

Union Calendar No. 358

111TH CONGRESS
2^D SESSION

H. R. 5710

[Report No. 111-616]

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2010

Mr. WHITFIELD (for himself, Mr. PALLONE, Mr. SHIMKUS, Mr. STUPAK, Mr. ROGERS of Michigan, Mr. GENE GREEN of Texas, Mrs. BLACKBURN, Mrs. CHRISTENSEN, Mr. RADANOVICH, Mrs. MALONEY, Mr. BISHOP of Georgia, Mr. WILSON of Ohio, Mr. GINGREY of Georgia, Mr. GORDON of Tennessee, Mr. KAGEN, Mr. PITTS, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 22, 2010

Additional sponsors: Mr. PAULSEN and Mr. SCHOCK

SEPTEMBER 22, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on July 1, 2010]

A BILL

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act.

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 “National All Schedules*
5 *Prescription Electronic Reporting Reauthorization Act of*
6 *2010”.*

7 **SEC. 2. AMENDMENT TO PURPOSE.**

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

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

14 *“(A) health care providers have access to the*
15 *accurate, timely prescription history information*
16 *that they may use as a tool for the early identi-*
17 *fication of patients at risk for addiction in order*
18 *to initiate appropriate medical interventions*
19 *and avert the tragic personal, family, and com-*
20 *munity consequences of untreated addiction; and*

21 *“(B) appropriate law enforcement, regu-*
22 *latory, and State professional licensing authori-*
23 *ties have access to prescription history informa-*
24 *tion for the purposes of investigating drug diver-*

1 *sion and prescribing and dispensing practices of*
 2 *errant prescribers or pharmacists; and”.*

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

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

7 *(1) in subsection (a)(1)—*

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

9 *(B) in subparagraph (B), by striking the*
 10 *period at the end and inserting “; or”; and*

11 *(C) by adding at the end the following:*

12 *“(C) to maintain and operate an existing*
 13 *State-controlled substance monitoring program.”;*

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

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

22 *(3) in subsection (c)—*

23 *(A) in paragraph (1)(B)—*

1 (i) in the matter preceding clause (i),
2 by striking “(a)(1)(B)” and inserting
3 “(a)(1)(B) or (a)(1)(C)”;

4 (ii) in clause (i), by striking “program
5 to be improved” and inserting “program to
6 be improved or maintained”; and

7 (iii) in clause (iv), by striking “public
8 health” and inserting “public health or pub-
9 lic safety”;

10 (B) in paragraph (3)—

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

13 “(A) *IN GENERAL.*—If a State that sub-
14 mits”;

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

18 (iii) by adding at the end the fol-
19 lowing:

20 “(B) *MONITORING OF EFFORTS.*—The Sec-
21 retary shall monitor State efforts to achieve
22 interoperability, as described in subparagraph
23 (A).”;

24 (C) in paragraph (5)—

1 (i) by striking “implement or im-
2 prove” and inserting “establish, improve, or
3 maintain”; and

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

10 (4) in the matter preceding paragraph (1) in
11 subsection (d), by striking “In implementing or im-
12 proving” and all that follows through “(a)(1)(B)”
13 and inserting “In establishing, improving, or main-
14 taining a controlled substance monitoring program
15 under this section, a State shall comply, or with re-
16 spect to a State that applies for a grant under sub-
17 paragraph (B) or (C) of subsection (a)(1)”;

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

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 202(c)*
2 *of the Controlled Substance Act”;* and

3 *(B) by adding at the end the following:*

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

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

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

13 “(4) *RESEARCH BY OTHER ENTITIES.*—*A depart-*
14 *ment, program, or administration receiving non-*
15 *identifiable information under paragraph (1)(D) may*
16 *make such information available to other entities for*
17 *research purposes.”;*

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

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

23 (9) *by inserting after subsection (g) the fol-*
24 *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) *by amending subsection (l), as redesignated,*
9 *to read as follows:*

10 “(l) *PREFERENCE.—Beginning 3 years after the date*
11 *on which funds are first appropriated to carry out this sec-*
12 *tion, the Secretary, in awarding any competitive grant*
13 *under title V that is related to drug abuse (as determined*
14 *by the Secretary) and for which only States or tribes are*
15 *eligible to apply, may give preference to eligible States with*
16 *applications approved under this section, to eligible States*
17 *or tribes with existing controlled substance monitoring pro-*
18 *grams that meet minimum requirements under this section,*
19 *or to eligible States or tribes that put forth a good faith*
20 *effort to meet those requirements (as determined by the Sec-*
21 *retary).”.*

22 “(11) *in subsection (m)(1), as redesignated, by*
23 *striking “establishment, implementation, or improve-*
24 *ment” and inserting “establishment, improvement, or*
25 *maintenance”;*

1 (12) *in subsection (n)(8), as redesignated, by*
2 *striking “and the District of Columbia” and inserting*
3 *“; the District of Columbia, and any commonwealth*
4 *or territory of the United States”;* and

5 (13) *by amending subsection (o), as redesignated,*
6 *to read as follows:*

7 “*(o) AUTHORIZATION OF APPROPRIATIONS.—To carry*
8 *out this section, there are authorized to be appropriated*
9 *\$15,000,000 for fiscal year 2011 and \$10,000,000 for each*
10 *of fiscal years 2012 and 2013.*”.

Union Calendar No. 358

11TH CONGRESS
2^D Session

H. R. 5710

[Report No. 111-616]

A BILL

To amend and reauthorize the controlled substance monitoring program under section 399O of the Public Health Service Act.

SEPTEMBER 22, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed