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4 MARKUP ON H.R. 2810, MEDICARE PATIENT ACCESS AND QUALITY

5 IMPROVEMENT ACT OF 2013; AND

6 H.R. 2844, FEDERAL COMMUNICATIONS COMMISSION CONSOLIDATED

7 REPORTING ACT

8 Wednesday, July 31, 2013

9 House of Representatives,

10 Committee on Energy and Commerce

11 Washington, D.C.

12 The Committee met, pursuant to call, at 11:32 a.m., in

13 Room 2123 of the Rayburn House Office Building, Hon. Fred

14 Upton [Chairman of the Committee] presiding.

15 Members present: Representatives Upton, Barton,

16 Blackburn, Hall, Whitfield, Shimkus, Pitts, Walden, Terry,

17 Rogers, Murphy, Burgess, Gingrey, Scalise, Latta, McMorris

18 Rodgers, Harper, Lance, Cassidy, Guthrie, Olson, McKinley,

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19 Gardner, Pompeo, Kinzinger, Griffith, Bilirakis, Johnson,
20 Long, Ellmers, Waxman, Dingell, Markey, Pallone, Eshoo,
21 Engel, Green, DeGette, Capps, Doyle, Schakowsky, Matheson,
22 Butterfield, Barrow, Matsui, Christensen, Castor, Sarbanes,
23 McNerney, Braley, Welch, Lujan and Tonko.

24 Staff present: Nick Abraham, Legislative Clerk; Clay
25 Alspach, Chief Counsel, Health; Gary Andres, Staff Director;
26 Ray Baum, Senior Policy Advisor/Director of Coalitions; Mike
27 Bloomquist, General Counsel; Sean Bonyun, Communications
28 Director; Matt Bravo, Professional Staff Member; Noelle
29 Clemente, Press Secretary; Andy Duberstein, Deputy Press
30 Secretary; Steve Ferrara, Health Fellow; Brad Grantz, Policy
31 Coordinator, Oversight and Investigations; Kelsey Guyselman,
32 Counsel, Telecom; Sydne Harwick, Legislative Clerk; Brittany
33 Havens, Legislative Clerk; Robert Horne, Professional Staff
34 Member, Health; Kirby Howard, Legislative Clerk; Peter
35 Kielty, Deputy General Counsel; Nick Magallanes, Policy
36 Coordinator, Commerce, Manufacturing, and Trade; Carly
37 McWilliams, Professional Staff Member, Health; Katie Novaria,
38 Professional Staff Member, Health; Andrew Powaleny, Deputy
39 Press Secretary; David Redl, Counsel, Telecom; Charlotte
40 Savercool, Legislative Coordinator; Heidi Stirrup, Health
41 Policy Coordinator; Tim Torres, Deputy IT Director; Phil

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42 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
43 Chief Clerk; Shawn Chang, Democratic Senior Counsel; Alli
44 Corr, Democratic Policy Analyst; Elizabeth Letter, Democratic
45 Assistant Press Secretary; Karen Lightfoot, Democratic
46 Communications Director and Senior Policy Advisor; Karen
47 Nelson, Democratic Deputy Committee Staff Director for
48 Health; Roger Sherman, Democratic Chief Counsel; and Kara van
49 Stralen, Democratic Special Assistant.

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50 H.R. 2810

51 The {Chairman.} At the conclusion of opening statements

52 yesterday, the chair called up H.R. 2844. The bill was

53 opened for amendment at any point. However, without

54 objection, I would like to set aside consideration of H.R.

55 2844, the FCC Consolidated Reporting Act, and first consider

56 H.R. 2810, the Medicare Patient Access and Quality

57 Improvement Act. So without objection, we will do that, and

58 after we finish H.R. 2810, we will return to H.R. 2844. So

59 without objection, so ordered.

60 The gentleman from Michigan seeks to strike the last

61 word?

62 Mr. {Rogers.} Mr. Chairman, I would--

63 The {Chairman.} Yes, I did call up the bill, H.R. 2810.

64 The gentleman is recognized for 5 minutes.

65 Mr. {Rogers.} Thank you, Mr. Chairman, for all the work

66 that this committee has done on the Medicare Patient Access

67 and Quality Improvement Act.

68 The Sustainable Growth Rate has threatened access to

69 care for Medicare patients for a decade, and I am extremely

70 encouraged by the bipartisan effort to permanently eliminate

71 the formula and replace it with a new health care delivery

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72 and payment model that increases value and access for
73 Medicare patients.

74 Today I introduced a piece of legislation that will work
75 to expand access for Medicare patients to lifesaving cancer
76 treatment. My bill, the Medicare Patient Access to Cancer
77 Treatment Act, addresses the troubling shift in the delivery
78 of cancer care from the physician office setting to the
79 hospital outpatient department as a result of flawed Medicare
80 payment policies that reimburse hospitals at a higher rate
81 than oncology clinics for the exact same service. Due to
82 these changes in Medicare payment policies and the eroding
83 revenues to community oncology clinics, physician practices
84 are suffering from serious financial difficulties and
85 struggling to keep their doors open. Reimbursement should be
86 equal for the same service provided to a cancer patient
87 regardless of whether the service is delivered in a hospital
88 outpatient department or a physician's office.

89 The Medicare Patient Access to Cancer Treatment Act
90 would achieve just that by equalizing payments between these
91 two settings for the oncology services provided. This
92 legislation will ensure that cancer patients have the ability
93 to choose which outpatient setting they prefer for their
94 treatment, thereby expanding access and cementing the United

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95 States' role as the world leader in cancer care.

