ML STRATEGIES

# Senate HELP Committee Eyes Mental Health, Substance Use Package

March 16, 2016 | Advisory | By **Alexander Hecht**

VIEWPOINT TOPICS

- Health Care
- Life Sciences & MedTech

SERVICE AREAS

- Health Care
- Life Sciences & MedTech

This morning, the Senate HELP Committee will hold an executive session regarding the Mental Health Reform Act of 2016, a comprehensive mental health package negotiated in part by the Senate HELP Committee and the Administration. The HELP Committee will also follow up on the recently passed Comprehensive Addiction and Recovery Act (CARA) and consider four substance use bills as they relate to heroin and opioids. Given that two weeks of the legislative calendar were devoted to passing CARA, which was ultimately passed overwhelming by a vote of 94-1, it is hard to imagine these bills getting significant floor time. Still, that doesn't mean these bills would not be considered under unanimous consent, allowing members to pad their resume without wasting, for lack of a better word, precious legislative time prior to the 2016 elections. Before we take a closer look at mental health, let's consider the substance use legislation:

**The Recovery Enhancement for Addiction Treatment (TREAT) Act (S. 1455):** The TREAT Act would increase access to care by increasing the number of patients certain qualifying practitioners are initially allowed to treat from 30 to 100 patients per year. After one year, qualifying physicians would be permitted to request removal of the cap on the number of patients they can treat. A qualifying practitioner must either be a recognized substance abuse treatment specialist or complete an approved training in a qualified practice setting, as defined in the legislation. It also allows certain nurse practitioners, provided they are licensed in a state that already allows them to prescribe controlled substances, are supervised by a physician who is approved to prescribe opioid addiction medicine, and complete approved training on opioid addiction treatment, to treat up to 100 patients per year. Lastly, the Government Accountability Office would be required to examine changes in treatment availability and utilization, quality, and impact on state-level policies, among other metrics. This **legislation** was introduced by Senator Ed Markey (D-MA) and has 17 bipartisan cosponsors.

**The Co-Prescribing Saves Lives Act of 2015 (S. 2256):** This legislation would require HHS, DoD, and the VA to establish physician education and co-prescribing guidelines for federal health settings, which includes VA hospitals, DoD hospitals, Indian Health Service facilities, and federally-qualified health centers. It would also require the stated agencies to establish co-prescribing guidelines, as well as establish a four-year grant program to provide State departments of health with resources to develop and apply co-prescribing guidelines, and to provide for increased access to naloxone. The grant program would cost a total $2.5 million for each of fiscal years 2016 through 2020. This **legislation** was introduced by Senator Tim Kaine (D-VA) and is cosponsored by Senator Shelly Moore Capito (R-WV).

**The National All Schedules Prescription Electronic Reporting (NASPER) Reauthorization Act of 2015 (S. 480):** This legislation would reauthorize the NASPER program which provides grants to states to maintain, improve, and expand prescription drug monitoring programs. The grant program would allow states to maintain and operate existing state monitoring programs, require HHS to redistribute any funds that are returned among the grantees, require states to provide HHS with aggregate data and other information to support HHS evaluation of the success of programs, and to expand the program to include commonwealth territories. The grant program would cost $7 million for each of fiscal years 2016 through 2020. The **legislation** was introduced by Senator Jeanne Shaheen (D-NH) and has 11 bipartisan cosponsors.

**The Plan of Safe Care Improvement Act:** This legislation would amend the Child Abuse Prevention and Treatment Act (P.L. 93-247) to include policies and procedures regarding the development of a plan of safe care for an infant born and identified as being affected by illegal substance abuse or withdrawal symptoms. It would also require states to develop and implement monitoring systems to ensure the safety and well-being of children in order to address the health, including mental health, needs of the child and family involved. HHS would be required to ensure States are meeting federal requirements in improving the outcomes among children most at risk for child abuse and neglect. HHS would also be required to issue guidance regarding the requirements for the development and implementation of plans of safe care. This legislation has yet to be formally introduced and will be presented before the committee.

All these measures take steps to expand access to treatments as well as expand federal and state monitoring programs. Given the nature of this crisis, it makes sense that the Senate HELP Committee would join in the work already being done by the Judiciary and Finance committees to advance legislation to address the heroin and opioid epidemic. However, while members of both parties in the House of

Representatives have devoted significant air time to talking about addressing opioids, the various committees have been short on holding hearings to advance legislation, which includes the recently passed CARA package. Whether the full Senate finds time to take up these measures following tomorrow's hearing will be telling of its prospects in the House of Representatives.

The same can be said for the Mental Health Reform Act of 2016, which has been endorsed by Senators Chris Murphy (D-CT) and Bill Cassidy (R-LA), who worked together in 2015 to introduce a similar mental health package. Senator Murphy did note that he intends to keep working with members of both parties to makes sure the bill is even stronger, which could mean this broad package is designed to bring people to the table with the hopes of getting more buy-in as they go, a similar approach taken by Chairman Lamar Alexander (R-TN) and Ranking Member Patty Murray (D-WA) in other legislation handled by the HELP Committee. Although, advocacy groups have expressed concern that the legislation would not be effective for those with mental illness, and Rep. Tim Murphy (R-PA-18), who authored a **mental health overhaul** currently stalled in the House, called it an abandoning of bipartisan House reforms.

What is important here, as noted by other advocacy groups, is that there is overwhelming support to do something around mental health reform. And while the Senate HELP version does something, there are several issues still hanging in the balance, including the IMD exclusion, which is as complicated as it is expensive. Additionally, if Majority Whip John Cornyn (R-TX) looks to include provisions from his Comprehensive Justice and Mental Health Act, namely provisions centered on gun control, it could send this entire package up in smoke. If this package advances out of committee and then passes on the Senate floor, it would give mental health reform new momentum in the House. While Rep. Tim Murphy stated, regarding the Senate bill, that "we can make a deal or we can make a difference," as the election draws near, there may be overwhelming pressure to take the former over the latter.

## Authors




**Alexander Hecht**, Executive Vice President & Director of Operations

Alex Hecht is a trusted attorney and policy strategist with over 20 years of experience advising clients across a broad range of industries on how to navigate complex policy environments. His strategic insight and hands-on experience in both legislative and regulatory arenas empower clients to advance their priorities with clarity and confidence in an evolving policy landscape.