

111TH CONGRESS
1ST SESSION

S. _____

To improve long-term care patients' access to medically necessary controlled substances.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve long-term care patients' access to medically necessary controlled substances.

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 "Long-Term Care Pa-
5 tients' Access to Medically Necessary Controlled Sub-
6 stances Act of 2009".

7 **SEC. 2. AMENDMENTS TO THE CSA.**

8 (a) AGENT.—Section 102(3) of the Controlled Sub-
9 stances Act (21 U.S.C. 802(3)) is amended by—

10 (1) inserting "(A)" after "(3)"; and

1 (2) inserting at the end the following:

2 “(B)(i) The term includes a licensed health care
3 professional who is authorized to act on behalf of the
4 practitioner.

5 “(ii) For purposes of this subparagraph, a li-
6 censed nurse in a licensed long-term care facility,
7 hospice, or home health agency shall be deemed to
8 be a practitioner’s agent, if the licensed nurse is act-
9 ing—

10 “(I) lawfully within the scope of his or her
11 license; and

12 “(II) in accordance with written policies
13 and procedures adopted by the long-term care
14 facility, hospice, or home health agency that de-
15 fine the agency relationship and specify the du-
16 ties and responsibilities of a practitioner’s
17 agent.”.

18 (b) **LAWFUL ORDER.**—Section 102(10) of the Con-
19 trolled Substances Act (21 U.S.C. 802(10)) is amended
20 by—

21 (1) inserting “(A)” after “(10)”; and

22 (2) inserting at the end the following:

23 “(B) In this paragraph, the term ‘lawful order’
24 shall include a medication order entered on the chart
25 or a medical record of a patient or resident receiving

1 long term care, hospice, or home health services by
2 a practitioner or his or her designated agent, if it
3 contains—

4 “(i) the full name of the patient;

5 “(ii) the date of issuance;

6 “(iii) the name, strength, and dosage form
7 of the drug prescribed;

8 “(iv) directions for use; and

9 “(v)(I) if written, the prescribing practi-
10 tioner’s signature or the signature of the practi-
11 tioner’s agent (including the name of the pre-
12 scribing practitioner), provided that the practi-
13 tioner countersigns the patient’s medication
14 order within the time period prescribed by law;
15 or

16 “(II) if electronically submitted, the pre-
17 scribing practitioner’s electronic submitted sig-
18 nature or the prescribing practitioner’s elec-
19 tronic or digital signature.”.

20 (c) PRESCRIPTIONS.—Section 309 of the Controlled
21 Substances Act (21 U.S.C. 829) is amended by inserting
22 at the end the following:

23 “(e) Nothing in this section shall be construed to pro-
24 hibit a pharmacist from preparing or transmitting a writ-
25 ten prescription for the signature of the practitioner.”.