



State of West Virginia
Office of the Attorney General

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Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Request to Remove Pain Questions from HCAHPS Survey

Dear Administrator Slavitt:

For too long, prescription opioids have been overprescribed and abused. In 2014, West Virginia had the highest overdose death rate in the United States with 35.5 deaths per 100,000 people. I am committed to doing everything in my power to change these horrific statistics.

As part of our research of the contributing causes of the opioid epidemic, we have grown deeply concerned about how the Centers for Medicare and Medicaid Services is handling this crisis. We believe there may be unintended financial incentives in place that actually increase inappropriate use of opioids. Specifically, the current HCAHPS survey appears to be in conflict with our office's approach to reducing opioid use by over 25 percent in the next few years.

For this reason I ask that the following questions be removed from the HCAHPS survey:

1. During this hospital stay, did you need medicine for pain?
2. During this hospital stay, how often was your pain well controlled?
3. During this hospital stay, how often did the hospital staff do everything they could to help you with your pain?

Although these questions do not mandate the use of prescription opioids, that is often the result. Many patients feel they need pills to be treated adequately. Some physicians worry that withholding opioids will lead to dissatisfied patients. The concern is that patients will report lower satisfaction scores which will result in lower Medicare reimbursement payments. "It's

hard to make them happy without a narcotic,” says Dr. Nick Sawyer, a health-policy fellow at the UC-Davis department of emergency medicine. “This policy is leading to ongoing opioid abuse.”¹

One study, published in *Patient Preference and Adherence*, revealed that 48.1 percent of respondents reported prescribing inappropriate narcotic pain medication in direct response to patient satisfaction surveys.² Another study, performed by the South Carolina Medical Association, showed that nearly half of respondents improperly prescribed “narcotic pain medication in direct response to patient satisfaction surveys.”³

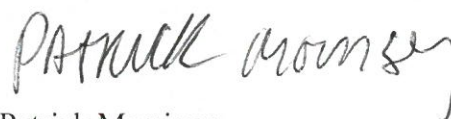
At a time of national epidemic, we need to do everything in our power to incentivize non-opioid alternatives to pain management. Anecdotal evidence and hospital surveys show that pain questions on patient satisfaction surveys, such as HCAHPS, disincentives non-opioid analgesics.

In fact, these surveys incentivize opioid prescribing in two ways. First, many physicians receive base pay or bonus pay based on patient surveys. Second, physicians face the wrath of hospital administrators who fear losing Medicaid payments due to low patient satisfaction scores. These factors have led to stories of a hospital handing out Vicodin goody bags and a doctor prescribing Dilaudid for a toothache in an attempt to raise low patient satisfaction scores.⁴

This needs to change now, and you have the power to change it.

Legislation has been filed in the House⁵ and Senate⁶ that would prevent these pain-related questions from being considered for purposes of the Medicare Hospital Value-Based Purchasing Program. I urge you to proactively remove the pain questions and stop incentivizing opioid prescribing.

Respectfully submitted,



Patrick Morrissey
West Virginia Attorney General

¹ Gregory, Sean, “How Obamacare is Fueling America’s Opioid Epidemic”, *Time*, Apr. 13, 2016. <http://time.com/4292290/how-obamacare-is-fueling-americas-opioid-epidemic/>

² <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3979780/pdf/ppa-8-437.pdf>

³ Falkenberg, Kai, “Why Rating Your Doctor is Bad for Your Health”, *Forbes*, Jan. 2, 2013.

<http://www.forbes.com/sites/kaifalkenberg/2013/01/02/why-rating-your-doctor-is-bad-for-your-health/2/#3c553f9b3d4a>

⁴ *Id.*

⁵ United States. Cong. House. “Promoting Responsible Opioid Prescribing Act of 2016.” 114th Cong., 2nd sess. HR 4499. <https://www.congress.gov/bill/114th-congress/house-bill/4499/text>

⁶ United States. Cong. Senate. “Promoting Responsible Opioid Prescribing Act of 2016.” 114th Cong., 2nd sess. S 2758. <https://www.congress.gov/bill/114th-congress/senate-bill/2758/text>