

# 2018

## **Opioid Crisis Response Act of 2018 (H.R. 6) - Bill Signing**

*October 26, 2018*

This week, President Donald Trump signed into law the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (H.R. 6). The new law represents the culmination of an intense year-long legislative effort to stem the opioid crisis.

During the debate, ASHT emphasized with lawmakers the importance of helping people find non-opioid alternatives to managing their pain, including hand therapy. We are pleased that the final agreement adopted a number of key policies that could benefit the hand therapy profession and the clients you serve, including provisions that would:

Direct CMS to issue guidance to states for treating and managing Medicaid beneficiaries' pain through non-opioid pain treatment and management options, including coverage and reimbursement recommendations.

Require the Secretary of HHS to submit a report on ways to improve reimbursement and coverage for multi-disciplinary, evidence-based non-opioid chronic pain management.

Require the Secretary of HHS to develop guidance and a toolkit on pain management and opioid use disorder prevention for hospitals receiving payment under Part A of the Medicare program.

Update the scope of the Interagency Pain Research Coordinating Committee to identify, among other things, advances in pain care research supported or conducted by the federal government, including information on best practices for the utilization of non-pharmacologic treatments.

Incentivize the treatment of individuals with substance use disorders by establishing a loan repayment program for eligible health care professionals working in shortage areas or counties that have been hardest hit by drug overdoses.

The hard work, however, has just begun. The agencies will soon initiate the rulemaking process, develop parameters for incentivizing non-pharmacological treatments, and examine critical reimbursement incentives. With that in mind, ASHT is preparing to engage CMS and other key agencies as they seek input in the coming months. We will continue to keep you updated on any new developments.

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## **2019 Medicare Physician Fee Schedule**

*October 2018*

On September 10, 2018, ASHT submitted a letter to the Centers for Medicare and Medicaid Services (CMS) in response to the proposed 2018 Medicare Physician Fee Schedule and related policies included in the proposed rule.

View the [full letter here](#)

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## **Opioid Crisis Response Act of 2018 (H.R. 6)**

*September 28, 2018*

Today, the House of Representatives passed the SUPPORT for Patients and Communities Act (H.Res.1099) to stem the nation's opioid crisis. This bipartisan, bicameral compromise contains a number of ASHT priorities and clearly recognizes the importance of your role in helping people find non-opioid alternatives to managing their pain. Your calls and emails, combined with our advocacy efforts in Washington, have helped to shape this important legislation.

The final agreement includes a number of key policies for hand therapists and their clients, including provisions that would:

- Direct CMS to issue guidance on states' options for treating and managing Medicaid beneficiaries' pain through non-opioid pain treatment and management options.
- Require the Secretary of HHS to submit a report on ways to improve reimbursement and coverage for multi-disciplinary, evidence-based non-opioid chronic pain management.
- Require the Secretary of HHS to develop guidance and a tool-kit on pain management and opioid use disorder prevention for hospitals receiving payment under Part A of the Medicare program.
- Update the scope of the Interagency Pain Research Coordinating Committee to identify, among other things, advances in pain care research supported or conducted by the federal government, including information on best practices for the utilization of non-pharmacologic treatments.
- Incentivize the treatment of individuals with substance use disorders by establishing a loan repayment program for eligible health care professionals working in shortage areas or counties that have been hardest hit by drug overdoses.

For additional details, please see the [section-by-section](#) summary as well as the [full text](#) of the bill.

We expect the Senate to consider the bill within the first two weeks of October. Please contact your Senators and **urge a YES vote on the SUPPORT for Patients and Communities Act.**

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## Congress Faces Packed September Work Schedule *August 2018*

### *Opioid Legislation and Looming Funding Battle Await*

Following House passage of the [Support for Patients and Communities Act](#) (H.R. 6) in June, the Senate has worked to craft a legislative package of its own with negotiations hitting a key milestone last week. Republican leadership announced at an August 28 press conference that GOP Senators have reached consensus on underlying opioid legislation and hope to bring a bill to the floor shortly upon their return this month. Senate Democrats, led in negotiations by Senator Patty Murray (D-WA), continue to study the proposal and the Senate ultimately will need to reconcile key provisions of its bill with differences in H.R. 6. Yet the two proposals share some elements in common.

