

116TH CONGRESS
1ST SESSION

S. _____

To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER (for himself and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, 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 “Ensuring Seniors’ Ac-
5 cess to Quality Care Act”.

6 **SEC. 2. TRAINING AND COMPETENCY EVALUATION PRO-**
7 **GRAMS.**

8 (a) MEDICARE.—Section 1819 of the Social Security
9 Act (42 U.S.C. 1395i–3) is amended—

1 (1) in subsection (f)(2)—

2 (A) in subparagraph (A)(iv)(I), by striking
3 “(unless the facility is described in subpara-
4 graph (B)(iii)(I))”;

5 (B) in subparagraph (B)—

6 (i) in clause (i)—

7 (I) by striking “(subject to clause
8 (iii))”; and

9 (II) by inserting “and” after the
10 semicolon;

11 (ii) in clause (ii), by striking “; and”
12 and inserting a period;

13 (iii) by striking clause (iii); and

14 (iv) by striking “A State may not del-
15 egate (through subcontract or otherwise)
16 its responsibility under clause (iii)(II) to
17 the skilled nursing facility.”;

18 (C) by striking subparagraphs (C) and
19 (D); and

20 (D) by adding at the end the following:

21 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
22 ING AND COMPETENCY EVALUATION PROGRAMS
23 AND NURSE AIDE COMPETENCY EVALUATION
24 PROGRAMS.—

1 “(i) IN GENERAL.—With respect to a
2 State, the Secretary shall, in consultation
3 with such State, disapprove, for a period
4 not to exceed 2 years, a nurse aide train-
5 ing and competency evaluation program or
6 a nurse aide competency evaluation pro-
7 gram offered by or in a skilled nursing fa-
8 cility if such facility—

9 “(I) has been assessed a civil
10 monetary penalty under subsection
11 (h)(2)(B)(ii) or section
12 1919(h)(2)(A)(ii) of not less than
13 \$10,697 for providing substandard
14 quality of care; and

15 “(II) has not, in the determina-
16 tion of the Secretary, corrected the
17 deficiencies in quality of care for
18 which such civil monetary penalty was
19 assessed.

20 “(ii) RESCISSION OF DISAPPROVAL.—
21 The Secretary shall rescind a disapproval
22 under clause (i) upon demonstration by a
23 skilled nursing facility that—

24 “(I) all deficiencies for which the
25 civil monetary penalty described in

1 clause (i)(I) was assessed have been
2 remedied;

3 “(II) the facility has not received
4 deficiencies related to direct patient
5 harm for substandard quality of care
6 deficiencies in the prior 2 years; and

7 “(III) the Secretary certifies that
8 the civil monetary penalty assessed
9 under clause (i)(I) did not result in
10 immediate jeopardy for direct patient
11 harm or injury related to an abuse or
12 neglect deficiency.

13 For purposes of rescinding disapproval
14 under this clause, the Secretary may re-
15 quire additional oversight of the skilled
16 nursing facility for a period not to exceed
17 the period of disapproval imposed under
18 clause (i) with respect to such facility.”;

19 and

20 (2) in subsection (h)(2)(B)(ii)(I), by striking
21 “\$10,000” and inserting “\$21,393”.

22 (b) MEDICAID.—Section 1919 of the Social Security
23 Act (42 U.S.C. 1396r) is amended—

24 (1) in subsection (f)(2)—

1 (A) in subparagraph (A)(iv)(I), by striking
2 “(unless the facility is described in subpara-
3 graph (B)(iii)(I))”;

4 (B) in subparagraph (B)—

5 (i) in clause (i), by inserting “and”
6 after the semicolon;

7 (ii) in clause (ii), by striking “; and”
8 and inserting a period;

9 (iii) by striking clause (iii); and

10 (iv) by striking “A State may not del-
11 egate (through subcontract or otherwise)
12 its responsibility under clause (iii)(II) to
13 the nursing facility.”;

14 (C) by striking subparagraphs (C) and
15 (D); and

16 (D) by adding at the end the following:

17 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
18 ING AND COMPETENCY EVALUATION PROGRAMS
19 AND NURSE AIDE COMPETENCY EVALUATION
20 PROGRAMS.—

21 “(i) IN GENERAL.—With respect to a
22 State, the Secretary shall, in consultation
23 with such State, disapprove, for a period
24 not to exceed 2 years, a nurse aide train-
25 ing and competency evaluation program or

1 a nurse aide competency evaluation pro-
2 gram offered by or in a nursing facility if
3 such facility—

4 “(I) has been assessed a civil
5 monetary penalty under section
6 1819(h)(2)(B)(ii) or subsection
7 (h)(2)(A)(ii) of not less than \$10,697
8 for providing substandard quality of
9 care; and

10 “(II) has not, in the determina-
11 tion of the Secretary, corrected the
12 deficiencies in quality of care for
13 which such civil monetary penalty was
14 assessed.

