NATIONAL GOVERNORS ASSOCIATION

Gary R. Herbert
Governor of Utah
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Executive Director/CEO

June 21, 2016

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
United States Capitol, S-230
Washington, D.C. 20510

The Honorable Harry Reid
Minority Leader
U.S. Senate
United States Capitol, S-221
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
United States Capitol, H-232
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
United States Capitol, H-204
Washington, D.C. 20515

Dear Majority Leader McConnell, Minority Leader Reid, Speaker Ryan, and Minority Leader Pelosi,

Across the country, the heroin and opioid crisis claims the lives of 78 people every day. This horrible epidemic is the most urgent public health and safety challenge currently facing states. As Governors there is hardly a room that we walk into where we don't encounter someone impacted by addiction. The harsh reality is that many of us know someone, be it a family member, best friend, neighbor, classmate or colleague, affected by the surge in opioid addiction.

A challenge of this magnitude requires an unparalleled amount of coordination among all levels of government. States have been leading the way in working to save millions of citizens' lives and stamp out this scourge.

As leaders of the National Governor's Association (NGA) Health and Human Services Committee, we have worked with our fellow Governors to bring attention to this issue and highlight successes some states have already had with addressing this epidemic.

As governors, we have developed a comprehensive approach to combating the epidemic that focuses on prevention, intervention, treatment and recovery while supporting the law enforcement community.

Governors have taken bold action, limiting opioid prescription amounts, putting life-saving Narcan in the hands of first responders, educating the public and doctors, and increasing access to treatment and recovery programs and enhanced support for those with addictions.

As proactive as states have been, this is a national epidemic that requires national solutions.

In February, Governors, through the NGA, released a list of priorities to address the opioid crisis. Among them were a number of requests for federal action and a call for Congress to provide sufficient resources to help states and communities turn the tide of this epidemic. These priorities include expanding who can prescribe medication-assisted treatment and the number of patients they can treat and eliminating the Institutions for Mental Diseases (IMD) exclusion to help states expand access to inpatient treatment for Medicaid enrollees with substance use disorders. We have attached those priorities for your reference.

It is vital that Congress provide sufficient resources to states in order for them to continue the work that has begun. As you begin work to conference legislation that addresses opioid abuse, we urge Congress to incorporate state solutions and recommendations into any final bill that is sent to the President.

None of us can afford one more day of failing to act on an affliction that sees no difference among gender, race or socioeconomic status, and continues to claim the lives of our loved ones. This is a national crisis that requires cooperation and swift action among all levels of government. We look forward to working with you to combat this terrible affliction.

Sincerely,

Governor Charlie Baker
Chair
NGA Health and Human Services Committee

Governor Maggie Hassan
Vice Chair
NGA Health and Human Services Committee

NATIONAL GOVERNORS ASSOCIATION

GOVERNORS' PRIORITIES FOR ADDRESSING THE NATION'S OPIOID CRISIS

Opioid addiction is one of the most pressing public health and safety challenges facing the United States today. According to the Centers for Disease Control and Prevention, prescription painkillers and heroin are driving one of the deadliest drug epidemics in the nation's history, claiming the lives of 78 Americans every day. The consequences of opioid addiction are reverberating throughout society, devastating families and overwhelming health care providers, law enforcement and social services, with particularly dire consequences for rural and underserved communities.

Turning the tide on the opioid epidemic will require a coordinated and aggressive response across all levels of government. Governors urge Congress and the Administration to act swiftly in addressing this national emergency by providing additional resources and taking the steps outlined below. Recognizing that government cannot tackle this issue alone, governors are also calling upon private sector partners — from manufacturers to pharmacies and health care providers — to be part of the solution. We cannot end the opioid crisis without their leadership in changing the way we treat pain and addiction.

FEDERAL SUPPORT FOR COMPREHENSIVE STATE EFFORTS

Provide emergency supplemental funding to help states and communities turn the tide on the opioid epidemic. Governors applaud the introduction of legislation that would provide emergency assistance to states working on the front lines of the opioid crisis. Congress has provided billions in emergency aid to address natural disasters, security threats and other crises, including more than $5 billion last year to combat Ebola at home and abroad. A similar investment is needed to help states mount an effective response to opioid addiction, from increasing prevention and education regarding the dangers of illicit drugs to strengthening state prescription drug monitoring programs (PDMPs), expanding access to addiction treatment and enhancing support for law enforcement.

