

105TH CONGRESS
2^D SESSION

H. R. 4006

[Report No. 105-683, Part I]

To clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide or euthanasia of any individual.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1998

Mr. HYDE (for himself and Mr. OBERSTAR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, 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

AUGUST 6, 1998

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on June 5, 1998]

A BILL

To clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide or euthanasia of any individual.

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. SHORT TITLE.**

2 *This Act may be cited as the “Lethal Drug Abuse Pre-*
3 *vention Act of 1998”.*

4 **SEC. 2. LETHAL DRUG ABUSE PREVENTION.**

5 *(a) DENIAL OF REGISTRATION.—Section 303 of the*
6 *Controlled Substances Act (21 U.S.C. 823) is amended by*
7 *adding at the end the following:*

8 *“(i) ADDITIONAL GROUND FOR DENIAL OF REGISTRA-*
9 *TION—ASSISTED SUICIDE.—The Attorney General shall de-*
10 *termine that registration of an applicant under this section*
11 *is inconsistent with the public interest if—*

12 *“(1) during the 5-year period immediately pre-*
13 *ceding the date on which the application is submitted*
14 *under this section, the registration of the applicant*
15 *under this section was revoked under section*
16 *304(a)(4); or*

17 *“(2) the Attorney General determines, based on*
18 *clear and convincing evidence, that the applicant is*
19 *applying for the registration with the intention of*
20 *using the registration to take any action that would*
21 *constitute a violation of section 304(a)(4).”.*

22 *(b) SUSPENSION OR REVOCATION OF REGISTRA-*
23 *TION.—*

24 *(1) IN GENERAL.—Section 304(a) of the Con-*
25 *trolled Substances Act (21 U.S.C. 824(a)) is amend-*
26 *ed—*

1 (A) by redesignating paragraphs (4) and
2 (5) as paragraphs (5) and (6), respectively; and
3 (B) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) has intentionally dispensed or distributed a
6 controlled substance with a purpose of causing, or as-
7 sisting in causing, the suicide or euthanasia of any
8 individual, except that this paragraph does not apply
9 to the dispensing or distribution of a controlled sub-
10 stance for the purpose of alleviating pain or discom-
11 fort (even if the use of the controlled substance may
12 increase the risk of death), so long as the controlled
13 substance is not also dispensed or distributed for the
14 purpose of causing, or assisting in causing, the death
15 of an individual for any reason;”.

16 (2) CONFORMING AMENDMENT.—Section
17 304(a)(5) of the Controlled Substances Act (21 U.S.C.
18 824(a)(5)) (as redesignated by paragraph (1) of this
19 subsection) is amended by inserting “other” after
20 “such” the first place such term appears.

21 (c) PAIN RELIEF.—Section 304(c) of the Controlled
22 Substances Act (21 U.S.C. 824(c)) is amended—

23 (1) by striking “(c) Before” and inserting the fol-
24 lowing:

25 “(c) PROCEDURES.—

1 “(1) *ORDER TO SHOW CAUSE.—Before*”; and

2 (2) *by adding at the end the following:*

3 “(2) *ASSISTED SUICIDE.—*

4 “(A) *BURDEN OF PROOF.—At any proceeding*
5 *under paragraph (1), where the order to show cause*
6 *is based on subsection (a)(4) for denial, revocation, or*
7 *suspension of registration, the Attorney General shall*
8 *have the burden of proving, by clear and convincing*
9 *evidence, that the practitioner’s intent was to dispense*
10 *or distribute a controlled substance with a purpose of*
11 *causing, or assisting in causing, the suicide or eutha-*
12 *nasia of any individual. In meeting such burden it*
13 *shall not be sufficient to prove that the registrant*
14 *knew that the use of the controlled substance may in-*
15 *crease the risk of death.*

16 “(B) *REQUEST FOR REVIEW BY MEDICAL ADVI-*
17 *SORY BOARD ON PAIN RELIEF.—At any proceeding*
18 *under paragraph (1), where the order to show cause*
19 *is based on subsection (a)(4) for denial, revocation, or*
20 *suspension of registration, the practitioner may re-*
21 *quest, within 30 days after the receipt of the order to*
22 *show cause, that the Medical Advisory Board on Pain*
23 *Relief review, in accordance with paragraph (3), the*
24 *administrative record of such proceeding as it relates*
25 *to subsection (a)(4).*

1 “(3) *MEDICAL ADVISORY BOARD ON PAIN RELIEF.*—

2 “(A) *IN GENERAL.*—*The Attorney General shall*
3 *by regulation establish a board to be known as the*
4 *Medical Advisory Board on Pain Relief (referred to*
5 *in this paragraph as the ‘Board’).*

6 “(B) *MEMBERSHIP.*—*The Attorney General shall*
7 *appoint the members of the Board—*

8 “(i) *from among individuals who, by reason*
9 *of specialized education or substantial relevant*
10 *experience in pain management, are clinical ex-*
11 *perts with knowledge regarding standards, prac-*
12 *tices, and guidelines concerning pain relief; and*

13 “(ii) *after consultation with the American*
14 *Medical Association, the American Academy of*
15 *Pain Medicine, the American Pain Society, the*
16 *American Academy of Hospice and Palliative*
17 *Medicine, the National Hospice Organization,*
18 *the American Geriatrics Society, and such other*
19 *entities with relevant expertise concerning pain*
20 *relief, as the Attorney General determines to be*
21 *appropriate.*

22 “(C) *DUTIES OF BOARD.*—*If in accordance with*
23 *paragraph (2)(B) an applicant or registrant requests*
24 *a review by the Board of the record of a proceeding*
25 *under paragraph (1), the Board shall review the ad-*

1 *ministrative record of such proceeding as it relates to*
2 *subsection (a)(4) and issue to the Attorney General*
3 *an advisory opinion as to whether the dispensing or*
4 *distribution of the controlled substance at issue in the*
5 *proceeding was for the purpose of alleviating pain or*
6 *discomfort in a manner that does not constitute a vio-*
7 *lation of subsection (a)(4). The opinion of the Board*
8 *under this subparagraph shall be part of the adminis-*
9 *trative record and shall be considered by the Attorney*
10 *General in determining whether to deny, revoke, or*
11 *suspend the registration involved.”.*

12 **SEC. 3. CONSTRUCTION.**

13 *(a) IN GENERAL.—Nothing in this Act or the amend-*
14 *ments made by this Act shall be construed to imply that*
15 *the dispensing or distribution of a controlled substance be-*
16 *fore the date of enactment of this Act for the purpose of*
17 *causing, or assisting in causing, the suicide or euthanasia*
18 *of any individual is or is not a violation of the Controlled*
19 *Substances Act (21 U.S.C. 801 et seq.).*

20 *(b) INCORPORATED DEFINITIONS.—In this section, the*
21 *terms “controlled substance”, “dispense”, and “distribute”*
22 *have the meanings given those terms in section 102 of the*
23 *Controlled Substances Act (21 U.S.C. 802).*

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