

115TH CONGRESS
2D SESSION

H. R. 5202

To amend the Controlled Substances Act to provide for the delivery of a controlled substance by a pharmacy to an administering practitioner.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Mr. COSTELLO of Pennsylvania (for himself and Mr. NOLAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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

A BILL

To amend the Controlled Substances Act to provide for the delivery of a controlled substance by a pharmacy to an administering practitioner.

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 “Ensuring Patient Ac-
5 cess to Substance Use Disorder Treatments Act of 2018”.

1 **SEC. 2. DELIVERY OF A CONTROLLED SUBSTANCE BY A**
2 **PHARMACY TO BE ADMINISTERED BY INJEC-**
3 **TION, IMPLANTATION, OR INTRATHECAL**
4 **PUMP.**

5 (a) IN GENERAL.—The Controlled Substances Act is
6 amended by inserting after section 309 (21 U.S.C. 829)
7 the following:

8 “DELIVERY OF A CONTROLLED SUBSTANCE BY A
9 PHARMACY TO AN ADMINISTERING PRACTITIONER

10 “SEC. 309A. (a) IN GENERAL.—Notwithstanding
11 section 102(10), a pharmacy may deliver (pursuant to a
12 registration under subsection (f) or (g) of section 303, as
13 applicable) a controlled substance to a practitioner in ac-
14 cordance with a prescription that meets the requirements
15 of this title and the regulations issued by the Attorney
16 General under this title, for the purpose of administering
17 of the controlled substance by the practitioner if—

18 “(1) the controlled substance is delivered by the
19 pharmacy to the prescribing practitioner or the prac-
20 titioner administering the controlled substance, as
21 applicable, at the location listed on the practitioner’s
22 certificate of registration issued under this title;

23 “(2)(A) in the case of administering of the con-
24 trolled substance for the purpose of maintenance or
25 detoxification treatment under section 303(g)(2)—

1 “(i) the practitioner who issued the pre-
2 scription is a qualifying practitioner authorized
3 under, and acting within the scope of, that sec-
4 tion; and

5 “(ii) the controlled substance is to be ad-
6 ministered by injection or implantation; or

7 “(B) in the case of administering of the con-
8 trolled substance for a purpose other than mainte-
9 nance or detoxification treatment, the controlled
10 substance is to be administered by a practitioner
11 through use of an intrathecal pump;

12 “(3) the pharmacy and the practitioner are au-
13 thorized to conduct the activities specified in this
14 section under the law of the State in which such ac-
15 tivities take place;

16 “(4) the prescription is not issued to supply any
17 practitioner with a stock of controlled substances for
18 the purpose of general dispensing to patients;

19 “(5) except as provided in subsection (b), the
20 controlled substance is to be administered only to
21 the patient named on the prescription not later than
22 14 days after the date of receipt of the controlled
23 substance by the practitioner; and

24 “(6) notwithstanding any exceptions under sec-
25 tion 307, the prescribing practitioner, and the prac-

1 titioner administering the controlled substance, as
2 applicable, maintain complete and accurate records
3 of all controlled substances delivered, received, ad-
4 ministered, or otherwise disposed of under this sec-
5 tion, including the persons to whom controlled sub-
6 stances were delivered and such other information as
7 may be required by regulations of the Attorney Gen-
8 eral.

9 “(b) MODIFICATION OF NUMBER OF DAYS BEFORE
10 WHICH CONTROLLED SUBSTANCE SHALL BE ADMINIS-
11 TERED.—

12 “(1) INITIAL 2-YEAR PERIOD.—During the 2-
13 year period beginning on the date of enactment of
14 this section, the Attorney General, in coordination
15 with the Secretary, may reduce the number of days
16 described in subsection (a)(5) if the Attorney Gen-
17 eral determines that such reduction will—

18 “(A) reduce the risk of diversion; or

19 “(B) protect the public health.

20 “(2) MODIFICATIONS AFTER SUBMISSION OF
21 REPORT.—After the date on which the report de-
22 scribed in subsection (c) is submitted, the Attorney
23 General, in coordination with the Secretary, may
24 modify the number of days described in subsection
25 (a)(5).

1 “(3) MINIMUM NUMBER OF DAYS.—A modifica-
2 tion under this subsection may not modify the num-
3 ber of days specified in subsection (a)(5) to fewer
4 than 7.”.

5 (b) STUDY AND REPORT.—Not later than 2 years
6 after the date of enactment of this Act, the Comptroller
7 General of the United States shall conduct a study and
8 submit to Congress a report on access to and potential
9 diversion of controlled substances administered by injec-
10 tion, implantation, or through the use of an intrathecal
11 pump.

12 (c) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of contents for the Comprehensive Drug Abuse
14 Prevention and Control Act of 1970 is amended by insert-
15 ing after the item relating to section 309 the following:

 “Sec. 309A. Delivery of a controlled substance by a pharmacy to an admin-
 istering practitioner.”.

