

have dust. There is no way you can keep that dust within your boundaries. But as Washington is an island surrounded by reality, you can see the fugitive dust rule does not meet a commonsense test, and you can see that what they are trying to do to Duarte does not reach a commonsense test.

Again, referring to the newspaper article I just read, if the EPA and the Corps of Engineers are going around to farmers' fields making determinations about wetlands based on tillage practices under current law, imagine what they might do if this new waters of the United States rule goes into effect—now being held up by the courts.

Just think how you would feel if your family farm had survived for decades, overcoming droughts, overcoming flooding, overcoming price declines—and you can name 10 other things that a farmer has no control over—and then you have to put up with this nonsense. However, one day a government regulator could show up at your farm and hit you with excessive fines, and the next thing you know, your family farm is being auctioned off. That may sound absurd, but that is the reality of threats posed by the EPA. Mr. Duarte's case is the proof.

We have no shortage of assurances from the EPA Administrator that the plain language in the WOTUS rule will not be interpreted in a way that interferes with farmers. It is hard to take some assurances seriously when they are interpreting current law in such an aggressive way.

We have to stop the WOTUS rule so the bureaucrats don't become even more powerful. The WOTUS rule is too vague and allows way too much room for regulators to make their own interpretations about jurisdiction. So we should all continue to fight against the WOTUS rule and all other actions the EPA is taking that are ridiculous actions against farmers.

We have checks and balances in government. The Congress tried three times to stop the WOTUS rule. Senator BARRASSO tried to pass legislation taking away the authority or modifying the authority. That got about 57 votes but not 60 votes, so that could not move forward. The junior Senator from Iowa, my friend Senator ERNST, got a congressional veto through, a resolution of disapproval, with 52 votes. It went to the President. He vetoed it. So we did not override it that way. Then, of course, we tried an amendment on the appropriations bill, but we could not get that into the appropriations bill before Christmas. So we have tried three things. But thank God the courts have held up WOTUS through the Sixth Circuit Court of Appeals. So temporarily, at least, waters of the United States can't move ahead.

This brings back something that is very current right now: Why should we be concerned about who the next person on the Supreme Court is going to be? Because we have a President who said: I have a pen and a phone, and if Congress won't act, I will.

This sort of executive action by the EPA and the Corps of Engineers is kind of an example of the WOTUS rules, kind of an example of what we get out of this President. The President packed the DC Circuit Court of Appeals, which reviews these regulations, so they are going to have a friendly judge who says that whatever these bureaucrats do that may even be illegal or unconstitutional, they can get away with it.

Then, if that goes to the Supreme Court—we had an example just recently, about 1 week or so before Scalia died—a 5-to-4 ruling holding up some other ridiculous EPA rules.

Everybody wonders why everyone around here is saying they are concerned about who is going to be on the Supreme Court. It's because of these 5-to-4 decisions. We're concerned about the role of the Supreme Court in our constitutional system. The American people deserve to have their voices heard before the Court becomes drastically more liberal. I bet the Presiding Officer has people come to his town meetings, as I do, and say: Why don't you impeach those Justices, because they are making law, instead of interpreting law as the Constitution requires?" Well, you can't impeach a Justice for that. But this does raise something very basic: What is the role of the Supreme Court in our constitutional system? It hasn't been debated in Presidential elections for I don't know how long. There is a chance for this to be debated in the Presidential election and maybe lay out very clearly where Hillary Clinton or BERNIE SANDERS is coming from on one hand, or where our Republican nominee, whoever that is going to be, is coming from and what type of people they are going to put on the Court.

I have about 30 seconds, and I will be done.

We are presented with an opportunity, here. The American people have an opportunity to debate about the proper role for a Supreme Court Justice. The American people can decide whether they want another Justice who just decides cases based on what they feel in their "heart," and who buys into this notion of a "living Constitution," or whether they want a man or woman who believes the text means what it says on the Supreme Court.

I yield the floor.

The PRESIDING OFFICER (Mr. ROUNDS). The Senator from Pennsylvania.

