



November 15, 2021

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Wyden and Ranking Member Crapo:

We appreciate the opportunity to provide input into the Committee's request for information (RFI) on how to address our country's behavioral health crisis. [Voices for Non-Opioid Choices](#) (referred to as "Voices") is a Washington, DC-based coalition dedicated to advancing federal policy solutions to prevent opioid addiction.

Our comments focus on the opportunity before the Senate Finance Committee to address the worsening opioid use disorder crisis by preventing individuals from developing, or relapsing into, an opioid use disorder. We appreciate this opportunity to respond to questions from the RFI under the category of Increasing Integration, Coordination, and Access to Care: First, *"what policies could improve and ensure equitable access to care and quality of care for minority populations and geographically underserved communities?"* and second, *"What programs, policies, data and technology are needed to improve transitions between levels of care and providers?"*

We believe that, under current law, access to non-opioid pain management drugs in the acute care setting is inequitably distributed, leaving rural areas and underserved patients with reduced access. Non-opioids are proven to improve transitions of care, shorten length of stay and reduce unnecessary opioid exposure. By allowing separate payment for non-opioids as proposed in the Non-Opioids Prevent Addiction in the Nation ("NOPAIN") Act, we can ensure that all Medicare beneficiaries are afforded the choice of a non-opioid pain management option.

Background

The ongoing COVID-19 pandemic has exacerbated the state of mental health and addiction in the United States. A report from the Centers for Disease Control and Prevention shows that, as of June 2020, 40 percent of U.S. adults were struggling with mental health or

substance abuse.¹ In 2020, 1.2 million people initiated prescription pain reliever misuse, and 2.3 million people had an active prescription pain reliever disorder.² Based on these statistics, it is not surprising that rates of drug overdose deaths are at an all-time high. From March 2020 to March 2021, 96,000 Americans died of a drug overdose.³ Of these, three-quarters – or 71,000 – were attributable to opioids.⁴ This means that, all told, we lost 195 Americans every day to an opioid-related drug overdose.⁵

For too many Americans, these overdoses were entirely preventable. They often begin with an opioid prescription or the leftover pills from an opioid prescription – either reigniting a pre-existing substance abuse or mental health disorder or leading to a new opioid use disorder. After years of struggling with these challenges, however, opioids are still our pain management standard of care for every surgery patient in the country, even with evidence that it is often not the safest or most clinically appropriate option. For example, 90 percent of surgical patients receive opioids to manage postsurgical pain;⁶ 80 percent of the global supply of opioids is consumed in the United States⁷ (including 99 percent of the global supply of hydrocodone), and, perhaps not surprisingly, approximately 3.75 million Americans progress to long-term opioid use subsequent to a low-risk surgical procedure for which opioids were prescribed.⁸

To avoid this unnecessarily high level of patient opioid exposure, we must ensure that payment policies support expanding use and availability of opioid alternatives for all patients and prioritize non-opioid pain management approaches. The Non-Opioids Prevent

¹ Czeisler MÉ, Lane RI, Petrosky E, et al. Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic — United States, June 24–30, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1049–1057.

DOI: [http://dx.doi.org/10.15585/mmwr.mm6932a1external icon](http://dx.doi.org/10.15585/mmwr.mm6932a1external%20icon)

² Substance Abuse and Mental Health Services Administration. (2021). Key substance use and mental health indicators in the United States: Results from the 2020 National Survey on Drug Use and Health (HHS Publication No. PEP21-07-01-003, NSDUH Series H-56). Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. Retrieved from <https://www.samhsa.gov/data/>

³ CDC National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (accessed Jul. 28, 2021); Tanzi, Alexandre, U.S. Had Most Drug Overdose Death on Record in 2020, *CDC Says*, Bloomberg (Jul. 14, 2021) <https://www.bloomberg.com/news/articles/2021-07-14/u-s-had-most-drug-overdose-deaths-on-record-in-2020-cdc-says>.

