

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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October 1, 2019

Substance Use Disorder Treatment Request for Information

The opioid epidemic in the United States (U.S.) is taking 130 American lives per day.¹ Just over two years ago, on July 13, 2017, the Committee on Energy and Commerce launched an investigation into allegations of patient brokering by sending a letter to the Secretary of the U.S. Department of Health and Human Services (HHS) regarding reports of patient brokers targeting individuals with substance use disorder, and treating them as a commodity.² On November 17, 2017, the Committee sought additional information from six states regarding how they regulate and oversee substance use disorder treatment facilities and recovery homes.³

On December 12, 2017, the Subcommittee on Oversight and Investigations held a hearing examining concerns of patient brokering and addiction treatment fraud.⁴ The Subcommittee heard testimony about problems that stem from the dramatic surge in the number of substance use disorder treatment facilities, detox centers, recovery homes, recovery residences, or halfway houses (hereinafter referred to as “facilities”) in states across the country. On May 29, 2018, the Committee sent letters to eight companies seeking information about their business structure and practices with respect to advertising and marketing in the substance use disorder treatment industry.⁵ On July 24, 2018, the Subcommittee on Oversight and Investigations held a second

¹ Centers for Disease Control and Prevention, Opioid Overdose, Understanding the Epidemic, *available at* <https://www.cdc.gov/drugoverdose/epidemic/index.html/> (last accessed Mar. 6, 2019).

² Letter from Hon. Greg Walden, Chairman, and Hon. Frank Pallone, Jr., Ranking Member, H. Comm. on Energy & Commerce, et al., to Hon. Tom Price, Sec’y, U.S. Dept. of Health & Human Services, (July 13, 2017), *available at* <https://archives-energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/documents/20170713HHS.pdf>.

³ Letters from Hon. Greg Walden, Chairman, and Hon. Frank Pallone, Jr., Ranking Member, H. Comm. on Energy & Commerce, et al., to Mr. Thomas J. Betlach (AZ), Dr. Karen Baylor (CA), Dr. Robert Werthwein (CO), Ms. Ute Gazioch (FL), Ms. Allison Bauer (MA), and Ms. Jennifer Smith (PA) (Nov. 17, 2017), *available at* <https://republicans-energycommerce.house.gov/news/letter/letters-departments-six-state-governments-patient-brokering-allegations/>.

⁴ Hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy & Commerce, “*Examining Concerns of Patient Brokering and Addiction Treatment Fraud*,” Serial 115-87 (Dec. 12, 2017), *available at* <https://republicans-energycommerce.house.gov/hearings/examining-concerns-patient-brokering-addiction-treatment-fraud/>.

⁵ Letters from Hon. Greg Walden, Chairman, and Hon. Frank Pallone, Jr., Ranking Member, H. Comm. on Energy & Commerce, et al., to Erik Epp, Robert Niznik, Michael T. Cartwright, Thomas Kearns, Carmine Thompson, Jason Brian, Dan Callahan, and Bryan Deering (May 29, 2018), *available at* <https://republicans-energycommerce.house.gov/sites/republicans-energycommerce.house.gov/files/documents/20180529Letters.pdf>.

hearing examining advertising and marketing practices within the substance use disorder treatment industry.⁶ The Subcommittee heard testimony about the various advertising and marketing practices in the industry, including various levels of transparency and disclosures, efforts made to promote ethical advertising and marketing, and how individuals seeking treatment can identify quality treatment that will meet their needs.

