

MAINTENANCE OR DETOXIFICATION TREATMENT WITH
CERTAIN NARCOTIC DRUGS; ELIMINATION OF 30-PA-
TIENT LIMIT FOR GROUP PRACTICES

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JULY 11, 2005.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 869]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 869) to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 869 amends current law with regard to limitations in the Controlled Substances Act on the number of patients which can re-

ceive prescription drug addiction treatment by medical practitioners in group practices. Current law allows individual doctors and medical practices to prescribe drug addiction treatments to no more than 30 patients at a time. H.R. 869 would eliminate the 30-patient limitation for group medical practices but would retain such a limitation on individual doctors.

BACKGROUND AND NEED FOR THE LEGISLATION

In the 106th Congress, the Drug Addiction Treatment Act (“DATA”) was enacted to expand treatment options for patients addicted to opiates. The legislation allowed individual physicians to prescribe medications such as methadone or buprenorphine to patients who are addicted to drugs such as heroin or prescription painkillers such as Oxycontin, Percocet, or Vicodin. Such treatment was previously only available through public methadone clinics.

A limit of 30 patients per treating physician was included in the legislation to address concerns about potential abuse or diversion of the treatment medications. The legislation also included a provision applying the 30-patient cap to group practices. This language had the effect of limiting large group practices regardless of their capacity to treat more clients, therefore denying addiction treatment to thousands of patients.

The DATA law was intended to alleviate the growing number of patients in need of treatment by increasing the treatment capacity for opiate dependent patients. According to the American Academy of Addiction Psychiatry, “The Drug Addiction Treatment Act of 2000 was an important beginning but had the unintended effect of limiting treatment of addiction patients to only 30 per physician or group practice, regardless of how many physicians worked in that practice. Effectively then, large group practices could see only a handful of patients, even though the resources existed to help many more. . . .”

Current law requires an individual physician who seeks to treat patients in his or her office to obtain 8 hours of training and obtain a special waiver from the DEA. However, even if a number of physicians in a practice are authorized by the DEA to prescribe treatment, the limitations mean that large group practices such as an academic medical center or a large HMO can only treat 30 patients out of the thousand of potential individuals who could receive treatment.

Currently, the Substance Abuse and Mental Health Services Administration (SAMHSA) is working on a regulatory fix to expand access to these treatments. The agency views these limits as a critical barrier to treatment options. SAMSHA has also expressed support for a legislative fix. Additionally, the legislation has been endorsed by the National Association of Counties, the National Association of County Behavioral Health Directors, the American Psychiatric Association, the American Academy of Addiction Psychiatry, the Association of American Medical Colleges, the Alliance of Community Health Plans, the American Medical Group Association, American Osteopathic Academy Addiction Medicine, the Partnership for a Drug-Free America, the American Society of Addiction Medicine, the American Association for the Treatment of Opioid Dependence, the legal Action Center, the National Association of Drug Court Professionals, the National Alliance of Metha-

done Advocates, the National Council on Alcoholism and Drug Dependence, and the State Associations of Addiction Services.

H.R. 869 was introduced on February 16, 2005, and referred to the Committee on Energy and Commerce and the Committee on the Judiciary. H.R. 869 was ordered reported favorably by voice vote by the Committee on Energy and Commerce on May 4, 2005. The Committee on Energy and Commerce filed a report H. Rept. No. 109–116, part 1, on June 9, 2005. The Committee on the Judiciary was granted an extension for further consideration until July 11, 2005.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 869.

COMMITTEE CONSIDERATION

On June 23, 2005, the Subcommittee on Crime, Terrorism, and Homeland Security met in open session and ordered favorably reported the bill H.R. 869, by a voice vote, a quorum being present. On June 29, 2005, the Committee met in open session and ordered favorably reported the bill H.R. 869 without an amendment, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the committee consideration of H.R. 869.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R.869, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

JULY 11, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 869, a bill to amend the

Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Eric Rollins.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 869—A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes

H.R. 869 would allow medical group practices to prescribe and dispense narcotic drugs in schedules III, IV, or V (the drugs rated the lowest risk for abuse) for drug addiction treatment to more than 30 patients at a time without first registering with the Drug Enforcement Administration (DEA). The bill would prohibit individual practitioners within such groups from treating more than 30 patients at a time. Individual practitioners and group practices that treat fewer than 30 patients are already exempt from the requirement to register with DEA.

CBO estimates that this bill would have no significant budgetary effect. Enacting the bill could affect direct spending, but any such effects would likely be negligible. H.R. 869 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On May 12, 2005, CBO issued a cost estimate for H.R. 869 as ordered reported by the Committee on Energy and Commerce on May 4, 2005. The two versions of the bill and CBO's estimates of their budgetary effect are identical.

The CBO staff contact for this estimate is Eric Rollins. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 869 will help to alleviate the shortage of treatment options for opiate dependent patients.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The section-by-section represents H.R. 869 as reported by the Committee on the Judiciary.

