



Congress in overdrive to fight “national epidemic of prescription opioid and heroin use”

U.S. Senate overwhelmingly passes Comprehensive Addiction and Recovery Act (CARA), House shifts from CARA to “blizzard” of bills

April 30th - Fresh off its efforts last month to pass [The Comprehensive Addiction and Recovery Act \(CARA\) of 2016](#) by an overwhelming bipartisan vote, members of the United States Senate are now frustrated by the United States House of Representatives’ decision to forgo swift action on CARA. The U.S. House instead has opted to tackle what some in the media deem a “blizzard of bills” ([Heroin bill passed swiftly by U.S. Senate sinks in House](#)).

In early March, the U.S. Senate approved [CARA](#) by a vote of [94 to 1](#). Senators Bob Casey and Pat Toomey [supported the legislation](#).

Pennsylvania’s two U.S. Senators agreed to support the final bill even as they disagreed about [an amendment](#) offered by Senator Jeanne Shaheen (D-NH) that was offered (and defeated) “[to provide emergency funding to states](#), first responders and treatment providers.”

The CARA legislation, which outlines a number of findings from Congress, includes 8 Titles:

1. Prevention and Education
2. Law Enforcement and Treatment
3. Treatment and Recovery
4. Addressing Collateral Consequences
5. Addiction and Treatment Services for Women, Families, and Veterans
6. Incentivizing State Comprehensive Initiatives to Address Prescription Opioid and Heroin Abuse; and
7. Transitional Drug Trafficking Act

The legislation opens with “The abuse of heroin and prescription opioid painkillers is having a devastating effect on public health and safety in communities across the United States.” None of the 18 “findings” of Congress that open this comprehensive legislation specifically cite pregnant women, infants or young children. Among the findings:

- In 2014, an average of more than 2014 people in the United States died from drug overdoses every day.

- The number of prescriptions for opioids increased from approximately 76 million in 1991 to 2017 million in 2013 further noting that “the United States is the biggest consumer of opioids globally, accounting for almost 100 percent of the world total for hydrocodone and 81 percent for oxycodone.”
- Citing that opioid pain relievers are the “most widely misused or abused controlled prescription drugs” it is noted that “an estimated number of emergency department visits involving nonmedical use of prescription opiates or opioids increased by 112 percent between 2006 and 2010, from 84,671 to 179,797.”

Congress also finds that “combatting the opioid crisis, including abuse of prescription painkillers and, increasingly, heroin, requires a **To keep reading, become a CJAR Subscriber!**”

Multiple committees and a “blizzard” of opioid-related bills in the U.S. House

In a town and legislative chamber that rarely are able to witness such decisive action, there had been hope for prompt action and agreement by the U.S. House on the Senate’s version of CARA.

Instead this week three different U.S. House Committees marked up a multitude of bills. The U.S. House Judiciary Committee marked up its own [Comprehensive Opioid Abuse Reduction Act](#). A main champion of CARA, U.S. Senator Rob Portman (R-Ohio) [told the Washington Post](#) “Some of the most important ideas are missing from the House Judiciary Committee’s alternative.” Portman underscored in that media report that CARA is “comprehensive. No other bill comes close.”

Meanwhile, the [U.S. Committee on Energy and Commerce](#) (E&C), Chaired by Michigan Congressman Fred Upton, [held a “marathon markup”](#) over multiple days advancing 11 opioid-related bills to the full House. E&C Committee members from Pennsylvania include Congressmen [Joe Pitts](#) (Chairing the Subcommittee on Health), [Tim Murphy](#), and [Michael Doyle](#).

By and large the bills passed out of committee [unanimously by voice vote](#). Although there was a dust up when an amendment was offered to the Opioid Use Disorder Treatment Expansion and Modernization Act (H.R. 4981). [Rejected was an amendment](#) related to “funding for opioid and **To keep reading, become a CJAR Subscriber!**”

Infant Plan of Safe Care Improvement Act advances as HHS puts pressure on and provides clarification to states

E&W Chairman John Kline (R-MN) [opened the April 28th hearing](#) stating that the committee was taking “an important step in preventing the abuse and neglect of infants born with opioid addiction.”

Congressman Barletta’s bill amends the Child Abuse Prevention and Treatment Act (CAPTA). Kline reminded the committee that, under CAPTA, “states have to provide some basic assurances about their child welfare policies.” Among the CAPTA assurance requirements are that a state has policies or practices in place to require health care providers notify children and youth agencies when the infant was born “and identified as being affected by illegal substance abuse or withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder.” Beyond this notification then states are to demonstrate how plans of safe care are developed for these infants.

Citing Reuters' Investigation – [Helpless and Hooked: the most vulnerable victims of the opioid epidemic](#), Kline said an unwillingness (on the part of states and the federal Department of Health and Human Services) “to follow and enforce the law is leading to tragic consequences.” The Chairman described H.R. 4843 as requiring HHS “to better ensure states are meeting current child welfare requirements” and reinforces that HHS has a responsibility “in confirming states have policies in place to prevent and respond to child abuse and neglect” particularly for substance-exposed infants.

