

111TH CONGRESS  
1ST SESSION

# H. R. 756

To amend the Public Health Service Act with respect to pain care.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mrs. CAPPs (for herself and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act with respect to pain care.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “National Pain Care Policy Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents of  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Institute of Medicine Conference on Pain.
- Sec. 3. Pain research at National Institutes of Health.
- Sec. 4. Pain care education and training.
- Sec. 5. Public awareness campaign on pain management.

1 **SEC. 2. INSTITUTE OF MEDICINE CONFERENCE ON PAIN.**

2 (a) CONVENING.—Not later than June 30, 2010, the  
3 Secretary of Health and Human Services shall seek to  
4 enter into an agreement with the Institute of Medicine of  
5 the National Academies to convene a Conference on Pain  
6 (in this section referred to as “the Conference”).

7 (b) PURPOSES.—The purposes of the Conference  
8 shall be to—

9 (1) increase the recognition of pain as a signifi-  
10 cant public health problem in the United States;

11 (2) evaluate the adequacy of assessment, diag-  
12 nosis, treatment, and management of acute and  
13 chronic pain in the general population, and in identi-  
14 fied racial, ethnic, gender, age, and other demo-  
15 graphic groups that may be disproportionately af-  
16 fected by inadequacies in the assessment, diagnosis,  
17 treatment, and management of pain;

18 (3) identify barriers to appropriate pain care,  
19 including—

20 (A) lack of understanding and education  
21 among employers, patients, health care pro-  
22 viders, regulators, and third-party payors;

23 (B) barriers to access to care at the pri-  
24 mary, specialty, and tertiary care levels, includ-  
25 ing barriers—

1 (i) specific to those populations that  
2 are disproportionately undertreated for  
3 pain;

4 (ii) related to physician concerns over  
5 regulatory and law enforcement policies  
6 applicable to some pain therapies; and

7 (iii) attributable to benefit, coverage,  
8 and payment policies in both the public  
9 and private sectors; and

10 (C) gaps in basic and clinical research on  
11 the symptoms and causes of pain, and potential  
12 assessment methods and new treatments to im-  
13 prove pain care; and

14 (4) establish an agenda for action in both the  
15 public and private sectors that will reduce such bar-  
16 riers and significantly improve the state of pain care  
17 research, education, and clinical care in the United  
18 States.

19 (c) OTHER APPROPRIATE ENTITY.—If the Institute  
20 of Medicine declines to enter into an agreement under sub-  
21 section (a), the Secretary of Health and Human Services  
22 may enter into such agreement with another appropriate  
23 entity.

1 (d) REPORT.—A report summarizing the Con-  
2 ference’s findings and recommendations shall be sub-  
3 mitted to the Congress not later than June 30, 2011.

4 (e) AUTHORIZATION OF APPROPRIATIONS.—For the  
5 purpose of carrying out this section, there is authorized  
6 to be appropriated \$500,000 for each of fiscal years 2010  
7 and 2011.

8 **SEC. 3. PAIN RESEARCH AT NATIONAL INSTITUTES OF**  
9 **HEALTH.**

10 Part B of title IV of the Public Health Service Act  
11 (42 U.S.C. 284 et seq.) is amended by adding at the end  
12 the following:

13 **“SEC. 409J. PAIN RESEARCH.**

14 **“(a) RESEARCH INITIATIVES.—**

15 **“(1) IN GENERAL.—**The Director of NIH is en-  
16 couraged to continue and expand, through the Pain  
17 Consortium, an aggressive program of basic and  
18 clinical research on the causes of and potential treat-  
19 ments for pain.

20 **“(2) ANNUAL RECOMMENDATIONS.—**Not less  
21 than annually, the Pain Consortium, in consultation  
22 with the Division of Program Coordination, Plan-  
23 ning, and Strategic Initiatives, shall develop and  
24 submit to the Director of NIH recommendations on  
25 appropriate pain research initiatives that could be

1 undertaken with funds reserved under section  
2 402A(c)(1) for the Common Fund or otherwise  
3 available for such initiatives.

