NON–OPIOIDS PREVENT ADDICTION IN THE NATION (NOPAIN) ACT
FREQUENTLY ASKED QUESTIONS

Q: ***If enacted, how would the NOPAIN Act impact patient or provider access to prescription opioids?***

A: The NOPAIN Act would remove existing payment disincentives that make non-opioid pain management options inaccessible to many patients and healthcare providers. Right now, acute pain patients are often denied access to the wide range of available, non-addictive opioid alternatives. Fixing that problem – and giving these patients access to the non---opioid options that healthcare providers believe they should have – is the singular issue that the NOPAIN Act would address. The NOPAIN Act does not do anything to limit patient or provider access to prescription opioids and would not change anything about the way chronic pain is treated. The bill leaves pain management and medication decisions entirely up to the provider and the patient and is designed to improve access to non-opioids only to manage acute pain, which is the temporary pain that presents after a specific incident, such as an injury or a surgical procedure.

Q: ***How would the NOPAIN Act propose to increase access to non-opioid options for acute pain patients?***

A: Current Medicare reimbursement policy creates an inadvertent disincentive for providers to utilize non-opioid pain management approaches as such approaches are deemed less economically attractive than generic opioids. The NOPAIN Act would fully incentivize the utilization of such approaches by directing the Centers for Medicare and Medicaid Services (CMS) to provide separate Medicare reimbursement for non-opioid treatments used to manage pain in both the hospital outpatient department (HOPD) and the ambulatory surgery center (ASC) settings.

Q: ***Would the bill increase costs for Medicare beneficiaries?***

A: No. Historically, when CMS has implemented separate payment for other drugs and devices, the agency has not increased cost for beneficiaries.

Q: ***What are the non-opioid approaches to pain management that would be made more accessible by the NOPAIN Act?***

A: The NOPAIN Act defines a "non-opioid treatment" as drugs, biologicals, or medical devices that have demonstrated the ability to replace or reduce opioid consumption in a clinical trial or through clinical data published in a peer-reviewed journal. Additionally, the NOPAIN Act requires a report to Congress on limitations, gaps, barriers to access, or deficits in Medicare coverage or reimbursement for therapeutic services (e.g. acupuncture, chiropractic services, psychological services, therapeutic massage, etc.) and recommendations for Congress or CMS to address any limitations identified.

Q: ***Has the Congressional Budget Office (CBO) provided a cost estimate of the legislation?***

A: The legislation has not yet been reviewed by officials at CBO. However, the legislation is designed to be budget-neutral, meaning it will have a minimal budgetary impact.

Q: ***How does the NOPAIN Act achieve separate payment in a budget-neutral way?***

A: Under Medicare law, the separate payment for these non-opioid therapies must be balanced with adjustments to other Medicare payments—so that outpatient spending is budget-neutral on a year-over-year basis. If non-opioid therapies become eligible for separate Medicare payment in the HOPD through adoption of the NOPAIN Act, any new spending on these products would be included in this annual budget-neutrality calculation and minor adjustment made by CMS for pass-through therapies.

Q: ***How are spending adjustments calculated in the pass-through program?***

A: Each year in the annual OPPS payment rule, CMS balances increased spending on pass-through products with decreased spending on other items and services covered by the rule. First, CMS estimates the total cost of all products approved for pass-through status that year. Second, if pass-through spending is projected to increase compared to the prior year, the amount of the increase is offset by an equivalent decrease in other OPPS payments. This adjustment is distributed evenly across all other items and services.

Q: ***What kind of impact would these separate payments have on other outpatient services?***

A: Past years' calculations suggest that separate payment under the NOPAIN Act would only result in a reduction measured in pennies (at most) for all other services. For example, as a result of the projected increase in pass-through spending in 2021, CMS proposed a reduction of 0.05% to the OPPS "conversion factor" for CY 2021—reducing the payment rate for all other OPPS services and items by 0.05%.