PREVENTING & IDENTIFYING ADDICTION

Improve provider education and training on pain management and safe opioid prescribing. Over-prescribing of opioid painkillers has fueled the nation's addiction crisis. Changing prescribing practices and our approach to pain management requires strengthening education and training for prescribers — not just physicians but nurses, physician assistants, dentists and veterinarians as well. This is an area where leadership from the education community is crucial. For example, accrediting organizations can play an important role by adopting requirements for expanded education and training on pain management and safe opioid prescribing. Specialty boards can ensure board examinations include questions on pain management.

Expedite the release of the Centers for Disease Control and Prevention's (CDC) guideline for primary care providers prescribing opioids for chronic non-cancer pain. Guidelines are an important tool for curbing dangerous prescribing practices and improving treatment for patients with chronic pain. Governors urge CDC to finalize and implement its draft guideline without further delay. Furthermore, we encourage CDC to begin work on parallel guidelines for other opioid prescribers, including pain specialists, emergency room providers and dentists.

Improve access to and encourage the manufacture and evaluation of abuse-deterrent formulations (ADFs) of opioid painkillers. Governors are encouraged by the U.S. Food and Drug Administration's (FDA) new action plan for addressing the opioid crisis, which includes a focus on expanding access to and encouraging the development of ADFs. Though not unsusceptible to abuse, ADFs can help balance appropriate access to opioids with efforts to prevent opioid addiction. We encourage FDA to expedite the review of new ADFs and support further research regarding their potential for reducing opioid abuse.

Require prescribers to register with their state PDMP and complete training on pain management and addiction as a condition of licensure by the Drug Enforcement Administration (DEA). Attaching new requirements to DEA licensure would help ensure providers have the tools and education needed to safely prescribe opioids. State experience shows that requiring prescribers to register with their PDMP can help increase their use in preventing and identifying opioid abuse. Though federal law requires physicians to complete training and apply for a waiver to prescribe buprenorphine, a medication-assisted treatment (MAT) for addiction, federal rules don't include a similar education requirement for providers receiving a DEA license to prescribe opioid painkillers and other controlled substances.

Require Veterans Affairs (VA) health care providers to check and report information to state PDMPs when prescribing and dispensing opioids. The lack of consistent PDMP use within the VA threatens the health and safety of veterans by providing an incomplete picture of their prescription history. This information is critical to helping providers within and outside the VA prescribe appropriately and identify patients who are abusing or diverting medications. Governors urge the VA to act without delay in setting robust standards for PDMP use among prescribers and pharmacies in the VA system.

Amend patient satisfaction surveys and accreditation standards to prevent unnecessary and improper opioid prescribing. There is growing anecdotal evidence that patient satisfaction surveys tied to Medicare reimbursement may put pressure on providers to prescribe opioids against their better clinical judgment. Governors urge the Department of Health and Human Services (HHS) to expedite its review of how questions used to assess pain management may affect opioid prescribing. Findings from that review should be used to inform changes to existing patient satisfaction surveys, as well as new surveys for emergency departments and other settings. Governors also encourage organizations that accredit health care facilities to ensure accreditation standards do not unintentionally encourage over-prescribing.

Work in coordination with states to maximize state PDMPs and develop a national approach for sharing PDMP data. Governors appreciate federal efforts to promote interstate sharing of PDMP data while preserving state flexibility and control over their data. A key part of those efforts involves connecting the existing PDMP interstate data-sharing hubs to establish a national network in which providers can better identify patients who may be "doctor shopping" across state lines. We urge the federal government and the hubs to renew their efforts toward that goal in 2016 using open standards. With the technology in place, an agreement between the hubs will set the course for nationwide sharing of PDMP data.

Permit patient review and restriction (PRR) programs in Medicare. PRR programs identify patients who are at risk for prescription drug abuse and ensure they receive controlled substances only from designated prescribers and pharmacies. The use of PRRs in state Medicaid programs and commercial plans demonstrates that they are an important tool for preventing the abuse and diversion of prescription opioids without limiting access to other medications.

Support pharmacies and law enforcement agencies in establishing and expanding permanent take-back programs for disposing of unneeded controlled substances. Safe and convenient disposal options are critical to ridding medicine cabinets of leftover opioid prescriptions that can be diverted and abused. Governors commend the Administration and private sector partners for their efforts to expand disposal options, including new take-back kiosks in retail pharmacies. Governors urge the Administration to

maintain its focus on safe disposal and address federal regulatory barriers that prevent pharmacies and other entities from establishing additional take-back sites.