96 I would like to thank Representative Matsui for her
97 support on this important piece of legislation, and I look
98 forward to working with my colleagues to ensure that the
99 future of community cancer care.

100 Thank you, Mr. Chairman, and I would yield back the
101 balance of my time.

102 The {Chairman.} The gentleman yields back, so the chair
103 does call up H.R. 2810 and would ask the clerk to report.

104 The {Clerk.} H.R. 2810, to amend Title XVIII of the
105 Social Security Act to reform the Sustainable Growth Rate and
106 Medicare payment for physicians' services, and for other
107 purposes.

108 [H.R. 2810 follows:]

109 ***** INSERT 1 *****

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110 The {Chairman.} And without objection, the first
111 reading of the bill is dispensed with. The bill will be open
112 for amendment at any point. So ordered.

113 Are there any amendments to the bill? The chair would
114 recognize the gentleman from Texas--oh, I am sorry. This is
115 going to be a bipartisan amendment, so the chair would
116 recognize the gentleman from Texas, Dr. Burgess.

117 Dr. {Burgess.} I thank the chairman. This is a
118 bipartisan amendment that is at the desk labeled Manager 03.

119 The {Chairman.} The clerk will report the title of the
120 amendment.

121 The {Clerk.} Amendment to H.R. 2810 offered by Mr.
122 Burgess of Texas and Mr. Pallone of New Jersey.

123 [The amendment of Dr. Burgess and Mr. Pallone follows:]

124 ***** INSERT 2 *****

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125 The {Chairman.} And without objection, the amendment is
126 considered as read, and the gentleman from Texas, Dr.
127 Burgess, is recognized for 5 minutes in support of his
128 amendment.

129 Dr. {Burgess.} Thank you, Mr. Chairman.

130 Similar to when we met in subcommittee, Ranking Member
131 Pallone and I have submitted this amendment, which makes
132 several technical aligning and conforming changes to the
133 underlying introduced bill as passed by the subcommittee. In
134 addition, it strikes and replaces language after further
135 bipartisan discussion to further iterate policy intent, to
136 tighten language, to reflect a clearer picture of a realistic
137 timeline that has been envisioned by this bill.

138 In addition, the majority of these changes occur in the
139 alternative payment method section, and the amendment
140 includes additional safeguards for taxpayers and additional
141 safeguards for those proposing new models. This includes
142 better aligning the interactions of various policy components
143 as to how to best realistically pace things out as well as
144 seeks to better organize the legislative language.

145 We also, as we have from the start of this process,
146 further incorporated feedback from stakeholders on ways to

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147 ensure that our legislative language met the declared policy
148 goals and generally improved the bill.

149 Finally, we start the process of addressing a few
150 related payment policies that we feel tie directly into the
151 repeal of the Sustainable Growth Rate formula and improving
152 Medicare payment overall. These policies have met the
153 threshold of consensus among the principals and we believe
154 meet the mark of being worthy of committee review of the
155 policy and that we should continue to discuss the best
156 legislative language to meet these goals. For example, the
157 amendment adds a requirement that the Center for Medicare and
158 Medicaid Services report to Congress on the feasibility of
159 and recommendations to implement clinical decision support
160 mechanisms in the Medicare program.

161 Overall, the intent of the amendment does not offer the
162 fundamental outline, the fundamental intent or the
163 fundamental design of the underlying policy from the
164 introduced bill. This amendment does not address every issue
165 that has been brought to our attention, and I do commit to
166 continuing to work on issues where I believe the consensus
167 can be gained with more discussion to continue to refine this
168 product as we move forward. Obviously, I encourage members
169 on both sides of the dais to support this bipartisan

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170 amendment, and I will be happy to yield the remainder of the
171 time to Mr. Pallone unless he wishes to claim time on his
172 own.

173 The {Chairman.} The gentleman yields to Mr. Pallone, or
174 do you want your own time?

175 Mr. {Pallone.} I guess I will--

176 Dr. {Burgess.} Yield back.

177 The {Chairman.} The gentleman from Texas yields back.
178 The chair would recognize the gentleman from California, Mr.
179 Waxman, for 5 minutes.

180 Mr. {Waxman.} Thank you, Mr. Chairman. I support the
181 Manager's Amendment. It strengthens the bill. And I want to
182 commend Dr. Burgess and Ranking Member Pallone for their work
183 in assembling this bill and this amendment and all the work
184 they have done in the health area, and I especially want to
185 sing the praises of Congressman Pallone because if I lived in
186 New Jersey, not just because of this Manager's Amendment but
187 for many other reasons, I would certainly support him for
188 Senate. My hesitation would be, I want him here as well. So
189 like Ed Markey, you should be in both places at the same
190 time. Unfortunately, Ed Markey is not in two places at the
191 same time.

