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# Preserve Access to and Ensure Safe Disposal of Opioids, Other Controlled Medications in Hospice Care

## Background:

Opioid abuse has reached epidemic proportions in many areas of the United States, prompting state legislatures and regulatory bodies to reexamine their rules governing prescribing and disposal of controlled substances. At the federal level, the Drug Enforcement Administration (DEA) has taken steps to reduce production limits for controlled medications. Most recently, various committees of the U.S. Congress are developing legislative proposals to address the opioid crisis, including establishing prescribing limits for controlled substances and addressing hospice disposal of unused medications in patients' homes.

## Issues/Concerns:

**Prescribing of Controlled Substances** – states are approaching revisions to prescribing rules in a variety of ways. Most changes include limitations on the length of time for which a prescription may be written and also require that there be some type of “bona fide” relationship between the prescriber and the patient. A “bona fide” relationship can include requirements that the prescriber conduct a complete history and physical prior to issuing the prescription. While these limits are appropriate and advisable for acute and chronic pain, they may hamper the ability of hospice and palliative care practitioners to provide timely access to pain relieving medications for terminally ill individuals. Sen. Rob Portman (R-OH) and others have introduced legislation (S. 2456) that establishes a 3-day limit on opioid prescriptions but provides an exemption for cancer treatment, palliative and hospice care.

**Production Limits on Controlled Substances** – In an effort to limit the availability of excess medications that could be diverted for inappropriate use, the DEA has reduced domestic production quotas for 2018. Hospice providers and hospitals are reporting intermittent shortages of medications, and hospice supply houses have cautioned hospices to anticipate future shortages of medications that are essential to effectively manage symptoms associated with terminal illness.

**Disposal of Unused Medications** – Due to strict rules governing possession of controlled substances, the DEA does not permit a hospice provider to destroy medications in a patient's residence if those medications will not be used by the hospice patient unless the state has enacted legislation that authorizes a hospice to do so. As a result, hospice personnel must leave such substances in the home. This increases the chances that such drugs may be misused or diverted. Rep. Tim Walberg (R-MI) and others have introduced legislation (H.R. 5041) that would authorize hospices to handle medications in a patient's home for the purposes of disposing of them.

## What Congress Should Do:

While developing legislation to address the opioid crisis, Congress should take steps to:

- Exempt hospice and palliative care patients from prescribing limits for controlled substances;
- Ensure that efforts by the DEA and other federal agencies to limit domestic production and/or importation of controlled substances do not create shortages that delay appropriate treatment or increase the cost of health care delivery; and
- Enact legislation (like H.R. 5041) that allows hospice providers to authorize appropriate staff to safely and appropriately destroy controlled medications that are no longer of use to hospice patients.