

115TH CONGRESS  
1ST SESSION

# S. 2134

To require the Secretary of Veterans Affairs to establish processes to ensure that non-Department of Veterans Affairs health care providers are using safe practices in prescribing opioids to veterans under the laws administered by the Secretary, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2017

Ms. BALDWIN (for herself, Mrs. CAPITO, Mr. MORAN, Mr. BLUMENTHAL, Mr. MANCHIN, Mr. TESTER, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To require the Secretary of Veterans Affairs to establish processes to ensure that non-Department of Veterans Affairs health care providers are using safe practices in prescribing opioids to veterans under the laws administered by the Secretary, 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 “Andrew White Vet-  
5 erans Community Care Opioid Safety Act”.

1 **SEC. 2. ESTABLISHMENT OF PROCESSES TO ENSURE SAFE**  
2 **OPIOID PRESCRIBING PRACTICES BY NON-**  
3 **DEPARTMENT OF VETERANS AFFAIRS**  
4 **HEALTH CARE PROVIDERS.**

5 (a) RECEIPT AND REVIEW OF GUIDELINES.—The  
6 Secretary of Veterans Affairs shall ensure that all covered  
7 health care providers are provided a copy of and certify  
8 that they have reviewed the evidence-based guidelines for  
9 prescribing opioids set forth by the Opioid Safety Initia-  
10 tive of the Department of Veterans Affairs under sections  
11 911(a)(2) and 912(c) of the Jason Simcakoski Memorial  
12 and Promise Act (Public Law 114–198; 38 U.S.C. 1701  
13 note) before first providing care under the laws adminis-  
14 tered by the Secretary and at any time when those guide-  
15 lines are modified thereafter.

16 (b) INCLUSION OF MEDICAL HISTORY AND CURRENT  
17 MEDICATIONS.—The Secretary shall implement a process  
18 to ensure that, if care of a veteran by a covered health  
19 care provider is authorized under the laws administered  
20 by the Secretary, the document authorizing such care in-  
21 cludes the relevant medical history of the veteran and a  
22 list of all medications prescribed to the veteran.

23 (c) SUBMITTAL OF PRESCRIPTIONS.—

24 (1) IN GENERAL.—Except as provided in para-  
25 graph (2), the Secretary shall require all covered  
26 health care providers who prescribe opioids to vet-

1       erans under the laws administered by the Secretary  
2       to submit any such prescription directly to a phar-  
3       macy of the Department—

4               (A) for the dispensing of such prescription;

5               (B) for the recording of such prescription  
6       in the electronic health record of the veteran;  
7       and

8               (C) to enable other monitoring of such pre-  
9       scription as outlined in the Opioid Safety Initia-  
10      tive of the Department.

11      (2) EXCEPTION.—

12              (A) IN GENERAL.—A covered health care  
13      provider is not required under paragraph (1) to  
14      submit an opioid prescription directly to a phar-  
15      macy of the Department if—

16              (i) the health care provider determines  
17      that there is an immediate medical need  
18      for the prescription, including an urgent or  
19      emergent prescription or a prescription dis-  
20      pensed as part of an opioid treatment pro-  
21      gram that provides office-based medica-  
22      tions; and

23              (ii)(I) following an inquiry into the  
24      matter, a pharmacy of the Department no-  
25      tifies the health care provider that it can-

1 not fill the prescription in a timely man-  
2 ner; or

3 (II) the health care provider deter-  
4 mines that the requirement under para-  
5 graph (1) would impose an undue hardship  
6 on the veteran, including with respect to  
7 travel distances, as determined by the Sec-  
8 retary.

9 (B) NOTIFICATION TO DEPARTMENT.—If a  
10 covered health care provider uses an exception  
11 under subparagraph (A) with respect to an  
12 opioid prescription for a veteran, the health  
13 care provider shall, on the same day the pre-  
14 scription is written, submit to the Secretary for  
15 inclusion in the electronic health record of the  
16 veteran a notice, in such form as the Secretary  
17 may establish, providing information about the  
18 prescription and describing the reason for the  
19 exception.

20 (C) REPORT.—

21 (i) IN GENERAL.—Not less frequently  
22 than quarterly, the Secretary shall submit  
23 to the Committee on Veterans' Affairs of  
24 the Senate and the Committee on Vet-  
25 erans' Affairs of the House of Representa-

1           tives a report evaluating the compliance of  
2           covered health care providers with the re-  
3           quirements under this paragraph and set-  
4           ting forth data on the use by health care  
5           providers of exceptions under subpara-  
6           graph (A) and notices under subparagraph  
7           (B).

8           (ii) ELEMENTS.—Each report re-  
9           quired by clause (i) shall include the fol-  
10          lowing with respect to the quarter covered  
11          by the report:

12           (I) The number of exceptions  
13           used under subparagraph (A) and no-  
14           tices received under subparagraph  
15           (B).

16           (II) The rate of compliance by  
17           the Department with the requirement  
18           under subparagraph (B) to include  
19           such notices in the health records of  
20           veterans.

21           (III) The identification of any  
22           covered health care providers that,  
23           based on criteria prescribed the Sec-  
24           retary, are determined by the Sec-  
25           retary to be statistical outliers regard-

1                   ing the use of exceptions under sub-  
2                   paragraph (A).

3       (d) USE OF OPIOID SAFETY INITIATIVE GUIDE-  
4 LINES.—

5           (1) IN GENERAL.—If a director of a medical  
6       center of the Department or a Veterans Integrated  
7       Service Network determines that the opioid pre-  
8       scribing practices of a covered health care provider  
9       conflicts with or is otherwise inconsistent with the  
10      standards of appropriate and safe care, as that term  
11      is used in section 913(d) of the Jason Simcakoski  
12      Memorial and Promise Act (Public Law 114–198;  
13      38 U.S.C. 1701 note), the director shall take such  
14      action as the director considers appropriate to en-  
15      sure the safety of all veterans receiving care from  
16      that health care provider, including removing or di-  
17      recting the removal of any such health care provider  
18      from provider networks or otherwise refusing to au-  
19      thorize care of veterans by such health care provider  
20      in any program authorized under the laws adminis-  
21      tered by the Secretary.

22           (2) INCLUSION IN CONTRACTS.—The Secretary  
23      shall ensure that any contracts entered into by the  
24      Secretary with third parties involved in admin-  
25      istering programs that provide care in the commu-

1 nity to veterans under the laws administered by the  
2 Secretary specifically grant the authority set forth in  
3 paragraph (1) to such third parties and to the direc-  
4 tors described in that paragraph, as the case may  
5 be.

6 (e) DENIAL OR REVOCATION OF ELIGIBILITY OF  
7 NON-DEPARTMENT PROVIDERS.—The Secretary shall  
8 deny or revoke the eligibility of a non-Department health  
9 care provider to provide health care to veterans under the  
10 laws administered by the Secretary if the Secretary deter-  
11 mines that the opioid prescribing practices of the pro-  
12 vider—

13 (1) violate the requirements of a medical license  
14 of the health care provider; or

15 (2) detract from the ability of the health care  
16 provider to deliver safe and appropriate health care.

17 (f) COVERED HEALTH CARE PROVIDER DEFINED.—  
18 In this section, the term “covered health care provider”  
19 means a non-Department of Veterans Affairs health care  
20 provider who provides health care to veterans under the  
21 laws administered by the Secretary of Veterans Affairs.

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