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Dear Colleague,

Thank you for your ongoing leadership in our country's efforts to combat the opioid crisis. As the nation's leading insurance plans, you have each played important roles in opioid stewardship, innovative coverage policies, and support for patient-centered care. In that vein, we write today to ensure that you are aware of opportunities to continue this fight in partnership with the federal government.

As a result of the Consolidated Appropriations Act, 2023¹, important Medicare reimbursement policies are set to begin on January 1st, 2025 that will meaningfully increase access to non-opioid pain therapies in the outpatient surgical setting. **We hope that your companies will adopt similar policy changes for your customers in an attempt to prevent opioid addiction, which data has indicated can start after exposure to prescription opioids administered to manage pain following outpatient surgical procedures.**

The Case for Policy Change

Rates of opioid addiction and opioid-related drug overdose deaths are on the rise in the United States. According to the latest data from the Centers for Disease Control and Prevention, nearly

¹ Consolidated Appropriations Act, 2023, Pub. L. No. 117-328 (2022)

80,000 Americans died of an opioid-related drug overdose in 2023. This represents a four-fold increase in the number of opioid-related drug overdose deaths since 2010.²

Unfortunately, this problem also persists among America’s seniors. An Office of the Inspector General (OIG) report found that, in 2022, **1.1 million Medicare beneficiaries** were diagnosed with an OUD.³

Today, despite an opioid addiction crisis that continues to claim **more than 200 Americans every day**⁴, up to **90 percent of surgical patients receive opioids** to manage postsurgical pain.⁵ To be clear, there continue to be successful efforts underway among many prescribers to limit opioid prescribing in their patient populations. Studies show that between 6⁶ and 20⁷ percent of those exposed to opioids will initiate long-term opioid use. This results in millions of newly persistent opioid users every year in the United States.⁸

The simple fact is these lost lives are preventable.

Guidance from the Centers for Disease Control and Prevention (CDC) continues to point to the value proposition of non-opioid-based pain management approaches. In fact, for many patients, the CDC’s opioid prescribing guidelines recommends the use of non-opioid approaches as “first line therapy”.⁹ It is easy to understand why – non-opioids offer a range of benefits, including:

- Multimodal pain management approaches, which prioritize non-opioid-based protocols, **demonstrate equal or better analgesic support**;¹⁰
- Patients receiving multimodal protocols are able to return home more quickly following surgery, which **greatly reduces episode cost of care**;¹¹

² (2024, May 14). *Drug Overdose Death Rates*. National Institute on Drug Abuse. <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>

³ Office of the Inspector General. *The Consistently Low Percentage of Medicare Enrollees Receiving Medication to Treat Their Opioid Use Disorder Remains a Concern*. December 2023, OEI-02-23-00250. <https://oig.hhs.gov/oei/reports/OEI-02-23-00250.pdf>

⁴ (2024, May 14). *Drug Overdose Death Rates*. National Institute on Drug Abuse. <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>

⁵ Singh, K., Murali, A., Stevens, H., Vydiswaran, V. G. V., Bohnert, A., Brummett, C. M., & Fernandez, A. C. (2022). Predicting persistent opioid use after surgery using electronic health record and patient-reported data. *Surgery*, 172(1), 241–248. <https://doi.org/10.1016/j.surg.2022.01.008>

⁶ Brummett CM, Waljee JF, Goesling J, et al. New Persistent Opioid Use After Minor and Major Surgical Procedures in US Adults. *JAMA Surg*. 2017;152(6):e170504. doi:10.1001/jamasurg.2017.0504

⁷ Côté, C., Bérubé, M., Moore, L., Lauzier, F., Tremblay, L., Belzile, E., Martel, M. O., Pagé, G., Beaulieu, Y., Pinard, A. M., Perreault, K., Sirois, C., Grzelak, S., & Turgeon, A. F. (2022). Strategies aimed at preventing long-term opioid use in trauma and orthopaedic surgery: a scoping review. *BMC musculoskeletal disorders*, 23(1), 238. <https://doi.org/10.1186/s12891-022-05044-y>