Like H.R. 6, the Senate bill would encourage the use of non-opioid alternatives to pain management and would emphasize multi-modal approaches across settings and reimbursement structures. The bill would also seek to expand access to substance use disorder treatment, support research, and prevent drug diversion.

Hand therapists have a crucial role to play in addressing the opioid epidemic. Whether rehabilitating an upper extremity injury, assisting with recovery post-surgery, or helping manage a chronic condition, hand therapists provide safe, quality, and effective pain care management for their clients.

Please call your Senators to urge them to pass comprehensive opioid legislation, and tell them to make therapy and rehabilitation part of the response to our nation's substance use crisis.

While the House recessed last month, the Senate also considered the Fiscal Year 2019 Labor, Health and Human Services, Education, and Related Agencies (LHHS-ED) appropriations bill. This is Congress' largest funding bill and has jurisdiction over virtually all federal health care programs. Passage of the LHHS-ED bill is noteworthy, as in recent years, it has served as a magnet for controversial health policy amendments.

The Senate passed this critical spending bill in an 85-7 vote with overwhelming bipartisan support. As passed, the bill would provide significant new investments in our nation's current health care priorities and represents a departure from President Trump's proposal to cut \$12.5 billion in spending. These new investments include: \$5 billion over Fiscal Year 2017 for the National Institutes of Health, \$3 billion over Fiscal Year 2017 to combat the opioid crisis, and \$2.3 billion over Fiscal Year 2017 to increase college affordability. While the House did not call up its own bill for a floor vote, Representatives on September 4 agreed to combine the LHHS-ED and Defense spending bills and negotiate a final package with the Senate. Some House conservatives objected to withholding a separate vote on LHHS-ED but Republicans generally are optimistic about the bill's likelihood of passing.

Two upcoming dates add pressure to Congress to reach an agreement on Fiscal Year 2019 spending as well as on opioids legislation: the expiration of current government funding on September 30 and the 2018 midterm elections on November 6. ASHT will continue to keep you updated on these and other key issues as Congress acts in these last weeks of the year.

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## **2019 Medicare Physician Fee Schedule**

### ***July 2018***

The 2019 Medicare Physician Fee Schedule proposed rule is out and will, undoubtedly, impact hand therapy services under Medicare Part B. ASHT is examining these proposals closely with your practice in mind. The following provides an overview of important changes on the horizon for hand therapy:

#### **Functional Limitation Reporting (FLR)**

Among the most important and welcoming changes for hand therapists is the proposal by CMS to eliminate FLR. Since 2013, OTs and PTs have been required to assign G-codes to their claims for the purposes of fulfilling CMS' pursuit of value-based payment. ASHT is pleased that CMS has acknowledged the shortcoming of this data collection and the unnecessary burdens and complexities associated with the documentation mandate.

#### **Quality Payment Program (QPP)**

CMS is proposing that OTs and PTs providing services under Medicare Part B join the QPP by participating in either the Merit-based Incentive Payment Program (MIPS) or an Alternative Payment Model (APM) beginning in 2019.

The QPP consists of two participation pathways – MIPS, which measures performance in four categories to determine an adjustment to Medicare payment, and APMs, in which clinicians may earn an incentive payment as well as an exemption from MIPS reporting requirements.

Under MIPS, data is collected in four key areas: quality, resource use, clinical practice improvement activities, and interoperability of electronic health records. These categories are combined to determine your Composite Performance Score. The total score ultimately determines whether providers are eligible for a payment bonus or payment reduction.

While OTs and PTs have not been eligible participants to date, therapists have been allowed to voluntarily report data as a means of gathering feedback in anticipation of eventually being required to meet the program's reporting requirements.

Low Volume Exemption: MIPS includes an exemption for smaller private practices through a Low Volume Threshold policy. The policy states that if any one (1) of the following applies, the practitioner is not required to report under MIPS: the practitioner has Medicare-allowed charges of less than or equal to \$90,000; provides covered services to 200 or fewer beneficiaries; or provides 200 or fewer services to beneficiaries.

## **Therapy Cap Repeal Implementation**

The passage of the Bipartisan Budget Act of 2018 ended the long-fought battle over Medicare's Part B therapy cap. The repeal of the cap also included a number of additional provisions that are addressed in the recently released MPFS proposed rule, including requirements to continue the use of the KX modifier for claims exceeding \$2,010 for OT and for PT and speech-language pathology (SLP) services combined. While affixing the KX modifier is still required, all claims above that threshold will not be subject to review.

