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(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

**H. R.**

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To amend titles XVIII and XIX of the Social Security Act and title 10, United States Code, to provide no-cost coverage for the preventive distribution of opioid overdose reversal drugs.

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IN THE HOUSE OF REPRESENTATIVES

Ms. PETTERSEN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend titles XVIII and XIX of the Social Security Act and title 10, United States Code, to provide no-cost coverage for the preventive distribution of opioid overdose reversal drugs.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Hospitals As Naloxone Distribution Sites Act” or the “HANDS Act”.

6 **SEC. 2. FINDINGS.**

7       Congress finds the following:

1 (1) Opioid use disorder is a treatable brain dis-  
2 ease from which people can recover.

15 (4) Overdose deaths are preventable with life-  
16 saving opioid overdose reversal medications like  
17 naloxone. Two-thirds of fatal overdoses have a wit-  
18 ness, who can intervene and prevent overdose death  
19 if they have access to opioid antagonists.

20 (5) Just as individuals with life-threatening al-  
21 allergies should carry an EpiPen, individuals and close  
22 contacts of those with opioid use disorder should  
23 carry an opioid overdose reversal medication.

24 (6) While over the counter (OTC) access to re-  
25 versal agents may increase their availability to cer-

1 tain populations, the hurdles to access these medica-  
2 tions for many of the most at-risk patients will still  
3 remain. These hurdles include out of pocket costs,  
4 transportation or access to pharmacies or other  
5 areas carrying OTC naloxone, stigma by pharmacy  
6 staff, addiction-related compromised executive func-  
7 tion, and more. Therefore, hospitals are uniquely po-  
8 sitioned as a point of distribution to best serve those  
9 who would most benefit.

10 (7) It is the intent of Congress to increase ac-  
11 cess for all individuals with opioid use disorder, and  
12 other risk factors, to opioid overdose reversal medi-  
13 cation so that if they experience an overdose, they  
14 will have a second chance. As long as there is  
15 breath, there is hope for recovery.

16 **SEC. 3. NO-COST COVERAGE OF PREVENTIVE OPIOID OVER-**  
17 **DOSE REVERSAL DRUGS.**

18 (a) **COVERAGE UNDER MEDICARE.—**

19 (1) **COVERAGE.**—Section 1861(s)(2) of the So-  
20 cial Security Act (42 U.S.C. 1395x(s)(2)) is amend-  
21 ed—

22 (A) in subparagraph (JJ), by adding  
23 “and” after the semicolon at the end; and

24 (B) by adding at the end the following new  
25 subparagraph:

1                   “(KK) a preventive opioid overdose rever-  
2                   sal drug (as defined in subsection (nnn)) fur-  
3                   nished on or after January 1, 2024;”.

4                   (2) PREVENTIVE OPIOID OVERDOSE REVERSAL  
5                   DRUG DEFINED.—Section 1861 of the Social Secu-  
6                   rity Act (42 U.S.C. 1395x) is amended by adding at  
7                   the end the following new subsection:

8                   “(nnn) PREVENTIVE OPIOID OVERDOSE REVERSAL  
9                   DRUG.—The term ‘preventive opioid overdose reversal  
10                  drug’ means an opioid overdose reversal drug that is fur-  
11                  nished by a physician, nurse practitioner, physician assist-  
12                  ant, or other attending clinical personnel (as determined  
13                  by the Secretary by regulation) to an individual who is  
14                  an inpatient of a hospital, critical access hospital, or rural  
15                  emergency hospital, or is a patient of the emergency de-  
16                  partment of such a hospital or an ambulatory surgical cen-  
17                  ter, but only if—

18                   “(1) such physician, nurse practitioner, physi-  
19                  cian assistant, or attending clinical professional de-  
20                  termines that such individual is at risk for an opioid  
21                  overdose; and

22                   “(2) such drug is furnished at the time such in-  
23                  dividual is discharged from the hospital or leaves the  
24                  emergency department or ambulatory surgical cen-

1       ter, as the case may be, together with instructions  
2       for the administration of such drug.”.

3                   (3) PROHIBITION OF COST SHARING.—Section  
4       1833 of the Social Security Act (42 U.S.C. 1395l)  
5       is amended—

6                   (A) in subsection (a)(1)—

7                       (i) in subparagraph (S)(i), by striking  
8                       “subparagraph (EE),” and inserting “sub-  
9                       paragraphs (EE) and (II),”;

10                       (ii) in subparagraph (GG), by striking  
11                       “and” at the end; and

12                       (iii) by inserting “, and (II) with re-  
13                       spect to a preventive opioid overdose rever-  
14                       sal drug (as defined in section 1861(nn))  
15                       furnished on or after January 1, 2024, the  
16                       amounts paid shall be 100 percent of the  
17                       lesser of the actual charges for such drug  
18                       or the amount determined under section  
19                       1842(o)” before the semicolon at the end;  
20                       and

21                   (B) in subsection (b)—

22                       (i) by striking “, and (13)” and in-  
23                       serting “(13)”;  
24                       (ii) by striking “section 1861(n)..”

25                       and inserting “section 1861(n), and (14)

1                   such deductible shall not apply with re-  
2                   spect to a preventive opioid reversal drug  
3                   (as defined in section 1861(nn)) fur-  
4                   nished on or after January 1, 2024.”

5                   **(4) PROHIBITION OF COST SHARING FOR MEDI-**  
6                   **CARE ADVANTAGE PLANS.**—Section 1852(a)(1)(B) of  
7                   the Social Security Act (42 U.S.C. 1395w–  
8                   22(a)(1)(B)) is amended—

9                   (A) in clause (iv)—

10                   (i) by redesignating subclause (VIII)

11                   as subclause (IX); and

12                   (ii) by inserting after subclause (VII)

13                   the following new subclause:

14                   “(VIII) A preventive opioid rever-  
15                   sal drug (as defined in section  
16                   1861(nn)); and

17                   (B) in clause (v), by striking “and (VI)”

18                   and inserting “(VI), and (VIII)”.