⁸ *Highlights for the 2022 National Survey on Drug Use and Health*. Substance Abuse and Mental Health Administration. <https://www.samhsa.gov/data/sites/default/files/reports/rpt42731/2022-nsduh-main-highlights.pdf>

⁹ Dowell D, Ragan KR, Jones CM, Baldwin GT, Chou R. CDC Clinical Practice Guideline for Prescribing Opioids for Pain — United States, 2022. *MMWR Recomm Rep* 2022;71(No. RR-3):1–95. DOI: <http://dx.doi.org/10.15585/mmwr.rr7103a1>

¹⁰ (2021, May 21). *Multimodal pain management: A better approach to pain control*. Mayo Clinic. <https://www.mayoclinic.org/medical-professionals/trauma/news/multimodal-pain-management-a-better-approach-to-pain-control/mac-20512738>

¹¹ Kim, K., Elbuluk, A., Yu, S., & Iorio, R. (2018). Cost-effective peri-operative pain management: assuring a happy patient after total knee arthroplasty. *The bone & joint journal*, 100-B(1 Supple A), 55–61. <https://doi.org/10.1302/0301-620X.100B1.BJJ-2017-0549.R1>

- **Rates of opioid-related adverse events (ORAEs) are significantly lower** in patients receiving multimodal pain management approaches;
- Multimodal approaches offer the **ability to reduce or eliminate reliance on prescription opioids** for postsurgical analgesic support;¹² and

On top of the clinical benefits of non-opioid approaches, there is a significant economic impact of preventing opioid addiction. Consider:

- The Joint Economic Committee (JEC) estimates that the United States **spent \$1.5 trillion combatting the opioid addiction crisis in 2020 alone**;
- A recent economic analysis found that the economic impact of Medicare beneficiaries newly diagnosed with an OUD **totaled \$4.3 billion in 2022 alone**;¹³
- All told, the **cost of treating OUD among Medicare could exceed \$33 billion annually**.¹⁴

Unfortunately, non-opioid approaches are sometimes out-of-reach for patients and their healthcare providers due to short-term economic considerations. These considerations lead to an overreliance on lowest-cost options. When it comes to pain management, this can steer patients towards generic prescription opioids. But the long-term costs are often borne by private payers, and ultimately, by American taxpayers.

This market failure garnered the attention of Congress and led to the introduction of the Non-Opioids Prevent Addiction in the Nation Act (“NOPAIN Act”). The NOPAIN Act attempts to prevent opioid addiction by expanding access to and use of non-opioid-based pain therapies. A similar policy change was adopted by the Centers for Medicare and Medicaid Services in 2019 when separate payment was allowed for the use of non-opioid approaches in the ambulatory surgical setting. This policy greatly expanded patient and provider access to such therapies as, **from 2019 to 2020, use of non-opioid pain therapies increased by more than 120 percent**.¹⁵

The NOPAIN Act allowed for separate payment for the use of non-opioid pain management approaches in **all hospital outpatient and ambulatory surgery center settings**.

Specifically, section 4135 of Public Law No. 117-328 provides for separate payment for the use of a “qualifying non-opioid treatment for pain relief.” The amount of such payment for a qualifying non-opioid is not to exceed 18 percent of the total cost of the covered surgical procedure. According to the legislation, “the term ‘non-opioid treatment for pain relief’ means a drug, biological product, or medical device that –

¹² Schwenk, E. S., & Mariano, E. R. (2018). Designing the ideal perioperative pain management plan starts with multimodal analgesia. *Korean journal of anesthesiology*, 71(5), 345–352. <https://doi.org/10.4097/kja.d.18.00217>

