

106TH CONGRESS
2^D SESSION

H. R. 5544

To amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2000

Mr. HYDE introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, 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 “Pain Relief Promotion
5 Act of 2000”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) in the first decade of the new millennium
2 there should be a new emphasis on pain manage-
3 ment and palliative care;

4 (2) the use of certain narcotics and other drugs
5 or substances with a potential for abuse is strictly
6 regulated under the Controlled Substances Act;

7 (3) the dispensing and distribution of certain
8 controlled substances by properly registered practi-
9 tioners for legitimate medical purposes are permitted
10 under the Controlled Substances Act and imple-
11 menting regulations;

12 (4) the dispensing or distribution of certain
13 controlled substances for the purpose of relieving
14 pain and discomfort even if it increases the risk of
15 death is a legitimate medical purpose and is permis-
16 sible under the Controlled Substances Act;

17 (5) inadequate treatment of pain, especially for
18 chronic diseases and conditions, irreversible diseases
19 such as cancer, and end-of-life care, is a serious pub-
20 lic health problem affecting hundreds of thousands
21 of patients every year; physicians should not hesitate
22 to dispense or distribute controlled substances when
23 medically indicated for these conditions; and

24 (6) for the reasons set forth in section 101 of
25 the Controlled Substances Act (21 U.S.C. 801), the

1 “(b) DEFINITION.—In this section, the term ‘pain
2 management and palliative care’ means—

3 “(1) the active, total care of patients whose dis-
4 ease or medical condition is not responsive to cura-
5 tive treatment or whose prognosis is limited due to
6 progressive, far-advanced disease; and

7 “(2) the evaluation, diagnosis, treatment, and
8 management of primary and secondary pain, wheth-
9 er acute, chronic, persistent, intractable, or associ-
10 ated with the end of life;

11 the purpose of which is to diagnose and alleviate pain and
12 other distressing signs and symptoms and to enhance the
13 quality of life, not to hasten or postpone death.”.

14 **SEC. 102. ACTIVITIES OF HEALTH RESOURCES AND SERV-**
15 **ICES ADMINISTRATION.**

16 (a) IN GENERAL.—Part D of title VII of the Public
17 Health Service Act (42 U.S.C. 294 et seq.) is amended—

18 (1) by redesignating sections 754 through 757
19 as sections 755 through 758, respectively; and

20 (2) by inserting after section 753 the following:

21 **“SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN**
22 **PAIN MANAGEMENT AND PALLIATIVE CARE.**

23 “(a) IN GENERAL.—The Secretary, in consultation
24 with the Director of the Agency for Healthcare Research
25 and Quality, may award grants, cooperative agreements,

1 and contracts to health professions schools, hospices, and
2 other public and private entities for the development and
3 implementation of programs to provide education and
4 training to health care professionals in pain management
5 and palliative care.

6 “(b) PRIORITY.—In making awards under subsection
7 (a), the Secretary shall give priority to awards for the im-
8 plementation of programs under such subsection.

9 “(c) CERTAIN TOPICS.—An award may be made
10 under subsection (a) only if the applicant for the award
11 agrees that the program to be carried out with the award
12 will include information and education on—

13 “(1) means for diagnosing and alleviating pain
14 and other distressing signs and symptoms of pa-
15 tients, especially terminally ill patients, including the
16 medically appropriate use of controlled substances;

17 “(2) applicable laws on controlled substances,
18 including laws permitting health care professionals
19 to dispense or administer controlled substances as
20 needed to relieve pain even in cases where such ef-
21 forts may unintentionally increase the risk of death;
22 and

23 “(3) recent findings, developments, and im-
24 provements in the provision of pain management
25 and palliative care.

1 “(d) PROGRAM SITES.—Education and training
2 under subsection (a) may be provided at or through health
3 professions schools, residency training programs and other
4 graduate programs in the health professions, entities that
5 provide continuing medical education, hospices, and such
6 other programs or sites as the Secretary determines to be
7 appropriate.

8 “(e) EVALUATION OF PROGRAMS.—The Secretary
9 shall (directly or through grants or contracts) provide for
10 the evaluation of programs implemented under subsection
11 (a) in order to determine the effect of such programs on
12 knowledge and practice regarding pain management and
13 palliative care.

14 “(f) PEER REVIEW GROUPS.—In carrying out section
15 799(f) with respect to this section, the Secretary shall en-
16 sure that the membership of each peer review group in-
17 volved includes individuals with expertise and experience
18 in pain management and palliative care for the population
19 of patients whose needs are to be served by the program.

20 “(g) DEFINITION.—In this section, the term ‘pain
21 management and palliative care’ means—

22 “(1) the active, total care of patients whose dis-
23 ease or medical condition is not responsive to cura-
24 tive treatment or whose prognosis is limited due to
25 progressive, far-advanced disease; and

1 “(2) the evaluation, diagnosis, treatment, and
2 management of primary and secondary pain, wheth-
3 er acute, chronic, persistent, intractable, or associ-
4 ated with the end of life;
5 the purpose of which is to diagnose and alleviate pain and
6 other distressing signs and symptoms and to enhance the
7 quality of life, not to hasten or postpone death.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS; ALLOCA-
9 TION.—

10 (1) IN GENERAL.—Section 758 of the Public
11 Health Service Act (as redesignated by subsection
12 (a)(1) of this section) is amended, in subsection
13 (b)(1)(C), by striking “sections 753, 754, and 755”
14 and inserting “sections 753, 754, 755, and 756”.

