

103^D CONGRESS
2^D SESSION

S. 2140

To permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19 (legislative day, MAY 16), 1994

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. PELL, Mr. GRASSLEY, Mr. HATFIELD, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, 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 “Access to Medical
5 Treatment Act”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) ADVERTISING OR LABELING CLAIMS.—The
9 term “advertising or labeling claims” means any

1 representations made or suggested by statement,
2 word, design, device, sound, or any combination
3 thereof with respect to treatment, including a rep-
4 resentation made or suggested by a label.

5 (2) DANGER.—The term “danger” means any
6 serious negative reaction that—

7 (A) occurred as a result of a method of
8 treatment;

9 (B) would not otherwise have occurred;
10 and

11 (C) is more serious than reactions fre-
12 quently experienced with accepted treatments
13 for the same or similar health problems.

14 (3) DEVICE.—The term “device” has the same
15 meaning given such term in section 201(h) of the
16 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
17 321(h)).

18 (4) DRUG.—The term “drug” has the same
19 meaning given such term in section 201(g)(1) of the
20 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
21 321(g)(1)).

22 (5) FOOD.—The term “food” has the same
23 meaning given such term in section 201(f) of the
24 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
25 321(f)).

1 (6) HEALTH CARE PRACTITIONER.—The term
2 “health care practitioner” means any properly li-
3 censed medical doctor, osteopath, chiropractor, or
4 naturopath.

5 (7) LABEL.—The term “label” has the same
6 meaning given such term in section 201(k) of the
7 Federal Food, Drug, and Cosmetic Act (21 U.S.C.
8 321(k)).

9 (8) LEGAL REPRESENTATIVE.—The term “legal
10 representative” means a parent or an individual who
11 qualifies as a legal guardian under State law.

12 (9) TREATMENT.—The term “treatment”
13 means the use of any food, drug, device, or proce-
14 dure.

15 **SEC. 3. ACCESS TO MEDICAL TREATMENT.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
17 sion of law, and except as provided in subsection (b), an
18 individual shall be permitted to be treated by a health care
19 practitioner with any method of medical treatment that
20 such individual desires or the legal representative of such
21 individual authorizes if—

22 (1) such practitioner agrees to treat such indi-
23 vidual; and

24 (2) the administration of such treatment falls
25 within the scope of the practice of such practitioner.

1 (b) TREATMENT REQUIREMENTS.—A health care
2 practitioner may provide any method of treatment to an
3 individual described in subsection (a) if—

4 (1) there is no evidence that such treatment it-
5 self, when taken as prescribed, is a danger to such
6 individual;

7 (2) in the case of an individual whose treatment
8 is the administration of a food, drug, or device that
9 has not been approved by the Food and Drug Ad-
10 ministration—

11 (A) such individual has been informed that
12 such food, drug, or device has not yet been ap-
13 proved or certified by the Food and Drug Ad-
14 ministration for use of the medical condition of
15 such individual; and

16 (B) such food, drug, or device (or informa-
17 tion accompanying the administration of such
18 food, drug, or device) contains the following
19 warning:

20 “WARNING: This food, drug, or de-
21 vice has not been proved safe and effective
22 by the Federal Government and any indi-
23 vidual who uses such food, drug, or device,
24 does so at his or her own risk.”;

1 (3) such individual has been informed of the
2 nature of the treatment, including—

3 (A) the contents of such treatment;

4 (B) any reasonably foreseeable side effects
5 that may result from such treatment; and

6 (C) the results of past applications of such
7 treatment by the health care practitioner and
8 others;

9 (4) except as provided in subsection (c), there
10 have been no claims, including advertising and label-
11 ing claims, made with respect to the efficacy of such
12 treatment; and

13 (5) such individual—

14 (A) has been provided a written statement
15 that such individual has been fully informed
16 with respect to the information described in
17 paragraphs (1) through (4);

18 (B) desires such treatment; and

19 (C) signs such statement.

20 (c) CLAIM EXCEPTIONS.—Subsection (b)(4) shall not
21 apply to an accurate and truthful reporting by a practi-
22 tioner of the results of the practitioner's administration
23 of a treatment in recognized journals or at seminars, con-
24 ventions, or similar meetings, if the only financial gain of
25 such practitioner with respect to such treatment is the

1 payment received from an individual or representative of
2 such individual for the administration of such treatment
3 to such individual.

4 **SEC. 4. REPORTING OF A DANGEROUS TREATMENT.**

5 If a practitioner, after administering such treatment,
6 discovers that the treatment itself (when taken as pre-
7 scribed) was a danger to the individual receiving the treat-
8 ment, the practitioner shall immediately report to the Sec-
9 retary of Health and Human Services the nature of the
10 treatment, the results of such treatment, the complete pro-
11 tocol of such treatment, and the source from which such
12 treatment or any part thereof was obtained.

13 **SEC. 5. TRANSPORTATION OF MEDICATION AND EQUIP-**
14 **MENT.**

15 Notwithstanding any other provision of the Federal
16 Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.),
17 a person may introduce or deliver into interstate com-
18 merce medication or equipment for use in accordance with
19 this Act.

20 **SEC. 6. RESTRICTIONS ON LICENSING BOARDS.**

21 A licensing board that issues licenses to health care
22 practitioners may not deny, suspend, or revoke the license
23 of a health care practitioner solely because such practi-
24 tioner provides treatment to which section 3 applies.

1 **SEC. 7. PENALTY.**

2 A health care practitioner who violates any provisions
3 under this Act shall not be covered by the protections
4 under this Act and shall be subject to all other applicable
5 laws and regulations.

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