192 I support this amendment. I want to thank the

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193 cosponsors of this amendment, and I particularly want to
194 thank all the staff and use this opportunity to express my
195 gratitude to Tom Bradley and Laurie Houseman from CBO, Ira
196 Burney from CMS for their assistance. This amendment and the
197 underlying legislation would not be possible without the
198 tireless efforts of Ed Grossman, who is legislative counsel,
199 Jessica Shapiro and Jessie Cross, and I thank all of them,
200 the Democratic and Republican staff who worked nights and
201 weekends. That is what they wrote for me to say, that they
202 worked nights and weekends to hammer out of all of the
203 details in this legislation, deserve praise as well, and of
204 course, Karen Nelson, our director of health staff, Amy Hall,
205 Eddie Garcia on our staff, Robert Horne, Katie Novaria from
206 the majority staff, Tiffany Guarascio and Alex Heard from Mr.
207 Pallone's staff, J.P. Paluskiewicz from Dr. Burgess's staff,
208 as well as the two Robert Wood Johnson Foundation fellows,
209 Dr. Harry Heiman and Dr. Steve Ferrara, who certainly picked
210 an interesting and opportunity time for their fellowship on
211 the Hill.

212 Mr. Chairman, this is a good amendment and a good bill,
213 and I urge my colleagues to support it, and I would be happy
214 to yield to Mr. Pallone and ask unanimous consent if he needs
215 more time for him to say some things.

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216 Mr. {Pallone.} Thank you, Mr. Waxman. Well, first of
217 all, thank you for your comments. I really appreciate what
218 you said, and I also want to thank Dr. Burgess for his hard
219 work and partnership in offering the Management's Amendment,
220 which reflects a number of important changes that improve the
221 bill from the version we marked up in the subcommittee last
222 week. Many of these changes are a result of feedback we
223 received from stakeholders but also from CBO and CMS to
224 ensure that the language was accomplishing what was the
225 intended policy, and specifically the Manager's Amendment
226 extends the scope of eligibility for care coordination
227 payments to nurse practitioners and physician assistants. It
228 clarifies the parameters under which the relative value unit,
229 or RVU, adjustments apply. It addresses and corrects the
230 longstanding issue of misaligned Medicare physician payments
231 in California, makes a number of changes to the ultimate
232 payment model APM section to ensure that models developed
233 through this channel are accountable and meet stringent
234 standards. It enhances the availability of data for
235 physicians and other groups working to improve care delivery
236 and requires a study on clinical decision support and also
237 requires the Secretary to publish data related to the
238 multiple procedure payment reduction, and a few other

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239 clarifying changes to reflect intent.

240 I just want to note that a number of stakeholders may
241 not see everything in the Manager's Amendment that they
242 wanted, and the staff on both sides of the aisle took
243 everything we heard very seriously, and all policies were
244 analyzed, but in the end, we had to make important decisions
245 and calculations to get this bill to where it is today. In
246 some instances, we were just unable under the time
247 constraints to ensure that additional changes did not have
248 unintended consequences but we remain committed to continuing
249 to hear issues and concerns and to find ways to make all
250 groups comfortable, and I look forward to working with my
251 colleagues to continue to improve this bill.

252 I just want to thank the staff again on both sides of
253 the aisle--I am not going to mention names--as well as
254 legislative counsel for all their hard work throughout the
255 process. And again, as I said before in the subcommittee,
256 this is a bipartisan initiative. I think that makes it
257 particularly important, not only because it shows that we as
258 a committee can work on this issue in a bipartisan way but I
259 think we can work on a lot of other issues in a bipartisan
260 way, so I appreciate that, and I think it is something the
261 committee should be proud of. I yield back.

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262 Mr. {Waxman.} Thank you, Mr. Pallone. I agree with
263 everything you said. And to some of our friends who wanted
264 changes in this legislation, I think with some of the changes
265 in this Manager's Amendment, their concerns, I hope, will be
266 less than what they were before, and for others who wish we
267 could take up other issues that I strongly support, I hope we
268 will have other opportunities. We need to work not just on
269 this but many other changes in the Medicare, Medicaid and
270 health areas, not just repealing them but trying to make
271 improvements. Yield back.

272 The {Chairman.} The gentleman yields back. I will
273 strike the last word before I yield to Mr. McKinley.

274 I too want to thank, again, not only the members but the
275 great staff who I know did work on weekends. I am told that
276 the bridge traffic to the beach was pretty light the last
277 number of months because of their hard work. I want to thank
278 particularly Karen's team and Clay's team on our side but
279 also John Roshay, who is in the audience who is no longer a
280 staff member but really helped build the bipartisan
281 cooperation to get this thing done on time, as we said that
282 we would.

283 I also just want to call members' attention to a new
284 item now in the hallway, and that is, you will remember that

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285 when John Dingell was recognized, rightly so, for his longest
286 service, breaking the record in the House, Speaker Boehner
287 announced then that we would name this room the John Dingell
288 Room, and if you notice coming in either room in the hallway,
289 those placards are now over the door.

290 Mr. {Waxman.} Mr. Chairman, if you will yield to me for
291 just a second, this is a great tribute appropriately for Mr.
292 Dingell but everyone should note that this room is named
293 after a former chair of this committee but this building, the
294 Rayburn Building, was named after a former chair of this
295 committee as well, a Democrat.

296 The {Chairman.} So we have got the Michigan-Texas
297 connection now.

298 Mr. {Dingell.} Will you yield to me, Mr. Chairman?

299 The {Chairman.} I will be glad to yield to my friend
300 from the great State of Michigan.

301 Mr. {Dingell.} I want to thank you, Mr. Chairman, and
302 my colleagues on the committee for the very, very gracious
303 reception of that announcement, and I want to thank you and
304 my friend, Mr. Barton, for what you did here. It is a most
305 flattering thing. It will make me feel good every time I
306 walk in that room.

