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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring Seniors’ Ac-

cess to Quality Care Act”.

SEC. 2. TRAINING AND COMPETENCY EVALUATION PRO-

GRAMS.

(a) MEDICARE.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—
(1) in subsection (f)(2)—
   (A) in subparagraph (A)(iv)(I), by striking “(unless the facility is described in subpar-
   graph (B)(iii)(I))”;
   (B) in subparagraph (B)—
      (i) in clause (i)—
         (I) by striking “(subject to clause
         (iii))”; and
         (II) by inserting “and” after the
         semicolon;
      (ii) in clause (ii), by striking “; and”
      and inserting a period;
      (iii) by striking clause (iii); and
      (iv) by striking “A State may not del-
      egate (through subcontract or otherwise)
      its responsibility under clause (iii)(II) to
      the skilled nursing facility.”;
   (C) by striking subparagraphs (C) and
   (D); and
   (D) by adding at the end the following:
         “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
         ING AND COMPETENCY EVALUATION PROGRAMS
         AND NURSE AIDE COMPETENCY EVALUATION
         PROGRAMS.—
“(i) IN GENERAL.—With respect to a State, the Secretary shall, in consultation with such State, disapprove, for a period not to exceed 2 years, a nurse aide training and competency evaluation program or a nurse aide competency evaluation program offered by or in a skilled nursing facility if such facility—

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

“(II) has not, in the determination of the Secretary, corrected the deficiencies in quality of care for which such civil monetary penalty was assessed.

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

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

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

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

For purposes of rescinding disapproval under this clause, the Secretary may require additional oversight of the skilled nursing facility for a period not to exceed the period of disapproval imposed under clause (i) with respect to such facility.”;

and

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

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

(1) in subsection (f)(2)—
(A) in subparagraph (A)(iv)(I), by striking "(unless the facility is described in subpara-
graph (B)(iii)(I))";

(B) in subparagraph (B)—

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

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

(iii) by striking clause (iii); and

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

(C) by striking subparagraphs (C) and

(D); and

(D) by adding at the end the following:

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

“(i) IN GENERAL.—With respect to a
State, the Secretary shall, in consultation
with such State, disapprove, for a period
not to exceed 2 years, a nurse aide train-
ing and competency evaluation program or
a nurse aide competency evaluation program offered by or in a nursing facility if such facility—

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

“(II) has not, in the determination of the Secretary, corrected the deficiencies in quality of care for which such civil monetary penalty was assessed.

“(ii) Rescission of disapproval.—

The Secretary shall rescind a disapproval under clause (i) upon demonstration by a nursing facility that—

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

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

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

For purposes of rescinding disapproval under this clause, the Secretary may require additional oversight of the nursing facility for a period not to exceed the period of disapproval imposed under clause (i) with respect to such facility.”; and

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

(c) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations as necessary to implement the amendments made by this section.

(d) Applicability.—

(1) In general.—

(A) Timing of determinations.—The amendments made by subsections (a)(1)(D) and (b)(1)(D) of this section shall apply only to a
civil monetary penalty if the relevant covered
determination was made on or after the date of
enactment of this Act.

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

(2) PREVIOUSLY PROHIBITED PROGRAMS.—

(A) WAIVER.—With respect to a skilled
nursing facility or a nursing facility subject, on
the day before the date of enactment of this
Act, to a prohibition under item (a) of either
section 1819(f)(2)(B)(iii)(I) or section
1919(f)(2)(B)(iii)(I) of the Social Security Act
(as in effect on the day before such date of en-
actment), such prohibition shall no longer apply
to the facility on or after such date of enact-
ment.
(B) SURVEY OR CIVIL MONETARY PENALTY.—With respect to a skilled nursing facility or a nursing facility subject, on the day before the date of enactment of this Act, to a prohibition under item (b) or (c) of either section 1819(f)(2)(B)(iii)(I) or section 1919(f)(2)(B)(iii)(I) of the Social Security Act (as in effect on the day before such date of enactment), such prohibition shall no longer apply to the facility on or after such date of enactment upon a determination by the Secretary of Health and Human Services that the facility has corrected the issue that resulted in such prohibition.

SEC. 3. PERMITTING MEDICARE AND MEDICAID PROVIDERS TO ACCESS THE NATIONAL PRACTITIONER DATA BANK TO CONDUCT EMPLOYEE BACKGROUND CHECKS.

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

(1) by striking “and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986)” and inserting “, other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of
1986), providers of services (as defined in section 1861(u)), suppliers (as defined in section 1861(d)), and providers of items or services under a State plan under this title (or a waiver of such a plan’’; and (2) by striking “such hospitals or other health care entities” and inserting “such hospitals, health care entities, providers, or suppliers”.