

115TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to impose certain requirements under the Medicare program with respect to outlier prescribers of opioids.

IN THE SENATE OF THE UNITED STATES

Mrs. McCASKILL (for herself and Mr. TOOMEY) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to impose certain requirements under the Medicare program with respect to outlier prescribers of opioids.

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 “Commit to Opioid
5 Medical Prescriber Accountability and Safety for Seniors
6 Act of 2018”.

1 **SEC. 2. MEDICARE REQUIREMENTS WITH RESPECT TO**
2 **OUTLIER PRESCRIBERS OF OPIOIDS.**

3 Section 1860D–4(c)(4) of the Social Security Act (42
4 U.S.C. 1395w–104(c)(4)) is amended by adding at the end
5 the following new subparagraph:

6 “(D) NOTIFICATION AND ADDITIONAL RE-
7 QUIREMENTS WITH RESPECT TO OUTLIER PRE-
8 SCRIBERS OF OPIOIDS.—

9 “(i) NOTIFICATION.—Not later than
10 January 1, 2021, the Secretary shall, in
11 the case of a prescriber identified by the
12 Secretary under clause (ii) to be an outlier
13 prescriber of opioids, provide, subject to
14 clause (iv), an annual notification to such
15 prescriber (during the period in which such
16 provider maintains such identification)
17 that such prescriber has been so identified
18 and including such resources on proper
19 prescribing methods and such other infor-
20 mation as specified in accordance with
21 clause (iii).

22 “(ii) IDENTIFICATION OF OUTLIER
23 PRESCRIBERS OF OPIOIDS.—

24 “(I) IN GENERAL.—The Sec-
25 retary shall, subject to subclause (III),
26 using the valid prescriber National

1 Provider Identifiers included pursuant
2 to subparagraph (A) on claims for
3 covered part D drugs for part D eligi-
4 ble individuals enrolled in prescription
5 drug plans under this part and MA-
6 PD plans under part C and based on
7 the thresholds established under sub-
8 clause (II), identify prescribers that
9 are outlier opioids prescribers for a
10 period of time specified by the Sec-
11 retary.

12 “(II) ESTABLISHMENT OF
13 THRESHOLDS.—For purposes of sub-
14 clause (I) and subject to subclause
15 (III), the Secretary shall, after con-
16 sultation with stakeholders, establish
17 thresholds, based on prescriber spe-
18 cialty and, as determine appropriate
19 by the Secretary, geographic area, for
20 identifying whether a prescriber in a
21 specialty and geographic area is an
22 outlier prescriber of opioids as com-
23 pared to other prescribers of opioids
24 within such specialty and area.

1 “(III) EXCLUSIONS.—The fol-
2 lowing shall not be included in the
3 process for identifying outlier pre-
4 scribers of opioids under this clause:

5 “(aa) Claims for covered
6 part D drugs for part D eligible
7 individuals who are receiving hos-
8 pice care under this title.

9 “(bb) Claims for covered
10 part D drugs for part D eligible
11 individuals who are receiving on-
12 cology services under this title.

13 “(cc) Prescribers who are
14 the subject of an investigation by
15 the Centers for Medicare & Med-
16 icaid Services or the Office of the
17 Inspector General of the Depart-
18 ment of Health and Human
19 Services.

20 “(iii) CONTENTS OF NOTIFICATION.—
21 The Secretary shall include the following
22 information in the notifications provided
23 under clause (i):

24 “(I) Information on how such
25 prescriber compares to other pre-

1 scribers within the same specialty
2 and, if determined appropriate by the
3 Secretary, geographic area.

4 “(II) Information on opioid pre-
5 scribing guidelines, based on input
6 from stakeholders, that may include
7 the Centers for Disease Control and
8 Prevention guidelines for prescribing
9 opioids for chronic pain and guidelines
10 developed by physician organizations.

11 “(III) Other information deter-
12 mined appropriate by the Secretary.

13 “(iv) MODIFICATIONS AND EXPAN-
14 SIONS.—

15 “(I) FREQUENCY.—Beginning 5
16 years after the date of the enactment
17 of this subparagraph, the Secretary
18 may change the frequency of the noti-
19 fications described in clause (i) based
20 on stakeholder input and changes in
21 opioid prescribing utilization and
22 trends.

23 “(II) EXPANSION TO OTHER
24 PRESCRIPTIONS.—The Secretary may
25 expand notifications under this sub-

1 paragraph to include identifications
2 and notifications with respect to con-
3 current prescriptions of covered Part
4 D drugs used in combination with
5 opioids that are considered to have
6 adverse side effects when so used in
7 such combination.

8 “(v) ADDITIONAL REQUIREMENTS FOR
9 PERSISTENT OUTLIER PRESCRIBERS.—In
10 the case of a prescriber who the Secretary
11 determines is persistently identified under
12 clause (ii) as an outlier prescriber of
13 opioids, the following shall apply:

14 “(I) The Secretary shall connect
15 such prescriber with an entity that
16 provides technical or educational re-
17 sources on opioid prescribing guide-
18 lines (such as the guidelines described
19 in clause (iii)(II)), which may include
20 a quality improvement organization
21 under part B of title XI, as available
22 and appropriate.

23 “(II) Such prescriber may be re-
24 quired to enroll in the program under
25 this title under section 1866(j) if such

1 prescriber is not otherwise required to
2 enroll. The Secretary shall determine
3 the length of the period for which
4 such prescriber is required to main-
5 tain such enrollment.

6 “(III) Not less frequently than
7 annually (and in a form and manner
8 determined appropriate by the Sec-
9 retary), the Secretary shall commu-
10 nicate information on such prescribers
11 to sponsors of a prescription drug
12 plan and Medicare Advantage organi-
13 zations offering an MA–PD plan.

14 “(vi) PUBLIC AVAILABILITY OF IN-
15 FORMATION.—The Secretary shall make
16 aggregate information under this subpara-
17 graph available on the Internet website of
18 the Centers for Medicare & Medicaid Serv-
19 ices. Such information shall be in a form
20 and manner determined appropriate by the
21 Secretary and shall not identify any spe-
22 cific prescriber. In carrying out this clause,
23 the Secretary shall consult with interested
24 stakeholders.

1 “(vii) OPIOIDS DEFINED.—For pur-
2 poses of this subparagraph, the term
3 ‘opioids’ has such meaning as specified by
4 the Secretary.

5 “(viii) OTHER ACTIVITIES.—Nothing
6 in this subparagraph shall preclude the
7 Secretary from conducting activities that
8 provide prescribers with information as to
9 how they compare to other prescribers that
10 are in addition to the activities under this
11 subparagraph, including activities that
12 were being conducted as of the date of the
13 enactment of this subparagraph.”.