

115TH CONGRESS
2D SESSION

S. 2659

To amend the Controlled Substances Act to authorize employees of hospice programs to handle controlled substances in the residences of certain hospice patients to assist in disposal of those controlled substances.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2018

Ms. COLLINS (for herself, Ms. HASSAN, Mrs. CAPITO, Ms. BALDWIN, and Ms. WARREN) 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 authorize employees of hospice programs to handle controlled substances in the residences of certain hospice patients to assist in disposal of those controlled substances.

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 “Safe Disposal of Un-
5 used Medication Act”.

1 **SEC. 2. DISPOSAL OF CONTROLLED SUBSTANCES OF CER-**
2 **TAIN HOSPICE PATIENTS BY EMPLOYEES OF**
3 **QUALIFIED HOSPICE PROGRAMS.**

4 (a) IN GENERAL.—Section 302(g) of the Controlled
5 Substances Act (21 U.S.C. 822(g)) is amended by adding
6 at the end the following:

7 “(5)(A)(i) An employee of a qualified hospice pro-
8 gram or an emergency medical services professional, act-
9 ing within the scope of employment and for the purpose
10 of assisting in the disposal of a controlled substance in
11 a case described in clause (ii), may handle, in the place
12 of residence of a hospice patient, any controlled substance
13 that was lawfully dispensed to the hospice patient.

14 “(ii) A case described in this clause is a case in
15 which—

16 “(I) the hospice patient has died; or

17 “(II) the controlled substance is expired.

18 “(iii)(I) For purposes of clause (i), if a State has in
19 place requirements to allow an employee of a hospice pro-
20 gram, acting within the scope of employment and for the
21 purpose of assisting in the disposal of a controlled sub-
22 stance in a case described in clause (ii), to handle, in the
23 place of residence of a hospice patient, any controlled sub-
24 stance that was lawfully dispensed to the hospice patient,
25 and the Attorney General determines that those require-
26 ments provide safeguards equivalent to the safeguards

1 provided under subparagraph (C)(vi), the employee of the
2 hospice program shall not be required to be an employee
3 of a qualified hospice program.

4 “(II) If the Attorney General determines that the re-
5 quirements of a State described in subclause (I) do not
6 provide safeguards equivalent to the safeguards provided
7 under subparagraph (C)(vi), the State may file a petition
8 for judicial review of the determination with an appro-
9 priate district court of the United States.

10 “(B) The Attorney General, in consultation with the
11 Secretary, may promulgate regulations to authorize an
12 employee of a hospice program, acting within the scope
13 of employment and for the purpose of assisting in the dis-
14 posal of a controlled substance, to handle, in the place of
15 residence of a hospice patient, any controlled substance
16 that was lawfully dispensed to the hospice patient if—

17 “(i) with respect to the controlled substance,
18 the plan of care of the hospice patient has been
19 modified; and

20 “(ii) pursuant to the modification of the plan of
21 care, the hospice patient no longer requires the con-
22 trolled substance.

23 “(C) In this paragraph—

1 “(i) the term ‘emergency medical services pro-
2 fessional’ has the meaning given the term in section
3 303;

4 “(ii) the term ‘employee of a hospice pro-
5 gram’—

6 “(I) means a person who is—

7 “(aa) employed by, or pursuant to ar-
8 rangements made by, a hospice program;
9 and

10 “(bb) licensed or certified to perform
11 such employment in accordance with appli-
12 cable State law; and

13 “(II) includes—

14 “(aa) a physician; and

15 “(bb) a registered nurse;

16 “(iii) the term ‘employee of a qualified hospice
17 program’—

18 “(I) means a person who is—

19 “(aa) employed by, or pursuant to ar-
20 rangements made by, a qualified hospice
21 program; and

22 “(bb) licensed or certified to perform
23 such employment in accordance with appli-
24 cable State law; and

25 “(II) includes—

1 “(aa) a physician; and

2 “(bb) a registered nurse;

3 “(iv) the terms ‘hospice care’ and ‘hospice pro-
4 gram’ have the meanings given those terms in sec-
5 tion 1861(dd) of the Social Security Act (42 U.S.C.
6 1395x(dd));

7 “(v) the term ‘hospice patient’ means an indi-
8 vidual receiving hospice care; and

9 “(vi) the term ‘qualified hospice program’
10 means a hospice program that—

11 “(I) has written policies and procedures for
12 assisting in the disposal of a controlled sub-
13 stance of a hospice patient in each of the cases
14 described in subparagraph (A)(ii);

15 “(II) at the time when the controlled sub-
16 stance of a hospice patient is first ordered—

17 “(aa) provides a copy of the written
18 policies and procedures described in sub-
19 clause (I) to the hospice patient, or the
20 representative of the hospice patient, and
21 the family of the hospice patient; and

22 “(bb) discusses the policies and proce-
23 dures described in subclause (I) with the
24 hospice patient, or the representative of
25 the hospice patient, and the family of the

1 hospice patient in a language and manner
2 that those individuals understand to ensure
3 that those individuals are educated regard-
4 ing the safe disposal of controlled sub-
5 stances;

6 “(III) documents in the clinical record of
7 the hospice patient that the written policies and
8 procedures described in subclause (I) were pro-
9 vided and discussed; and

10 “(IV) at the time when an employee of the
11 hospice program disposes of a controlled sub-
12 stance of a hospice patient in a case described
13 in subparagraph (A)(ii), documents the disposal
14 in the clinical record of the hospice patient.”.

15 (b) NO REGISTRATION REQUIRED.—Section 302(c)
16 of the Controlled Substances Act (21 U.S.C. 822(c)) is
17 amended by adding at the end the following:

18 “(4) An employee of a qualified hospice pro-
19 gram or an emergency medical services professional,
20 as those terms are defined in subsection (g)(5), who
21 possesses the controlled substance for the purpose of
22 assisting in the disposal of the controlled substance
23 in accordance with subparagraph (A) of that sub-
24 section.

1 “(5) An employee of a hospice program, as de-
2 fined in subsection (g)(5), who possesses the con-
3 trolled substance for the purpose of assisting in the
4 disposal of the controlled substance in accordance
5 with a regulation issued under subparagraph (B) of
6 that subsection.”.

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