⁴ CDC National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (accessed Jul. 28, 2021)

⁵ CDC National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (accessed Jul. 28, 2021)

⁶ Hill, M. V., McMahon, M. L., Stucke, R. S., & Barth, R. J., Jr (2017). Wide Variation and Excessive Dosage of Opioid Prescriptions for Common General Surgical Procedures. *Annals of surgery*, 265(4), 709–714. <https://doi.org/10.1097/SLA.0000000000001993>

⁷ Manchikanti, L., & Singh, A. (2008). Therapeutic opioids: a ten-year perspective on the complexities and complications of the escalating use, abuse, and nonmedical use of opioids. *Pain physician*, 11(2 Suppl), S63–S88.

⁸ Hah, J. M., Bateman, B. T., Ratliff, J., Curtin, C., & Sun, E. (2017). Chronic Opioid Use After Surgery: Implications for Perioperative Management in the Face of the Opioid Epidemic. *Anesthesia and Analgesia*, 125(5), 1733–1740. <https://doi.org/10.1213/ANE.0000000000002458>

Addiction in the Nation (“NOPAIN”) Act (S. 586)⁹ will accomplish this by increasing access to and utilization of non-opioid pain approaches and reducing unnecessary exposure to opioids.

Increasing Equity and Improving Care Transitions – the NOPAIN Act (S.586)

Currently, separate Medicare reimbursement for non-opioid approaches is only available for patients treated in an Ambulatory Surgery Center (ASC). This policy denies access to non-opioid pain approaches for millions of surgical patients every year, including the approximately 8 million Medicare beneficiaries who undergo an outpatient orthopedic procedure.¹⁰

Separately reimbursing for non-opioid pain management approaches has proven to be highly effective at increasing utilization of non-opioids and decreasing exposure to and consumption of opioids:

- In the CY 2022 Outpatient Prospective Payment System Final Rule, the Centers for Medicare and Medicaid Services (CMS) noted that utilization of non-opioid pain management approaches in the ASC, where separate payment is available, was much higher than the growth in the HOPD setting. For example, ASC utilization of non-opioids **increased by 120 percent from 2019 to 2020**, compared to only a 10.7% increase in the HOPD over that year.¹¹ This increase in utilization can largely be attributed to the availability of separate payment for non-opioids in the ASC setting of care.
- The distribution of this increased ASC use shows access to non-opioid options was expanded to new patient populations, in new locations where there was no access to non-opioid post-surgical pain management options. CMS’ policy to pay separately for non-opioid therapies in the ASC setting contributed to expanding access to 271 new counties, representing 110 million Americans with new access to non-opioids in the ASC setting, from 2017 to 2020.¹²
- Utilization of multimodal pain management approaches, which prioritize utilization of non-opioid based pain relief, has been demonstrated to offer

⁹ “S.586 – NOPAIN Act.” (2021). Congress.gov. <https://www.congress.gov/bill/117th-congress/senate-bill/586?q=%7B%22search%22%3A%5B%22S.+586%22%5D%7D&r=1&s=1>

¹⁰ Hall, MJ, Schwartzman A, Zang J, Lui X. Ambulatory Surgery Data from Hospitals and Ambulatory Surgery Centers: United States, 201. Natl. Health Stat Report. 2017 Fe;(102) 1-15.

¹¹ Centers for Medicare & Medicaid Services. (2021) Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model. Page 77. <https://public-inspection.federalregister.gov/2021-24011.pdf>.

