

118TH CONGRESS  
1ST SESSION

# H. R. 4878

To amend title XVIII of the Social Security Act to ensure appropriate supervision requirements for outpatient physical therapy and outpatient occupational therapy.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2023

Mrs. LESKO (for herself and Ms. KUSTER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to ensure appropriate supervision requirements for outpatient physical therapy and outpatient occupational therapy.

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 “Enabling More of the  
5 Physical and Occupational Workforce to Engage in Reha-  
6 bilitation Act” or the “EMPOWER Act”.

1 **SEC. 2. ENSURING APPROPRIATE SUPERVISION REQUIRE-**  
2 **MENTS FOR OUTPATIENT PHYSICAL THER-**  
3 **APY AND OUTPATIENT OCCUPATIONAL THER-**  
4 **APY.**

5 (a) IN GENERAL.—

6 (1) PAYMENT.—Section 1834(v)(1) of the So-  
7 cial Security Act (42 U.S.C. 1395m(v)(1)) is amend-  
8 ed in the second sentence by inserting “, but in no  
9 case shall the Secretary impose a supervision re-  
10 quirement on such services that is different than any  
11 such requirement under applicable State law” before  
12 the period at the end.

13 (2) DEFINITION.—Section 1861(p) of the So-  
14 cial Security Act (42 U.S.C. 1395x(p)) is amended  
15 in the first sentence of the flush left text following  
16 paragraph (4)(B) by inserting “, but in no case may  
17 those conditions impose a supervision requirement  
18 that is different than any such requirement under  
19 applicable State law” after “as the Secretary may  
20 find necessary”.

21 (3) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall take effect on January 1,  
23 2024.

24 (b) IMPLEMENTATION.—Notwithstanding any other  
25 provision of law, the Secretary may implement the provi-

1 sions of, and the amendments made by, this section by  
2 program instruction or otherwise.

3 **SEC. 3. GAO STUDY ON ACCESS TO THERAPY SERVICES IN**  
4 **RURAL AND UNDERSERVED AREAS.**

5 Not later than December 31, 2024, the Comptroller  
6 General of the United States shall conduct an analysis of  
7 how the Medicare part B 15 percent payment differential  
8 for services provided by occupational therapy assistants  
9 and physical therapy assistants has impacted access to oc-  
10 cupational therapy and physical therapy services in rural  
11 and medically underserved areas, across all Medicare part  
12 B settings.

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