¹³ Desmarais, M. (2024, June 27). *Opioid Use Disorder in the Medicare Fee-for-Service Program*. Health Management Associates. Retrieved June 28, 2024, from <https://www.healthmanagement.com/wp-content/uploads/Opioid-Use-Disorder-Economic-Impact-on-Medicare-Program-062724-final.pdf>

¹⁴ Desmarais, M. (2024, June 27). *Opioid Use Disorder in the Medicare Fee-for-Service Program*. Health Management Associates. Retrieved June 28, 2024, from <https://www.healthmanagement.com/wp-content/uploads/Opioid-Use-Disorder-Economic-Impact-on-Medicare-Program-062724-final.pdf>

¹⁵ Centers for Medicare & Medicaid Services (2021). Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs proposed rule: <https://www.cms.gov/newsroom/fact-sheets/cy2023-medicare-hospital-outpatient-prospective-payment-system-and-ambulatory-surgical-center>

- 1) In the case of a drug or biological product has a label indication approved by the Food and Drug Administration to reduce postoperative pain, or produce postsurgical or regional analgesia, without acting on the body's opioid receptors;
- 2) In the case of a medical device, is used to deliver a therapy to reduce postoperative pain, or produce postsurgical or regional analgesia, and has –
 - (aa) an application under section 515 of the Federal Food, Drug, and Cosmetic Act that has been approved with respect to the device, been cleared for market under section 510(k) of such Act, or is exempt from the requirements of section 510(k) of such Act pursuant to subsection (l) or (m) or section 510 of such Act or section 520(g) of such Act; and
 - (bb) demonstrated the ability to replace, reduce, or avoid intraoperative or postoperative opioid use or the quantity of opioids prescribed in a clinical trial or through data published in a peer-reviewed journal;”

This legislation is set to go into effect starting in 2025. If past is prologue, we expect the legislation to have a meaningful impact on enhancing use of non-opioid pain approaches, particularly for hospital patients where separate payment has not been available.

Accordingly, it is our hope that your companies will, across your lines of business, follow Medicare's lead and adopt this policy allowing separate payment for non-opioid options in procedures as soon as practicable.

We welcome the opportunity to discuss these important payment policy changes with you at your earliest convenience. Please reach out to Chris Fox, Executive Director, Voices for Non-Opioid Choices at chris@nonopioidchoices.org to find a mutually convenient time to discuss your organization's plans.

Sincerely,

A Voice in the Wilderness Empowerment Center
Ambulatory Surgery Center Association
American Association of Oral and Maxillofacial Surgeons
American Association of Orthopaedic Surgeons
Asheville Equine Therapy
Better Together CT
Bravo Foxtrot United Veterans
Chatham Drug Free Coalition
Country Doc Walk-in & Wellness
Downriver for Veterans
Families of Addicts
Goldfinch Health
Hawaii Health and Harm Reduction Center
Herren Project
Ho'ola Farms
Independence for Veterans
International Society for the Advancement of Spine Surgery
Jake's Reach LLC
Journey House Foundation

Lifeboat Addiction Recovery Services
Mental Health America of Illinois
Metro Drug Coalition
Michigan Women's Veterans Empowerment
Montachusett Veterans Outreach Center
National Transitions of Care Coalition
Operation First Response
Overdose Lifeline
Partnership to End Addiction
Pledge for Life Partnership
Prevention Action Alliance
Prevention Alliance of Tennessee
PTSD Awareness Summit
REAL LIFE Program
Recovery Mobile Clinic
Salvage USA
She Recovers
Soldier Strong
Team Sharing, Inc.
The Addict's Parents United – TAP United
The Battle Within
the Jamie Daniels Foundation
The Society for Minimally Invasive Spine Surgery
The Society for Opioid Free Anesthesia
Twelfth Step Ministry
Veterans National Recovery Center
Veterans Navigation Center
Voices For Awareness/Facing Fentanyl
Voices for Non-Opioid Choices
Wiley H Manns Foundation
Will Bright Foundation
Young People in Recovery
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