4 “(3) DEFINITION.—In this subsection, the term  
5 ‘Pain Consortium’ means the Pain Consortium of  
6 the National Institutes of Health or a similar trans-  
7 National Institutes of Health coordinating entity  
8 designated by the Secretary for purposes of this sub-  
9 section.

10 “(b) INTERAGENCY PAIN RESEARCH COORDINATING  
11 COMMITTEE.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-  
13 tablish not later than 1 year after the date of the  
14 enactment of this section and as necessary maintain  
15 a committee, to be known as the Interagency Pain  
16 Research Coordinating Committee (in this section  
17 referred to as the ‘Committee’), to coordinate all ef-  
18 forts within the Department of Health and Human  
19 Services and other Federal agencies that relate to  
20 pain research.

21 “(2) MEMBERSHIP.—

22 “(A) IN GENERAL.—The Committee shall  
23 be composed of the following voting members:

24 “(i) Not more than 7 voting Federal  
25 representatives as follows:

1                   “(I) The Director of the Centers  
2                   for Disease Control and Prevention.

3                   “(II) The Director of the Na-  
4                   tional Institutes of Health and the di-  
5                   rectors of such national research insti-  
6                   tutes and national centers as the Sec-  
7                   retary determines appropriate.

8                   “(III) The heads of such other  
9                   agencies of the Department of Health  
10                  and Human Services as the Secretary  
11                  determines appropriate.

12                  “(IV) Representatives of other  
13                  Federal agencies that conduct or sup-  
14                  port pain care research and treat-  
15                  ment, including the Department of  
16                  Defense and the Department of Vet-  
17                  erans Affairs.

18                  “(ii) 12 additional voting members ap-  
19                  pointed under subparagraph (B).

20                  “(B) ADDITIONAL MEMBERS.—The Com-  
21                  mittee shall include additional voting members  
22                  appointed by the Secretary as follows:

23                  “(i) 6 members shall be appointed  
24                  from among scientists, physicians, and  
25                  other health professionals, who—

1                   “(I) are not officers or employees  
2                   of the United States;

3                   “(II) represent multiple dis-  
4                   ciplines, including clinical, basic, and  
5                   public health sciences;

6                   “(III) represent different geo-  
7                   graphical regions of the United  
8                   States; and

9                   “(IV) are from practice settings,  
10                  academia, manufacturers or other re-  
11                  search settings; and

12                  “(ii) 6 members shall be appointed  
13                  from members of the general public, who  
14                  are representatives of leading research, ad-  
15                  vocacy, and service organizations for indi-  
16                  viduals with pain-related conditions.

17                  “(C) NONVOTING MEMBERS.—The Com-  
18                  mittee shall include such nonvoting members as  
19                  the Secretary determines to be appropriate.

20                  “(3) CHAIRPERSON.—The voting members of  
21                  the Committee shall select a chairperson from  
22                  among such members. The selection of a chairperson  
23                  shall be subject to the approval of the Director of  
24                  NIH.

1           “(4) MEETINGS.—The Committee shall meet at  
2           the call of the chairperson of the Committee or upon  
3           the request of the Director of NIH, but in no case  
4           less often than once each year.

5           “(5) DUTIES.—The Committee shall—

6                   “(A) develop a summary of advances in  
7                   pain care research supported or conducted by  
8                   the Federal agencies relevant to the diagnosis,  
9                   prevention, and treatment of pain and diseases  
10                  and disorders associated with pain;

11                  “(B) identify critical gaps in basic and  
12                  clinical research on the symptoms and causes of  
13                  pain;

14                  “(C) make recommendations to ensure that  
15                  the activities of the National Institutes of  
16                  Health and other Federal agencies, including  
17                  the Department of Defense and the Department  
18                  of Veteran Affairs, are free of unnecessary du-  
19                  plication of effort;

20                  “(D) make recommendations on how best  
21                  to disseminate information on pain care; and

22                  “(E) make recommendations on how to ex-  
23                  pand partnerships between public entities, in-  
24                  cluding Federal agencies, and private entities to  
25                  expand collaborative, cross-cutting research.



1           “(6) REVIEW.—The Secretary shall review the  
2           necessity of the Committee at least once every 2  
3           years.”.

