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Senate Overwhelmingly Clears Bipartisan Opioid Package

Nearly three months following House passage of a legislative proposal related to America's opioid epidemic, the Senate overwhelmingly cleared its own comprehensive, bipartisan package to address the crisis.

On Monday, September 17, senators replaced the House-passed text with a substitute amendment and approved The Opioid Crisis Response Act of 2018 (H.R. 6) by a vote of 99-1. The bill, authored by Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-TN), resulted from more than 70 pieces of legislation recommended by members of five different committees: Banking, Housing, and Urban Development; Commerce; Finance; HELP; and Judiciary.

Key provisions of the legislation, as outlined by the Senate HELP Committee's Section-by-Section summary, would:

- Further thwart illegal drugs, including fentanyl, from crossing US borders

- Encourage the research, development and fast-track approvals of new, non-addictive painkillers

- Require special safety packaging for opioids, such as three- or seven-day supply plastic "blister packs"

- Expand Medication-Assisted Treatment (MAT) usage

- Improve state Prescription Drug Monitoring Programs

- Further access to behavioral and mental health providers

- Develop comprehensive opioid recovery centers that provide housing, job training and medically supervised withdrawal management

- Better address maternal opioid use and related infant complications

- Promote early intervention tools for vulnerable, trauma-exposed youth

According to the Congressional Budget Office's (CBO) latest cost estimate, H.R. 6 would authorize nearly US$7.9 billion of appropriations for crisis-related programs at US Department of Health and Human Services agencies, including the Centers for Disease Control and Prevention, Substance Abuse and Mental Health Services Administration, and Administration for Children and Families. An updated CBO analysis is soon expected.

While the Senate bill largely mirrors its House counterpart, negotiations have ensued due to several controversial, House-incorporated provisions. These include, but are not limited to: (1) partially repealing the Medicaid Institutions for Mental Diseases (IMD) exclusion, which generally restricts federal reimbursements for care provided at substance abuse treatment facilities with more than 16 beds, and was designed to gradually eliminate older psychiatric wards; (2) loosening privacy protections for certain substance-use disorder patient records; and (3) permanently authorizing nurse practitioners and physician assistants to prescribe US Food and Drug Administration-approved MAT drugs under the direction of a qualified physician.

Despite several weeks of pre-conference discussions, both chambers continue to reconcile differences between their landmark legislative packages. Congressional leaders, including Committee Chairman Alexander, have expressed optimism that a final agreement will be offered, approved and signed into law prior to the 2018 midterm elections.

For more information about the bill, please contact one of the lawyers listed in this publication.

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