On October 24, 2018, H.R. 6, the SUPPORT for Patients and Communities Act, was signed into law. The underlying text of H.R. 6 includes several Medicaid, Medicare, and public health reforms to help combat the opioid crisis, which were advanced through and championed by the Committee on Energy and Commerce. The SUPPORT Act will help improve and expand access to treatment and recovery services; provide incentives for enhanced care, coordination, and innovation; establish comprehensive opioid recovery centers; and require HHS to issue best practices for entities operating recovery housing facilities. In addition, Section 8122 of the SUPPORT Act made it illegal to knowingly and willingly pay or receive kickbacks in return for referring a patient to a recovery home or clinical treatment facilities.⁷ The provision also provides exceptions for legitimate referrals, including ensuring legitimate entities can continue to refer patients to reputable treatment providers, similar to those that are applicable in Medicare and Medicaid. The SUPPORT Act, which is the largest effort to combat a single drug, built upon the passage of the Comprehensive Addiction and Recovery Act and the 21st Century Cures Act in the 114th Congress, the \$4 billion appropriated in the 2018 omnibus legislation to help combat the opioid crisis, as well as the \$6.7 billion included in the Defense-Labor-HHS appropriations package. While these measures are critical steps in combating the opioid epidemic and the new tools and resources provided are already being implemented, they are not silver bullets. More work needs to be done.

The need for quality substance use disorder treatment facilities is crucial. The Substance Abuse and Mental Health Services Administration's (SAMHSA) 2016 National Survey on Drug Use and Health found that 11.5 million people over the age of 12 reported misusing prescription pain relievers in the past year.⁸ Additionally, 2.1 million people over the age of 12 are believed to have an opioid use disorder.⁹ In 2017, overdoses involving opioids killed more than 47,000 people, and 36 percent of those deaths involved prescription opioids.¹⁰ With more people now seeking treatment for substance use disorders involving opioids, the treatment industry is

energycommerce.house.gov/news/letter/letters-to-eight-call-aggregators-regarding-their-practices-and-reports-of-patient-brokering/.

⁶ Hearing before the Subcomm. on Oversight & Investigations, H. Comm. on Energy & Commerce, *Examining Advertising and Marketing Practices within the Substance Use Treatment Industry*, Serial 115-155 (July 24, 2018), available at <https://republicans-energycommerce.house.gov/hearings/examining-advertising-and-marketing-practices-within-the-substance-use-treatment-industry/>.

⁷ H.R. 6, SUPPORT for Patients and Communities Act, *The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, Section by Section*, available at https://republicans-energycommerce.house.gov/wp-content/uploads/2018/09/FIR6_09.28.18-Final-Opioid-Sec-by-Sec_BIPART-BICAM.pdf.

⁸ *Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health*, SAMHSA, (HHS Publication No. SMA 17-5044, NSDUH Series H-52) available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-FFR1-2016/NSDUH-FFR1-2016.htm>.

⁹ *Id.*

¹⁰ Centers for Disease Control and Prevention, *Opioid Overdose*, available at <https://www.cdc.gov/drugoverdose/data/index.html> (last accessed July 2, 2019).

growing to meet the demand. In 2015, SAMHSA estimated that Americans spent \$35 billion on substance use disorder treatment and projected that spending would rise to \$42 billion by 2020.¹¹ The number of substance use disorder treatment facilities across the nation has soared.¹² And although prospective patients now have more treatment facilities to choose from, the array of new options has not directly translated to better care.

Media reports and criminal investigations have identified serious concerns about the quality of care provided at such facilities. Lapses in oversight within the substance use disorder treatment industry have left patients vulnerable to exploitation by unscrupulous business owners. As such, we are seeking information to understand better the business practices and the quality of care that various facilities provide. We believe this information can help identify problematic areas within the industry as well as best practices.

