

Suspend the Rules And Pass the Bill, H.R. 7898, With Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

116TH CONGRESS
2^D SESSION

H. R. 7898

To amend title XXX of the Public Health Services Act to provide for a technical correction to provide the Inspector General of the Department of Health and Human Service certain authorities with respect to investigations of information blocking, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2020

Mr. BURGESS (for himself and Mr. WELCH) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To amend title XXX of the Public Health Services Act to provide for a technical correction to provide the Inspector General of the Department of Health and Human Service certain authorities with respect to investigations of information blocking, 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. RECOGNITION OF SECURITY PRACTICES.**

4 Part 1 of subtitle D of the Health Information Tech-
5 nology for Economic and Clinical Health Act (42 U.S.C.

1 17931 et seq.) is amended by adding at the end the fol-
2 lowing:

3 **“SEC. 13412. RECOGNITION OF SECURITY PRACTICES.**

4 “(a) IN GENERAL.—Consistent with the authority of
5 the Secretary under sections 1176 and 1177 of the Social
6 Security Act, when making determinations relating to
7 fines under such section 1176 (as amended by section
8 13410) or such section 1177, decreasing the length and
9 extent of an audit under section 13411, or remedies other-
10 wise agreed to by the Secretary, the Secretary shall con-
11 sider whether the covered entity or business associate has
12 adequately demonstrated that it had, for not less than the
13 previous 12 months, recognized security practices in place
14 that may—

15 “(1) mitigate fines under section 1176 of the
16 Social Security Act (as amended by section 13410);

17 “(2) result in the early, favorable termination
18 of an audit under section 13411; and

19 “(3) mitigate the remedies that would otherwise
20 be agreed to in any agreement with respect to re-
21 solving potential violations of the HIPAA Security
22 rule (part 160 of title 45 Code of Federal Regula-
23 tions and subparts A and C of part 164 of such
24 title) between the covered entity or business asso-

1 ciate and the Department of Health and Human
2 Services.

3 “(b) DEFINITION AND MISCELLANEOUS PROVI-
4 SIONS.—

5 “(1) RECOGNIZED SECURITY PRACTICES.—The
6 term ‘recognized security practices’ means the stand-
7 ards, guidelines, best practices, methodologies, pro-
8 cedures, and processes developed under section
9 2(c)(15) of the National Institute of Standards and
10 Technology Act, the approaches promulgated under
11 section 405(d) of the Cybersecurity Act of 2015, and
12 other programs and processes that address cyberse-
13 curity and that are developed, recognized, or promul-
14 gated through regulations under other statutory au-
15 thorities. Such practices shall be determined by the
16 covered entity or business associate, consistent with
17 the HIPAA Security rule (part 160 of title 45 Code
18 of Federal Regulations and subparts A and C of
19 part 164 of such title).

20 “(2) LIMITATION.—Nothing in this section
21 shall be construed as providing the Secretary author-
22 ity to increase fines under section 1176 of the Social
23 Security Act (as amended by section 13410), or the
24 length, extent or quantity of audits under section

1 13411, due to a lack of compliance with the recog-
2 nized security practices.

3 “(3) NO LIABILITY FOR NONPARTICIPATION.—
4 Subject to paragraph (4), nothing in this section
5 shall be construed to subject a covered entity or
6 business associate to liability for electing not to en-
7 gage in the recognized security practices defined by
8 this section.

9 “(4) RULE OF CONSTRUCTION.—Nothing in
10 this section shall be construed to limit the Sec-
11 retary’s authority to enforce the HIPAA Security
12 rule (part 160 of title 45 Code of Federal Regula-
13 tions and subparts A and C of part 164 of such
14 title), or to supersede or conflict with an entity or
15 business associate’s obligations under the HIPAA
16 Security rule.”.

17 **SEC. 2. TECHNICAL CORRECTION.**

18 (a) IN GENERAL.—Section 3022(b) of the Public
19 Health Service Act (42 U.S.C. 300jj–52(b)) is amended
20 by adding at the end the following new paragraph:

21 “(4) APPLICATION OF AUTHORITIES UNDER IN-
22 SPECTOR GENERAL ACT OF 1978.—In carrying out
23 this subsection, the Inspector General shall have the
24 same authorities as provided under section 6 of the
25 Inspector General Act of 1978 (5 U.S.C. App.).”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect as if included in the enact-
3 ment of the 21st Century Cures Act (Public Law 114–
4 255).

Amend the title so as to read: “A bill to amend the Health Information Technology for Economic and Clinical Health Act to require the Secretary of Health and Human Services to consider certain recognized security practices of covered entities and business associates when making certain determinations, and for other purposes.”.