

116TH CONGRESS
2D SESSION

H. R. 8640

To amend the Public Health Service Act to establish the Public Health Oversight Panel to advise the agencies of the Public Health Service regarding the scientific basis for their actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2020

Mr. RUSH (for himself, Mr. CÁRDENAS, Mr. CARSON of Indiana, Mr. COHEN, Mr. GARCÍA of Illinois, Ms. JACKSON LEE, Ms. ROYBAL-ALLARD, and Mr. SOTO) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Public Health Service Act to establish the Public Health Oversight Panel to advise the agencies of the Public Health Service regarding the scientific basis for their actions, 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 “Scientific Agencies
5 Following Evidence and Guaranteeing that Unscientific
6 Agendas are Refused and Denounced Act of 2020” or the
7 “SAFEGUARD Act of 2020”.

1 **SEC. 2. PUBLIC HEALTH OVERSIGHT PANEL.**

2 Part B of title II of the Public Health Service Act
3 (42 U.S.C. 238 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 249. PUBLIC HEALTH OVERSIGHT PANEL.**

6 “(a) ESTABLISHMENT.—There is established a per-
7 manent panel to be known as the Public Health Oversight
8 Panel (in this section referred to as the ‘Panel’).

9 “(b) DUTIES.—The Panel shall—

10 “(1) in consultation with public health advisory
11 committees determined by the Panel, advise the
12 agencies of the Public Health Service regarding the
13 scientific basis for their actions; and

14 “(2) during public health emergencies—

15 “(A) review regulations, guidance, and or-
16 ders of the agencies of the Public Health Serv-
17 ice, as described in subsection (c); and

18 “(B) as appropriate, make determinations
19 pursuant to subsection (c)(2).

20 “(c) REVIEW DURING PUBLIC HEALTH EMER-
21 GENCIES.—Beginning not later than 3 months after the
22 date of the enactment of this section, the head of each
23 agency of the Public Health Service shall—

24 “(1) before issuing any final regulation, guid-
25 ance, or order relating to a public health emergency,
26 during such public health emergency, give the Panel

1 an opportunity to review, in consultation with public
2 health advisory committees determined by the Panel,
3 the scientific basis underlying the regulation, guid-
4 ance, or order, including access to any relevant data
5 in the possession of the agency; and

6 “(2) refrain from issuing such regulation, guid-
7 ance, or order if the Panel determines that—

8 “(A) such scientific basis is incorrect; or

9 “(B) the evidence in support of such sci-
10 entific basis is insufficient.

11 “(d) MEMBERSHIP.—The Panel shall be composed
12 of—

13 “(1) the Assistant Secretary for Health, who
14 shall serve as the Chair of the Panel; and

15 “(2) 6 experts who each have experience in sci-
16 entific review or oversight, to be appointed by the
17 President, with the advice and consent of the Sen-
18 ate, from a list of individuals jointly nominated for
19 appointment by—

20 “(A) the Speaker of the House of Rep-
21 resentatives;

22 “(B) the minority leader of the House of
23 Representatives;

24 “(C) the majority leader of the Senate; and

25 “(D) the minority leader of the Senate.

1 “(e) COMMITTEE CONSULTATION.—In nominating
2 individuals under subsection (d), the Speaker of the House
3 of Representatives, the minority leader of the House of
4 Representatives, and the majority and minority leaders of
5 the Senate shall consult with—

6 “(1) the Committee on Energy and Commerce
7 of the House of Representatives; and

8 “(2) the Committee on Health, Education,
9 Labor, and Pensions of the Senate.

10 “(f) TERMS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graphs (2) and (3), members of the Panel shall be
13 appointed for a term of 6 years and may be re-
14 appointed.

15 “(2) TERMS OF INITIAL APPOINTEES.—As des-
16 ignated by the President at the time of appointment,
17 of the members first appointed—

18 “(A) 2 members shall be appointed for a
19 term of 2 years;

20 “(B) 2 members shall be appointed for a
21 term of 4 years; and

22 “(C) 2 members shall be appointed for a
23 term of 6 years.

24 “(3) VACANCIES.—Any member appointed to
25 fill a vacancy occurring before the expiration of the

1 term for which the member's predecessor was ap-
2 pointed shall be appointed only for the remainder of
3 that term. A member may serve after the expiration
4 of that member's term until a successor has taken
5 office.

6 “(g) BASIC PAY.—

7 “(1) RATES OF PAY.—To the extent or in the
8 amounts provided in advance in appropriation Acts,
9 except as provided in paragraph (2), members of the
10 Panel shall each be paid at a rate equal to the rate
11 of basic pay for level III of the Executive Schedule.

12 “(2) PROHIBITION OF ADDITIONAL COMPENSA-
13 TION OF FEDERAL EMPLOYEES.—Members of the
14 Panel who are full-time officers or employees of the
15 United States may not receive additional pay, allow-
16 ances, or benefits by reason of their service on the
17 Panel.

18 “(3) TRAVEL EXPENSES.—Each member shall
19 receive travel expenses, including per diem in lieu of
20 subsistence, in accordance with applicable provisions
21 under subchapter I of chapter 57 of title 5, United
22 States Code.

23 “(h) QUORUM.—A majority of the members serving
24 on the Panel shall constitute a quorum.