EXPANDING ACCESS TO TREATMENT & RECOVERY

Amend the Drug Addiction Treatment Act of 2000 to permit nurse practitioners and physician assistants to prescribe buprenorphine for opioid addiction. Though nurse practitioners and physician assistants can prescribe controlled substances, including opioid painkillers, federal law prohibits them from prescribing buprenorphine to treat opioid addiction. Removing this barrier to buprenorphine is particularly critical in rural and underserved areas, where the growing need for MAT often outstrips the number of physicians licensed to supply it.

Permit medical residents to prescribe buprenorphine under an institutional DEA registration number. Currently, medical residents and other physicians must apply for a federal waiver in order to prescribe buprenorphine. Removing this requirement for medical residents, who practice under physician supervision, would expand access to buprenorphine and help more residents learn how to manage patients with opioid addiction.

Lift or eliminate the cap on the number of patients a provider can treat with buprenorphine at any given time. Governors urge the Department of Health and Human Services (HHS) to expedite rulemaking related to the prescribing of buprenorphine. Current prescribing limits (30 patients at a given time in the first year, and up to 100 thereafter) are exacerbating the shortage of health care professionals permitted to prescribe buprenorphine for opioid addiction. HHS should act swiftly to lift or eliminate those limits while taking steps ensure prescribers are appropriately trained and equipped to provide buprenorphine in combination with evidence-based behavioral therapies.

Amend federal privacy rules (42 CFR Part 2) to ensure providers have access to their patients' substance use disorder treatment information. Protecting patient records is critical, particularly for those who have or are undergoing treatment for substance use disorder and may face discrimination or stigma if disclosure occurs. However, governors are concerned that federal privacy rules impede care coordination and threaten patient safety by prohibiting addiction treatment providers from reporting controlled substances such as methadone and buprenorphine to state PDMPs. Though the Substance Abuse and Mental Health Services Administration's proposed rule is a step in the right direction, it does not go far enough to help prevent potentially deadly medication interactions and assist providers in identifying individuals who may be abusing or diverting opioids.

Develop additional guidance regarding best practices for addiction treatment and the distribution of naloxone. State efforts to improve addiction treatment would be aided by federal guidance on evidence-based treatment options for opioid addiction, including the safest and most effective treatments for neonatal abstinence syndrome and maternal opioid dependence. HHS should also consider developing best practice guidelines for distributing the life-saving overdose reversal drug naloxone via first responders, substance use disorder treatment settings and community service agencies.

Eliminate the Institutions for Mental Diseases (IMD) exclusion to help states expand access to inpatient treatment for Medicaid enrollees with substance use disorder. The IMD exclusion generally prohibits state Medicaid programs from receiving federal reimbursement for adults under 65 receiving mental health or substance use disorder treatment in a residential treatment facility with more than 16 beds. This arcane federal policy limits states' ability to provide quality, cost-effective and clinically appropriate care for Medicaid enrollees with substance use disorder. Though well-intended, the IMD payment exclusion is a major barrier to states' efforts to meet the increasing need for inpatient addiction treatment.

ENHANCING SUPPORT FOR LAW ENFORCEMENT

Reinstate equitable sharing payments under the Department of Justice (DOJ) Asset Forfeiture Program. The suspension of DOJ's equitable sharing program is detrimental to state and local law enforcement agencies and their efforts to combat the nation's opioid crisis. Prompted by congressional budget cuts, DOJ's decision to defer payments comes as agencies are dealing with a surge in heroin use and more sophisticated methods of distribution. The deferred payments are resources that states and local agencies should be able to use to strengthen drug enforcement, purchase naloxone and improve coordination with the treatment community.

Expand the federal Heroin Response Strategy to support coordination among regional High Intensity Drug Trafficking Areas (HIDTAs) and a public health-public safety approach to combatting heroin. The Heroin Response Strategy is creating unprecedented linkages between public health and safety professionals in five regional HIDTA programs spanning 15 states. With additional federal support, this collaborative, interdisciplinary approach could be expanded to other parts of the country where communities are plagued by rising rates of heroin use. Governors urge the White House Office of National Drug Control Policy to support the development of these public health and safety networks among additional HIDTAs.