Suspending 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
2D 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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. RECOGNITION OF SECURITY PRACTICES.

3 Part 1 of subtitle D of the Health Information Technology for Economic and Clinical Health Act (42 U.S.C.
17931 et seq.) is amended by adding at the end the fol-
lowing:

“SEC. 13412. RECOGNITION OF SECURITY PRACTICES.

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

“(1) mitigate fines under section 1176 of the
Social Security Act (as amended by section 13410);
“(2) result in the early, favorable termination
of an audit under section 13411; and
“(3) mitigate the remedies that would otherwise
be agreed to in any agreement with respect to re-
solving potential violations of the HIPAA Security
rule (part 160 of title 45 Code of Federal Regula-
tions and subparts A and C of part 164 of such
title) between the covered entity or business asso-
ciate and the Department of Health and Human Services.

“(b) Definition and Miscellaneous Provisions.—

“(1) Recognized security practices.—The term ‘recognized security practices’ means the standards, guidelines, best practices, methodologies, procedures, and processes developed under section 2(c)(15) of the National Institute of Standards and Technology Act, the approaches promulgated under section 405(d) of the Cybersecurity Act of 2015, and other programs and processes that address cybersecurity and that are developed, recognized, or promulgated through regulations under other statutory authorities. Such practices shall be determined by the covered entity or business associate, consistent with the HIPAA Security rule (part 160 of title 45 Code of Federal Regulations and subparts A and C of part 164 of such title).

“(2) Limitation.—Nothing in this section shall be construed as providing the Secretary authority to increase fines under section 1176 of the Social Security Act (as amended by section 13410), or the length, extent or quantity of audits under section
13411, due to a lack of compliance with the recognized security practices.

“(3) No liability for nonparticipation.—Subject to paragraph (4), nothing in this section shall be construed to subject a covered entity or business associate to liability for electing not to engage in the recognized security practices defined by this section.

“(4) Rule of construction.—Nothing in this section shall be construed to limit the Secretary’s authority to enforce the HIPAA Security rule (part 160 of title 45 Code of Federal Regulations and subparts A and C of part 164 of such title), or to supersede or conflict with an entity or business associate’s obligations under the HIPAA Security rule.”.

SEC. 2. TECHNICAL CORRECTION.

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

“(4) Application of authorities under Inspector General Act of 1978.—In carrying out this subsection, the Inspector General shall have the same authorities as provided under section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).”.
(b) **Effective Date.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the 21st Century Cures Act (Public Law 114–255).

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.”.