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House and Senate negotiators reached a final agreement on a bill addressing the opioid crisis following weeks of talks. | AP Photo/Rich Pedroncelli

Congress reaches final deal to address opioid crisis

By BRIANNA EHLEY, SARAH KARLIN-SMITH and DARIUS TAHIR | 09/25/2018 11:52 PM EDT

House and Senate negotiators late Tuesday reached a final agreement on a bill addressing the opioid crisis following weeks of talks and a failed bid to include \$4 billion worth of unrelated policy changes favorable to the pharmaceutical industry.

The bipartisan bill, H.R. 6 (115), attempts to address nearly every aspect of the public health epidemic, from expanding access to addiction treatment and prevention programs to beefing up law enforcement efforts to curtail the trafficking of illegal drugs. The timing of the deal allows vulnerable incumbents to show voters they're addressing a crisis killing more than 115 Americans every day.

Republican leaders are planning to get the legislation to President Donald Trump's desk before the midterm elections. The House is likely to vote on the measure this week before leaving town until after the elections.

"Once signed into law, this legislation sends help to our communities fighting on the front lines of the crisis and to the millions of families affected by opioid use disorders," conferees led by House Energy and Commerce Chairman Greg Walden and Senate HELP Chairman Lamar Alexander said in a statement. "While there is more work to be done, this bipartisan legislation takes an important step forward and will save lives."

The bill nearly stalled last week over a last minute attempt by the prescription drug lobby to attach significant and unrelated changes to Medicare's retail drug program. The trade group PhRMA, backed by some Republicans, was pressing to reverse the effects of a budget law enacted in February that raised the share of seniors' drug costs that manufacturers are supposed to cover when patients fall into the coverage gap of the Part D benefit. PhRMA was angling for about \$4 billion in relief from so-called doughnut hole payments, but the tweak would have shifted those costs to taxpayers and health insurers.

Lawmakers rejected those plans, fearing they would jeopardize the underlying opioid legislation amid pushback from health plans, hospitals and groups working on drug pricing issues like AARP, Families USA and the Campaign for Sustainable Rx Pricing.

The final agreement cracks down on mailed shipments of illicit drugs like fentanyl, a powerful synthetic opioid that's fueled a spike in overdose deaths. It also expands access to treatment beds by partially repealing a decades-old Medicaid rule and allowing payments for inpatient addiction services for five years. That provision is more narrow than a costly Senate proposal that would have been permanent.

The measure authorizes a host of new grants and demonstration programs to expand access to medication-assisted treatment — considered by the medical community to be the gold standard of addiction care — and will allow Medicare to cover that treatment in certain settings.

The deal also encourages the development of non-opioid pain therapies and requires HHS to create best practices for a recovery home industry that has been rampant with fraud. It also expands who can prescribe buprenorphine, a type of FDA-approved opioid addiction treatment.

A Senate provision that Democrats complained solely benefited the PhRMA-backed Addiction Policy Forum was tweaked in the final deal to allow a broader pool of advocacy groups to be eligible for Justice Department grants.

A measure that would let Medicare pay more for opioid alternatives that treat post-surgical pain did not make the final package. The bill was pushed by Heron Therapeutics, which is developing a pain drug that would qualify for the bonus payments and was sponsored by Rep. Scott Peters (D-Calif.). Heron is located in Peter's district.

Negotiators also left out a controversial House proposal that would have made it easier for doctors to share a patient's substance abuse treatment records, a provision that dozens of health groups had endorsed but the American Medical Association opposed.

The bill will likely expand Medicare reimbursement for substance use telemedicine treatment by doing away with traditional program restrictions barring payment for such treatment outside of rural areas. If HHS implements the provisions, reimbursement will begin July 2019. The bill shifts \$3 million from the Federal Supplemental Medical Insurance Trust Fund to help pay for the new telemedicine treatment.

The bill also tests incentive payments to behavioral health providers for EHR adoption. The sector has traditionally struggled to install the digital recordkeeping systems; for example, in 2015, psychiatrists' rate of adopting EHRs was nearly 30 percentage points fewer than primary care practitioners.

Tech will also be affected by a requirement to use electronic prescribing for Part D drugs, beginning in January 2021. This federal mandate joins a burgeoning movement of similar state and private e-prescribing efforts — Walmart, for example, has announced it will only accept electronic script for opioids beginning in 2020.

The bill also expands a government database that tracks drug and medical device industry payments to doctors. The legislation requires industry to report payments to physician assistants, nurse practitioners and clinical nurse specialists. The goal is to create more transparency on industry-provider relationships — an area of emphasis due to the role that improper marketing of treatments to providers is thought to have played in the current crisis.

The brand-name drug lobby also failed to use the opioid bill to fix Medicare's so-called doughnut hole cliff. Part D beneficiaries in 2020 will have to spend \$1,250 more to get out of the coverage gap, due to the expiration of an Obamacare provisions that slowed the growth of out-of-pocket costs. PhRMA was pushing for a two-year delay in the cliff.

PhRMA's defeat meant the CREATES Act — intended to make it harder for brand-name drug companies to use FDA-mandated safety programs to keep generic competition off the market — is out of the opioid bill. The CREATES Act was going to be used to offset some of the Part D changes.

Congress' latest opioid legislation comes as appropriators plan to spend nearly \$4 billion next year to address opioid addiction. The latest congressional spending deal will direct much of that money. Advocates and health policy experts agree that the agreement is a step in the right direction but say additional measures will be needed to get a handle on the addiction crisis.

"There's going to be more work to do, but it's important to recognize the positives we're getting out of this," said Michael King, director of outreach and engagement for Facing Addiction and the National Council on Alcoholism and Drug Dependence.

Adam Cancryn and Rachel Roubein contributed to this report.

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