

# Union Calendar No. 422

105<sup>TH</sup> CONGRESS  
2D 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.

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## 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 *italic*]

AUGUST 6, 1998

Referral to the Committee on Commerce extended for a period ending not later than September 18, 1998

SEPTEMBER 18, 1998

Additional sponsors: Mr. HOEKSTRA, Mr. CHRISTENSEN, Mr. PITTS, Mr. ISTOOK, Mr. KING, Mr. RAHALL, Mr. WATTS of Oklahoma, Mr. TIAHRT, Mr. STUPAK, Mr. HILL, Mr. HUTCHINSON, Mr. LEWIS of Kentucky, Mr. SMITH of New Jersey, Mr. TALENT, Mr. COBURN, Mr. MCCOLLUM, Mr. BALLENGER, Mr. CANNON, Mr. MANZULLO, Mr. GOODLING, Mr. KIM, Mr. CRANE, Mr. NETHERCUTT, Mr. BRYANT, Mr. HASTINGS of Washington, Mr. BARCIA, Mr. CANADY of Florida, Mr. CALVERT, Mrs. EMERSON, Mr. CHABOT, Mr. BRADY of Texas, Mr. SNOWBARGER, Mr. BOB SCHAFER of Colorado, Mr. DOYLE, Mr. PETERSON of Minnesota, Mr. LAHOOD, Mrs. MYRICK, Mr. GOODLATTE, Mr. PEASE, Mr. SUNUNU, Ms. PRYCE of Ohio, Mr. WELDON of Florida, Mr. HOSTETTLER, Mr. LA-

FALCE, Mr. SENSENBRENNER, Mrs. NORTHUP, Mr. FORBES, Mr. WAMP,  
Mr. SOUDER, Mr. LUCAS of Oklahoma, Mr. PETRI, and Mr. EVERETT

Deleted sponsors: Mr. LATOURETTE (added June 16, 1998; deleted September  
10, 1998), and Ms. ROYBAL-ALLARD (added July 20, 1998; deleted Sep-  
tember 11, 1998)

SEPTEMBER 18, 1998

Committee on Commerce discharged; committed to the Committee of the  
Whole House on the State of the Union and ordered to be printed

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

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## A BILL

To clarify Federal law to prohibit the dispensing or distribu-  
tion 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,*  
3 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

6           “(2) the Attorney General determines, based on  
 7           clear and convincing evidence, that the applicant is  
 8           applying for the registration with the intention of  
 9           using the registration to take any action that would  
 10          constitute a violation of section 304(a)(4).”.

11          (b) *SUSPENSION OR REVOCATION OF REGISTRA-*  
 12          *TION.—*

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

16                         (A) by redesignating paragraphs (4) and  
 17                         (5) as paragraphs (5) and (6), respectively; and

18                         (B) by inserting after paragraph (3) the fol-  
 19                         *lowing:*

20                         “(4) has intentionally dispensed or distributed a  
 21                         controlled substance with a purpose of causing, or as-  
 22                         sisting in causing, the suicide or euthanasia of any  
 23                         individual, except that this paragraph does not apply  
 24                         to the dispensing or distribution of a controlled sub-  
 25                         stance for the purpose of alleviating pain or discom-

1 *fort (even if the use of the controlled substance may*  
 2 *increase the risk of death), so long as the controlled*  
 3 *substance is not also dispensed or distributed for the*  
 4 *purpose of causing, or assisting in causing, the death*  
 5 *of an individual for any reason;”.*

6 (2) CONFORMING AMENDMENT.—Section  
 7 304(a)(5) of the Controlled Substances Act (21 U.S.C.  
 8 824(a)(5)) (as redesignated by paragraph (1) of this  
 9 subsection) is amended by inserting “other” after  
 10 “such” the first place such term appears.

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

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

15 “(c) PROCEDURES.—

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

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

18 “(2) ASSISTED SUICIDE.—

19 “(A) BURDEN OF PROOF.—At any proceed-  
 20 ing under paragraph (1), where the order to  
 21 show cause is based on subsection (a)(4) for de-  
 22 nial, revocation, or suspension of registration,  
 23 the Attorney General shall have the burden of  
 24 proving, by clear and convincing evidence, that  
 25 the practitioner’s intent was to dispense or dis-

1       *tribute a controlled substance with a purpose of*  
2       *causing, or assisting in causing, the suicide or*  
3       *euthanasia of any individual. In meeting such*  
4       *burden it shall not be sufficient to prove that the*  
5       *registrant knew that the use of the controlled*  
6       *substance may increase the risk of death.*

7               “(B) *REQUEST FOR REVIEW BY MEDICAL*  
8       *ADVISORY BOARD ON PAIN RELIEF.*—*At any pro-*  
9       *ceeding under paragraph (1), where the order to*  
10       *show cause is based on subsection (a)(4) for de-*  
11       *nial, revocation, or suspension of registration,*  
12       *the practitioner may request, within 30 days*  
13       *after the receipt of the order to show cause, that*  
14       *the Medical Advisory Board on Pain Relief re-*  
15       *view, in accordance with paragraph (3), the ad-*  
16       *ministrative record of such proceeding as it re-*  
17       *lates to subsection (a)(4).*

18               “(3) *MEDICAL ADVISORY BOARD ON PAIN RE-*  
19       *LIEF.*—

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

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

1           “(i) from among individuals who, by  
2           reason of specialized education or substan-  
3           tial relevant experience in pain manage-  
4           ment, are clinical experts with knowledge  
5           regarding standards, practices, and guide-  
6           lines concerning pain relief; and

7           “(ii) after consultation with the Amer-  
8           ican Medical Association, the American  
9           Academy of Pain Medicine, the American  
10          Pain Society, the American Academy of  
11          Hospice and Palliative Medicine, the Na-  
12          tional Hospice Organization, the American  
13          Geriatrics Society, and such other entities  
14          with relevant expertise concerning pain re-  
15          lief, as the Attorney General determines to  
16          be appropriate.

17          “(C) DUTIES OF BOARD.—If in accordance  
18          with paragraph (2)(B) an applicant or reg-  
19          istrant requests a review by the Board of the  
20          record of a proceeding under paragraph (1), the  
21          Board shall review the administrative record of  
22          such proceeding as it relates to subsection (a)(4)  
23          and issue to the Attorney General an advisory  
24          opinion as to whether the dispensing or distribu-  
25          tion of the controlled substance at issue in the

1           *proceeding was for the purpose of alleviating*  
2           *pain or discomfort in a manner that does not*  
3           *constitute a violation of subsection (a)(4). The*  
4           *opinion of the Board under this subparagraph*  
5           *shall be part of the administrative record and*  
6           *shall be considered by the Attorney General in*  
7           *determining whether to deny, revoke, or suspend*  
8           *the registration involved.”.*

9   **SEC. 3. CONSTRUCTION.**

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

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

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