

112TH CONGRESS  
1ST SESSION

# H. R. 866

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2011

Mr. WHITFIELD (for himself and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend and reauthorize the controlled substance monitoring program under section 3990 of the Public Health Service Act.

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 “National All Schedules  
5 Prescription Electronic Reporting Reauthorization Act of  
6 2011”.

7 **SEC. 2. AMENDMENT TO PURPOSE.**

8 Paragraph (1) of section 2 of the National All Sched-  
9 ules Prescription Electronic Reporting Act of 2005 (Public  
10 Law 109–60) is amended to read as follows:

1 “(1) foster the establishment of State-adminis-  
2 tered controlled substance monitoring systems in  
3 order to ensure that—

4 “(A) health care providers have access to  
5 the accurate, timely prescription history infor-  
6 mation that they may use as a tool for the early  
7 identification of patients at risk for addiction in  
8 order to initiate appropriate medical interven-  
9 tions and avert the tragic personal, family, and  
10 community consequences of untreated addiction;  
11 and

12 “(B) appropriate law enforcement, regu-  
13 latory, and State professional licensing authori-  
14 ties have access to prescription history informa-  
15 tion for the purposes of investigating drug di-  
16 version and prescribing and dispensing prac-  
17 tices of errant prescribers or pharmacists; and”.

18 **SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONI-**  
19 **TORING PROGRAM.**

20 Section 3990 of the Public Health Service Act (42  
21 U.S.C. 280g-3) is amended—

22 (1) in subsection (a)(1)—

23 (A) in subparagraph (A), by striking “or”;

24 (B) in subparagraph (B), by striking the  
25 period at the end and inserting “; or”; and

1 (C) by adding at the end the following:

2 “(C) to maintain and operate an existing  
3 State-controlled substance monitoring pro-  
4 gram.”;

5 (2) by amending subsection (b) to read as fol-  
6 lows:

7 “(b) MINIMUM REQUIREMENTS.—The Secretary  
8 shall maintain and, as appropriate, supplement or revise  
9 (after publishing proposed additions and revisions in the  
10 Federal Register and receiving public comments thereon)  
11 minimum requirements for criteria to be used by States  
12 for purposes of clauses (ii), (v), (vi), and (vii) of subsection  
13 (c)(1)(A).”;

14 (3) in subsection (c)—

15 (A) in paragraph (1)(B)—

16 (i) in the matter preceding clause (i),  
17 by striking “(a)(1)(B)” and inserting  
18 “(a)(1)(B) or (a)(1)(C)”;

19 (ii) in clause (i), by striking “program  
20 to be improved” and inserting “program to  
21 be improved or maintained”; and

22 (iii) in clause (iv), by striking “public  
23 health” and inserting “public health or  
24 public safety”;

25 (B) in paragraph (3)—

1 (i) by striking “If a State that sub-  
2 mits” and inserting the following:

3 “(A) IN GENERAL.—If a State that sub-  
4 mits”;

5 (ii) by inserting before the period at  
6 the end “and include timelines for full im-  
7 plementation of such interoperability”; and

8 (iii) by adding at the end the fol-  
9 lowing:

10 “(B) MONITORING OF EFFORTS.—The  
11 Secretary shall monitor State efforts to achieve  
12 interoperability, as described in subparagraph  
13 (A).”;

14 (C) in paragraph (5)—

15 (i) by striking “implement or im-  
16 prove” and inserting “establish, improve,  
17 or maintain”; and

18 (ii) by adding at the end the fol-  
19 lowing: “The Secretary shall redistribute  
20 any funds that are so returned among the  
21 remaining grantees under this section in  
22 accordance with the formula described in  
23 subsection (a)(2)(B).”;

24 (4) in the matter preceding paragraph (1) in  
25 subsection (d), by striking “In implementing or im-

1 proving” and all that follows through “(a)(1)(B)”  
2 and inserting “In establishing, improving, or main-  
3 taining a controlled substance monitoring program  
4 under this section, a State shall comply, or with re-  
5 spect to a State that applies for a grant under sub-  
6 paragraph (B) or (C) of subsection (a)(1)”;

7 (5) in subsections (e), (f)(1), and (g), by strik-  
8 ing “implementing or improving” each place it ap-  
9 pears and inserting “establishing, improving, or  
10 maintaining”;

11 (6) in subsection (f)—

12 (A) in paragraph (1)(B) by striking “mis-  
13 use of a schedule II, III, or IV substance” and  
14 inserting “misuse of a controlled substance in-  
15 cluded in schedule II, III, or IV of section  
16 202(c) of the Controlled Substance Act”; and

17 (B) by adding at the end the following:

18 “(3) EVALUATION AND REPORTING.—Subject  
19 to subsection (g), a State receiving a grant under  
20 subsection (a) shall provide the Secretary with ag-  
21 gregate data and other information determined by  
22 the Secretary to be necessary to enable the Sec-  
23 retary—

24 “(A) to evaluate the success of the State’s  
25 program in achieving its purposes; or

1           “(B) to prepare and submit the report to  
2           Congress required by subsection (k)(2).

3           “(4) RESEARCH BY OTHER ENTITIES.—A de-  
4           partment, program, or administration receiving non-  
5           identifiable information under paragraph (1)(D)  
6           may make such information available to other enti-  
7           ties for research purposes.”;

8           (7) by redesignating subsections (h) through  
9           (n) as subsections (i) through (o), respectively;

10          (8) in subsections (c)(1)(A)(iv) and (d)(4), by  
11          striking “subsection (h)” each place it appears and  
12          inserting “subsection (i)”;

13          (9) by inserting after subsection (g) the fol-  
14          lowing:

15          “(h) EDUCATION AND ACCESS TO THE MONITORING  
16          SYSTEM.—A State receiving a grant under subsection (a)  
17          shall take steps to—

18                 “(1) facilitate prescriber use of the State’s con-  
19                 trolled substance monitoring system; and

20                 “(2) educate prescribers on the benefits of the  
21                 system both to them and society.”;

22          (10) by amending subsection (l), as redesign-  
23          nated, to read as follows:

24          “(l) PREFERENCE.—Beginning 3 years after the date  
25          on which funds are first appropriated to carry out this

1 section, the Secretary, in awarding any competitive grant  
2 under title V that is related to drug abuse (as determined  
3 by the Secretary) and for which only States or tribes are  
4 eligible to apply, may give preference to eligible States  
5 with applications approved under this section, to eligible  
6 States or tribes with existing controlled substance moni-  
7 toring programs that meet minimum requirements under  
8 this section, or to eligible States or tribes that put forth  
9 a good faith effort to meet those requirements (as deter-  
10 mined by the Secretary).”;

11 (11) in subsection (m)(1), as redesignated, by  
12 striking “establishment, implementation, or improve-  
13 ment” and inserting “establishment, improvement,  
14 or maintenance”;

15 (12) in subsection (n)(8), as redesignated, by  
16 striking “and the District of Columbia” and insert-  
17 ing “, the District of Columbia, and any common-  
18 wealth or territory of the United States”; and

19 (13) by amending subsection (o), as redesign-  
20 nated, to read as follows:

21 “(o) AUTHORIZATION OF APPROPRIATIONS.—To  
22 carry out this section, there are authorized to be appro-  
23 priated \$15,000,000 for fiscal year 2012 and \$10,000,000  
24 for each of fiscal years 2013 and 2014.”.

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