Section 1. Maintenance or detoxification treatment with certain narcotic drugs; elimination of 30-patient limit for group practices

This section eliminates the provision in current law which applies the 30-patient limitation to group practices, but preserves it

for individual physicians. It also specifies that such change will be effective upon enactment of this legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 303 OF THE CONTROLLED SUBSTANCES ACT

REGISTRATION REQUIREMENTS

SEC. 303. (a) * * *

* * * * *

(g)(1) * * *
(2)(A) * * *

(B) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a practitioner are that, before the initial dispensing of narcotic drugs in schedule III, IV, or V or combinations of such drugs to patients for maintenance or detoxification treatment, the practitioner submit to the Secretary a notification of the intent of the practitioner to begin dispensing the drugs or combinations for such purpose, and that the notification contain the following certifications by the practitioner:

(i) * * *

* * * * *

(iii) **【**In any case in which the practitioner is not in a group practice, the total *The total* number of such patients of the practitioner at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number.

【(iv) In any case in which the practitioner is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of practitioners in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.**】**

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MARKUP TRANSCRIPT

BUSINESS MEETING
WEDNESDAY, JUNE 29, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda is the adoption of H.R. 869, “to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices.”

[The bill, H.R. 869, follows:]

109TH CONGRESS
1ST SESSION

H. R. 869

To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Mr. SOUDER (for himself, Mr. CUMMINGS, Mr. CAPUANO, Mr. TOM DAVIS of Virginia, Mr. PORTMAN, Mr. RANGEL, Mr. RAMSTAD, Mrs. MCCARTHY, Mr. MEEKS of New York, Mr. KENNEDY of Rhode Island, Mr. WEINER, Mr. BOOZMAN, Mr. WAMP, Mrs. BIGGERT, Mr. SERRANO, Mr. ACKERMAN, Mrs. MALONEY, Mr. PRICE of North Carolina, Mr. OWENS, Mr. GENE GREEN of Texas, Mr. WYNN, and Mrs. CHRISTENSEN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. MAINTENANCE OR DETOXIFICATION TREAT-**
2 **MENT WITH CERTAIN NARCOTIC DRUGS;**
3 **ELIMINATION OF 30-PATIENT LIMIT FOR**
4 **GROUP PRACTICES.**

5 (a) **IN GENERAL.**—Section 303(g)(2)(B) of the Con-
6 trolled Substance Act (21 U.S.C. 823(g)(2)(B)) is amend-
7 ed by striking clause (iv).

8 (b) **CONFORMING AMENDMENT.**—Section
9 303(g)(2)(B) of the Controlled Substance Act (21 U.S.C.
10 823(g)(2)(B)) is amended in clause (iii) by striking “In
11 any case” and all that follows through “the total” and
12 inserting “The total”.

13 (c) **EFFECTIVE DATE.**—This section shall take effect
14 on the date of enactment of this Act.

○

Chairman SENSENBRENNER. The Chair recognizes the gentleman from North Carolina, Mr. Coble, the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security for a motion.

Mr. COBLE. Mr. Chairman, the Subcommittee on Crime, Terrorism, and Homeland Security reports favorably the bill H.R. 869 and moves its favorable recommendation to the full House.

Chairman SENSENBRENNER. Without objection, the bill will be considered as read and open for amendment at any point.

The Chair recognizes the gentleman from North Carolina to strike the last word.

Mr. COBLE. I thank the Chairman and I will not take 5 minutes.

The Drug Addiction Treatment Act, popularly known as DATA, was enacted to alleviate the growing number of drug addicted patients in need of treatment by expanding treatment options. Under this law, individual physicians are allowed to prescribe medications as part of the treatment for patients who are addicted to heroin or prescription painkillers such as Oxycontin or Vicodin. Before this law was enacted, this type of treatment was only available through public methadone clinics.

To prevent potential abuse or diversion of treatment medications, the legislation limited the number of patients an individual physician could treat to 30.

The legislation also included a provision that applied this 30 patient cap to group practices. These limitations prevented large group practices, such as an academic medical center or a large HMO, from treating more than 30 patients regardless of their capacity to treat more clients. The result is the denial of addiction treatment to thousands of patients.

This legislation amends the current law to eliminate the 30 patient limitation for group medical practices but maintains the limitation on individual physicians. I urge my colleagues to support this legislation.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. COBLE. I yield back my time.

Chairman SENSENBRENNER. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, H.R. 869 removes the statutory limitation on drug treatment by group practices and corrects an unintended restriction on the ability of such practices to treat more people. Removal of this limitation will result in the treatment of thousands of additional patients by such practices and is supported by drug treatment advocates, professionals, as well as Governmental entities.

We passed this provision before, although it did not proceed all the way through the legislative process. So I urge my colleagues who support it again. I yield back.

Chairman SENSENBRENNER. Without objection, all Members may include opening statements in the record at this point.

Are there amendments? Are there amendments?

There are no amendments.

A reporting quorum is not present. Without objection, the previous question is ordered on the motion to report the bill favorably. [Intervening business.]

Chairman SENSENBRENNER. The last item on the agenda is the adoption of H.R. 869, which is in the Controlled Substances Act Amendment to limit the patient limitation on which the previous question was ordered.

The question occurs. A reporting quorum is present. The question occurs on the motion to report the bill H.R. 869 favorably. Those in favor will say aye. Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the staff is directed to make any technical and conforming changes and all Members will be given 2 days, under the House rules, in which to submit additional dissenting, supplemental or minority views.

Now I believe we have concluded the agenda. Without objection, the Committee stands adjourned.

[Whereupon, at 10:24 p.m., the Committee was adjourned.]