The substance use disorder treatment industry has been described as the “Wild West.”¹³ According to HHS, “[t]he federal government has oversight of opioid treatment programs (OTPs) but does not have oversight authority over other levels of care – states are responsible.”¹⁴ Other than for OTPs, there are no federal regulations of substance use disorder treatment facilities, and there is wide variability in terms of how facilities are regulated at the state level. The National Association of State Alcohol and Drug Abuse Directors (NASADAD) compiled information on state licensure bodies and regulations in 2012,¹⁵ but this survey is more than six years old and, given the continued efforts to update regulations in this space, needs to be updated. According to HHS, SAMHSA has engaged NASADAD to update this document as soon as possible.¹⁶

Regulations vary dramatically by state. In some states, no license is necessary to open a substance use disorder treatment facility for adults unless the facility receives government

¹¹ Dan Munro, *Inside the \$35 Billion Addiction Treatment Industry*, FORBES (Apr. 27, 2015), available at <https://www.forbes.com/sites/danmunro/2015/04/27/inside-the-35-billion-addiction-treatment-industry/#617faa917dc9>; Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

¹² Mandy Stadtmiller, *Is the \$35 Billion Rehab Industry Ready for a Disruption?*, THE DAILY BEAST (Nov. 19, 2017), available at <https://www.thedailybeast.com/is-the-dollar35-billion-rehab-industry-ready-for-a-disruption>.

¹³ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; Mandy Stadtmiller, *Is the \$35 Billion Rehab Industry Ready for a Disruption?*, THE DAILY BEAST (Nov. 19, 2017), available at <https://www.thedailybeast.com/is-the-dollar35-billion-rehab-industry-ready-for-a-disruption>; David Segal, *In Pursuit of Liquid Gold*, NEW YORK TIMES (Dec. 27, 2017), available at <https://www.nytimes.com/interactive/2017/12/27/business/urine-test-cost.html>.

¹⁴ U.S. Dept. of Health & Human Services Response to H. Comm. on Energy & Commerce Letter (Sept. 12, 2017), available at https://republicans-energycommerce.house.gov/wp-content/uploads/2017/07/20170912HHS_Response.pdf.

¹⁵ The National Association of State Alcohol and Drug Abuse Directors (NASADAD), *State Regulations on Substance Use Disorder Programs and Counselors: An Overview* (Dec. 2012), available at https://republicans-energycommerce.house.gov/wp-content/uploads/2017/07/20170912HHS_Response_Enclosure.pdf.

¹⁶ U.S. Dept. of Health & Human Services Response to H. Comm. on Energy & Commerce Letter (Sept. 12, 2017), available at https://republicans-energycommerce.house.gov/wp-content/uploads/2017/07/20170912HHS_Response.pdf.

funding.¹⁷ In others, no special training or education is needed to obtain a license,¹⁸ and facilities may be exempt from licensing requirements if they are described as 12-step programs.¹⁹ While several states have established certification or licensing programs to provide better oversight of substance use disorder treatment facilities, some of the state-run programs do not require certification; rather, they merely incentivize certification.²⁰ Further, there is no mandatory national certification exam to become a substance use disorder counselor.²¹ The vast majority of states do not require substance use disorder counselors to have a bachelor degree, and 14 states do not require substance use disorder counselors to have any formalized training at all.²² There are even fewer barriers to establish a recovery home because they do not provide formal treatment services, so generally no state license is required.²³

According to a 2012 report by the Center on Addiction, very few people seeking substance use disorder treatment receive evidence-based treatment, such as medication-assisted treatment (MAT).²⁴ In March 2019, the National Academies of Sciences, Engineering, and Medicine released a report on Medications for Opioid Use Disorder. The report states that “[m]ost residential treatment facilities do not offer medications, and if they do, they rarely offer all three medications.”²⁵ Less than half of privately-funded substance use disorder treatment programs offer MAT and only one third of patients with opioid dependence at these programs actually receive it.²⁶ Of even greater concern, the quality of care offered in many substance use

¹⁷ The National Association of State Alcohol and Drug Abuse Directors (NASADAD), *State Regulations on Substance Use Disorder Programs and Counselors: An Overview* (Dec. 2012), available at https://energycommerce.house.gov/wp-content/uploads/2017/07/20170912HHS_Response_Enclosure.pdf.