Perhaps the most surprising provision in the Bipartisan Budget Act of 2018 was language aimed at OTAs and PTAs. The MPFS addresses this provision by proposing the use of modifiers when PTAs or OTAs are providing outpatient services. Ultimately, the modifiers will be utilized to implement a reduction in reimbursement for OTAs and PTAs. The legislation calls for such services to be paid at 85% of the fee schedule beginning in 2022. Voluntary reporting could begin as soon as 2019, according to the proposed rule. ASHT has significant concerns with this proposal and will be exploring legislative and regulatory remedies to reverse this policy.

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## **Opioid crisis takes center stage as Congress prepares for upcoming Memorial Day recess** *June 1, 2018*

Congress continues to take aim at the opioid epidemic with hopes of passing a comprehensive legislative package before lawmakers leave for August recess. Across the political spectrum, members of Congress recognize the importance of alternative treatments for pain. As hand therapists, your daily efforts to minimize client pain and maximize function offers a true alternative to opioids, and Congress agrees!

Last week, the [House Ways and Means Committee](#) approved [the Medicare and Opioid Safe Treatment \(MOST\) Act \(H.R. 5776\)](#) with overwhelming bipartisan support. Among other things, H.R.5776 would require the Secretary of Health and Human Services to examine avenues to improve access to services such as cognitive behavioral interventions, physical therapy, occupational therapy and physical medicine.

The House Energy and Commerce Committee was also busy at work last week, approving [57 bills](#) over a marathon two-day markup. Included among the bills was [the Medicare Opioid Safety Education Act \(H.R.5685\)](#), which seeks to bolster educational resources available to Medicare and Medicaid beneficiaries on pain management and alternative pain management treatments, like therapy. Bills like H.R.5776 and H.R.5685 represent prime opportunities for hand therapists to highlight the benefits of rehabilitation. We anticipate that the House could vote on a combined package of opioid bills as early as June 11.

Meanwhile in the Senate, the HELP Committee considered and approved [S.2680: The Opioid Crisis Response Act of 2018](#), while the Senate Finance Committee followed suit with a legislative package consisting of [22 bipartisan policy proposals](#). The Senate hopes to bring the complement of bills to the Senate floor in the coming month for full consideration.

Members of Congress are currently back home this week for Memorial Day “recess,” and it’s a perfect time to let them know what you do, how you help your clients and how therapy and rehabilitation are vital solutions to the opioid epidemic. Your voice and experience are a critical piece of the puzzle. In fact, we've even created a member [survey](#) so we can capture your experiences and better educate lawmakers. Please take time to tell your story. As you have conversations with members of Congress back home, be sure to let ASHT know so we can reinforce your message when members return to Congress in June.

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## **ASHT Pain Management Survey** *June 2018*

As Congress continues to consider legislation to address the opioid epidemic, ASHT wants to hear from you!

We want your voice and experience to resonate in this broader debate as ASHT continues to monitor these developments and work to shape policy to address the opioid epidemic. Knowing how you have helped clients manage chronic and acute pain through therapy and rehabilitation is a critical piece of the solution to this nationwide crisis.

Thank you for taking the time to complete this brief survey examining the role hand therapists play in battling the opioid epidemic. The information gathered may be used and presented to physicians, insurers and legislators by ASHT.

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## **Congress Considers Legislation to Address the Opioid Epidemic – Hand Therapy Part of the Solution** *May 1, 2018*

Over the past few months, we’ve seen a flurry of debate on Capitol Hill around the opioid epidemic. This week marked the first significant steps taken this year toward advancing comprehensive legislation on this critical topic.

On April 24, the Senate Committee on Health, Education, Labor and Pensions (HELP) marked up [S.2680: The Opioid Crisis Response Act of 2018](#). This bipartisan bill was a combination of 40 different policy proposals, cobbled together over seven bipartisan hearings on how to best address the opioid crisis. The Opioid Crisis Response Act of 2018 aims to accomplish many items, including:

Require the Secretary of HHS to provide technical assistance related to the use of alternatives to opioids, including for common painful conditions and certain patient populations, such as geriatric patients, pregnant women and children.

