

COMMITTEE PRINT

[SHOWING THE TEXT OF H.R. 5710 AS FAVORABLY FORWARDED BY THE
SUBCOMMITTEE ON HEALTH ON JULY 22, 2010]

111TH CONGRESS
2D SESSION

H. R. 5710

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

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2010

Mr. WHITFIELD (for himself, Mr. PALLONE, Mr. SHIMKUS, Mr. STUPAK, Mr. ROGERS of Michigan, Mr. GENE GREEN of Texas, Mrs. BLACKBURN, Mrs. CHRISTENSEN, Mr. RADANOVICH, Mrs. MALONEY, Mr. BISHOP of Georgia, Mr. WILSON of Ohio, Mr. GINGREY of Georgia, Mr. GORDON of Tennessee, Mr. KAGEN, Mr. PITTS, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National All Schedules
3 Prescription Electronic Reporting Reauthorization Act of
4 2010”.

5 **SEC. 2. AMENDMENT TO PURPOSE.**

6 Paragraph (1) of section 2 of the National All Sched-
7 ules Prescription Electronic Reporting Act of 2005 (Public
8 Law 109–60) is amended to read as follows:

9 “(1) foster the establishment of State-adminis-
10 tered controlled substance monitoring systems in
11 order to ensure that—

12 “(A) health care providers have access to
13 the accurate, timely prescription history infor-
14 mation that they may use as a tool for the early
15 identification of patients at risk for addiction in
16 order to initiate appropriate medical interven-
17 tions and avert the tragic personal, family, and
18 community consequences of untreated addiction;
19 and

20 “(B) appropriate law enforcement, regu-
21 latory, and State professional licensing authori-
22 ties have access to prescription history informa-
23 tion for the purposes of investigating drug di-
24 version and prescribing and dispensing prac-
25 tices of errant prescribers or pharmacists; and”.

1 **SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONI-**
2 **TORING PROGRAM.**

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

5 (1) in subsection (a)(1)—

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

7 (B) in subparagraph (B), by striking the
8 period at the end and inserting “; or”; and

9 (C) by adding at the end the following:

10 “(C) to maintain and operate an existing
11 State controlled substance monitoring pro-
12 gram.”;

13 (2) by amending subsection (b) to read as fol-
14 lows:

15 “(b) **MINIMUM REQUIREMENTS.**—The Secretary
16 shall maintain and, as appropriate, supplement or revise
17 (after publishing proposed additions and revisions in the
18 Federal Register and receiving public comments thereon)
19 minimum requirements for criteria to be used by States
20 for purposes of clauses (ii), (v), (vi), and (vii) of subsection
21 (c)(1)(A).”;

22 (3) in subsection (c)—

23 (A) in paragraph (1)(B)—

24 (i) in the matter preceding clause (i),

25 by striking “(a)(1)(B)” and inserting

26 “(a)(1)(B) or (a)(1)(C)”;

1 (ii) in clause (i), by striking “program
2 to be improved” and inserting “program to
3 be improved or maintained”; and

4 (iii) in clause (iv), by striking “public
5 health” and inserting “public health or
6 public safety”;

7 (B) in paragraph (3)—

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

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

12 (ii) by inserting before the period at
13 the end “and include timelines for full im-
14 plementation of such interoperability”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(B) MONITORING OF EFFORTS.—The
18 Secretary shall monitor State efforts to achieve
19 interoperability, as described in subparagraph
20 (A).”;

21 (C) in paragraph (5)—

22 (i) by striking “implement or im-
23 prove” and inserting “establish, improve,
24 or maintain”; and

1 (ii) by adding at the end the fol-
2 lowing: “The Secretary shall redistribute
3 any funds that are so returned among the
4 remaining grantees under this section in
5 accordance with the formula described in
6 subsection (a)(2)(B).”;

7 (4) in the matter preceding paragraph (1) in
8 subsection (d), by striking “In implementing or im-
9 proving” and all that follows through “(a)(1)(B)”
10 and inserting “In establishing, improving, or main-
11 taining a controlled substance monitoring program
12 under this section, a State shall comply, or with re-
13 spect to a State that applies for a grant under sub-
14 paragraph (B) or (C) of subsection (a)(1)”;

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

19 (6) in subsection (f)—

20 (A) in paragraph (1)(B) by striking “mis-
21 use of a schedule II, III, or IV substance” and
22 inserting “misuse of a controlled substance in-
23 cluded in schedule II, III, or IV of section
24 202(c) of the Controlled Substance Act”; and

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

1 “(3) EVALUATION AND REPORTING.—Subject
2 to subsection (g), a State receiving a grant under
3 subsection (a) shall provide the Secretary with ag-
4 gregate data and other information determined by
5 the Secretary to be necessary to enable the Sec-
6 retary—

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

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

11 “(4) RESEARCH BY OTHER ENTITIES.—A de-
12 partment, program, or administration receiving non-
13 identifiable information under paragraph (1)(D)
14 may make such information available to other enti-
15 ties for research purposes.”;

16 (7) by redesignating subsections (h) through
17 (n) as subsections (i) through (o), respectively;

18 (8) in subsections (c)(1)(A)(iv) and (d)(4), by
19 striking “subsection (h)” each place it appears and
20 inserting “subsection (i)”;

21 (9) by inserting after subsection (g) the fol-
22 lowing:

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

1 “(1) facilitate prescriber use of the State’s con-
2 trolled substance monitoring system; and

3 “(2) educate prescribers on the benefits of the
4 system both to them and society.”;

5 (10) by amending subsection (l), as redesign-
6 nated, to read as follows:

7 “(l) PREFERENCE.—Beginning 3 years after the date
8 on which funds are first appropriated to carry out this
9 section, the Secretary, in awarding any competitive grant
10 under title V that is related to drug abuse (as determined
11 by the Secretary) and for which only States or tribes are
12 eligible to apply, may give preference to eligible States
13 with applications approved under this section, to eligible
14 States or tribes with existing controlled substance moni-
15 toring programs that meet minimum requirements under
16 this section, or to eligible States or tribes that put forth
17 a good faith effort to meet those requirements (as deter-
18 mined by the Secretary).”.

19 (11) in subsection (m)(1), as redesignated, by
20 striking “establishment, implementation, or improve-
21 ment” and inserting “establishment, improvement,
22 or maintenance”;

23 (12) in subsection (n)(8), as redesignated, by
24 striking “and the District of Columbia” and insert-

1 ing “, the District of Columbia, and any common-
2 wealth or territory of the United States”; and

3 (13) by amending subsection (o), as redesign-
4 nated, to read as follows:

5 “(o) AUTHORIZATION OF APPROPRIATION.—To carry
6 out this section, there are authorized to be appropriated
7 \$15,000,000 for fiscal year 2011 and \$10,000,000 for
8 each of fiscal years 2012 and 2013.”.