¹⁸ Tori Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; The National Association of State Alcohol and Drug Abuse Directors (NASADAD), *State Regulations on Substance Use Disorder Programs and Counselors: An Overview* (Dec. 2012), available at https://republicans-energycommerce.house.gov/wp-content/uploads/2017/07/20170912HHS_Response_Enclosure.pdf.

¹⁹ Amy Julia Harris and Shoshana Walter, *How a Rehab Boss Exploited the Drug Epidemic – With Impunity*, U.S. NEWS (May 21, 2018), available at <https://www.usnews.com/news/healthiest-communities/articles/2018-05-21/how-a-rehab-boss-exploited-the-drug-epidemic-with-impunity>.

²⁰ U.S. Government Accountability Office, *Information on Recovery Housing, Prevalence, Selected States’ Oversight, and Funding* (Mar. 2018), available at <https://www.gao.gov/assets/700/690831.pdf>

²¹ Gabrielle Glaser, *The Irrationality of Alcoholics Anonymous*, THE ATLANTIC (Apr. 2015), available at <https://www.theatlantic.com/magazine/archive/2015/04/the-irrationality-of-alcoholics-anonymous/386255/>.

²² *Id.*

²³ See internal CRS memo on file with the Committee on Energy and Commerce, Republican Staff.

²⁴ *Addiction Medicine: Closing the Gap Between Science and Practice* (June 2012), available at <https://www.centeronaddiction.org/addiction-research/reports/addiction-medicine-closing-gap-between-science-and-practice>. See also Dan Munro, *Inside the \$35 Billion Addiction Treatment Industry*, FORBES (Apr. 27, 2015), available at <https://www.forbes.com/sites/danmunro/2015/04/27/inside-the-35-billion-addiction-treatment-industry/#617faa917dc9>; Christopher Moraff, *Why Drug Rehab is Outdated, Expensive, and Deadly*, THE DAILY BEAST (May 9, 2016), available at <https://www.thedailybeast.com/why-drug-rehab-is-outdated-expensive-and-deadly>.

²⁵ Alan I. Leshner, Chair, Committee on Medication-Assisted Treatment for Opioid Use Disorder, et al., The National Academies of Sciences, Engineering, and Medicine, *Medications for Opioid Use Disorder Save Lives* at 10 (Mar. 2019), available at <https://www.nap.edu/read/25310/chapter/2#9>.

²⁶ National Institutes of Health, National Institute on Drug Abuse, *Effective Treatments for Opioid Addiction*, available at <https://www.drugabuse.gov/publications/effective-treatments-opioid-addiction/effective-treatments-opioid-addiction> (last accessed on June 8, 2018).

disorder treatment facilities is not only ineffective, but at some facilities, little or no treatment is offered at all.²⁷ According to reports, examples of “treatment” provided by various facilities across the country included “work[ing] 16 hours a day for no pay at adult care homes for the elderly and disabled [where patients] changed diapers, bathed [the elderly] and sometimes dispensed the same prescription drugs [to which the patients were addicted];”²⁸ and “therapy groups” in which a patient would sit in the center of a circle while other patients “cursed, screamed, and hurled insults at the person for up to 45 minutes at a time.”²⁹

In addition to many facilities providing little or ineffective treatment, there have been documented cases of outright abuse of patients at such facilities. Examples include female patients being forced into prostitution,³⁰ sexual abuse and assault of patients by facility employees,³¹ and patients being kept awake for days on end and sprayed with water if they tried to sleep.³² Further, in some facilities, employees do not have adequate training or education to care for the patients in their care.³³ In some cases, inadequate staff training has led to the injury or death of patients in their care.³⁴ In one instance, second-degree murder charges were filed against a substance use disorder treatment facility when a patient died after facility employees

²⁷ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; Dan Munro, *Inside the \$35 Billion Addiction Treatment Industry*, FORBES (Apr. 27, 2015), available at <https://www.forbes.com/sites/danmunro/2015/04/27/inside-the-35-billion-addiction-treatment-industry/#617faa917dc9>; Christopher Moraff, *Why Drug Rehab is Outdated, Expensive, and Deadly*, THE DAILY BEAST (May 9, 2016), available at <https://www.thedailybeast.com/why-drug-rehab-is-outdated-expensive-and-deadly>.

