

115TH CONGRESS
1ST SESSION

S. 2134

To require the Secretary of Veterans Affairs to establish processes to ensure that non-Department of Veterans Affairs health care providers are using safe practices in prescribing opioids to veterans under the laws administered by the Secretary, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2017

Ms. BALDWIN (for herself, Mrs. CAPITO, Mr. MORAN, Mr. BLUMENTHAL, Mr. MANCHIN, Mr. TESTER, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To require the Secretary of Veterans Affairs to establish processes to ensure that non-Department of Veterans Affairs health care providers are using safe practices in prescribing opioids to veterans under the laws administered by the Secretary, 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 “Andrew White Vet-
5 erans Community Care Opioid Safety Act”.

1 **SEC. 2. ESTABLISHMENT OF PROCESSES TO ENSURE SAFE**
2 **OPIOID PRESCRIBING PRACTICES BY NON-**
3 **DEPARTMENT OF VETERANS AFFAIRS**
4 **HEALTH CARE PROVIDERS.**

5 (a) RECEIPT AND REVIEW OF GUIDELINES.—The
6 Secretary of Veterans Affairs shall ensure that all covered
7 health care providers are provided a copy of and certify
8 that they have reviewed the evidence-based guidelines for
9 prescribing opioids set forth by the Opioid Safety Initia-
10 tive of the Department of Veterans Affairs under sections
11 911(a)(2) and 912(c) of the Jason Simcakoski Memorial
12 and Promise Act (Public Law 114–198; 38 U.S.C. 1701
13 note) before first providing care under the laws adminis-
14 tered by the Secretary and at any time when those guide-
15 lines are modified thereafter.

16 (b) INCLUSION OF MEDICAL HISTORY AND CURRENT
17 MEDICATIONS.—The Secretary shall implement a process
18 to ensure that, if care of a veteran by a covered health
19 care provider is authorized under the laws administered
20 by the Secretary, the document authorizing such care in-
21 cludes the relevant medical history of the veteran and a
22 list of all medications prescribed to the veteran.

23 (c) SUBMITTAL OF PRESCRIPTIONS.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the Secretary shall require all covered
26 health care providers who prescribe opioids to vet-

1 erans under the laws administered by the Secretary
2 to submit any such prescription directly to a phar-
3 macy of the Department—

4 (A) for the dispensing of such prescription;

5 (B) for the recording of such prescription
6 in the electronic health record of the veteran;
7 and

8 (C) to enable other monitoring of such pre-
9 scription as outlined in the Opioid Safety Initia-
10 tive of the Department.

11 (2) EXCEPTION.—

12 (A) IN GENERAL.—A covered health care
13 provider is not required under paragraph (1) to
14 submit an opioid prescription directly to a phar-
15 macy of the Department if—

16 (i) the health care provider determines
17 that there is an immediate medical need
18 for the prescription, including an urgent or
19 emergent prescription or a prescription dis-
20 pensed as part of an opioid treatment pro-
21 gram that provides office-based medica-
22 tions; and

23 (ii)(I) following an inquiry into the
24 matter, a pharmacy of the Department no-
25 tifies the health care provider that it can-

1 not fill the prescription in a timely man-
2 ner; or

3 (II) the health care provider deter-
4 mines that the requirement under para-
5 graph (1) would impose an undue hardship
6 on the veteran, including with respect to
7 travel distances, as determined by the Sec-
8 retary.

9 (B) NOTIFICATION TO DEPARTMENT.—If a
10 covered health care provider uses an exception
11 under subparagraph (A) with respect to an
12 opioid prescription for a veteran, the health
13 care provider shall, on the same day the pre-
14 scription is written, submit to the Secretary for
15 inclusion in the electronic health record of the
16 veteran a notice, in such form as the Secretary
17 may establish, providing information about the
18 prescription and describing the reason for the
19 exception.

20 (C) REPORT.—

21 (i) IN GENERAL.—Not less frequently
22 than quarterly, the Secretary shall submit
23 to the Committee on Veterans' Affairs of
24 the Senate and the Committee on Vet-
25 erans' Affairs of the House of Representa-

1 tives a report evaluating the compliance of
2 covered health care providers with the re-
3 quirements under this paragraph and set-
4 ting forth data on the use by health care
5 providers of exceptions under subpara-
6 graph (A) and notices under subparagraph
7 (B).

8 (ii) ELEMENTS.—Each report re-
9 quired by clause (i) shall include the fol-
10 lowing with respect to the quarter covered
11 by the report:

12 (I) The number of exceptions
13 used under subparagraph (A) and no-
14 tices received under subparagraph
15 (B).

16 (II) The rate of compliance by
17 the Department with the requirement
18 under subparagraph (B) to include
19 such notices in the health records of
20 veterans.

21 (III) The identification of any
22 covered health care providers that,
23 based on criteria prescribed the Sec-
24 retary, are determined by the Sec-
25 retary to be statistical outliers regard-

1 ing the use of exceptions under sub-
2 paragraph (A).

3 (d) USE OF OPIOID SAFETY INITIATIVE GUIDE-
4 LINES.—

5 (1) IN GENERAL.—If a director of a medical
6 center of the Department or a Veterans Integrated
7 Service Network determines that the opioid pre-
8 scribing practices of a covered health care provider
9 conflicts with or is otherwise inconsistent with the
10 standards of appropriate and safe care, as that term
11 is used in section 913(d) of the Jason Simcakoski
12 Memorial and Promise Act (Public Law 114–198;
13 38 U.S.C. 1701 note), the director shall take such
14 action as the director considers appropriate to en-
15 sure the safety of all veterans receiving care from
16 that health care provider, including removing or di-
17 recting the removal of any such health care provider
18 from provider networks or otherwise refusing to au-
19 thorize care of veterans by such health care provider
20 in any program authorized under the laws adminis-
21 tered by the Secretary.

22 (2) INCLUSION IN CONTRACTS.—The Secretary
23 shall ensure that any contracts entered into by the
24 Secretary with third parties involved in admin-
25 istering programs that provide care in the commu-

1 nity to veterans under the laws administered by the
2 Secretary specifically grant the authority set forth in
3 paragraph (1) to such third parties and to the direc-
4 tors described in that paragraph, as the case may
5 be.

6 (e) DENIAL OR REVOCATION OF ELIGIBILITY OF
7 NON-DEPARTMENT PROVIDERS.—The Secretary shall
8 deny or revoke the eligibility of a non-Department health
9 care provider to provide health care to veterans under the
10 laws administered by the Secretary if the Secretary deter-
11 mines that the opioid prescribing practices of the pro-
12 vider—

13 (1) violate the requirements of a medical license
14 of the health care provider; or

15 (2) detract from the ability of the health care
16 provider to deliver safe and appropriate health care.

17 (f) COVERED HEALTH CARE PROVIDER DEFINED.—
18 In this section, the term “covered health care provider”
19 means a non-Department of Veterans Affairs health care
20 provider who provides health care to veterans under the
21 laws administered by the Secretary of Veterans Affairs.

○