

115TH CONGRESS
2D SESSION

S. 2661

To amend the Controlled Substances Act to allow hospice providers to dispose of leftover prescription medications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2018

Ms. WARREN (for herself, Mr. RUBIO, Ms. HASSAN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Controlled Substances Act to allow hospice providers to dispose of leftover prescription medications, and for other purposes.

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 “Hospice Safe Drug
5 Disposal Act of 2018”.

1 **SEC. 2. DISPOSAL OF CONTROLLED SUBSTANCES OF A DE-**
2 **CEASED HOSPICE PATIENT BY EMPLOYEES**
3 **OF A HOSPICE PROGRAM.**

4 (a) IN GENERAL.—Section 302(g) of the Controlled
5 Substances Act (21 U.S.C. 822(g)) is amended by adding
6 at the end the following:

7 “(5)(A) An employee of a qualified hospice program
8 acting within the scope of employment may handle, in the
9 place of residence of a hospice patient, any controlled sub-
10 stance that was lawfully dispensed to the hospice patient,
11 for the purpose of assisting in the disposal of the con-
12 trolled substance after the hospice patient’s death.

13 “(B) In this paragraph:

14 “(i) The term ‘employee of a qualified hospice
15 program’ means a person (including a physician,
16 nurse, or physician assistant) who—

17 “(I) is employed by, or pursuant to ar-
18 rangements made by, a qualified hospice pro-
19 gram; and

20 “(II) is licensed or certified to perform
21 such employment in accordance with applicable
22 State law.

23 “(ii) The terms ‘hospice care’ and ‘hospice pro-
24 gram’ have the meanings given those terms in sec-
25 tion 1861(dd) of the Social Security Act (42 U.S.C.
26 1395x(dd)).

1 “(iii) The term ‘hospice patient’ means an indi-
2 vidual receiving hospice care.

3 “(iv) The term ‘qualified hospice program’
4 means a hospice program that—

5 “(I) has written policies and procedures for
6 assisting in the disposal of the controlled sub-
7 stances of a hospice patient after the hospice
8 patient’s death;

9 “(II) at the time when the controlled sub-
10 stances are first ordered—

11 “(aa) provides a copy of the written
12 policies and procedures to the hospice pa-
13 tient or hospice patient representative and
14 the family of the hospice patient;

15 “(bb) discusses the policies and proce-
16 dures with the hospice patient or hospice
17 patient representative and the family in a
18 language and manner that those individ-
19 uals understand to ensure that those indi-
20 viduals are educated regarding the safe
21 disposal of controlled substances; and

22 “(cc) documents in the clinical record
23 of the hospice patient that the written poli-
24 cies and procedures were provided and dis-
25 cussed; and

1 “(III) at the time when an employee of the
 2 hospice program assists in the disposal of con-
 3 trolled substances of a hospice patient, docu-
 4 ments in the clinical record of the hospice pa-
 5 tient all disposed controlled substances.”.

6 (b) GUIDANCE.—Not later than 90 days after the
 7 date of enactment of this Act, and after providing notice
 8 and opportunity for public comment, the Attorney General
 9 shall issue guidance to hospice programs to assist the pro-
 10 grams in satisfying the requirements under paragraph (5)
 11 of section 302(g) of the Controlled Substances Act (21
 12 U.S.C. 822(g)), as added by subsection (a).

13 **SEC. 3. GAO STUDY AND REPORT ON HOSPICE SAFE DRUG**
 14 **MANAGEMENT.**

15 (a) STUDY.—

16 (1) IN GENERAL.—The Comptroller General of
 17 the United States (in this section referred to as the
 18 “Comptroller General”) shall conduct a study on the
 19 requirements applicable to and challenges of hospice
 20 programs with regard to the management and dis-
 21 posal of controlled substances in the home of an in-
 22 dividual.

23 (2) CONTENTS.—In conducting the study under
 24 paragraph (1), the Comptroller General shall in-
 25 clude—

1 (A) an overview of challenges encountered
2 by hospice programs regarding the disposal of
3 controlled substances, such as opioids, in a
4 home setting, including any key changes in dis-
5 posal of controlled substances over time; and

6 (B) a description of Federal requirements,
7 including requirements under the Medicare pro-
8 gram, for hospice programs regarding the dis-
9 posal of controlled substances in a home set-
10 ting, and oversight of compliance with those re-
11 quirements.

12 (b) REPORT.—Not later than 18 months after the
13 date of enactment of this Act, the Comptroller General
14 shall submit to Congress a report containing the results
15 of the study conducted under subsection (a), together with
16 recommendations, if any, for such legislation and adminis-
17 trative action as the Comptroller General determines ap-
18 propriate.

○