4   **SEC. 4. PAIN CARE EDUCATION AND TRAINING.**

5           (a) PAIN CARE EDUCATION AND TRAINING.—Part D  
6           of title VII of the Public Health Service Act (42 U.S.C.  
7           294 et seq.) is amended—

8                   (1) by redesignating sections 754 through 758  
9                   as sections 755 through 759, respectively; and

10                  (2) by inserting after section 753 the following:

11   **“SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN**

12                                   **PAIN CARE.**

13           “(a) IN GENERAL.—The Secretary may make awards  
14           of grants, cooperative agreements, and contracts to health  
15           professions schools, hospices, and other public and private  
16           entities for the development and implementation of pro-  
17           grams to provide education and training to health care  
18           professionals in pain care.

19           “(b) PRIORITIES.—In making awards under sub-  
20           section (a), the Secretary shall give priority to awards for  
21           the implementation of programs under such subsection.

22           “(c) CERTAIN TOPICS.—An award may be made  
23           under subsection (a) only if the applicant for the award  
24           agrees that the program carried out with the award will  
25           include information and education on—

1           “(1) recognized means for assessing, diag-  
2           nosing, treating, and managing pain and related  
3           signs and symptoms, including the medically appro-  
4           priate use of controlled substances;

5           “(2) applicable laws, regulations, rules, and  
6           policies on controlled substances, including the de-  
7           gree to which misconceptions and concerns regarding  
8           such laws, regulations, rules, and policies, or the en-  
9           forcement thereof, may create barriers to patient ac-  
10          cess to appropriate and effective pain care;

11          “(3) interdisciplinary approaches to the delivery  
12          of pain care, including delivery through specialized  
13          centers providing comprehensive pain care treatment  
14          expertise;

15          “(4) cultural, linguistic, literacy, geographic,  
16          and other barriers to care in underserved popu-  
17          lations; and

18          “(5) recent findings, developments, and im-  
19          provements in the provision of pain care.

20          “(d) PROGRAM SITES.—Education and training  
21          under subsection (a) may be provided at or through health  
22          professions schools, residency training programs, and  
23          other graduate programs in the health professions; entities  
24          that provide continuing education in medicine, pain man-  
25          agement, dentistry, psychology, social work, nursing, and

1 pharmacy; hospices; and such other programs or sites as  
2 the Secretary determines to be appropriate.

3 “(e) EVALUATION OF PROGRAMS.—The Secretary  
4 shall (directly or through grants or contracts) provide for  
5 the evaluation of programs implemented under subsection  
6 (a) in order to determine the effect of such programs on  
7 knowledge and practice of pain care.

8 “(f) PEER REVIEW GROUPS.—In carrying out section  
9 799(f) with respect to this section, the Secretary shall en-  
10 sure that the membership of each peer review group in-  
11 volved includes individuals with expertise and experience  
12 in pain care.

13 “(g) DEFINITIONS.—For purposes of this section the  
14 term ‘pain care’ means the assessment, diagnosis, treat-  
15 ment, or management of acute or chronic pain regardless  
16 of causation or body location.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
18 758(b)(1) of the Public Health Service Act (as redesignig-  
19 nated by subsection (a)(1) of this section) is amended—

20 (1) by striking “and” at the end of subpara-  
21 graph (B);

22 (2) by striking the period at the end of sub-  
23 paragraph (C) and inserting “; and”; and

24 (3) by inserting after subparagraph (C) the fol-  
25 lowing:

1           “(D) not less than \$5,000,000 for awards  
2           of grants, cooperative agreements, and con-  
3           tracts under sections 754.”.

4           (c) TECHNICAL AMENDMENTS.—Title VII of the  
5 Public Health Service Act (42 U.S.C. 292 et seq.) is  
6 amended—

7           (1) in paragraph (2) of section 757(b) (as re-  
8           designated by subsection (a)(1)), by striking  
9           “754(3)(A), and 755(b)” and inserting “755(3)(A),  
10          and 756(b)”;

11          (2) in subparagraph (C) of section 758(b)(1)  
12          (as redesignated by subsection (a)(1)), by striking  
13          “754, and 755” and inserting “755, and 756”.