²⁸ Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefitted from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>.

²⁹ *Id.*

³⁰ Lawrence Mower, *Doctor in Kenny Chatman Case gets 4-year Prison Sentence*, PALM BEACH POST (Nov. 7, 2017), available at <https://www.palmbeachpost.com/news/doctor-kenny-chatman-case-gets-year-prison-sentence/JDapIBafILDmdg29MfId9nL/>.

³¹ See, e.g., Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefitted from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>; Hillel Aron, *Rehab Mogul Chris Bathum Arrested*, LA WEEKLY (Nov. 14, 2016), available at <http://www.laweekly.com/news/rehab-mogul-chris-bathum-arrested-7599903>.

³² Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefitted from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>.

³³ See, e.g., Paloma Esquivel, *Murder Charges Against Rehab Center are a First in California*, LOS ANGELES TIMES (Feb. 28, 2016), available at <http://www.latimes.com/local/crime/la-me-rehab-murder-charge-20160228-story.html>; Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefitted from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>; Cat Ferguson, *Searching for Help*, THE VERGE (Sept. 7, 2017), available at <https://www.theverge.com/2017/9/7/16257412/rehabs-near-me-google-search-scam-florida-treatment-centers>.

³⁴ See, e.g., Paloma Esquivel, *Murder Charges Against Rehab Center are a First in California*, LOS ANGELES TIMES (Feb. 28, 2016), available at <http://www.latimes.com/local/crime/la-me-rehab-murder-charge-20160228-story.html>; Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefitted from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>.

failed to refill the patient's oxygen tank, and employees with inadequate medical training dispensed drugs that inhibited the patient's breathing.³⁵ In another case, a facility employee with inadequate training dispensed the wrong medication to a patient, leading the patient to become ill.³⁶ In other cases, patients died of drug overdoses while in the care of a treatment facility or recovery home.³⁷ In 2017, in California alone, the average number of patient deaths in licensed substance use disorder treatment facilities was one death every 16 days.³⁸

The success rates touted in marketing or promotional materials also merit scrutiny, given the concerns raised over the quality of care provided at substance use disorder treatment facilities. Some reports suggest that the high success rates that many programs promote may be exaggerated or entirely fabricated.³⁹ The success rates at many facilities are based on self-reporting by patients, and facilities may make little or no effort to verify or define what qualifies as "success."⁴⁰ Self-inflated claims about program success rates coupled with ineffective treatment can further endanger patients or lead to death.

At some facilities, patients are seen as a money-making opportunity and conduit for insurance reimbursement. Some facilities have been known to engage in the practice of patient brokering, through which brokers are paid by the facilities to find and recruit individuals to enroll in their substance use disorder treatment programs. The patient brokers are predominantly paid in one of two ways, a per-head fee that can range from \$500 to \$5,000 for each patient who successfully enters a treatment facility, or monthly treatment facility fees that are based on the broker meeting a quota of patients and can result in earnings in the tens of thousands of dollars.⁴¹ According to some reports, in an effort to lure patients to these facilities, perks are sometimes offered, such as free plane tickets,⁴² "scholarships" to go into treatment, free housing, discounted

³⁵ Paloma Esquivel, *Murder Charges Against Rehab Center are a First in California*, LOS ANGELES TIMES (Feb. 28, 2016), available at <http://www.latimes.com/local/crime/la-me-rehab-murder-charge-20160228-story.html>.

³⁶ Amy Julia Harris and Shoshana Walter, *Drug users got exploited. Disabled patients got hurt. One woman benefited from it all.*, THE CHARLOTTE OBSERVER (May 21, 2018), available at <http://www.charlotteobserver.com/latest-news/article211600539.html>.