¹² Dobson | DaVanzo, Descriptive Analyses of EXPAREL Utilization Based on Local Sociodemographic Characteristics at ASCs and HOPDs – 2017-2020 (Sept. 16, 2021).

similarly effective analgesic support, while **reducing postsurgical opioid consumption by as much as 91 percent**.¹³

- Increased provider use of non-opioids is correlated with improved patient outcomes in real-world provider experience with the Medicare population for many outpatient procedures. A recent analysis of Medicare claims data found that increased provider use of non-opioids is strongly correlated with improved outcomes for all patients including, reductions in post-surgical use of prescription opioids paid by Medicare Part D, and reduced readmissions.¹⁴

The NOPAIN Act will resolve the disparity in utilization of opioid-based pain relief in comparison to non-opioids by removing the financial incentive that currently exists and is largely responsible for the disproportionately high use of opioid-based pain care. The legislation would allow for non-opioid pain management approaches to be reimbursed separately for all outpatient surgical procedures – in a hospital setting or an ASC – performed in the United States.

Accordingly, **we urge the Committee to include the NOPAIN Act in any comprehensive legislative package designed to improve mental health and reduce rates of substance use disorder.**

Increasing Education and Awareness of Available Non-Opioid Pain Management

The disproportionately high rate of opioid use is due to two factors:

- 1) Financial barriers to utilize non-opioid-based care (which can be addressed by the NOPAIN Act); and
- 2) Insufficient patient and provider education and awareness of available non-opioid approaches.

These two barriers are inter-related. Updated payment systems to make non-opioid approaches more available to patients and providers is **foundational**. Without access to these therapies in the hospital outpatient setting, no amount of education and awareness of patients, providers, families, and caregivers of non-opioids will make a difference in increasing utilization of these approaches.

However, if non-opioid approaches were made just as accessible as opioid-based pain care, Voices believes that the need for robust and broad patient and provider awareness and education should follow. Simply put, too many patients, families and caregivers are not given a choice when it comes to managing their postsurgical pain. For example, polling

¹³ Dysart, S. H., Barrington, J. W., Del Gaizo, D. J., Sodhi, N., & Mont, M. A. (2019). Local Infiltration Analgesia With Liposomal Bupivacaine Improves Early Outcomes After Total Knee Arthroplasty: 24-Hour Data From the PILLAR Study. *The Journal of arthroplasty*, 34(5), 882–886.e1. Available at: <https://doi.org/10.1016/j.arth.2018.12.026>

¹⁴ Allen Dobson, Alex Hartzman, Christopher Surfield & Joan E. DaVanzo (2021), Impact of liposomal bupivacaine and provider choice on opioid use and service outcomes in Medicare outpatient surgical patients, *Journal of Medical Economics*, DOI: 10.1080/13696998.2021.1963100

shows that, given the choice, the majority of patients prefer the non-narcotic approach.¹⁵ In addition, for the 21 million people in recovery¹⁶, access to non-opioids in a surgical setting is critical to prevent the risk of relapse.

Another contributing factor to the disproportionately high utilization of opioids is the fact that most providers (surgeons, anesthesiologists, physicians, and others) are trained to treat pain with opioids. While this is currently changing and there is increasing attention and curriculum being developed around non-opioid based anesthesiology, more needs to be done to **educate and train the provider workforce on the effectiveness and ability of non-opioids** to deliver appropriate levels of analgesic support.

We look forward to working with you – and the rest of the Committee – as you take on this critical task of ensuring access to evidence-based and comprehensive care to prevent and reduce rates of substance abuse in the United States. If you have any questions, please do not hesitate to contact me via email (chris@nonopioidchoices.org) or via phone at (202) 466-5524.

Thank you for your consideration of these comments.

Sincerely,



Executive Director

¹⁵ “Opioid Addiction and Dependence after Surgery Is Significantly Higher Than Previously Known.” June 2016. [Analysis in the report it based on research conducted by Wakefield Research]

¹⁶ Substance Abuse and Mental Health Services Administration. (2021). Key substance use and mental health indicators in the United States: Results from the 2020 National Survey on Drug Use and Health (HHS Publication No. PEP21-07-01-003, NSDUH Series H-56). Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. Retrieved from <https://www.samhsa.gov/data/>

