of payers, including CMS, to clearly provide information to consumers about the potential costs of seeking care under their particular coverage. We also addressed issues related to EMTALA, including the EMTALA stipulation that hospitals cannot place any signs in the emergency department (ED) related to costs, since this could potentially dissuade patients from coming to the ED. Finally, we called on insurance companies to use open and independent databases, such as FAIRHealth, to make information on usual and customary physician charges available to the public. ACEP had also submitted its own [comment letter](#) on the proposed rule.

CMS does not specifically respond to the comments we submitted on price transparency in the final rule, but states that the agency will address them in future rulemaking.

## **Trump Administration Releases Final Rule on Short-Term Limited-Duration Health Plans**

On August 1, the Departments of Treasury, Labor, and Health and Human Services (the Departments) released a [final rule](#) that expands the duration of short-term, limited-duration health plans from three months to 12 months. Based on comments from stakeholders on the proposed rule, the final rule changed the total length of the policy to a duration of no longer than 36 months in total, taking into account renewals or extensions.

Short-term health plans do not have to cover the ten essential health benefits (EHBs), including emergency services. The final rule requires issuers of these plans to send out a notice to policy-holders to make them aware that their policy may not cover certain services (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). In our [comments](#) on the proposed rule, ACEP stated that it is critically important for all insurance plans to cover all ten EHBs including emergency services. Without such guaranteed coverage, consumers may wind up deferring more routine care or visiting a primary care physician or specialist for more minor conditions or symptoms. Such deferral or delay will often result in their condition or symptoms becoming exacerbated, and eventually result in an unavoidable trip to the ED.

In the final rule, the Departments respond to this comment by stating that most short-term health plans cover emergency services, and that the required notice sent out to consumers includes “emergency services” in the list of benefits that may not be covered out of “an abundance of caution.” In their response, the Departments also acknowledge that if a short-term health plan does not cover emergency services, there could be increases in uncompensated care provided by hospitals—but again, the Departments have no reason to believe that all short-term health plans would exclude coverage of emergency services. The Departments also bring up the issue of balance-billing in their response, stating that “The Departments note that individuals enrolled in individual market plans also frequently experience unexpected high out-of-pocket costs due to balance billing (charges arising when an insured individual receives care from an out-of-network provider, the balance bill being the difference between the total charges incurred and what the issuer ultimately pays), when obtaining care at emergency departments and when treating providers are not part of in-network hospitals. Very few states have laws that protect consumers from this practice; 15 states offer limited balance billing protections, while only six provide comprehensive balance billing protections for consumers.”

## **Congressional**

## **Recess**

While the House of Representatives has begun its August recess and won't return until September 4th,

the Senate will remain in session for most of that time to continue working on Brett Kavanaugh's Supreme Court nomination, other judicial nominations, and annual appropriations bills, among other items. The Capital Minute will return in September with the Congress.



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