1 “(i) MEETINGS.—The Panel shall meet at the call of
2 the Chair or a majority of its members.

3 “(j) DIRECTOR AND STAFF.—

4 “(1) DIRECTOR.—The Panel shall have a Direc-
5 tor who shall be appointed by the Chair, in consulta-
6 tion with the other members of the Panel.

7 “(2) STAFF.—The Director of the Panel may
8 appoint such additional personnel as may be appro-
9 priate to carry out this section.

10 “(3) COMPENSATION.—The Panel shall fix the
11 compensation of the Director and other personnel of
12 the Panel in accordance with title 5, United States
13 Code, except that the rate of pay for the Director
14 and other personnel may not exceed the rate payable
15 for level IV of the Executive Schedule under section
16 5315 of that title.

17 “(k) SECURITY CLEARANCE.—

18 “(1) PANEL MEMBERS AND DIRECTOR CLEAR-
19 ANCES.—To be eligible for appointment under sub-
20 section (d)(2) to serve as a member of the Panel,
21 and to be eligible to serve as the Director and as
22 other personnel of the Panel, an individual shall be
23 eligible for the necessary security clearance.

24 “(2) ACCELERATED PROCESSING.—The appro-
25 priate Federal agencies or departments shall cooper-

1 ate with individuals referred to in paragraph (1) in
2 expeditiously providing to such individuals security
3 clearances to the extent possible pursuant to existing
4 procedures and requirements, except that no person
5 shall be provided with access to classified informa-
6 tion under this section without the appropriate secu-
7 rity clearances.

8 “(l) EXPERTS AND CONSULTANTS.—Subject to rules
9 prescribed by the Panel, the Panel may procure temporary
10 and intermittent services under section 3109(b) of title 5,
11 United States Code, but at rates for individuals not to
12 exceed the daily equivalent of the maximum annual rate
13 payable for level IV of the Executive Schedule under sec-
14 tion 5315 of that title.

15 “(m) STAFF OF FEDERAL AGENCIES.—Upon request
16 of the Panel, the head of any Federal department or agen-
17 cy may detail, on a reimbursable basis, any of the per-
18 sonnel of that department or agency to the Panel to assist
19 it in carrying out its duties under this section.

20 “(n) POWERS OF THE PANEL.—

21 “(1) HEARINGS AND SESSIONS.—The Panel
22 may, for the purpose of carrying out this section,
23 hold hearings, sit and act at times and places, take
24 testimony, and receive evidence as the Panel con-

1 siders appropriate. The Panel may administer oaths
2 or affirmations to witnesses appearing before it.

3 “(2) POWERS OF MEMBERS AND AGENTS.—Any
4 member or agent of the Panel may, if authorized by
5 the Panel, take any action which the Panel is au-
6 thorized to take by this section.

7 “(3) OBTAINING OFFICIAL DATA.—The Panel
8 may secure directly from any department or agency
9 of the United States information necessary to enable
10 it to carry out this section. Upon request of the
11 Chair of the Panel, the head of that department or
12 agency shall furnish that information to the Panel.
13 The Panel shall keep any information secured under
14 this paragraph confidential to the same extent as the
15 department or agency from which the information
16 was secured is required by applicable law to keep
17 such information confidential.

18 “(4) USES AND DISCLOSURES FOR PUBLIC
19 HEALTH ACTIVITIES.—For purposes of section
20 164.512 of title 45, Code of Federal Regulations
21 (and any successor regulation) the Panel is deemed
22 to be a public health authority.

23 “(5) MAILS.—The Panel may use the United
24 States mails in the same manner and under the

1 same conditions as other departments and agencies
2 of the United States.

3 “(6) SUBPOENA POWER.—

4 “(A) IN GENERAL.—The Panel may issue
5 subpoenas requiring the attendance and testi-
6 mony of witnesses and the production of any
7 evidence relating to any matter about which the
8 Panel is authorized by this section to advise the
9 agencies of the Public Health Service. The at-
10 tendance of witnesses and the production of evi-
11 dence may be required from any place within
12 the United States at any designated place of
13 hearing within the United States.

14 “(B) FAILURE TO OBEY A SUBPOENA.—If
15 a person refuses to obey a subpoena issued
16 under subparagraph (A), the Panel may apply
17 to a United States district court for an order
18 requiring that person to appear before the
19 Panel to give testimony, produce evidence, or
20 both, relating to the matter under investigation.
21 The application may be made within the judicial
22 district where the hearing is conducted or where
23 that person is found, resides, or transacts busi-
24 ness. Any failure to obey the order of the court
25 may be punished by the court as civil contempt.

1 “(C) SERVICE OF SUBPOENAS.—The sub-
2 poenas of the Panel shall be served in the man-
3 ner provided for subpoenas issued by a United
4 States district court under the Federal Rules of
5 Civil Procedure for the United States district
6 courts.

7 “(D) SERVICE OF PROCESS.—All process
8 of any court to which application is made under
9 subparagraph (B) may be served in the judicial
10 district in which the person required to be
11 served resides or may be found.

12 “(o) PUBLIC HEALTH EMERGENCY DEFINED.—In
13 this section, the term ‘public health emergency’ means a
14 public health emergency for which a declaration is in effect
15 under section 319.”.

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