307 So thank you, Mr. Chairman, and thank you, my

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308 colleagues. I am deeply grateful. I am proud of your
309 friendship. I am proud of the committee, as you have heard
310 me say on many occasions. This is not just the oldest
311 committee, which it is, but it is also the greatest committee
312 in this Congress, and I think it has the finest members on
313 both sides of the aisle and I am very proud of them all, and
314 I am proud of my friendship with them, and I am particularly
315 grateful to you, Mr. Chairman, for your friendship over the
316 years and the fine job you do leading us. I just want to say
317 also to my old friend, Mr. Barton, over there, your kindness
318 and friendship is appreciated too. And all of you, my
319 friends, thank you and God bless you.

320 The {Chairman.} Yield now to the gentleman from West
321 Virginia to strike the last word.

322 Mr. {McKinley.} Mr. Chairman, thank you for that
323 recognition.

324 I want to take this opportunity to thank the chairman
325 and Ranking Member Waxman for recognizing the importance of
326 nurse practitioners by including them in Section 4 of this
327 Manager's Amendment.

328 As the husband of a critical-care nurse, I know very
329 well the significance of the services that our nurse
330 practitioners provide to our health care system. In West

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331 Virginia and across the country, we have many medical
332 practices, clinics and community health centers which are
333 staffed by nurse practitioners and have visiting physicians
334 once or twice a week. They have a long history as being
335 recognized as providers of complex chronic-care management
336 services. That is why it was essential to ensure that the
337 nurse practitioners are covered in the definition of the
338 applicable physician in Section 4 of the Management's
339 Amendment. So thank you.

340 I would also like to point out, however, that we need to
341 recognize care coordinators and expertise offered for
342 patients by cognitive-care specialists. As our American
343 population ages, we will see a dramatic increase in the
344 Medicare beneficiaries who have multiple chronic conditions
345 such as Alzheimer's and arthritis. It is important as we
346 prepare for the future that we ensure the payment system
347 recognizes and incentivizes face to face care and allows for
348 any physician providing this kind of care to be eligible for
349 the kind of bonuses that are right now only recognized for
350 Medicare physicians. We need to make sure patients have
351 access to adequate care, and to do that, we need to make sure
352 Medicare values those services.

353 I look forward to continuing the discussion on this

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354 legislation, and I yield back, Mr. Chairman.

355 The {Chairman.} The gentleman yields back. Other
356 members wishing to speak on the amendment? The gentleman
357 from Texas, Mr. Barton, is recognized for 5 minutes.

358 Mr. {Barton.} If you want to recognize the minority,
359 Ms. Capps--

360 The {Chairman.} I would have. I didn't see any hands.
361 The gentlelady from California is recognized for 5 minutes.

362 Ms. {Capps.} Thank you, and thank you, Mr. Barton. I
363 move to strike the last word, Mr. Chairman.

364 I also wanted to express my support for the Manager's
365 Amendment we are debating now and also for the underlying
366 bill. Throughout my years in Congress, it has been clear
367 that the Sustainable Growth Rate formula is flawed, harming
368 access to care for Medicare beneficiaries and creating
369 uncertainty for providers. And for too long, while there was
370 agreement that something needed to be done, there was very
371 little consensus on what, and this bill before us is truly
372 notable, and I am pleased to follow Mr. McKinley's comments,
373 especially because his wife is a critical-care nurse and I am
374 a nurse too. I don't think any member here can say it is
375 exactly what they would have put forward but I do think it is
376 a product we can stand behind, ending the SGR once and for

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377 all and moving towards a system where quality care is valued.

378 The Manager's Amendment makes important tweaks that will
379 enhance this goal. I am particularly pleased to see two
380 issues that I discussed in subcommittee markup included here.
381 The amendment--and this is where I follow Mr. McKinley's
382 statement. The amendment acknowledges the critical role that
383 non-physician providers can and should play as we move to
384 more coordinated models of care. I hope we can continue this
385 conversation to ensure that the list of providers adequately
386 reflects the real-world application of the medical home
387 model, and I am also pleased to see that this legislation
388 addresses the unfair gypsy payment scheme. It is a huge step
389 forward for providers in my district, who have been
390 continuously underpaid for the work that they do, and I thank
391 the leadership on this bill for addressing these issues.

392 I also want to express my support yet again for a clear
393 pathway to deal with the extended package that traditionally
394 accompanied SGR delay and addresses ongoing issues in both
395 Medicare and Medicaid policy like the therapy cap, and we now
396 need to also take some action on this. Finally, I would like
397 to reiterate my hope that the goodwill that I was pleased to
398 hear from Mr. Dingell, for whom the room is named, and
399 cooperation we have seen since subcommittee markup and here

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400 today will continue going forward. This includes
401 conversation on additional improvements to the language, and
402 perhaps most importantly, that we find an agreeable pay-for
403 that will keep this bipartisan product moving forward.

404 I also hope the goodwill we have seen through this
405 process will continue as we deal with other issues in this
406 committee. When we do work together on both sides, we get
407 things done, and I think that is what this committee is known
408 for, so I am committed to doing just that, and I will yield
409 to someone else or yield back. I will yield back.

410 The {Chairman.} The gentlelady yields back. The chair
411 would recognize the gentleman from Texas, Mr. Barton, for 5
412 minutes.

413 Mr. {Barton.} Thank you, Mr. Chairman. I rise in
414 support of the Manager's Amendment. But I do want to speak
415 briefly on two other issues.