³⁷ Paula McMahon, *Sober Homes Fraudster who gave Drugs to Addicts Sentenced to 27 ½ years in prison*, SUN SENTINEL (May 17, 2017), available at <http://www.sun-sentinel.com/news/crime/fl-reg-kenneth-chatman-sentenced-sober-homes-20170516-story.html>.

³⁸ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

³⁹ Lipi Roy, *A 'Beautiful Boy's' Struggle: What You Need To Know About Methamphetamine Addiction*, FORBES (Dec. 28, 2018), available at <https://www.forbes.com/sites/lipiroy/2018/12/28/a-beautiful-boys-struggle-what-you-need-to-know-about-methamphetamine-addiction/#2d9e3b635f5e>; Jennifer Miller, *Finding a Rehab Facility Shouldn't Be This Hard*, BLOOMBERG BUSINESSWEEK (Oct. 17, 2018), available at <https://www.bloomberg.com/news/features/2018-10-17/werecover-aims-to-disrupt-the-predatory-rehab-system>.

⁴⁰ Christopher Moraff, *Why Drug Rehab is Outdated, Expensive, and Deadly*, THE DAILY BEAST (May 9, 2016), available at <https://www.thedailybeast.com/why-drug-rehab-is-outdated-expensive-and-deadly>; Melissa Locker, *John Oliver Shines a Light on the Unregulated Rehab Industry on Last Week Tonight*, TIME (May 21, 2018), available at <http://time.com/5285151/john-oliver-rehab-last-week-tonight/>.

⁴¹ David Armstrong and Evan Allen, *The addict brokers: Middlemen profit as desperate patients are 'treated like paychecks'*, STAT (May 28, 2017), available at <https://www.statnews.com/2017/05/28/addict-brokers-opioids/>.

⁴² Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

groceries, daily yoga sessions, money to go to the movies, and free cigarettes, among other enticing benefits.⁴³ In some cases, if an individual does not have health insurance, a facility may sign the individual up or assist the individual in signing-up for health insurance⁴⁴ or offer to waive co-pays and coinsurance.⁴⁵

The cost of treatment can be exorbitant. Payment for substance use disorder treatment can vary at each facility. Some facilities accept multiple forms of payment, some only accept patients that have insurance, and others only accept cash. For one patient, a 10-week stay at substance use disorder treatment facility cost \$95,000, billed to the patient's insurance company.⁴⁶ For another patient, 15 months in substance use disorder treatment resulted in \$750,000 of charges, again billed to the patient's insurance.⁴⁷ While insurance will cover some of the treatment costs, out-of-pocket expenses can be so high that one article noted some families have had to take money from their retirement savings or file for bankruptcy in order to finance their loved one's treatment.⁴⁸

One way that treatment facilities may prioritize profit over recovery is to require a patient to undergo costly and medically unnecessary testing that is billed to the patient's insurance company.⁴⁹ For example, it is reportedly common practice for clinics and labs to charge more than \$4,000 for a single urine test, and for treatment facilities to test individuals two or three

rehab-centers-exploit-addiction/; Cat Ferguson, *Searching for Help*, THE VERGE (Sept. 7, 2017), available at <https://www.theverge.com/2017/9/7/16257412/rehabs-near-me-google-search-scam-florida-treatment-centers>.

⁴³ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; David Armstrong and Evan Allen, *The addict brokers: Middlemen profit as desperate patients are 'treated like paychecks'*, STAT (May 28, 2017), available at

<https://www.statnews.com/2017/05/28/addict-brokers-opioids/>; Victoria Kim, *Dr. Oz Tackles Rehab Fraud & Patient Brokering in Florida*, THE FIX (Nov. 10, 2017), available at <https://www.thefix.com/dr-oz-tackles-rehab-fraud-patient-brokering-florida>.