15 “(ii) RESCISSION OF DISAPPROVAL.—
16 The Secretary shall rescind a disapproval
17 under clause (i) upon demonstration by a
18 nursing facility that—

19 “(I) all deficiencies for which the
20 civil monetary penalty described in
21 clause (i)(I) was assessed have been
22 remedied;

23 “(II) the facility has not received
24 deficiencies related to direct patient

1 harm for substandard quality of care
2 deficiencies in the prior 2 years; and

3 “(III) the Secretary certifies that
4 the civil monetary penalty assessed
5 under clause (i)(I) did not result in
6 immediate jeopardy for direct patient
7 harm or injury related to an abuse or
8 neglect deficiency.

9 For purposes of rescinding disapproval
10 under this clause, the Secretary may re-
11 quire additional oversight of the nursing
12 facility for a period not to exceed the pe-
13 riod of disapproval imposed under clause
14 (i) with respect to such facility.”; and

15 (2) in subsection (h)(3)(C)(ii)(I), by striking
16 “\$10,000” and inserting “\$21,393”.

17 (c) REGULATIONS.—Not later than 180 days after
18 the date of enactment of this Act, the Secretary of Health
19 and Human Services shall promulgate regulations as nec-
20 essary to implement the amendments made by this section.

21 (d) APPLICABILITY.—

22 (1) IN GENERAL.—

23 (A) TIMING OF DETERMINATIONS.—The
24 amendments made by subsections (a)(1)(D) and
25 (b)(1)(D) of this section shall apply only to a

1 civil monetary penalty if the relevant covered
2 determination was made on or after the date of
3 enactment of this Act.

4 (B) COVERED DETERMINATION DE-
5 FINED.—The term “covered determination”
6 means, with respect to a skilled nursing facility
7 or a nursing facility in a State, a determination
8 by the State or the Secretary of Health and
9 Human Services that the facility has provided
10 a substandard quality of care for which a civil
11 monetary penalty described in section
12 1819(f)(2)(C)(i)(I) or 1919(f)(2)(C)(i)(I) of the
13 Social Security Act (as such sections have been
14 amended by this Act) may be assessed.

15 (2) PREVIOUSLY PROHIBITED PROGRAMS.—

16 (A) WAIVER.—With respect to a skilled
17 nursing facility or a nursing facility subject, on
18 the day before the date of enactment of this
19 Act, to a prohibition under item (a) of either
20 section 1819(f)(2)(B)(iii)(I) or section
21 1919(f)(2)(B)(iii)(I) of the Social Security Act
22 (as in effect on the day before such date of en-
23 actment), such prohibition shall no longer apply
24 to the facility on or after such date of enact-
25 ment.

1 (B) SURVEY OR CIVIL MONETARY PEN-
2 ALTY.—With respect to a skilled nursing facil-
3 ity or a nursing facility subject, on the day be-
4 fore the date of enactment of this Act, to a pro-
5 hibition under item (b) or (c) of either section
6 1819(f)(2)(B)(iii)(I) or section
7 1919(f)(2)(B)(iii)(I) of the Social Security Act
8 (as in effect on the day before such date of en-
9 actment), such prohibition shall no longer apply
10 to the facility on or after such date of enact-
11 ment upon a determination by the Secretary of
12 Health and Human Services that the facility
13 has corrected the issue that resulted in such
14 prohibition.

15 **SEC. 3. PERMITTING MEDICARE AND MEDICAID PRO-**
16 **VIDERS TO ACCESS THE NATIONAL PRACTI-**
17 **TIONER DATA BANK TO CONDUCT EMPLOYEE**
18 **BACKGROUND CHECKS.**

19 Section 1921(b)(6) of the Social Security Act (42
20 U.S.C. 1396r-2(b)(6)) is amended—

21 (1) by striking “and other health care entities
22 (as defined in section 431 of the Health Care Qual-
23 ity Improvement Act of 1986)” and inserting “,
24 other health care entities (as defined in section 431
25 of the Health Care Quality Improvement Act of

1 1986), providers of services (as defined in section
2 1861(u)), suppliers (as defined in section 1861(d)),
3 and providers of items or services under a State plan
4 under this title (or a waiver of such a plan)”; and
5 (2) by striking “such hospitals or other health
6 care entities” and inserting “such hospitals, health
7 care entities, providers, or suppliers”.