STOPPING MEDICATION ABUSE AND PROTECTING SENIORS ACT

Mr. TOOMEY. Mr. President, I rise this morning to address a huge problem that is happening in every one of our States and in all of our communities and to talk about a bill that is meant to be helpful in this area. It is about the huge problem we have with opioid abuse, opioid addiction, including both prescription and heroin addiction and

abuse. This is an epidemic that is truly unbelievable in scale. It is affecting people of all ages, all ethnic groups, all demographics, all income classes, all geography. It is everywhere, and it is a huge problem. I have heard about it in every county I have visited in my State. In all 67 counties of Pennsylvania, I have heard about how big this problem is. In fact, more Pennsylvanians will die this year from heroin overdoses and the misuse of opioid painkillers than from the flu or homicides.

I wanted to learn more about this, so last fall I convened a hearing of the Senate Finance Subcommittee on Health Care, which I chair. Senator CASEY joined me in that hearing at Allegheny General Hospital in Pittsburgh, where we had this, to learn more to understand about the nature and scale of this huge opioid addiction problem and what we might do about it. I was surprised when I got to the room. It was a huge auditorium, and it was standing room only. The room was completely packed with people because this epidemic is affecting virtually every family. It affects almost all of us at some level and in some way. It is tearing families apart. It is taking the lives of people who are in the prime of their lives. It is a huge problem.

The hearing was very helpful in illuminating some aspects of the nature of the problem. We had medical professionals who are dealing with the treatment, and we had people who are suffering from addiction. A recovering addict who has put her life back together told a very compelling story about what she went through. We had people in law enforcement. So we had a lot of testimony with different perspectives.

One of the things I took away is that there are at least three categories of ways we can help try to deal with this huge scourge. One is the problem of the overprescription of narcotics, the overprescription of painkillers, opioids, which are chemically very similar to heroin. A lot of people begin their addiction with these prescriptions, and then when they can no longer obtain or afford the prescription opioids, they move on to nonprescription forms, such as heroin, and it usually goes downhill very dramatically from there. So reducing overprescription has to help. There are ways to deal with that. A second is to reduce the diversion of these opioids when they are being prescribed. My legislation really does focus on that. The third is, we need better treatment and we need better outreach. We need better ways of treating people. We need to treat the addiction, but also, many people find themselves addicted after they develop a mental health problem that is an underlying problem that contributes to the addiction. We have to do a better job identifying and helping people with mental health problems.

We have many aspects to this challenge that arises from this terrible epidemic, but let me focus in on one aspect of this, the overprescription and the diversion of prescription narcotics.

The Government Accountability Office estimated that in 1 year alone, there were 170,000 Medicare beneficiary enrollees engaged in doctor shopping. Doctor shopping is the process whereby a person goes to multiple doctors, gets multiple prescriptions for perhaps the same opioid—maybe oxycodone or some other kind of painkiller—then goes to multiple pharmacies to get them all filled and ends up walking out of the pharmacy with a huge quantity of these very powerful, very addictive opioids, which they then sell on the black market. It is a very valuable commodity on the black market. The GAO found that there was one beneficiary who visited 89 different doctors in a single year, all for the same kind of prescriptions. There is another beneficiary who received prescriptions for 1,289 hydrocodone pills. That is a 490-day supply. You are not supposed to get more than a 30-day supply.

The inspector general found that a midwestern pharmacy billed Medicare for reimbursement of over 1,000 prescriptions for each of just 2 beneficiaries—1,000 prescriptions per beneficiary—and one physician ordered all the prescriptions for one of those beneficiaries.

Last April, the DEA indicted two doctors in Mobile, AL, who were writing prescriptions for massive amounts of pain pills that were then filled at the pharmacy next door to the pain clinic they also owned.

The examples go on and on. This is fraud. Let's be clear that that is what it is. This is fraud. This is people who are systematically abusing these programs so they can obtain commercial-scale quantities of a very valuable narcotic, which is also very dangerous and very addictive, because it can be lucrative. Why is it lucrative? In part, because the American taxpayer pays for their supply. That is how outrageous this is. People are getting multiple prescriptions, going to multiple pharmacies, and when the prescription is filled at all of these pharmacies on these multiple occasions, the bill is submitted to Medicare, and Medicare reimburses.

Think about this. We have this criminal enterprise where the supply of narcotics is being paid for by taxpayers, and then the people who fraudulently obtain these drugs go out and sell them in what I am sure is a very lucrative arrangement. This is beyond outrageous; It is the description of the obviously fraudulent.