416 First, I want to compliment you and the Speaker for
417 naming this room after John Dingell. I have served on this
418 committee since 1986, I believe, and for the first years I
419 was on, Chairman Dingell was the chairman, and then in 1996
420 we became the majority and Chairman Dingell became Ranking
421 Member Dingell. And so at least in that 27 years, at various
422 times I have walked out of the office telling my staff I was

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423 going to see Dingell or going to ask Dingell or going to beg
424 Dingell or something. Now every time I walk out of the
425 office to come to the committee, I just say I am going to
426 Dingell. And I can't think of a better member to name a full
427 committee room after than John Dingell. He is the epitome of
428 what a chairman of a committee should be, and he also served
429 with distinction as Ranking Member. So I do want to
430 compliment you, Chairman Upton, for requesting the speaker
431 that we name the room after him.

432 And on behalf of you and Mr. Waxman on this bill that we
433 are about to pass, at least since 2002, when Chairman Tozan
434 was chairman, Chairman Tozan, Chairman Barton, Chairman
435 Dingell, Chairman Waxman and now you have all known, we have
436 all known that we need to fix the SGR. But this is the very
437 first time, I think, that we have even had a full committee
438 markup. Now, I could be wrong on that but I think I am
439 right. And to have it not only come to a markup but have it
440 be a bipartisan markup where you are complimenting Mr. Waxman
441 and Mr. Waxman is complimenting you and we are all
442 complimenting the staff, that would have been unheard of. So
443 that is a real accomplishment, and you and Mr. Waxman are to
444 be commended.

445 Now, some have said that in a way we are putting the

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446 cart before the horse because we are reforming the SGR but we
447 don't have a pay-for, and there is some merit to that, but
448 for the first time, we actually have a cart, and it is a
449 fairly sturdy cart. So this is a real accomplishment, and
450 both you and Chairman Waxman, or Ranking Member Waxman,
451 should be commended and all the members that worked on it and
452 all the staffs. This does show that the Congress even in
453 today's poisonous era can work together and do things that
454 really will help the country.

455 So with that, I support the Manager's Amendment and I
456 compliment you and Mr. Waxman, and I yield back.

457 The {Chairman.} Thank you. The gentleman yields back.
458 Other members wishing to speak on the amendment? The
459 gentlelady from North Carolina, Ms. Ellmers.

460 Mrs. {Ellmers.} Thank you, Mr. Chairman, and I want to
461 thank you as well, you and the ranking member, for your
462 efforts on repealing and replacing the Sustainable Growth
463 Rate. I especially appreciate the Manager's Amendment
464 because of its specific inclusion of language to address the
465 25 percent multiple procedure payment reduction cut to the
466 professional component of imaging services. I want to thank
467 the chairman and the ranking member for recognizing the need
468 to provide greater transparency within the CMS with respect

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469 to this policy.

470 And as a nurse, I would like to speak in favor of the
471 change to Section 4. As my colleague from West Virginia, Mr.
472 McKinley, just pointed out, it is so incredibly important to
473 our nurse practitioners as providing the management and
474 coordination of care for patients with multiple chronic
475 diseases. It is critical that we include nurse practitioners
476 in this section as they are managing and coordinating care
477 for patients with multiple chronic diseases every single day.
478 Nurse practitioners are recognized experts in the provision
479 of care for their patients. Thank you to Representative
480 Burgess of Texas, Congressman Pallone, Ranking Member Waxman,
481 and again, Mr. Chairman, for your work but also the
482 invaluable service and work that the committee has done.

483 And to my colleague from Michigan, Mr. Dingell, I grew
484 up in Michigan, I was born there, I spent 31 years there. I
485 heard the name of John Dingell every day, and it is just a
486 tribute to him and the wonderful work that he has done, and
487 now every time I walk into this room, it will always be a
488 reminder of Michigan for me. So I applaud this, and what a
489 wonderful tribute to you, sir.

490 Thank you, Mr. Chairman. I yield back, or if anyone
491 wants my time.

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492 Mr. {Dingell.} If the gentlewoman would yield, I would
493 like to say thank you for those very gracious comments, and
494 again, to all of my colleagues, thank you.

495 And one thing to be said, as Mr. Barton made the wise
496 observation, we have been struggling with this damnable issue
497 for years and finally under your leadership, Mr. Chairman,
498 and with the cooperation of your friends and colleagues on
499 both sides, we have by golly gotten this thing moving
500 forward. Congratulations to all, and thank you.

501 Mrs. {Ellmers.} I would like to yield to my colleague,
502 Mr. Long from Missouri.

503 Mr. {Long.} Thank you for yielding, and Chairman
504 Dingell, I just have one question. If you could answer yes
505 or no, I would appreciate it. Do you approve of the naming
506 of this room the John D. Dingell Room, yes or no?

507 Mr. {Dingell.} Yes.

508 Mr. {Long.} Thank you. I yield back.

509 The {Chairman.} Okay. Is there further discussion on
510 the amendment offered by Dr. Burgess and Mr. Pallone?

511 Seeing none, the vote occurs on the amendment.

512 All those in favor will say aye.

513 All those opposed, say no.

514 In the opinion of the chair, the ayes have it. The ayes

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515 have it. The amendment is adopted.

