

115TH CONGRESS
2D SESSION

H. R. 7369

To amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to provide the Attorney General certain notifications in certain determinations made by the Secretary of improper prescribing of controlled substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 2018

Mr. BILIRAKIS (for himself and Mr. RUIZ) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to provide the Attorney General certain notifications in certain determinations made by the Secretary of improper prescribing of controlled substances, 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 “DEA Notification Act
5 of 2018”.

1 **SEC. 2. ESTABLISH RECIPROCITY WITH DRUG ENFORCE-**
2 **MENT ADMINISTRATION TO ADDRESS IM-**
3 **PROPER PRESCRIBING OF CONTROLLED SUB-**
4 **STANCES.**

5 (a) NOTIFICATION OF ATTORNEY GENERAL IN
6 CASES OF IMPROPER PRESCRIBING OF CONTROLLED
7 SUBSTANCES.—Section 1866(j) of the Social Security Act
8 (42 U.S.C. 1395cc(j)) is amended by adding at the end
9 the following new paragraph:

10 “(10) NOTIFICATION OF ATTORNEY GEN-
11 ERAL.—

12 “(A) IN GENERAL.—If the Secretary
13 makes a determination described in subpara-
14 graph (B) with respect to improper prescribing
15 of a controlled substance (as defined in section
16 102(6) of the Controlled Substances Act), the
17 Secretary shall notify the Attorney General in
18 accordance with subparagraph (C).

19 “(B) DETERMINATION BY SECRETARY.—A
20 determination described in this subparagraph is
21 a determination by the Secretary under
22 which—

23 “(i) the enrollment of a provider of
24 services or supplier under this title is re-
25 voked, based in whole or in part on a find-
26 ing by the Secretary under section

1 424.535(a)(14) of title 42, Code of Federal
2 Regulations (or any successor regulation),
3 as applied to improper prescribing of con-
4 trolled substances; or

5 “(ii) a provider of services or supplier
6 is placed on the preclusion list as defined
7 under sections 422.2 and 423.100 of such
8 title 42 (or any successor regulation),
9 based in whole or in part on a finding by
10 the Secretary that such provider or sup-
11 plier has engaged in conduct, in connection
12 with prescribing of controlled substances,
13 that would be considered improper pre-
14 scribing under such section
15 424.535(a)(14), if the provider of services
16 or supplier were enrolled under this title.

17 “(C) NOTIFICATION.—If the Secretary re-
18 vokes an enrollment or makes a preclusion list
19 placement as described in subparagraph (B),
20 the Secretary shall notify the Attorney General
21 of such revocation or placement, no later than
22 30 days after—

23 “(i) the affirmation of such Secre-
24 tarial action, in response to a request for
25 reconsideration by the provider of services

1 or supplier involved under section
2 424.545(a) or part 498 of such title 42, as
3 applicable (or any successor regulations);
4 or

5 “(ii) absent such a request for recon-
6 sideration, expiration of the time period
7 during which such a request may be filed.

8 “(D) RECOMMENDATION TO ATTORNEY
9 GENERAL.—Following a notification under sub-
10 paragraph (C) with respect to a provider of
11 services or supplier, the Secretary shall rec-
12 ommend that the Attorney General consider re-
13 voking any registration (or waiver thereof)
14 under section 303 of the Controlled Substances
15 Act under which such provider or supplier is
16 authorized to dispense controlled substances, to
17 the extent such revocation is authorized under
18 such Act.

19 “(E) SUBSEQUENT NOTIFICATION.—In the
20 case that a revocation of enrollment or a pre-
21 clusion list placement as described in subpara-
22 graph (B) is reversed under proceedings subse-
23 quent to the appropriate notification under sub-
24 paragraph (C), the Secretary shall inform the
25 Attorney General of such reversal (and as appli-

1 cable, reinstatement of such enrollment or re-
2 moval from the preclusion list).”.

3 (b) SENSE OF THE CONGRESS.—It is the sense of
4 the Congress that the Secretary of Health and Human
5 Services should collaborate with the Attorney General in
6 assessing the extent to which improper prescribing of con-
7 trolled substances may be effectively addressed through an
8 amendment to the Controlled Substances Act or regula-
9 tions thereunder, as applicable, under which registration
10 (or waiver thereof) under section 303 of such Act may be
11 revoked for providers or suppliers who are the subject of
12 a notification by the Secretary to the Attorney General
13 under section 1866(j)(10) of the Social Security Act, as
14 added by subsection (a).

15 (c) TECHNICAL CORRECTION TO CITATION FOR AP-
16 PEALS PROVISION.—Section 1866(j)(5)(B) of the Social
17 Security Act (42 U.S.C. 1395cc(j)(5)(B)) is amended by
18 striking “paragraph (7)” and inserting “paragraph (9)”.

○