There is another category of people who end up with multiple prescriptions and it is completely innocent. There is no criminal intent whatsoever, no criminal activity. It is especially elderly people who have multiple illnesses and they have different doctors who treat them. In many cases, there is not

a good coordination of the care for those patients. There is nobody coordinating what all of the doctors are doing, so doctors separately and—if it weren't for what other doctors are doing—appropriately give a prescription for a powerful narcotic. They don't know there is another doctor doing the same thing. This patient unwittingly ends up with an excessive quantity of these opioids, which dramatically increases the risk that the patient will become addicted and will suffer any number of very harmful consequences.

So we have the fraudulent cases of excessive prescriptions and then we have the innocent cases, but both are problems. The legislation I have introduced addresses both problems. First, I want to thank the cosponsors, the co-author of the bill. Senator SHERROD BROWN from Ohio is the lead Democrat on this bill. It is a bipartisan bill. Senator PORTMAN and Senator KAINE have also been very helpful. They are original cosponsors of the bill. It is called Stopping Medication Abuse and Protecting Seniors Act. We now have 25 cosponsors.

We had a very constructive hearing last week in the Senate Finance Committee about this legislation, this approach. Senator HATCH said he hopes the bill will move very soon. I hope the bill will move very soon. It is very important.

Here is what it does. When Medicare discovers that a beneficiary is obtaining multiple prescriptions well beyond what any individual should appropriately have, then Medicare would have the authority to require that person to get their prescriptions in the future from one doctor and get it filled at one pharmacy. It is called lock-in because you are locked in to a single doctor and you are locked in to a single pharmacy. In one step, that would go a very long way to making it very difficult to commit this kind of fraud or to accidentally obtain more prescriptions than you ought to have.

This procedure is not a new concept. It already exists in Medicaid. It is used every day in Medicaid to protect innocent people from excessive prescriptions and to protect taxpayers from fraudulent abuse. It is done by private carriers all the time. Private health insurance carriers use this lock-in mechanism when they discover excessive prescriptions being written. It is designed in a way—as these other programs are, the private and Medicaid—so that no one who legitimately needs a prescription—because there are legitimate prescriptions for opioids and for narcotics. No one who has a legitimate need will have an access problem. People will still be able to obtain exactly what they need. The lock-in applies only to a narrow category of controlled substances, schedule II controlled substances, which is what we think is appropriate.

I think this is going to be very helpful. It is going to help opioid-addicted

seniors be identified as such so they can get the treatment they need. It is going to stop the diversion of these powerful narcotics. It is going to save taxpayers money. CBO estimates that \$79 million over 10 years will be saved by bringing an end to these illegal prescriptions. And it is going to reduce the quantity of these terribly powerful drugs on the streets.

This legislation has very broad bipartisan support. Just last weekend the National Governors Association came out fully in favor of adding a lock-in provision for Medicare. We had nearly identical language passed in a bill in the House as part of the 21st-century cures legislation, which passed overwhelmingly. The support includes the President of the United States. His budget has repeatedly asked Congress to give Medicare this authority. CMS's Acting Administrator, Andy Slavitt, just recently, before our committee, said this legislation makes "every bit of sense in the world." We have the support of the CDC Director; the White House drug czar; Pew Charitable Trusts; Physicians for Responsible Opioid Prescribing; many law enforcement groups; senior groups, such as the Medicare Rights Center. This is a list of just some who support this legislation.

This is really just common sense. We already have this capability in Medicaid. We already have this capability in private health insurance. It is long past due that Medicare have the ability to protect seniors from accidental excessive prescriptions but also to prevent people from committing fraud, which we know is happening on a very large scale today.

I am not aware of any opposition to this. We have broad bipartisan support. I am hoping we can get this passed very soon, certainly in the next week or so. The House will certainly pass this, as it already has as part of the 21st-century cures legislation, and we can get this to the President and get this signed into law and start to help save lives and save taxpayers money at the same time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

SMARTPHONE SECURITY

Mr. NELSON. Mr. President, on December 2, 2015, 14 innocent souls in San Bernardino were gunned down in a violent act of terrorism, and it involved one of these, an iPhone. This item has become ubiquitous, and a lot of us carry them around in our pocket. Yet almost 3 months later, law enforcement has not been able to fully access the iPhone—the one used by the terrorists in gunning down these 14 people. The information on this particular iPhone could shed some light on how he planned the attack with his wife and would obviously give authorities an opportunity to see if others were involved in the attack. The contacts in that