

111TH CONGRESS
2D SESSION

S. 3575

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act and to authorize the Secretary of Veterans Affairs to share information about the use of controlled substances by veterans with State prescription monitoring programs to prevent misuse and diversion of prescription medicines.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2010

Mr. DURBIN (for himself, Mr. SESSIONS, Mr. DODD, Mr. BROWN of Ohio, Mr. VITTER, and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act and to authorize the Secretary of Veterans Affairs to share information about the use of controlled substances by veterans with State prescription monitoring programs to prevent misuse and diversion of prescription medicines.

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 “National All Schedules
3 Prescription Electronic Reporting Reauthorization Act of
4 2010”.

5 **SEC. 2. AMENDMENT TO PURPOSE.**

6 Paragraph (1) of section 2 of the National All Sched-
7 ules Prescription Electronic Reporting Act of 2005 (Public
8 Law 109–60) is amended to read as follows:

9 “(1) foster the establishment of State-adminis-
10 tered controlled substance monitoring systems in
11 order to ensure that—

12 “(A) health care providers have access to
13 the accurate, timely prescription history infor-
14 mation that they may use as a tool for the early
15 identification of patients at risk for addiction in
16 order to initiate appropriate medical interven-
17 tions and avert the tragic personal, family, and
18 community consequences of untreated addiction;
19 and

20 “(B) appropriate law enforcement, regu-
21 latory, and State professional licensing authori-
22 ties have access to prescription history informa-
23 tion for the purposes of investigating drug di-
24 version and prescribing and dispensing prac-
25 tices of errant prescribers or pharmacists; and”.

1 **SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONI-**
 2 **TORING PROGRAM.**

3 Section 399O of the Public Health Service Act (42
 4 U.S.C. 280g-3) is amended—

5 (1) in subsection (a)(1)—

6 (A) in subparagraph (A), by striking “or”;

7 (B) in subparagraph (B), by striking the
 8 period at the end and inserting “; or”; and

9 (C) by adding at the end the following:

10 “(C) to maintain and operate an existing
 11 State controlled substance monitoring pro-
 12 gram.”;

13 (2) by amending subsection (b) to read as fol-
 14 lows:

15 “(b) **MINIMUM REQUIREMENTS.**—The Secretary
 16 shall maintain and, as appropriate, supplement or revise
 17 (after publishing proposed additions and revisions in the
 18 Federal Register and receiving public comments thereon)
 19 minimum requirements for criteria to be used by States
 20 for purposes of clauses (ii), (v), (vi), and (vii) of subsection
 21 (c)(1)(A).”;

22 (3) in subsection (c)—

23 (A) in paragraph (1)(B)—

24 (i) in the matter preceding clause (i),

25 by striking “(a)(1)(B)” and inserting

26 “(a)(1)(B) or (a)(1)(C)”;

1 (ii) in clause (i), by striking “program
 2 to be improved” and inserting “program to
 3 be improved or maintained”; and

4 (iii) in clause (iv), by striking “public
 5 health” and inserting “public health or
 6 public safety”;

7 (B) in paragraph (3)—

8 (i) by striking “If a State that sub-
 9 mits” and inserting the following:

10 “(A) IN GENERAL.—If a State that sub-
 11 mits”;

12 (ii) by inserting before the period at
 13 the end “and include timelines for full im-
 14 plementation of such interoperability”; and

15 (iii) by adding at the end the fol-
 16 lowing:

17 “(B) MONITORING OF EFFORTS.—The
 18 Secretary shall monitor State efforts to achieve
 19 interoperability, as described in subparagraph
 20 (A).”;

21 (C) in paragraph (5)—

22 (i) by striking “implement or im-
 23 prove” and inserting “establish, improve,
 24 or maintain”; and

1 (ii) by adding at the end the fol-
 2 lowing: “The Secretary shall redistribute
 3 any funds that are so returned among the
 4 remaining grantees under this section in
 5 accordance with the formula described in
 6 subsection (a)(2)(B).”;

7 (4) in the matter preceding paragraph (1) in
 8 subsection (d), by striking “In implementing or im-
 9 proving” all that follows through “with the fol-
 10 lowing:” and inserting “In establishing, improving,
 11 or maintaining a controlled substance monitoring
 12 program under this section, a State shall comply, or
 13 with respect to a State that applies for a grant
 14 under subsection (a)(1)(B) or (C) submit to the Sec-
 15 retary for approval a statement of why such compli-
 16 ance is not feasible and a plan for bringing the State
 17 into compliance, with the following:”;

18 (5) in subsections (e), (f)(1), and (g), by strik-
 19 ing “implementing or improving” each place it ap-
 20 pears and inserting “establishing, improving, or
 21 maintaining”;