19                   (b) COVERAGE UNDER MEDICAID.—

20                   (1) MANDATORY COVERAGE.—

21                   (A) IN GENERAL.—Section 1902(a)(10)(A)  
22                   of the Social Security Act (42 U.S.C.  
23                   1396a(a)(10)(A)) is amended by striking “and  
24                   (30)” and inserting “(30), and (31)”.

5                     “(9) PREVENTIVE OPIOID OVERDOSE REVERSAL  
6 DRUGS.—Notwithstanding the previous provisions of  
7 this section, a State may not provide for medical as-  
8 sistance through enrollment of an individual with  
9 benchmark coverage or benchmark-equivalent cov-  
10 erage under this section unless, beginning on Janu-  
11 ary 1, 2024, such coverage includes (and does not  
12 impose any deduction, cost sharing, or similar  
13 charge for) preventive opioid overdose reversal drugs  
14 described in section 1861(nnn)).”.

15 (2) INCLUSION IN MEDICAL ASSISTANCE.—

16 (A) IN GENERAL.—Section 1905(a) of the  
17 Social Security Act (42 U.S.C. 1396d(a)) is  
18 amended—

19 (i) in paragraph (30), by striking  
20 “and” at the end;

21 (ii) by redesignating paragraph (31)  
22 as paragraph (32); and

23 (iii) by inserting after paragraph (30)  
24 the following new paragraph:

1               “(31) beginning January 1, 2024, preventive  
2        opioid overdose reversal drugs described in section  
3        1861(nnn); and”.

4               (3) APPLICATION OF REBATE REQUIRE-  
5        MENTS.—Section 1927 of the Social Security Act  
6        (42 U.S.C. 1396r-8) is amended—

7               (A) in subsection (d)(7), by adding at the  
8        end the following new subparagraph:

9               “(F) Preventive opioid overdose reversal  
10        drugs described in section 1861(nnn) that are  
11        furnished as medical assistance in accordance  
12        with section 1905(a)(31) and section  
13        1902(a)(10)(A).”; and

14               (B) in subsection (k)(4)—

15               (i) by striking “If a State plan” and  
16        inserting:

17               “(A) IN GENERAL.—If a State plan”; and  
18               (ii) by adding at the end the following  
19        new subparagraph:

20               “(B) PREVENTIVE OPIOID OVERDOSE RE-  
21        VERSAL DRUGS.—Beginning January 1, 2024,  
22        in applying paragraph (2)(A) to a preventive  
23        opioid overdose reversal drug described in sec-  
24        tion 1861(nnn), such drug shall be deemed a

1                   prescribed drug for purposes of section  
2                   1905(a)(12).”.

3                   (4) PROHIBITION OF COST SHARING.—

4                   (A) IN GENERAL.—Section 1916 of the So-  
5                   cial Security Act (42 U.S.C. 1396o) is amend-  
6                   ed—

7                   (i) in subsection (a)(2)—

8                   (I) in subparagraph (I), by strik-  
9                   ing “or” at the end;

10                   (II) in subparagraph (J), by  
11                   striking “; and” at the end and in-  
12                   serting “, or”; and

13                   (III) by adding at the end the  
14                   following new subparagraph:

15                   “(K) beginning January 1, 2024, preven-  
16                   tive opioid overdose reversal drugs described in  
17                   section 1861(nnn); and”; and

18                   (ii) in subsection (b)(2)—

19                   (I) in subparagraph (I), by strik-  
20                   ing “or” at the end;

21                   (II) in subparagraph (J), by  
22                   striking “; and” at the end and in-  
23                   serting “, or”; and

24                   (III) by adding at the end the  
25                   following new subparagraph:

1                   “(K) beginning January 1, 2024, preventive  
2                   opioid overdose reversal drugs described in  
3                   section 1861(nnn); and”.

4                   (B) APPLICATION TO ALTERNATIVE COST  
5                   SHARING.—Section 1916A(b)(3)(B) of the Social  
6                   Security Act (42 U.S.C. 1396o-1(b)(3)(B))  
7                   is amended by adding at the end the following  
8                   new clause:

9                   “(xv) Beginning January 1, 2024,  
10                   preventive opioid overdose reversal drugs  
11                   described in section 1861(nnn).”.

12                   (c) COVERAGE UNDER TRICARE.—Section 1074g  
13                   of title 10, United States Code, is amended as follows:

14                   (1) In subsection (a)(6), by adding at the end  
15                   the following new subparagraph:

16                   “(D) Notwithstanding subparagraphs (A) through  
17                   (C), beginning on January 1, 2024, an eligible covered  
18                   beneficiary shall not be required to pay a cost-sharing  
19                   amount for a preventive opioid overdose reversal drug.”.

20                   (2) In subsection (i), by adding at the end the  
21                   following new paragraph:

22                   “(5) The term ‘preventive opioid overdose reversal drug’ has the meaning given such term in section  
23                   1861 of the Social Security Act (42 U.S.C.  
24                   1395x).”.

1 **SEC. 4. REGULATORY GUIDANCE.**

2       Not later than 1 year after the date of the enactment  
3 of this Act, the Commissioner of Food and Drugs shall  
4 issue guidance for State boards of pharmacy, nursing, and  
5 medicine with respect to—

6           (1) enhancing safe and effective hospital-based  
7 dispensing and distribution of opioid overdose rever-  
8 sal drugs; and

9           (2) eliminating barriers to such dispensing and  
10 distribution.