⁴⁴ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

⁴⁵ Cat Ferguson, *Searching for Help*, THE VERGE (Sept. 7, 2017), available at <https://www.theverge.com/2017/9/7/16257412/rehabs-near-me-google-search-scam-florida-treatment-centers>.

⁴⁶ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>.

⁴⁷ Warren Richey, *Alison's Story: How \$750,000 in Drug 'Treatment' Destroyed Her Life*, THE CHRISTIAN SCIENCE MONITOR (May 9, 2017), available at <https://www.csmonitor.com/USA/Society/2017/0509/Alison-s-story-How-750-000-in-drug-treatment-destroyed-her-life>.

⁴⁸ Jeanne Whalen, *After addiction comes families' second blow: The crushing cost of rehab*, WALL STREET JOURNAL (Mar. 8, 2018), available at <https://www.wsj.com/articles/after-addiction-comes-families-second-blow-crushing-cost-of-rehab-1520528850>.

⁴⁹ David Segal, *In Pursuit of Liquid Gold*, NEW YORK TIMES (Dec. 27, 2017), available at <https://www.nytimes.com/interactive/2017/12/27/business/urine-test-cost.html>; Fred Schulte and Elizabeth Lucas, *How Doctors are Getting Rich on Urine Tests for Opioid Patients*, BLOOMBERG (Nov. 6, 2017), available at <https://www.bloomberg.com/news/features/2017-11-06/how-doctors-are-getting-rich-on-urine-tests-for-opioid-patients>; Cat Ferguson, *Searching for Help*, THE VERGE (Sept. 7, 2017), available at <https://www.theverge.com/2017/9/7/16257412/rehabs-near-me-google-search-scam-florida-treatment-centers>.

times each week.⁵⁰ Such practices can be so lucrative for facilities that some have begun to refer to urine as “liquid gold.”⁵¹

Both insurance companies and prosecutors have taken note of the practice. According to the *New York Times*, UnitedHealthcare filed a lawsuit in January 2018 alleging that a network of labs engaged in a scheme through which it paid bribes and kickbacks for “overpriced and medically unnecessary urine and saliva samples.”⁵² Further, the Palm Beach County State Attorney’s office launched a task force to investigate the practice of unnecessary urine testing at clinics and recovery homes in Florida.⁵³

Criminal charges brought by the Federal Bureau of Investigation (FBI) against one Florida recovery housing entrepreneur in 2017 contain multiple allegations involving exploitation of patients for profit. A criminal affidavit filed in the case alleges that urine analysis “was fraudulently used as a profit-machine,” and that the treatment facility was “double billing for the same patients and splitting samples to maximize revenue.”⁵⁴ The treatment facility is also accused of billing clients’ insurance providers for treatment even after they were discharged. In one example provided in the FBI affidavit, a patient was purportedly billed for treatment received on days the individual was in jail for a probation violation.⁵⁵ More recently, the U.S. Department of Justice (DOJ) has “stated their intention to pursue prosecutions against unscrupulous substance abuse treatment providers in South Florida. Two major trials against substance abuse treatment providers will be coming next year. So far this year in southern Florida, at least 34 people were charged, 19 people convicted, and over \$20 million in restitution ordered for a variety of crimes related to substance abuse treatment fraud and the illegal distribution of opioids.”⁵⁶

Fraud and exploitation does not end when patients leave or complete treatment. “Curbing” is the practice of kicking a patient out of a treatment facility when their insurance will no longer cover the cost of their treatment.⁵⁷ There have been reports that in some instances when individuals successfully complete a substance use disorder program, facilities will encourage patients to relapse, and in some cases even provide the drugs, so that patients will

⁵⁰ David Segal, *In Pursuit of Liquid Gold*, NEW YORK TIMES (Dec. 27, 2017), available at <https://www.nytimes.com/interactive/2017/12/27/business/urine-test-cost.html>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Complaint, United States of America v. Eric Snyder and Christopher Fuller (S.D. Fla. 2017) (No. 27-8268-DLB).