516 Are there further amendments to the bill?

517 Seeing none, the vote occurs on the bill as amended. We
518 will have a roll call vote.

519 All those in favor of the bill as amended will say aye.

520 Those opposed, say no.

521 A roll call is requested. The clerk will call the roll.

522 The {Clerk.} Mr. Hall?

523 Mr. {Hall.} Aye.

524 The {Clerk.} Mr. Hall votes aye.

525 Mr. Barton?

526 Mr. {Barton.} Aye.

527 The {Clerk.} Mr. Barton votes aye.

528 Mr. Whitfield?

529 Mr. {Whitfield.} Aye.

530 The {Clerk.} Mr. Whitfield votes aye.

531 Mr. Shimkus?

532 Mr. {Shimkus.} Aye.

533 The {Clerk.} Mr. Shimkus votes aye.

534 Mr. Pitts?

535 Mr. {Pitts.} Aye.

536 The {Clerk.} Mr. Pitts votes aye.

537 Mr. Walden?

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538 Mr. {Walden.} Aye.
539 The {Clerk.} Mr. Walden votes aye.
540 Mr. Terry?
541 Mr. {Terry.} Aye.
542 The {Clerk.} Mr. Terry votes aye.
543 Mr. Rogers?
544 Mr. {Rogers.} Aye.
545 The {Clerk.} Mr. Rogers votes aye.
546 Mr. Murphy?
547 Mr. {Murphy.} Aye.
548 The {Clerk.} Mr. Murphy votes aye.
549 Mr. Burgess?
550 Dr. {Burgess.} Aye.
551 The {Clerk.} Mr. Burgess votes aye.
552 Mrs. Blackburn?
553 Mrs. {Blackburn.} Aye.
554 The {Clerk.} Mrs. Blackburn votes Aye.
555 Mr. Gingrey?
556 Dr. {Gingrey.} Aye.
557 The {Clerk.} Mr. Gingrey votes aye.
558 Mr. Scalise?
559 [No response.]
560 The {Clerk.} Mr. Latta?

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561 Mr. {Latta.} Aye.
562 The {Clerk.} Mr. Latta votes aye.
563 Mrs. McMorris Rodgers?
564 Mrs. {McMorris Rodgers.} Aye.
565 The {Clerk.} Mrs. McMorris Rodgers votes aye.
566 Mr. Harper?
567 Mr. {Harper.} Aye.
568 The {Clerk.} Mr. Harper votes aye.
569 Mr. Lance?
570 Mr. {Lance.} Aye.
571 The {Clerk.} Mr. Lance votes aye.
572 Mr. Cassidy?
573 [No response.]
574 The {Clerk.} Mr. Guthrie?
575 Mr. {Guthrie.} Aye.
576 The {Clerk.} Mr. Guthrie votes aye.
577 Mr. Olson?
578 Mr. {Olson.} Aye.
579 The {Clerk.} Mr. Olson votes aye.
580 Mr. McKinley?
581 Mr. {McKinley.} Aye.
582 The {Clerk.} Mr. McKinley votes aye.
583 Mr. Gardner?

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584 Mr. {Gardner.} Aye.
585 The {Clerk.} Mr. Gardner votes aye.
586 Mr. Pompeo?
587 Mr. {Pompeo.} Aye.
588 The {Clerk.} Mr. Pompeo votes aye.
589 Mr. Kinzinger?
590 Mr. {Kinzinger.} Aye.
591 The {Clerk.} Mr. Kinzinger votes aye.
592 Mr. Griffith?
593 Mr. {Griffith.} Aye.
594 The {Clerk.} Mr. Griffith votes aye.
595 Mr. Bilirakis?
596 Mr. {Bilirakis.} Aye.
597 The {Clerk.} Mr. Bilirakis votes aye.
598 Mr. Johnson?
599 Mr. {Johnson.} Aye.
600 The {Clerk.} Mr. Johnson votes aye.
601 Mr. Long?
602 Mr. {Long.} Aye.
603 The {Clerk.} Mr. Long votes aye.
604 Mrs. Ellmers?
605 Mrs. {Ellmers.} Aye.
606 The {Clerk.} Mrs. Ellmers votes aye.

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607 Mr. Waxman?

608 Mr. {Waxman.} Aye.

609 The {Clerk.} Mr. Waxman votes aye.

610 Mr. Dingell?

611 Mr. {Dingell.} Aye.

612 The {Clerk.} Mr. Dingell votes aye.

613 Mr. Pallone?

614 Mr. {Pallone.} Aye.

615 The {Clerk.} Mr. Pallone votes aye.

616 Mr. Rush?

617 [No response.]

618 The {Clerk.} Ms. Eshoo?

619 Ms. {Eshoo.} Aye.

620 The {Clerk.} Ms. Eshoo votes aye.

621 Mr. Engel?

622 Mr. {Engel.} Aye.

623 The {Clerk.} Mr. Engel votes aye.

624 Mr. Green?

625 Mr. {Green.} Aye.

626 The {Clerk.} Mr. Green votes aye.

627 Ms. DeGette?

628 Ms. {DeGette.} Aye.

629 The {Clerk.} Ms. DeGette votes aye.

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630 Mrs. Capps?
631 Mrs. {Capps.} Aye.
632 The {Clerk.} Mrs. Capps votes aye.
633 Mr. Doyle?
634 Mr. {Doyle.} Aye.
635 The {Clerk.} Mr. Doyle votes aye.
636 Ms. Schakowsky?
637 Ms. {Schakowsky.} Aye.
638 The {Clerk.} Ms. Schakowsky votes aye.
639 Mr. Matheson?
640 Mr. {Matheson.} Aye.
641 The {Clerk.} Mr. Matheson votes aye.
642 Mr. Butterfield?
643 [No response.]
644 The {Clerk.} Mr. Barrow?
645 Mr. {Barrow.} Aye.
646 The {Clerk.} Mr. Barrow votes aye.
647 Ms. Matsui?
648 Ms. {Matsui.} Aye.
649 The {Clerk.} Ms. Matsui votes aye.
650 Ms. Christensen?
651 Dr. {Christensen.} Aye.
652 The {Clerk.} Ms. Christensen votes aye.

