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115TH CONGRESS
2D SESSION

H. R. 5202

To amend the Controlled Substances Act to provide for the delivery of a controlled substance by a pharmacy to an administering practitioner.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Mr. COSTELLO of Pennsylvania (for himself and Mr. NOLAN) introduced the following bill; which was referred to the Committee on Energy and 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

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A BILL

To amend the Controlled Substances Act to provide for the delivery of a controlled substance by a pharmacy to an administering practitioner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ensuring Patient Access to Substance Use Disorder Treatments Act of 2018''.

SEC. 2. DELIVERY OF A CONTROLLED SUBSTANCE BY A PHARMACY TO BE ADMINISTERED BY INJECTION, IMPLANTATION, OR INTRATHECAL PUMP.

(a) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 309 (21 U.S.C. 829) the following:

''DELIVERY OF A CONTROLLED SUBSTANCE BY A PHARMACY TO AN ADMINISTERING PRACTITIONER

''SEC. 309A. (a) IN GENERAL.—Notwithstanding section 102(10), a pharmacy may deliver (pursuant to a registration under subsection (f) or (g) of section 303, as applicable) a controlled substance to a practitioner in accordance with a prescription that meets the requirements of this title and the regulations issued by the Attorney General under this title, for the purpose of administering of the controlled substance by the practitioner if—

''(1) the controlled substance is delivered by the pharmacy to the prescribing practitioner or the practitioner administering the controlled substance, as applicable, at the location listed on the practitioner's certificate of registration issued under this title;

''(2)(A) in the case of administering of the controlled substance for the purpose of maintenance or detoxification treatment under section 303(g)(2)—

''(i) the practitioner who issued the prescription is a qualifying practitioner authorized under, and acting within the scope of, that section; and

''(ii) the controlled substance is to be administered by injection or implantation; or

''(B) in the case of administering of the controlled substance for a purpose other than maintenance or detoxification treatment, the controlled substance is to be administered by a practitioner through use of an intrathecal pump;

''(3) the pharmacy and the practitioner are authorized to conduct the activities specified in this section under the law of the State in which such activities take place;

''(4) the prescription is not issued to supply any practitioner with a stock of controlled substances for the purpose of general dispensing to patients;

''(5) except as provided in subsection (b), the controlled substance is to be administered only to the patient named on the prescription not later than 14 days after the date of receipt of the controlled substance by the practitioner; and

''(6) notwithstanding any exceptions under section 307, the prescribing practitioner, and the prac-

titioner administering the controlled substance, as applicable, maintain complete and accurate records of all controlled substances delivered, received, administered, or otherwise disposed of under this section, including the persons to whom controlled substances were delivered and such other information as may be required by regulations of the Attorney General.

''(b) MODIFICATION OF NUMBER OF DAYS BEFORE WHICH CONTROLLED SUBSTANCE SHALL BE ADMINISTERED.—

''(1) INITIAL 2-YEAR PERIOD.—During the 2-year period beginning on the date of enactment of this section, the Attorney General, in coordination with the Secretary, may reduce the number of days described in subsection (a)(5) if the Attorney General determines that such reduction will—

''(A) reduce the risk of diversion; or

''(B) protect the public health.

''(2) MODIFICATIONS AFTER SUBMISSION OF REPORT.—After the date on which the report described in subsection (c) is submitted, the Attorney General, in coordination with the Secretary, may modify the number of days described in subsection (a)(5).

"(3) MINIMUM NUMBER OF DAYS.—A modification under this subsection may not modify the number of days specified in subsection (a)(5) to fewer than 7.".

(b) STUDY AND REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to Congress a report on access to and potential diversion of controlled substances administered by injection, implantation, or through the use of an intrathecal pump.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 309 the following:

"Sec. 309A. Delivery of a controlled substance by a pharmacy to an administering practitioner.".

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