

118TH CONGRESS
1ST SESSION

H. R. 3227

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

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2023

Mr. ESTES (for himself and Mr. CONNOLLY) 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

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”.

1 **SEC. 2. TRAINING AND COMPETENCY EVALUATION PRO-**
2 **GRAMS.**

3 (a) **MEDICARE.**—Section 1819(f)(2) of the Social Se-
4 curity Act (42 U.S.C. 1395i–3(f)(2)) is amended—

5 (1) in subparagraph (A)(iv)(I), by striking
6 “(unless the facility is described in subparagraph
7 (B)(iii)(I))”;

8 (2) in subparagraph (B)—

9 (A) in clause (i)—

10 (i) by striking “(subject to clause
11 (iii))”; and

12 (ii) by inserting “and” after the semi-
13 colon;

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

16 (C) by striking clause (iii);

17 (3) by striking “A State may not delegate
18 (through subcontract or otherwise) its responsibility
19 under clause (iii)(II) to the skilled nursing facility.”;

20 (4) by striking subparagraphs (C) and (D); and

21 (5) by adding at the end the following:

22 “(C) **DISAPPROVAL OF NURSE AIDE TRAIN-**
23 **ING AND COMPETENCY EVALUATION PROGRAMS**
24 **AND NURSE AIDE COMPETENCY EVALUATION**
25 **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 (b) MEDICAID.—Section 1919(f)(2) of the Social Se-
20 curity Act (42 U.S.C. 1396r(f)(2)) is amended—

21 (1) in subparagraph (A)(iv)(I), by striking
22 “(unless the facility is described in subparagraph
23 (B)(iii)(I))”;

24 (2) in subparagraph (B)—

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

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

5 (C) by striking clause (iii); and

6 (D) by striking “A State may not delegate
7 (through subcontract or otherwise) its responsi-
8 bility under clause (iii)(II) to the nursing facil-
9 ity.”;

10 (3) by striking subparagraphs (C) and (D); and

11 (4) by adding at the end the following:

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

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

24 “(I) has been assessed a civil
25 monetary penalty under section

1 1819(h)(2)(B)(ii) or subsection
2 (h)(2)(A)(ii) of not less than \$10,697
3 for providing substandard quality of
4 care; and

5 “(II) has not, in the determina-
6 tion of the Secretary, corrected the
7 deficiencies in quality of care for
8 which such civil monetary penalty was
9 assessed.

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

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

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

22 “(III) the Secretary certifies that
23 the civil monetary penalty assessed
24 under clause (i)(I) did not result in
25 immediate jeopardy for direct patient

1 harm or injury related to an abuse or
2 neglect deficiency.

3 For purposes of rescinding disapproval
4 under this clause, the Secretary may re-
5 quire additional oversight of the nursing
6 facility for a period not to exceed the pe-
7 riod of disapproval imposed under clause
8 (i) with respect to such facility.”.

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

13 (d) APPLICABILITY.—

14 (1) IN GENERAL.—

15 (A) TIMING OF DETERMINATIONS.—The
16 amendments made by subsections (a)(4) and
17 (b)(4) of this section shall apply only to a civil
18 monetary penalty if the relevant covered deter-
19 mination was made on or after the date of en-
20 actment of this Act.

21 (B) COVERED DETERMINATION DE-
22 FINED.—The term “covered determination”
23 means, with respect to a skilled nursing facility
24 or a nursing facility in a State, a determination
25 by the State or the Secretary of Health and

1 Human Services that the facility has provided
2 a substandard quality of care for which a civil
3 monetary penalty described in section
4 1819(f)(2)(C)(i)(I) or 1919(f)(2)(C)(i)(I) of the
5 Social Security Act (as such sections have been
6 amended by this Act) may be assessed.

7 (2) PREVIOUSLY PROHIBITED PROGRAMS.—

8 (A) WAIVER.—With respect to a skilled
9 nursing facility or a nursing facility subject, on
10 the day before the date of enactment of this
11 Act, to a prohibition under item (a) of either
12 section 1819(f)(2)(B)(iii)(I) or section
13 1919(f)(2)(B)(iii)(I) of the Social Security Act
14 (as in effect on the day before such date of en-
15 actment), such prohibition shall no longer apply
16 to the facility on or after such date of enact-
17 ment.

18 (B) SURVEY OR CIVIL MONETARY PEN-
19 ALTY.—With respect to a skilled nursing facil-
20 ity or a nursing facility subject, on the day be-
21 fore the date of enactment of this Act, to a pro-
22 hibition under item (b) or (c) of either section
23 1819(f)(2)(B)(iii)(I) or section
24 1919(f)(2)(B)(iii)(I) of the Social Security Act
25 (as in effect on the day before such date of en-

1 actment), such prohibition shall no longer apply
2 to the facility on or after such date of enact-
3 ment upon a determination by the Secretary of
4 Health and Human Services that the facility
5 has corrected the issue that resulted in such
6 prohibition.

7 **SEC. 3. PERMITTING MEDICARE AND MEDICAID PRO-**
8 **VIDERS TO ACCESS THE NATIONAL PRACTI-**
9 **TIONER DATA BANK TO CONDUCT EMPLOYEE**
10 **BACKGROUND CHECKS.**

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

13 (1) by striking “and other health care entities
14 (as defined in section 431 of the Health Care Qual-
15 ity Improvement Act of 1986)” and inserting “,
16 other health care entities (as defined in section 431
17 of the Health Care Quality Improvement Act of
18 1986), providers of services (as defined in section
19 1861(u)), suppliers (as defined in section 1861(d)),
20 and providers of items or services under a State plan
21 under this title (or a waiver of such a plan)”; and

22 (2) by striking “such hospitals or other health
23 care entities” and inserting “such hospitals, health
24 care entities, providers, or suppliers”.

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