15 (2) AMOUNT.—With respect to section 758 of
16 the Public Health Service Act (as redesignated by
17 subsection (a)(1) of this section), the dollar amount
18 specified in subsection (b)(1)(C) of such section is
19 deemed to be increased by \$5,000,000.

20 **SEC. 103. EFFECTIVE DATE.**

21 The amendments made by this title shall take effect
22 on the date of enactment of this Act.

1 **TITLE II—USE OF CONTROLLED**
2 **SUBSTANCES CONSISTENT**
3 **WITH THE CONTROLLED SUB-**
4 **STANCES ACT**

5 **SEC. 201. REINFORCING EXISTING STANDARD FOR LEGITI-**
6 **MATE USE OF CONTROLLED SUBSTANCES.**

7 (a) IN GENERAL.—Section 303 of the Controlled
8 Substances Act (21 U.S.C. 823) is amended by adding at
9 the end the following:

10 “(i)(1) For purposes of this Act and any regulations
11 to implement this Act, alleviating pain or discomfort in
12 the usual course of professional practice is a legitimate
13 medical purpose for the dispensing, distributing, or admin-
14 istering of a controlled substance that is consistent with
15 public health and safety, even if the use of such a sub-
16 stance may increase the risk of death. Nothing in this sec-
17 tion authorizes intentionally dispensing, distributing, or
18 administering a controlled substance for the purpose of
19 causing death or assisting another person in causing
20 death.

21 “(2)(A) Notwithstanding any other provision of this
22 Act, in determining whether a registration is consistent
23 with the public interest under this Act, the Attorney Gen-
24 eral shall give no force and effect to State law authorizing
25 or permitting assisted suicide or euthanasia.

1 “(B) Paragraph (2) applies only to conduct occurring
2 after the date of enactment of this subsection.

3 “(3) Nothing in this subsection shall be construed to
4 alter the roles of the Federal and State governments in
5 regulating the practice of medicine. Regardless of whether
6 the Attorney General determines pursuant to this section
7 that the registration of a practitioner is inconsistent with
8 the public interest, it remains solely within the discretion
9 of State authorities to determine whether action should
10 be taken with respect to the State professional license of
11 the practitioner or State prescribing privileges.

12 “(4) Nothing in the Pain Relief Promotion Act of
13 2000 (including the amendments made by such Act) shall
14 be construed—

15 “(A) to modify the Federal requirements that a
16 controlled substance be dispensed only for a legiti-
17 mate medical purpose pursuant to paragraph (1); or

18 “(B) to provide the Attorney General with the
19 authority to issue national standards for pain man-
20 agement and palliative care clinical practice, re-
21 search, or quality;

22 except that the Attorney General may take such other ac-
23 tions as may be necessary to enforce this Act.”.

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

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

3 “(c) PROCEDURES.—

4 “(1) ORDER TO SHOW CAUSE.—Before”; and

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

6 “(2) BURDEN OF PROOF.—At any proceeding
7 under paragraph (1), where the order to show cause
8 is based on the alleged intentions of the applicant or
9 registrant to cause or assist in causing death, and
10 the practitioner claims a defense under paragraph
11 (1) of section 303(i), the Attorney General shall
12 have the burden of proving, by clear and convincing
13 evidence, that the practitioner’s intent was to dis-
14 pense, distribute, or administer a controlled sub-
15 stance for the purpose of causing death or assisting
16 another person in causing death. In meeting such
17 burden, it shall not be sufficient to prove that the
18 applicant or registrant knew that the use of con-
19 trolled substance may increase the risk of death.”.

20 **SEC. 202. EDUCATION AND TRAINING PROGRAMS.**

21 Section 502(a) of the Controlled Substances Act (21
22 U.S.C. 872(a)) is amended—

23 (1) by striking “and” at the end of paragraph
24 (5);

1 (2) by striking the period at the end of para-
2 graph (6) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(7) educational and training programs for
5 Federal, State, and local personnel, incorporating
6 recommendations, subject to the provisions of sub-
7 sections (e) and (f) of section 902 of the Public
8 Health Service Act, by the Secretary of Health and
9 Human Services, on the means by which investiga-
10 tion and enforcement actions by law enforcement
11 personnel may better accommodate the necessary
12 and legitimate use of controlled substances in pain
13 management and palliative care.

14 Nothing in this subsection shall be construed to alter the
15 roles of the Federal and State governments in regulating
16 the practice of medicine.”.

17 **SEC. 203. FUNDING AUTHORITY.**

18 Notwithstanding any other provision of law, the oper-
19 ation of the diversion control fee account program of the
20 Drug Enforcement Administration shall be construed to
21 include carrying out section 303(i) of the Controlled Sub-
22 stances Act (21 U.S.C. 823(i)), as added by this Act, and
23 subsections (a)(4) and (c)(2) of section 304 of the Con-
24 trolled Substances Act (21 U.S.C. 824), as amended by
25 this Act.

1 **SEC. 204. EFFECTIVE DATE.**

2 The amendments made by this title shall take effect
3 on the date of enactment of this Act.

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