

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 480

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

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National All Schedules
5 Prescription Electronic Reporting Reauthorization Act of
6 2016”.

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 health care providers have ac-
4 cess to the accurate, timely prescription history in-
5 formation that they may use as a tool for the early
6 identification of patients at risk for addiction in
7 order to initiate appropriate medical interventions
8 and avert the tragic personal, family, and commu-
9 nity consequences of untreated addiction; and”.

10 **SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONI-**
11 **TORING PROGRAM.**

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

14 (1) in subsection (a)(1)—

15 (A) in the matter preceding subparagraph
16 (A), by inserting “, in consultation with the Ad-
17 ministrators of the Substance Abuse and Mental
18 Health Services Administration and Director of
19 the Centers for Disease Control and Preven-
20 tion,” after “the Secretary”;

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

22 (C) in subparagraph (B), by striking the
23 period at the end and inserting “; or”; and

24 (D) by adding at the end the following:

1 “(C) to maintain an existing State-con-
2 trolled substance monitoring program.”;

3 (2) by amending subsection (b) to read as fol-
4 lows:

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

12 (3) in subsection (c)—

13 (A) in paragraph (1)(B)—

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

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

20 (iii) by redesignating clauses (iii) and
21 (iv) as clauses (iv) and (v), respectively;

22 (iv) by inserting after clause (ii), the
23 following:

24 “(iii) a plan to apply the latest ad-
25 vances in health information technology, to

1 the extent practicable, in order to incor-
2 porate prescription drug monitoring pro-
3 gram data directly into the workflow of
4 prescribers and dispensers to ensure timely
5 access to patients' controlled prescription
6 drug history;”;

7 (v) in clause (iv) (as so redesign-
8 nated)—

9 (I) by inserting before the semi-
10 colon the following: “and at least one
11 health information technology system
12 such as electronic health records,
13 health information exchanges, and e-
14 prescribing systems”; and

15 (II) by striking “and” after the
16 semicolon;

17 (vi) in clause (v) (as so redesign-
18 nated)—

19 (I) by striking “public health”
20 and inserting “public health or safe-
21 ty”;

22 (II) by striking the period and
23 inserting “; and”; and

24 (vii) by adding at the end the fol-
25 lowing:

1 “(vi) information, where applicable, on
2 how the controlled substance monitoring
3 program jointly works with the applicant’s
4 respective State substance abuse agency to
5 ensure information collected and main-
6 tained by the controlled substance moni-
7 toring program is used to inform the provi-
8 sion of clinically appropriate substance use
9 disorder services to individuals in need.”;

10 (B) in paragraph (3)—

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

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

15 (ii) by inserting before the period at
16 the end “and include timelines for full im-
17 plementation of such interoperability. The
18 State shall also describe the manner in
19 which it will achieve interoperability be-
20 tween its monitoring program and health
21 information technology systems, as allow-
22 able under State law, and include timelines
23 for the implementation of such interoper-
24 ability”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(B) MONITORING OF EFFORTS.—The
4 Secretary shall monitor State efforts to achieve
5 interoperability, as described in subparagraph
6 (A).”; and

7 (C) in paragraph (5)—

8 (i) by striking “implement or im-
9 prove” and inserting “establish, improve,
10 or maintain”; and

11 (ii) by adding at the end the fol-
12 lowing: “The Secretary shall redistribute
13 any funds that are so returned among the
14 remaining grantees under this section in
15 accordance with the formula described in
16 subsection (a)(2)(B).”;

17 (4) in subsection (d)—

18 (A) in the matter preceding paragraph
19 (1)—

20 (i) by striking “In implementing or
21 improving” and all that follows through
22 “(a)(1)(B)” and inserting “In establishing,
23 improving, or maintaining a controlled sub-
24 stance monitoring program under this sec-
25 tion, a State shall comply, or with respect

1 to a State that applies for a grant under
2 subparagraph (B) or (C) of subsection
3 (a)(1)”; and

4 (ii) by striking “public health” and in-
5 serting “public health or safety”; and

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

7 “(5) The State shall report on interoperability
8 with the controlled substance monitoring program of
9 Federal agencies, where appropriate, interoperability
10 with health information technology systems such as
11 electronic health records, health information ex-
12 changes, and e-prescribing, where appropriate, and
13 whether or not the State provides automatic, up-to-
14 date, or daily information about a patient when a
15 practitioner (or the designee of a practitioner, where
16 permitted) requests information about such pa-
17 tient.”;

18 (5) in subsections (e), (f)(1), and (g), by strik-
19 ing “implementing or improving” each place it ap-
20 pears and inserting “establishing, improving, or
21 maintaining”;

22 (6) in subsection (f)—

23 (A) in paragraph (1)—

24 (i) in subparagraph (B), by striking
25 “misuse of a schedule II, III, or IV sub-

1 stance” and inserting “misuse of a con-
2 trolled substance”; and

3 (ii) in subparagraph (D), by inserting
4 “a State substance abuse agency,” after
5 “State health department,”; and

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

7 “(3) EVALUATION AND REPORTING.—Subject
8 to subsection (g), a State receiving a grant under
9 subsection (a) shall provide the Secretary with ag-
10 gregate data to enable the Secretary—

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

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

15 “(4) RESEARCH BY OTHER ENTITIES.—A de-
16 partment, program, agency, or administration receiv-
17 ing nonidentifiable information under paragraph
18 (1)(D) may make such information available to
19 other entities for research purposes.”;

20 (7) by striking subsection (k);

21 (8) by redesignating subsections (h) through (j)
22 as subsections (i) through (k), respectively;

23 (9) in subsections (c)(1)(A)(iv) and (d)(4), by
24 striking “subsection (h)” each place it appears and
25 inserting “subsection (i)”;

1 (10) by inserting after subsection (g) the fol-
2 lowing:

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

6 “(1) facilitate prescriber and dispenser use of
7 the State’s controlled substance monitoring system,
8 to the extent practicable; and

9 “(2) educate prescribers and dispensers on the
10 benefits of the system.”;

11 (11) in subsection (k)(2)(A), as so redesign-
12 nated—

13 (A) in clause (ii), by striking “or affected”
14 and inserting “, established or strengthened ini-
15 tiatives to ensure linkages to substance use dis-
16 order services, or affected”; and

17 (B) in clause (iii), by striking “including
18 an assessment” and inserting “and between
19 controlled substance monitoring programs and
20 health information technology systems, includ-
21 ing an assessment”;

22 (12) in subsection (l)(1), by striking “establish-
23 ment, implementation, or improvement” and insert-
24 ing “establishment, improvement, or maintenance”;

1 (13) in subsection (m)(8), by striking “and the
2 District of Columbia” and inserting “, the District
3 of Columbia, and any commonwealth or territory of
4 the United States”; and

5 (14) by amending subsection (n) to read as fol-
6 lows:

7 “(n) AUTHORIZATION OF APPROPRIATIONS.—To
8 carry out this section, there are authorized to be appro-
9 priated such sums as may be necessary for each of fiscal
10 years 2017 through 2021.”.