

105TH CONGRESS
2^D SESSION

S. 2151

To clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 1998

Mr. NICKLES (for himself, Mr. LOTT, Mr. COATS, Mr. INHOFE, Mr. HELMS, Mr. MURKOWSKI, Mr. GRAMS, Mr. FAIRCLOTH, Mr. BOND, Mr. ENZI, Mr. SESSIONS, Mr. HAGEL, and Mr. COVERDELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To clarify Federal law to prohibit the dispensing or distribution of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

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 “Lethal Drug Abuse
5 Prevention Act of 1998”.

6 **SEC. 2. FINDINGS; PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the use of certain narcotics and other dan-
2 dangerous drugs is generally prohibited under the Con-
3 trolled Substances Act;

4 (2) under the Controlled Substances Act and
5 implementing regulations, an exception to this gen-
6 eral prohibition permits the dispensing and distribu-
7 tion of certain controlled substances by properly reg-
8 istered physicians for legitimate medical purposes;

9 (3) the dispensing or distribution of controlled
10 substances to assist suicide is not a legitimate medi-
11 cal purpose and should not be construed to be per-
12 missible under the Controlled Substances Act;

13 (4) the dispensing or distribution of certain
14 controlled substances for the purpose of relieving
15 pain and discomfort is a legitimate medical purpose
16 under the Controlled Substances Act and physicians
17 should not hesitate to dispense or distribute them
18 for that purpose when medically indicated; and

19 (5) for the reasons set forth in section 101 of
20 the Controlled Substances Act (21 U.S.C. 801), the
21 dispensing and distribution of controlled substances
22 for any purpose, including that of assisting suicide,
23 affects interstate commerce.

24 (b) PURPOSES.—The purposes of this Act are—

1 (1) to provide explicitly that Federal law is not
2 intended to license the dispensing or distribution of
3 a controlled substance with a purpose of causing, or
4 assisting in causing, the suicide, euthanasia, or
5 mercy killing of any individual; and

6 (2) to encourage physicians to prescribe con-
7 trolled substances as medically appropriate in order
8 to relieve pain and discomfort, by reducing unwar-
9 ranted concerns that their registration to prescribe
10 controlled substances will thereby be put at risk, if
11 there is no intent to cause a patient’s death.

12 **SEC. 3. LETHAL DRUG ABUSE PREVENTION.**

13 (a) DENIAL OF REGISTRATION.—Section 303 of the
14 Controlled Substances Act (21 U.S.C. 823) is amended
15 by adding at the end the following:

16 “(i) DENIAL OF REGISTRATION.—The Attorney Gen-
17 eral shall determine that registration of an applicant
18 under this section is inconsistent with the public interest
19 if—

20 “(1) during the 5-year period immediately pre-
21 ceding the date on which the application is submit-
22 ted under this section, the registration of the appli-
23 cant under this section was revoked under section
24 304(a)(4); or

1 “(2) the Attorney General determines, based on
2 clear and convincing evidence, that the applicant is
3 applying for the registration with the intention of
4 using the registration to take any action that would
5 constitute a violation of section 304(a)(4).”.

6 (b) SUSPENSION OR REVOCATION OF REGISTRA-
7 TION.—

8 (1) IN GENERAL.—Section 304(a) of the Con-
9 trolled Substances Act (21 U.S.C. 824(a)) is amend-
10 ed—

11 (A) by redesignating paragraphs (4) and
12 (5) as paragraphs (5) and (6), respectively; and

13 (B) by inserting after paragraph (3) the
14 following:

15 “(4) has intentionally dispensed or distributed a
16 controlled substance with a purpose of causing, or
17 assisting in causing, the suicide, euthanasia, or
18 mercy killing of any individual, except that this
19 paragraph does not apply to the dispensing or dis-
20 tribution of a controlled substance for the purpose of
21 relieving pain or discomfort (even if the use of the
22 controlled substance may increase the risk of death),
23 so long as the controlled substance is not also dis-
24 pensed or distributed for the purpose of causing, or

1 assisting in causing, the death of an individual for
2 any reason;”.

3 (2) CONFORMING AMENDMENT.—Section
4 304(a)(5) of the Controlled Substances Act (21
5 U.S.C. 824(a)(5)) (as redesignated by paragraph (1)
6 of this subsection) is amended by inserting “other”
7 after “such”.

8 (c) PAIN RELIEF.—Section 304(c) of the Controlled
9 Substances Act (21 U.S.C. 824(c)) is amended—

10 (1) by striking “(c) Before” and inserting the
11 following:

12 “(c) PROCEDURES.—

13 “(1) ORDER TO SHOW CAUSE.—After any hear-
14 ing under paragraph (2), and before”; and

15 (2) by adding at the end the following:

16 “(2) MEDICAL REVIEW BOARD ON PAIN RE-
17 LIEF.—

18 “(A) IN GENERAL.—The Attorney General
19 shall by regulation establish a board to be
20 known as the Medical Review Board on Pain
21 Relief (referred to in this subsection as the
22 ‘Board’).

23 “(B) MEMBERSHIP.—The Attorney Gen-
24 eral shall appoint the members of the Board—

1 “(i) from among individuals who, by
2 reason of specialized education or substan-
3 tial relevant experience in pain manage-
4 ment, are clinical experts with knowledge
5 regarding standards, practices, and guide-
6 lines concerning pain relief; and

7 “(ii) after consultation with the Amer-
8 ican Medical Association, the American
9 Academy of Hospice and Palliative Medi-
10 cine, the National Hospice Organization,
11 the American Geriatrics Society, and such
12 other entities with relevant expertise con-
13 cerning pain relief, as the Attorney Gen-
14 eral determines to be appropriate.

15 “(C) DUTIES OF BOARD.—

16 “(i) HEARING.—If an applicant or
17 registrant claims that any action (or, in
18 the case of a proposed denial under section
19 303(i)(2), any potential action) that is a
20 basis of a proposed denial under section
21 303(i), or a proposed revocation or suspen-
22 sion under subsection (a)(4) of this sec-
23 tion, is an appropriate means to relieve
24 pain that does not constitute a violation of
25 subsection (a)(4) of this section, the appli-

1 cant or registrant may seek a hearing be-
2 fore the Board on that issue.

3 “(ii) FINDINGS.—Based on a hearing
4 under clause (i), the Board shall make
5 findings regarding whether the action at
6 issue is an appropriate means to relieve
7 pain that does not constitute a violation of
8 subsection (a)(4). The findings of the
9 Board under this clause shall be admissible
10 in any hearing pursuant to an order to
11 show cause under paragraph (1).”.

12 **SEC. 4. CONSTRUCTION.**

13 (a) IN GENERAL.—Nothing in this Act or the amend-
14 ments made by this Act shall be construed to imply that
15 the dispensing or distribution of a controlled substance be-
16 fore the date of enactment of this Act for the purpose of
17 causing, or assisting in causing, the suicide, euthanasia,
18 or mercy killing of any individual is not a violation of the
19 Controlled Substances Act (21 U.S.C. 801 et seq.).

20 (b) INCORPORATED DEFINITIONS.—In this section,
21 the terms “controlled substance”, “dispense”, and “dis-
22 tribute” have the meanings given those terms in section
23 102 of the Controlled Substances Act (21 U.S.C. 802).

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