Spur development and research on of non-addictive painkillers, and other strategies to prevent, treat and manage pain and substance use disorders through additional flexibility for the NIH.

Support the healthcare workforce by providing resources for pain care providers to assess, diagnose, prevent, treat and manage acute or chronic pain, as well as for the detection of early warning signs of opioid use disorders.

The Senate HELP Committee advanced S.2680 unanimously by a vote of 23-0. Chairman Lamar Alexander (R-KY) expressed his hopes that the full Senate will move the opioid legislation by this summer.

On April 30, the House Energy and Commerce Health Subcommittee concluded their opioid markup, advancing 56 opioid related bills to the full Energy and Commerce Committee. This full docket, comprised of introduced bills and draft legislation, offered a broad range of solutions to the crisis, across the areas of public health, behavioral health and Medicare and Medicaid reimbursement. According to Chairman Burgess (R-TX), the full committee markup is likely to take place in mid-May.

Among the drafts to advance was the Adding Resources on Non-Opioid Alternatives to the Medicare Handbook, which would direct CMS to compile educational resources for beneficiaries regarding opioid use, pain management and alternative pain management treatments. The legislation goes on to instruct CMS to include these resources in the “Medicare and You” handbook. Legislation like this gives ASHT the opportunity to emphasize the benefits of therapy as well as the work you do as therapists to minimize client pain and maximizing function.

As Congress continues to consider legislation like this to address the opioid epidemic, we want to hear from you! Knowing how you have helped clients manage chronic and acute pain through therapy and rehabilitation is a critical piece of the solution to this nationwide crisis.

We want your voice and experience to resonate in this broader debate as ASHT continues to monitor these developments and work to shape policy to address the opioid epidemic. Share your personal experiences, stories, and background to [asht@asht.org](mailto:asht@asht.org), so we can tell Congress that Hand Therapy is part of the solution.

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## **Hand Therapy Practice and the Opioid Epidemic**

*April 6, 2018*

Hand therapists have a crucial role to play in addressing the opioid epidemic. Whether it is following an upper extremity injury, surgery, or helping manage a chronic condition, hand therapists provide safe, quality, and effective pain care management for their clients.

In recent months, Washington has turned its attention to the opioid epidemic, providing nearly \$4 billion in new spending in the recent funding bill and debating dozens of bills to address the multi-faceted crisis. When Congress returns from recess next week, lawmakers will seek to continue the momentum.

On April 11th, the House Energy and Commerce Committee will hold a legislative hearing to examine a new slate of bills aimed at curbing opioid use by, among other things, addressing Medicare and Medicaid coverage barriers, tracking opioid prescribing patterns, requiring drug companies to alter packaging, and allowing providers to write smaller prescriptions. In addition, the Centers for Disease Control and Prevention and now Blue Cross Blue Shield are actively advocating for a new standard that emphasizes non-opioid alternatives as the first line of treatment for pain management over opioid prescribing.

As the debate unfolds over the coming months, ASHT will continue to educate lawmakers about the important role hand therapists play in safe, effective pain management. ASHT will also be emphasizing the importance of non-opioid alternatives to pain management and working to improve and support policies that embrace the benefits of therapy and rehabilitation.

Stay tuned to ASHT's [Legislative Action Center](#) for updates on this issue.

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## **Victory! Repeal Becomes Law**

*February 9, 2018*

This morning, February 9<sup>th</sup>, President Trump signed the latest stopgap funding bill into law, which included the **Permanent Repeal of the Medicare Therapy Cap!**

Today marks a huge victory for the profession that was twenty years in the making. As a member of the American Society of Hand Therapists, we wanted to **thank you**, sincerely, for your steadfast commitment to addressing this critical issue. You have lent your voice to this cause many times, and today, your emails and phone call were finally heard. Today, we can finally say, “The Medicare Therapy Cap is repealed!”

As we look to the future, we recognize that this victory is one part of a larger journey to ensure people have access to therapy services and ultimately a chance at functioning fully. We must now look to continue seeking improvements through the rulemaking and implementation phases of this permanent repeal. Your voice will be vital to this process as we find the best path forward for the profession.

**Thank you for all of your support and congratulations on a job well done!**

Click [here](#) for therapy cap frequently asked questions.