In January, [Kline wrote to HHS Secretary Sylvia Burwell](#) identifying that states “are making these assurances without putting the necessary policies in place. Yet, not a single state is being denied federal funds.” He also stipulated that the “current system is failing some of our country’s most vulnerable children and families, and something has to change.”

[On March 15th, he and Burwell had an in-person exchange](#) when Burwell appeared before the E&W Committee. Burwell assured Kline that HHS has “put in place a different process to review what the states are saying, when they say they have a plan in this next year’s round we will be asking for more details of those plans. So we can understand that the states actually have something that is a workable plan.”

On April 13th then the federal Administration for Children and Families (ACF) within HHS issued Program Instructions (ACYF-CB-PI-16-03) that address, in part, the need for states to more thoroughly inform ACF/HHS about how they address the needs of substance-exposed infants.

The PI was expected since states annually have to provide ACF with an Annual Progress and Services Report (APSR) – essentially an update to **To keep reading, become a CJAR Subscriber!**

Content Area	S. 2687 (Casey) <i>(<u>underlined</u> text reflects text that would be added to CAPTA if S. 2687 were enacted)</i>	H.R. 4843 (Barletta) <i>(<u>underlined</u> text reflects text that would be added to CAPTA if H.R. 4843 were enacted)</i>
Short Title	Plan of Safe Care Improvement Act	Infant Plan of Safe Care Improvement Act
Best Practices for Development of Plans of Safe Care	<u>To keep reading, become a CJAR Subscriber!</u>	<u>To keep reading, become a CJAR Subscriber!</u>
Data Reports	<u>To keep reading, become a CJAR Subscriber!</u>	<u>To keep reading, become a CJAR Subscriber!</u>
Monitoring by HHS	<u>To keep reading, become a CJAR Subscriber!</u>	<u>To keep reading, become a CJAR Subscriber!</u>

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State Plans (additive to already required CAPTA plan)	<u>To keep reading, become a CJAR Subscriber!</u>	<u>To keep reading, become a CJAR Subscriber!</u>

Improving Treatment for Pregnant and Postpartum Women woven into CARA

A number of amendments were added to S.524 (Comprehensive Addiction and Recovery Act) before the U.S. Senate passed the bill by a vote of 94 to 1.

Legislation originally introduced by [Senator Kelly Ayotte \(R-NH\)](#) as a standalone bill found its way into the Senate’s version of CARA. Ayotte’s [Improving Treatment for Pregnant and Postpartum \(S. 2226\)](#) sought to amend the Public Health Service Act (PHSA) to reauthorize the residential treatment programs for pregnant and postpartum women and to establish a pilot program to provide grants to State substance abuse agencies to promote innovative service delivery models for such women.”

S. 524, as it passed the Senate, includes the contents of S.2226 including the language to establish a “pilot program for state substance abuse agencies.” Competitive grants through a pilot would be awarded to states to:

- “(A) enhance flexibility in the use of funds designed to support family-based services for pregnant and postpartum women with a primary diagnosis of a substance use disorder, including opioid use disorders;
- (B) help State substance abuse agencies address identified gaps in services furnished to such women along the continuum of care, including services provided to women in non-residential based settings; and

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Nurturing and Supporting Healthy Babies Act and Cradle Act remain outside CARA

A number of bills introduced in both the U.S. House and Senate did not get included in CARA.

Efforts in some of the U.S. House Committees this week demonstrated that the House may want to change that dynamic.

Even as the Cradle Act is not in CARA and did not advance when House committees acted this week, clearly it was on the minds of policymakers, including E&W Chairman John Kline. The Cradle Act introduced by [Congressman Evan Jenkins \(R-WV\)](#) [seeks to grow the number of standalone residential pediatric recovery centers treating Neonatal Abstinence Syndrome \(NAS\)](#).

[Upon introducing the Cradle Act Jenkins said:](#) “Going through withdrawal from heroin and other opioids is a horrific way to start one’s life, but that’s the reality for many newborns in West Virginia and across the country. Before coming to Congress, I helped to start Lily’s Place in Huntington, one of the first standalone residential pediatric recovery centers in the country to treat neonatal abstinence syndrome babies. This

model is making a difference in the lives of babies and families, and we should encourage more centers to open nationwide to treat these newborns.”

During consideration of Barletta’s Infant Plan of Safe Care Improvement Act, Kline underscored “Programs like Lily’s Place, an infant recovery center in West Virginia, are not only helping to wean children off of the drugs they are born addicted to, but also teaching mothers how to care

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Here’s a look at the U.S. Senate and House Cradle Act legislation as well as the Nurturing and Supporting Healthy Babies Act – both of which again are not included in the Senate passed version of CARA.

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