⁵⁵ *Id.*

⁵⁶ Matt Phifer, *Prosecutors Watching for Grift in Substance Abuse Treatment (Corrected)*, BLOOMBERG LAW (Nov. 20, 2018), available at <https://news.bloomberglaw.com/health-law-and-business/prosecutors-watching-for-grift-in-substance-abuse-treatment-corrected>.

⁵⁷ Teri Sforza et al., *How some Southern California drug rehab centers exploit addiction*, ORANGE COUNTY REGISTER (May 21, 2017), available at <http://www.ocregister.com/2017/05/21/how-some-southern-california-drug-rehab-centers-exploit-addiction/>; Warren Richey, *Alison’s Story: How \$750,000 in Drug ‘Treatment’ Destroyed Her Life*, THE CHRISTIAN SCIENCE MONITOR (May 9, 2017), available at <https://www.csmonitor.com/USA/Society/2017/0509/Alison-s-story-How-750-000-in-drug-treatment-destroyed-her-life>.

“test dirty” and they can re-enter treatment and their billing cycle can re-start.⁵⁸ There are also allegations that patient brokers follow these individuals after their release and provide them with drugs so they relapse and the entire process can be repeated. This leaves individuals vulnerable, and many return to their substance use disorder.⁵⁹ Further, this scheme creates an incentive for relapse and profit rather than treatment and, ultimately, recovery and sobriety.

As our nation battles the opioid crisis, effective treatment options are vital to combating substance use disorders and ultimately, to saving lives. Those battling substance use disorders deserve a safe and dependable industry when seeking treatment.

To assist us in our efforts, we are collecting information on these issues under the heading “Substance Use Disorder Treatment.” We are requesting information regarding the challenges, failures, fraud, and abuse within the substance use disorder treatment industry. In addition, we are requesting information regarding suggested “best practices,” and other ways to improve the quality of substance use disorder treatment. We welcome the public’s input and feedback to TreatmentRFI@mail.house.gov by November 1, 2019. Please be advised that submissions sent to TreatmentRFI@mail.house.gov may be made publicly available to help further the discussion around how best to approach improving access and the quality of substance use disorder treatment. We thank you for participating.

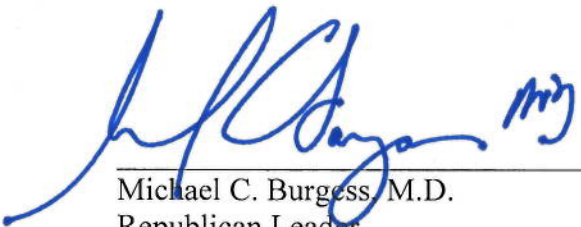
Sincerely,



Greg Walden
Republican Leader



Brett Guthrie
Republican Leader
Subcommittee on Oversight
and Investigations



Michael C. Burgess, M.D.
Republican Leader
Subcommittee on Health

⁵⁸ Lisa Riordan Seville, et al. *Florida's Billion-Dollar Drug Treatment Industry Is Plagued by Overdoses, Fraud*, NBC NEWS (June 25, 2017), available at <http://www.nbcnews.com/feature/megyn-kelly/florida-s-billion-dollar-drug-treatment-industry-plagued-overdoses-fraud-n773376>; Victoria Kim, *Dr. Oz Tackles Rehab Fraud & Patient Brokering in Florida*, THE FIX (Nov. 10, 2017), available at <https://www.thefix.com/dr-oz-tackles-rehab-fraud-patient-brokering-florida>.

⁵⁹ Warren Richey, *Alison's Story: How \$750,000 in Drug 'Treatment' Destroyed Her Life*, THE CHRISTIAN SCIENCE MONITOR (May 9, 2017), available at <https://www.csmonitor.com/USA/Society/2017/0509/Alison-s-story-How-750-000-in-drug-treatment-destroyed-her-life>.