

115TH CONGRESS 2D SESSION

H. R. 5775

AN ACT

To amend title XVIII of the Social Security Act to require Medicare Advantage plans and part D prescription drug plans to include information on the risks associated with opioids, coverage of certain nonopioid treatments used to treat pain, and on the safe disposal of prescription drugs, and for other purposes.

1	Be it enacted by the Senate and House of Representa-					
2	tives of the United States of America in Congress assembled,					
3	SECTION 1. SHORT TITLE.					
4	This Act may be cited as the "Providing Reliable Op-					
5	tions for Patients and Educational Resources Act of					
6	2018" or the "PROPER Act of 2018".					
7	SEC. 2. REQUIRING MEDICARE ADVANTAGE PLANS AND					
8	PART D PRESCRIPTION DRUG PLANS TO IN-					
9	CLUDE INFORMATION ON RISKS ASSOCIATED					
10	WITH OPIOIDS AND COVERAGE OF NON-					
11	PHARMACOLOGICAL THERAPIES AND					
12	NONOPIOID MEDICATIONS OR DEVICES USED					
13	TO TREAT PAIN.					
14	Section 1860D-4(a)(1) of the Social Security Act (42					
15	U.S.C. 1395w-104(a)(1)) is amended—					
16	(1) in subparagraph (A), by inserting ", subject					
17	to subparagraph (C)," before "including";					
18	(2) in subparagraph (B), by adding at the end					
19	the following new clause:					
20	"(vi) For plan year 2021 and each					
21	subsequent plan year, subject to subpara-					
22	graph (C), with respect to the treatment of					
23	pain—					
24	"(I) the risks associated with					
25	prolonged opioid use: and					

1	"(II) coverage of nonpharma-					
2	cological therapies, devices, and					
3	nonopioid medications—					
4	"(aa) in the case of an MA-					
5	PD plan under part C, under					
6	such plan; and					
7	"(bb) in the case of a pre-					
8	scription drug plan, under such					
9	plan and under parts A and B.";					
10	and					
11	(3) by adding at the end the following new sub-					
12	paragraph:					
13	"(C) Targeted Provision of Informa-					
14	TION.—A PDP sponsor of a prescription drug					
15	plan may, in lieu of disclosing the information					
16	described in subparagraph (B)(vi) to each en-					
17	rollee under the plan, disclose such information					
18	through mail or electronic communications to a					
19	subset of enrollees under the plan, such as en-					
20	rollees who have been prescribed an opioid in					
21	the previous 2-year period.".					

1	SEC. 3. REQUIRING MEDICARE ADVANTAGE PLANS AND
2	PRESCRIPTION DRUG PLANS TO PROVIDE IN-
3	FORMATION ON THE SAFE DISPOSAL OF PRE-
4	SCRIPTION DRUGS.
5	(a) Medicare Advantage.—Section 1852 of the
6	Social Security Act (42 U.S.C. 1395w-22) is amended by
7	adding at the end the following new subsection:
8	"(n) Provision of Information Relating to the
9	SAFE DISPOSAL OF CERTAIN PRESCRIPTION DRUGS.—
10	"(1) IN GENERAL.—In the case of an individual
11	enrolled under an MA or MA-PD plan who is fur-
12	nished an in-home health risk assessment on or after
13	January 1, 2021, such plan shall ensure that such
14	assessment includes information on the safe disposal
15	of prescription drugs that are controlled substances
16	that meets the criteria established under paragraph
17	(2). Such information shall include information on
18	drug takeback programs that meet such require-
19	ments determined appropriate by the Secretary and
20	information on in-home disposal.
21	"(2) Criteria.—The Secretary shall, through
22	rulemaking, establish criteria the Secretary deter-
23	mines appropriate with respect to information pro-
24	vided to an individual to ensure that such informa-
25	tion sufficiently educates such individual on the safe