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653 Ms. Castor?

654 Ms. {Castor.} Aye.

655 The {Clerk.} Ms. Castor votes aye.

656 Mr. Sarbanes?

657 Mr. {Sarbanes.} Aye.

658 The {Clerk.} Mr. Sarbanes votes aye.

659 Mr. McNerney?

660 Mr. {McNerney.} Aye.

661 The {Clerk.} Mr. McNerney votes aye.

662 Mr. Braley?

663 Mr. {Braley.} Aye.

664 The {Clerk.} Mr. Braley votes eye.

665 Mr. Welch?

666 Mr. {Welch.} Aye.

667 The {Clerk.} Mr. Welch votes aye.

668 Mr. Lujan?

669 The {Clerk.} Mr. Lujan votes aye.

670 Mr. Tonko?

671 Mr. {Tonko.} Aye.

672 The {Clerk.} Mr. Tonko votes aye.

673 Chairman Upton?

674 The {Chairman.} Votes aye.

675 The {Clerk.} Chairman Upton votes aye.

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676 The {Chairman.} Are there other members wishing to

677 vote? Dr. Cassidy?

678 Dr. {Cassidy.} Aye.

679 The {Clerk.} Mr. Cassidy votes aye.

680 The {Chairman.} Mr. Butterfield?

681 Mr. {Butterfield.} Aye.

682 The {Clerk.} Mr. Butterfield votes aye.

683 The {Chairman.} Other members wishing to cast a vote?

684 Seeing none, the clerk will report the tally.

685 The {Clerk.} Mr. Chairman, on that vote, there were 51

686 ayes and zero ayes.

687 The {Chairman.} Fifty-one ayes, zero nays. The bill as

688 amended is passed.

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|

689 H.R. 2844

690 The {Chairman.} The chair will now call up H.R. 2844
691 and ask the clerk to report.

692 The {Clerk.} H.R. 2844, to amend the Communications Act
693 of 1934 to consolidate the reporting obligations of the
694 Federal Communications Commission in order to improve
695 congressional oversight and reduce reporting burdens.

696 [H.R. 2844 follows:]

697 ***** INSERT 3 *****

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|
698 The {Chairman.} Without objection, the first reading of
699 the bill is dispensed with. The bill will be open for
700 amendment at any point. So ordered.

701 Are there any bipartisan amendments to the bill? The
702 chair would recognize the gentleman from Oregon, Mr. Walden.

703 Mr. {Walden.} I thank the chairman. We have a
704 bipartisan amendment, Mr. Chairman, at the desk.

705 The {Chairman.} The clerk will report the title of the
706 amendment.

707 The {Clerk.} Amendment to H.R. 2844 offered by Mr.
708 Scalise, Mr. Walden and Ms. Eshoo.

709 [The amendment of Mr. Scalise, Mr. Walden and Ms. Eshoo
710 follows:]

711 ***** INSERT 4 *****

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|
712 The {Chairman.} The amendment will be considered as
713 read, and the gentleman from Oregon is recognized for 5
714 minutes.

715 Mr. {Walden.} You can see, Mr. Chairman, this amendment
716 is cleared the Dingell House.

717 The {Chairman.} The gentleman is recognized for 5
718 minutes in support of his amendment.

719 Mr. {Walden.} This bipartisan amendment offered by
720 myself and Ranking Member Eshoo and Mr. Scalise addresses two
721 specific concerns that were expressed by the Federal
722 Communications Commission.

723 First, the amendment adds a new section, 14(c), that
724 would provide an additional 3 months for a new FCC Chairman
725 to complete the agenda portion of the report if he or she is
726 appointed near the end of the bill's 2-year reporting cycle.

727 Second, the amendment adds a new savings clause that
728 makes clear that this bill does not impact the Commission's
729 ability to issue other reports otherwise within its
730 authority.

731 I thank Mr. Scalise and the ranking member for working
732 with me on this bipartisan amendment, and I urge my
733 colleagues to support this amendment and to favorably report

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734 the bill, and with that, I yield back, or do you want me to
735 yield to the gentlelady from California, Ms. Eshoo?

736 Ms. {Eshoo.} Thank you, Mr. Walden. I want to thank
737 you and Mr. Scalise for offering this Manager's Amendment to
738 H.R. 2844.

739 I think the changes included in this amendment reflect
740 the feedback of FCC staff, of testimony that we received, and
741 it serves to strengthen the overall bill, and as the bill
742 proceeds to the Floor and to the Senate, I look forward to
743 working in a continuing bipartisan collaboration in order to
744 ensure that the FCC that it needs to protect the public
745 interest and to promote competition across the communications
746 marketplace. So I urge all my colleagues to support H.R.
747 2844, and I thank the gentleman for yielding to me.