14 **SEC. 5. PUBLIC AWARENESS CAMPAIGN ON PAIN MANAGE-**  
15 **MENT.**

16          Part B of title II of the Public Health Service Act  
17 (42 U.S.C. 238 et seq.) is amended by adding at the end  
18 the following:

19 **“SEC. 249. NATIONAL EDUCATION OUTREACH AND AWARE-**  
20 **NESS CAMPAIGN ON PAIN MANAGEMENT.**

21          “(a) ESTABLISHMENT.—Not later than June 30,  
22 2010, the Secretary shall establish and implement a na-  
23 tional pain care education outreach and awareness cam-  
24 paign described in subsection (b).

1       “(b) REQUIREMENTS.—The Secretary shall design  
2 the public awareness campaign under this section to edu-  
3 cate consumers, patients, their families, and other care-  
4 givers with respect to—

5           “(1) the incidence and importance of pain as a  
6 national public health problem;

7           “(2) the adverse physical, psychological, emo-  
8 tional, societal, and financial consequences that can  
9 result if pain is not appropriately assessed, diag-  
10 nosed, treated, or managed;

11          “(3) the availability, benefits, and risks of all  
12 pain treatment and management options;

13          “(4) having pain promptly assessed, appro-  
14 priately diagnosed, treated, and managed, and regu-  
15 larly reassessed with treatment adjusted as needed;

16          “(5) the role of credentialed pain management  
17 specialists and subspecialists, and of comprehensive  
18 interdisciplinary centers of treatment expertise;

19          “(6) the availability in the public, nonprofit,  
20 and private sectors of pain management-related in-  
21 formation, services, and resources for consumers,  
22 employers, third-party payors, patients, their fami-  
23 lies, and caregivers, including information on—

1           “(A) appropriate assessment, diagnosis,  
2           treatment, and management options for all  
3           types of pain and pain-related symptoms; and

4           “(B) conditions for which no treatment op-  
5           tions are yet recognized; and

6           “(7) other issues the Secretary deems appro-  
7           priate.

8           “(c) CONSULTATION.—In designing and imple-  
9           menting the public awareness campaign required by this  
10          section, the Secretary shall consult with organizations rep-  
11          resenting patients in pain and other consumers, employ-  
12          ers, physicians including physicians specializing in pain  
13          care, other pain management professionals, medical device  
14          manufacturers, and pharmaceutical companies.

15          “(d) COORDINATION.—

16                 “(1) LEAD OFFICIAL.—The Secretary shall des-  
17                 ignate one official in the Department of Health and  
18                 Human Services to oversee the campaign established  
19                 under this section.

20                 “(2) AGENCY COORDINATION.—The Secretary  
21                 shall ensure the involvement in the public awareness  
22                 campaign under this section of the Surgeon General  
23                 of the Public Health Service, the Director of the  
24                 Centers for Disease Control and Prevention, and  
25                 such other representatives of offices and agencies of

1 the Department of Health and Human Services as  
2 the Secretary determines appropriate.

3 “(e) UNDERSERVED AREAS AND POPULATIONS.—In  
4 designing the public awareness campaign under this sec-  
5 tion, the Secretary shall—

6 “(1) take into account the special needs of geo-  
7 graphic areas and racial, ethnic, gender, age, and  
8 other demographic groups that are currently under-  
9 served; and

10 “(2) provide resources that will reduce dispari-  
11 ties in access to appropriate diagnosis, assessment,  
12 and treatment.

13 “(f) GRANTS AND CONTRACTS.—The Secretary may  
14 make awards of grants, cooperative agreements, and con-  
15 tracts to public agencies and private nonprofit organiza-  
16 tions to assist with the development and implementation  
17 of the public awareness campaign under this section.

18 “(g) EVALUATION AND REPORT.—Not later than the  
19 end of fiscal year 2012, the Secretary shall prepare and  
20 submit to the Congress a report evaluating the effective-  
21 ness of the public awareness campaign under this section  
22 in educating the general public with respect to the matters  
23 described in subsection (b).

24 “(h) AUTHORIZATION OF APPROPRIATIONS.—For  
25 purposes of carrying out this section, there are authorized

- 1 to be appropriated \$2,000,000 for fiscal year 2010 and
- 2 \$4,000,000 for each of fiscal years 2011 and 2012.”.

○