

# United States Senate

SENATE CAUCUS ON  
INTERNATIONAL NARCOTICS CONTROL  
HART SENATE OFFICE BUILDING, ROOM 818-C  
WASHINGTON, DC 20510

June 23, 2014

Marilyn Tavenner  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850

Dear Administrator Tavenner:

We write to raise concerns with the effect of the use of patient satisfaction surveys by the Centers for Medicare and Medicaid Services (CMS) on the growing epidemic of abuse of prescription opioid pain relievers (OPRs).

This epidemic is negatively impacting society in many ways. For example, from 1990-2010, drug overdose death rates in the United States quadrupled (3.4 to 12.4 per 100,000 population).<sup>1,2</sup> This dramatic change was substantially attributable to an increase in prescription OPR-related mortality.<sup>2</sup> Moreover, the Centers of Disease Control (CDC) reports that in 2010, 75% of the 22,134 deaths relating to prescription drug overdose involved OPRs.<sup>3</sup> In addition, the abuse of prescription OPRs results in a significant economic burden to society. In 2007, the total societal costs to the United States related to OPR abuse were estimated at \$55.7 billion – a result of increased health care costs, lost workplace productivity and costs to the criminal justice system.<sup>4</sup>

To address this epidemic, all possible factors that have caused or contributed to it must be closely examined. One of those factors may well be CMS' use of patient satisfaction surveys to determine certain Medicare payments to hospitals.

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<sup>1</sup> Centers for Disease Control and Prevention, National Center for Health Statistics. *Compressed Mortality File 1999–2010*. <http://wonder.cdc.gov/cmfi-cd10.html>.

<sup>2</sup> Baumbatt J, Wiedeman C, Dunn JR, Schaffner W, Paulozzi JJ, Jones TF. High-Risk Use by Patients Prescribed Opioids for Pain and Its Role in Overdose Deaths. *JAMA Intern Med.* 2014;174(5):796-801. doi:10.1001/jamainternmed.2013.12711.

<sup>3</sup> Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, Division of Unintentional Injury Prevention. Prescription Drug Overdose in the United States: Fact Sheet. 2013. Accessed from <http://www.cdc.gov/homeandrecreational/safety/overdose/facts.html>.

<sup>4</sup> Birnbaum, Howard G., White, Alan G., Schiller, Matt, Waldman, Tracy, Cleveland, Jody M., Roland, Carl L., *Pain Med.* 2011 April 12(4):657-67. Doi:10.1111/j.1526-4637.2011.01075.x. Epub 2011 Mar 10. <http://ncbi.nlm.nih.gov/pubmed/21392250>.

As you know, the Patient Protection and Affordable Care Act of 2010 (PPACA) (P.L.111-148) established the Hospital Value-Based Purchasing program, an initiative that rewards acute-care hospitals with incentive payments for the quality of care they provide to patients with Medicare. To do so, the PPACA provides for the use of the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey to measure that quality of care.<sup>5</sup> The HCAHPS is a standardized survey used to measure patients' perceptions of their hospital experience.<sup>6</sup> The HCAHPS includes questions that ask whether the patient needed medicine for pain, how often the patient's pain was well controlled, and how often the hospital staff did everything they could to help with the patient's pain.<sup>7</sup> As a result, a patient's answers to these questions can affect the Medicare payments made to these hospitals.

The trend in health care generally and in Medicare specifically is to link pay with performance and reward quality. Congress has supported this trend for Medicare. It is important for hospitals to receive patient feedback to help improve their quality of care. At the same time, it is important for Congress and CMS to examine any unintended effects of this approach. There is growing anecdotal evidence that these surveys may be having the unintended effect of encouraging practitioners to prescribe OPRs unnecessarily and improperly, which can ultimately harm patients and further contribute to the United States' prescription OPR epidemic.

For example, some practitioners have reported that they have prescribed opioids for the specific purpose of improving their patient satisfaction survey scores.<sup>8</sup> A doctor in South Carolina reportedly cited his low patient satisfaction scores as the reason why he prescribed Dilaudid, a powerful pain killer commonly used to treat cancer pain, to treat a patient's toothache.<sup>9</sup> Indeed, almost half the members of the South Carolina Medical Association have admitted to prescribing opioids in response to patient survey scores.<sup>10</sup> One hospital with low satisfaction scores even went so far as to offer Vicodin "goody bags" to patients discharged from its emergency room in an effort to improve its scores.<sup>11</sup>

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<sup>5</sup> Federal Register/ Vol. 77, No. 170 / Friday, August 31, 2012 / Rules and Regulations

<sup>6</sup> Centers for Medicare and Medicaid Services, *HCAHPS: Patients' Perspectives of Care Survey*, April 10, 2013, <http://www.cms.gov>.

<sup>7</sup> Hospital Consumer Assessment of Healthcare Providers and Systems. *HCAHPS Survey*. Accessed from: [http://www.hcahponline.org/files/HCAHPS%20V9.0%20Appendix%20A%20-%20Mail%20Survey%20Materials%20\(English\)%20March%202014.pdf](http://www.hcahponline.org/files/HCAHPS%20V9.0%20Appendix%20A%20-%20Mail%20Survey%20Materials%20(English)%20March%202014.pdf)

<sup>8</sup> Falkenberg, Kai, "Why rating your doctor is bad for your health", *Forbes Magazine*, January 3, 2013.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

The pressure these surveys can create to overprescribe opioids has even reportedly caused one emergency room doctor in the Midwest to quit the profession altogether. A high percentage of this doctor's patients reportedly complained of pain, and many were known to visit a variety of emergency rooms seeking powerful pain relieving drugs. When the doctor suspected drug seeking behavior in his patients, he refused to prescribe opioids, which caused lower satisfaction scores from some of these patients.<sup>12</sup>

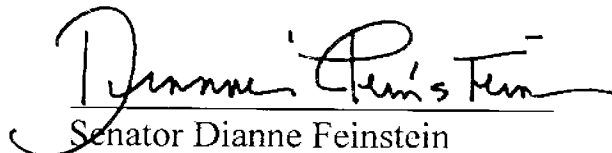
In order to better understand CMS' practices regarding the use of patient satisfaction surveys and their impact on hospital funding and prescription OPR abuse, given the concerns outlined in this letter, we request that you explain in writing what, if anything, CMS is doing to address the impact of patient surveys on the improper prescribing of OPRs. In addition, we are interested in learning whether there are any opportunities for physicians to explain any relevant medical reasons for refusing to prescribe OPRs to patients who have reported low satisfaction scores concerning their pain management.

We request that you respond no later than July 14, 2014. If you have any questions regarding this request please contact David Bleich at 202-228-0927 David\_Bleich@drugcaucus.senate.gov or Kelly Lieupo at 202-228-3081 Kelly\_Lieupo@feinstein.senate.gov. Thank you for your attention to this matter.

Sincerely,



Senator Charles E. Grassley  
Co-Chairman



Senator Dianne Feinstein  
Chairman

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<sup>12</sup> Gunderman, Richard, "When physicians' careers suffer because they refuse to prescribe narcotics", The Atlantic, 2014, <http://www.theatlantic.com/health/archive/2013/10/when-physicians-careers-suffer-because-they-refuse-to-prescribe-narcotics/280995>.