1	disposal of prescription drugs that are controlled
2	substances.".
3	(b) Prescription Drug Plans.—Section 1860D—
4	4(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w-
5	104(e)(2)(B)) is amended—
6	(1) by striking "may include elements that pro-
7	mote";
8	(2) by redesignating clauses (i) through (iii) as
9	subclauses (I) through (III) and adjusting the mar-
10	gins accordingly;
11	(3) by inserting before subclause (I), as so re-
12	designated, the following new clause:
13	"(i) may include elements that pro-
14	mote—'';
15	(4) in subclause (III), as so redesignated, by
16	striking the period at the end and inserting "; and";
17	and
18	(5) by adding at the end the following new
19	clause:
20	"(ii) with respect to plan years begin-
21	ning on or after January 1, 2021, shall
22	provide for—
23	"(I) the provision of information
24	to the enrollee on the safe disposal of
25	prescription drugs that are controlled

1	substances that meets the criteria es-						
2	tablished under section $1852(n)(2)$,						
3	including information on drug						
4	takeback programs that meet such re-						
5	quirements determined appropriate by						
6	the Secretary and information on in-						
7	home disposal; and						
8	"(II) cost-effective means by						
9	which an enrollee may so safely dis-						
10	pose of such drugs.".						
11	SEC. 4. REVISING MEASURES USED UNDER THE HOSPITAL						
12	CONSUMER ASSESSMENT OF HEALTHCARE						
13	PROVIDERS AND SYSTEMS SURVEY RELAT-						
13 14	PROVIDERS AND SYSTEMS SURVEY RELAT- ING TO PAIN MANAGEMENT.						
14 15	ING TO PAIN MANAGEMENT.						
14 15 16	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS						
14 15 16 17	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social						
14 15 16 17	ing to pain management. (a) Restriction on the Use of Pain Questions in HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amend-						
14 15 16 17	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause:						
14 15 16 17 18	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause: "(XII)(aa) With respect to a Hospital Consumer As-						
14 15 16 17 18 19 20	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause: "(XII)(aa) With respect to a Hospital Consumer Assessment of Healthcare Providers and Systems survey (or						
14 15 16 17 18 19 20 21	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause: "(XII)(aa) With respect to a Hospital Consumer Assessment of Healthcare Providers and Systems survey (or a successor survey) conducted on or after January 1,						
14 15 16 17 18 19 20 21	ING TO PAIN MANAGEMENT. (a) RESTRICTION ON THE USE OF PAIN QUESTIONS IN HCAHPS.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)) is amended by adding at the end the following new subclause: "(XII)(aa) With respect to a Hospital Consumer Assessment of Healthcare Providers and Systems survey (or a successor survey) conducted on or after January 1, 2019, such survey may not include questions about com-						

- 1 informed about risks associated with the use of opioids
- 2 and about non-opioid alternatives for the treatment of
- 3 pain.
- 4 "(bb) The Secretary shall not include on the Hospital
- 5 Compare Internet website any measures based on the
- 6 questions appearing on the Hospital Consumer Assess-
- 7 ment of Healthcare Providers and Systems survey in 2018
- 8 about communication by hospital staff with an individual
- 9 about such individual's pain.".
- 10 (b) RESTRICTION ON USE OF 2018 PAIN QUESTIONS
- 11 IN THE HOSPITAL VALUE-BASED PURCHASING PRO-
- 12 GRAM.—Section 1886(o)(2)(B) of the Social Security Act
- 13 (42 U.S.C. 1395ww(o)(2)(B)) is amended by adding at the
- 14 end the following new clause:
- 15 "(iii) HCAHPS PAIN QUESTIONS.—
- The Secretary may not include under sub-
- paragraph (A) a measure that is based on
- the questions appearing on the Hospital
- 19 Consumer Assessment of Healthcare Pro-
- viders and Systems survey in 2018 about

1	communication by hospital staff with an
2	individual about the individual's pain.".
	Passed the House of Representatives June 19, 2018.
	Attest:

Clerk.

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