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.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hospice Safe Drug
Disposal Act of 2018”.

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SEC. 2. DISPOSAL OF CONTROLLED SUBSTANCES OF A DECEASED HOSPICE PATIENT BY EMPLOYEES OF A HOSPICE PROGRAM.

(a) In general.—Section 302(g) of the Controlled Substances Act (21 U.S.C. 822(g)) is amended by adding at the end the following:

“(5)(A) An employee of a qualified hospice program acting within the scope of employment may handle, in the place of residence of a hospice patient, any controlled substance that was lawfully dispensed to the hospice patient, for the purpose of assisting in the disposal of the controlled substance after the hospice patient’s death.

“(B) In this paragraph:

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

“(I) is employed by, or pursuant to arrangements made by, a qualified hospice program; and

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

“(ii) The terms ‘hospice care’ and ‘hospice program’ have the meanings given those terms in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).
“(iii) The term ‘hospice patient’ means an individual receiving hospice care.

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

“(I) has written policies and procedures for assisting in the disposal of the controlled substances of a hospice patient after the hospice patient’s death;

“(II) at the time when the controlled substances are first ordered—

“(aa) provides a copy of the written policies and procedures to the hospice patient or hospice patient representative and the family of the hospice patient;

“(bb) discusses the policies and procedures with the hospice patient or hospice patient representative and the family in a language and manner that those individuals understand to ensure that those individuals are educated regarding the safe disposal of controlled substances; and

“(cc) documents in the clinical record of the hospice patient that the written policies and procedures were provided and discussed; and
“(III) at the time when an employee of the hospice program assists in the disposal of controlled substances of a hospice patient, documents in the clinical record of the hospice patient all disposed controlled substances.”.

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

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

(a) Study.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the “Comptroller General”) shall conduct a study on the requirements applicable to and challenges of hospice programs with regard to the management and disposal of controlled substances in the home of an individual.

(2) CONTENTS.—In conducting the study under paragraph (1), the Comptroller General shall include—
(A) an overview of challenges encountered by hospice programs regarding the disposal of controlled substances, such as opioids, in a home setting, including any key changes in disposal of controlled substances over time; and

(B) a description of Federal requirements, including requirements under the Medicare program, for hospice programs regarding the disposal of controlled substances in a home setting, and oversight of compliance with those requirements.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations, if any, for such legislation and administrative action as the Comptroller General determines appropriate.