22 (6) in subsection (f)—

23 (A) in paragraph (1)(B) by striking “mis-
 24 use of a schedule II, III, or IV substance” and
 25 inserting “misuse of a controlled substance in-

1 cluded in schedule II, III, or IV of section
2 202(c) of the Controlled Substance Act”; and

3 (B) add at the end the following:

4 “(3) EVALUATION AND REPORTING.—Subject
5 to subsection (g), a State receiving a grant under
6 subsection (a) shall provide the Secretary with ag-
7 gregate data and other information determined by
8 the Secretary to be necessary to enable the Sec-
9 retary—

10 “(A) to evaluate the success of the State’s
11 program in achieving its purposes; or

12 “(B) to prepare and submit the report to
13 Congress required by subsection (k)(2).

14 “(4) RESEARCH BY OTHER ENTITIES.—A de-
15 partment, program, or administration receiving non-
16 identifiable information under paragraph (1)(D)
17 may make such information available to other enti-
18 ties for research purposes.”;

19 (7) by redesignating subsections (h) through
20 (n) as subsections (i) through (o), respectively;

21 (8) in subsections (c)(1)(A)(iv) and (d)(4), by
22 striking “subsection (h)” each place it appears and
23 inserting “subsection (i)”;

24 (9) by inserting after subsection (g) the fol-
25 lowing:

1 “(h) EDUCATION AND ACCESS TO THE MONITORING
2 SYSTEM.—A State receiving a grant under subsection (a)
3 shall take steps to—

4 “(1) facilitate prescriber use of the State’s con-
5 trolled substance monitoring system; and

6 “(2) educate prescribers on the benefits of the
7 system both to them and society.”;

8 (10) in subsection (m)(1), as redesignated, by
9 striking “establishment, implementation, or improve-
10 ment” and inserting “establishment, improvement,
11 or maintenance”;

12 (11) in subsection (n)(8), as redesignated, by
13 striking “and the District of Columbia” and insert-
14 ing “, the District of Columbia, and any common-
15 wealth or territory of the United States”; and

16 (12) by amending subsection (o), as redesign-
17 ated, to read as follows:

18 “(o) AUTHORIZATION OF APPROPRIATION.—To carry
19 out this section, there are authorized to be appropriated
20 \$15,000,000 for fiscal year 2011 and \$10,000,000 for
21 each of fiscal years 2012 through 2015.”.

22 **SEC. 4. AMENDMENTS TO TITLE 38.**

23 (a) EXCEPTION WITH RESPECT TO CONFIDENTIAL
24 NATURE OF CLAIMS.—Section 5701 of title 38, United

1 States Code, is amended by adding at the end the fol-
2 lowing new subsection:

3 “(l) Under regulations the Secretary shall prescribe,
4 the Secretary may disclose information about a veteran
5 or the dependant of a veteran to a State controlled sub-
6 stance monitoring program, including a program approved
7 by the Secretary of Health and Human Services under
8 section 3990 of the Public Health Service Act (42 U.S.C.
9 280g–3), to the extent necessary to prevent misuse and
10 diversion of prescription medicines.”.

11 (b) EXCEPTION WITH RESPECT TO CONFIDEN-
12 TIALITY OF CERTAIN MEDICAL RECORDS.—Section
13 7332(b)(2) of such title is amended by adding at the end
14 the following new subparagraph:

15 “(G) To a State controlled substance moni-
16 toring program, including a program approved by
17 the Secretary of Health and Human Services under
18 section 3990 of the Public Health Service Act (42
19 U.S.C. 280g–3), to the extent necessary to prevent
20 misuse and diversion of prescription medicines.”.

21 (c) REPORT.—

22 (1) IN GENERAL.—Not later than one year
23 after the date of the enactment of this Act, the Sec-
24 retary of Veterans Affairs shall submit to Congress
25 a report on the participation of the Department of

1 Veterans Affairs in State controlled substance moni-
2 toring programs, including programs approved by
3 the Secretary of Health and Human Services under
4 section 399O of the Public Health Service Act (42
5 U.S.C. 280g-3).

6 (2) ELEMENTS.—The report required by para-
7 graph (1) shall include the following:

8 (A) A summary of the activities of the De-
9 partment of Veterans Affairs relating to pro-
10 grams described in paragraph (1).

11 (B) A list of the programs described in
12 paragraph (1) in which the Department is par-
13 ticipating.

14 (C) A description of how the Secretary de-
15 termines which programs described in para-
16 graph (1) in which to participate.

17 (D) The status of the regulations, if any,
18 prescribed by the Secretary under section
19 5701(l) of title 38, United States Code, as
20 added by subsection (a) of this section.

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