

Last-Minute Changes to Opioids Package Slip Through House

By Shira Stein

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- Changes made to opioid legislative package before passage in House
- Negotiators include expanding religious exemptions to Obamacare's individual mandate

House and Senate negotiators made a few last-minute changes to the opioid package before the House approved it Sept. 28, sending it to the Senate for final congressional approval.

The changes to the package (H.R. 6) include expanding the religious conscience exemption for the Affordable Care Act requirement that individuals buy health insurance and establishing criminal penalties for those who make illegal referrals to recovery homes and clinical treatment facilities, known as patient brokers. House Democrats have expressed few concerns about these changes.

The exemption to the ACA requirement, known as the individual mandate, is the latest in a string of actions the Trump administration and congressional Republicans have made to bolster religious liberties. Meanwhile, concern about patient brokers and their role in directing people with substance use disorders to substandard treatment facilities has grown in recent years, especially in Florida where many of these facilities exist.

Negotiators made the changes to ensure the bill is deficit-neutral, according to a spokesperson for the House Energy and Commerce Committee. These changes will result in a \$2 million decrease in overall spending over the next decade, according to the Congressional Budget Office's estimate. This is a \$31 million change from the CBO's estimate for the Senate version of the bill.

Under the expanded religious conscience exemption, people who forgo medical care for religious reasons would no longer be required to purchase health insurance. The expanded exemption would go into effect Dec. 31.

Anti-Kickback Provision

A bill (S. 3254), introduced by Sens. Marco Rubio (R-Fla.) and Amy Klobuchar (D-Minn.), that would create an anti-kickback statute to address patient brokering also made it into the package. Patient brokering is a practice where individuals receive payments to serve as intermediaries to connect patients with treatment facilities.

Rep. Frank Pallone Jr. (D-N.J.) voiced concern the provision may have unintended consequences because it was added at the last minute. Pallone is the top Democrat on the House Energy and Commerce Committee.

Biosimilars

Negotiators also made some technical changes to a bill (S. 2554) passed by both the House and Senate that would require the reporting of patent litigation settlements between biosimilar and biologic companies to the Federal Trade Commission. Biosimilars are cheaper versions of biologics, the drugs made from living cells that treat complex diseases like cancer.

“The FTC and [Food and Drug Administration] provided feedback on S. 2554 recommending technical changes that they believe will make implementation easier, but it came too late for us to incorporate it into S. 2554. Therefore, [the senate’s health committee and the House Energy and Commerce Committee] worked together to incorporate the [technical adjustments] into the opioids package,” a Senate Health, Education, Labor, and Pensions Committee aide told Bloomberg Law.

The negotiators also made \$31 million available to the Medicaid Improvement Fund, which can be used to improve the management of the Medicaid program.

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