748 Mr. {Walden.} Unless anyone else seeks time, I would
749 yield back the balance of my time.

750 The {Chairman.} The gentleman yields back his time.
751 Are there other members wishing to speak on the amendment?

752 Seeing none, the vote occurs on the amendment.

753 Those in favor will say aye.

754 Those opposed, say no.

755 In the opinion of the chair, the ayes have it. The ayes
756 have it. The amendment is adopted.

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757 Are there further amendments to the bill? The chair

758 would recognized the gentlelady from California.

759 Ms. {Eshoo.} Thank you, Mr. Chairman. I have an

760 amendment at the desk that I intend to offer, but I am also

761 going to withdraw it, but I think it deserves the attention

762 of the full committee.

763 The {Chairman.} If I could just interject, the clerk

764 will report the title of the amendment.

765 The {Clerk.} Amendment to H.R. 2844 offered by Ms.

766 Eshoo of California.

767 [The amendment of Ms. Eshoo follows:]

768 ***** INSERT 5 *****

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|
769 The {Chairman.} And the amendment will be considered as
770 read, and the gentlelady is recognized for 5 minutes in
771 support of her amendment.

772 Ms. {Eshoo.} Thank you, Mr. Chairman.

773 In 2005 under the leadership of former FCC Chairman
774 Michael Powell, the agency issued a proposed rulemaking
775 tentatively concluding that wireless carriers ``must disclose
776 the full rate including any non-mandated line items and a
777 reasonable estimate of government-mandated surcharges to the
778 consumer at the point of sale.''

779 I have examined the website of the largest U.S. wireless
780 and wireline companies, and I can say that as a somewhat
781 educated consumer, it is not easy to find these fees.
782 Sometimes they are noted with an asterisk in small print.
783 Other times you have to click through multiple pages, and
784 this is through very, very fine print of multiple pages.

785 So the bottom line is that these companies, that they
786 are not listed, these fees are not listed in the advertised
787 price of the monthly service. Now, when you are booking a
788 hotel online, the quoted price prior to entering any personal
789 information includes any applicable resort charges, fees and
790 taxes. Similarly, when you are booking a rental car,

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791 companies include airport access fees, transportation
792 facility charges and taxes as part of the quoted price. Why
793 shouldn't consumers expect the same from their Internet and
794 phone provider?

795 Two weeks ago, I sent letters with my colleagues,
796 Representatives Doyle, Lujan and Matheson to the Nation's
797 leading wireless and wireline providers regarding these
798 below-the-line fees, which are added to consumer bills and
799 generate hundreds of millions of dollars for these U.S.
800 communications companies. Each member--and I would that each
801 member really do this because it is so instructive. Each
802 member of this committee should take the time to examine
803 their bills and go online. It is the best test regarding the
804 veracity of this issue. As I previously said, prior to
805 signing up or service and with each subsequent bill,
806 consumers should have certainty in what they pay each month.

807 My amendment would ensure that when assessing the state
808 of competition within a particular segment or sector of the
809 communications marketplace, the FCC consider the impact of
810 these what are called below-the-line fees.

811 So Mr. Chairman, while I am withdrawing my amendment, as
812 I said, I am asking you to work with me to determine the best
813 way to improve transparency and disclosure for consumers upon

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814 receiving responses to my recent inquiry. This is not a
815 Democratic issue or a Republican issue. This is something
816 that affects all of us, it affects our families, affects our
817 constituents, it affects consumers across the country.

818 So with that, Mr. Chairman, I will withdraw the
819 amendment and ask with all sincerity that you work with me
820 and certainly Chairman Walden how best to address this in
821 fairness to all of our constituents.

822 Thank you, and I yield back.

823 The {Chairman.} The gentlelady yields back and
824 withdraws her amendment.

825 Are there further amendments to the bill?

826 Ms. {Eshoo.} Mr. Chairman, you didn't answer my
827 question, though.

828 The {Chairman.} Well, you yielded back.

829 We will continue to work. I think, Mr. Walden--

830 Mr. {Walden.} I know that--if the gentlelady would, or
831 I guess I claim time. I know the gentlelady has letters out
832 to the companies seeking information. If they are not
833 responsive, then obviously we would encourage them to be
834 responsive, and you know, these are issues we need to have a
835 discussion on at a later time certainly and will.

836 I am sympathetic to this. I actually have legislation

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837 to require the same thing on our health care premiums to
838 figure out all the new fees and things the government is
839 tacking on to what it is going to cost for consumers on
840 health care and have a bill to require disclosure by the
841 insurance companies to tell us what all this adds to the
842 bottom-line cost of bills.

843 So these are issues I am happy to have a discussion
844 about.

845 Ms. {Eshoo.} I thank the chairman and the spirit in
846 which he offered to work with us. Yield back.

847 The {Chairman.} The gentlelady yields back. Are there
848 further amendments to the bill?

849 Seeing none, the vote now occurs on the bill, H.R. 2844,
850 as amended.

851 All those in favor will say aye.

852 Those opposed, say no.

853 In the opinion of the chair, the ayes have it. The ayes
854 have. The bill is adopted.

855 And without objection, the staff is authorized to make
856 technical and conforming changes to both bills reported by
857 the committee today. So ordered.

858 And without objection, the committee does stand
859 adjourned.

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860 [Whereupon, at 12:14 p.m., the Committee was adjourned.]