



March 22, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

On December 29th, 2022, President Biden signed the 2023 Consolidated Appropriations Act into law. The bill included the Non-Opioid Prevent Addiction in the Nation (“NOPAIN”) Act, which aims to prevent opioid addiction by increasing access to and use of non-opioid pain management approaches. **As the opioid crisis continues to worsen, we are writing to urge the Centers for Medicare & Medicaid Services (CMS) to implement this legislation as soon as possible by extending Medicare recognition to non-opioid drug and biological treatments used in the hospital outpatient department prior to the statutory deadline of January 1, 2025.**

Make no mistake: the opioid addiction crisis is upon us now. The [latest data from the Centers for Disease Control and Prevention](#) show that approximately 80,000 Americans died of an opioid-related drug overdose in 2022. This means that, on average, we lost 220 Americans every day due to an opioid related drug overdose. **Rates of opioid-related drug overdose deaths have increased by 70 percent in just four years.**

The opioid addiction crisis also represents a significant economic challenge. [Data from the Joint Economic Committee estimate](#) that we spend **\$1 trillion every year fighting the opioid addiction epidemic, including an estimated \$1.5 trillion in 2020 alone.** Health care facilities are bearing a significant share of this burden. [Treatment for opioid use disorder \(OUD\) now costs hospitals more than \\$95 billion annually.](#) These trends are equally unsettling and unsustainable.

We cannot afford to lose another 80,000 Americans – or hundreds of billions of taxpayer dollars -- to this crisis.

CMS understands the impact that providing separate payment for non-opioid pain management approaches can have on encouraging use of non-opioid options. Since CY2019, CMS has provided separate payment for the administration of non-opioid pain management approaches for patients in the ambulatory surgery center (ASC). Since that change, utilization of non-opioid pain management

medicines increased substantially – [including a 120 percent increase from 2019 to 2020](#). To date, CMS has not implemented a similar policy change to make such approaches more accessible to the hospital outpatient department – the site of care where the bulk of outpatient surgeries occur today.

With the NOPAIN Act, Congress aims to expand on CMS' actions by providing patients and providers with better access to non-opioid choices to manage postsurgical pain. The legislation garnered co-sponsorship from more than [175 Members of Congress](#) as well as [all the major advocacy and stakeholder organizations from around the country](#). Put simply, **there is widespread support for this policy.**

Unfortunately, this law is not required to be implemented until 2025. In that time, tens of millions of patients will be unnecessarily exposed to opioid painkillers to manage their postsurgical pain and a [subset of these patients – between 9 and 20 percent](#) – will misuse the opioids they are prescribed. And some will die from an opioid related drug overdose. **The agency can prevent these tragedies.**

We understand that the agency may need to undertake certain analysis and preparation to implement the NOPAIN Act. CMS has a significant head start for a subset of products, as the agency has already been providing separate payment for the use of certain non-opioid drugs and biological products in the ASC for the past four years.

Therefore, we urge you to include separate payment in the hospital outpatient setting for pain management approaches already reimbursed in the ASC setting in the forthcoming CY2024 Outpatient Prospective Payment System (OPPS) regulation.

We cannot afford to wait. Another 80,000 lives hang in the balance.

Thank you for your time and attention to this important issue. We look forward to working with you.

Sincerely,

Voices for Non-Opioid Choices
American Association of Colleges of Nursing
American Association of Nurse Anesthesiology
American Psychological Association
Ambulatory Surgery Center Association
Aurora Sober Living
A Voice in the Wilderness Empowerment Center
Chatham Drug Free
Community Anti-Drug Coalitions of America
Equilibrium Wellness Center of New Mexico
Jamie Daniels Foundation
Journey House Foundation
Mental Health Summit
National Association for Social Workers
National Certification Commission for Acupuncture and Oriental Medicine
National Transitions of Care Coalition
Optimum Health and Wellness Physical Therapy, Inc.
Overdose Lifeline

Physical Medicine Management Alliance
Project Healing Hive
REAL LIFE PROGRAM
RetireSafe
Shatterproof
Society of Behavioral Medicine
South End - Roxbury Community Partnership
The Reckless Saints of Nowhere
Voices for Awareness Foundation
Warren Coalition
Watauga Substance Abuse Prevention
Will Bright Foundation
Young People in Recovery