[DISCUSSION DRAFT]

115TH CONGRESS 2D SESSION

H. R. _____

To amend title XI of the Social Security Act to direct the Secretary of Health and Human Services to establish a public-private partnership for purposes of identifying health care waste, fraud, and abuse.

IN THE HOUSE OF REPRESENTATIVES

M. ______ introduced the following bill; which was referred to the Committee on ______

A BILL

To amend title XI of the Social Security Act to direct the Secretary of Health and Human Services to establish a public-private partnership for purposes of identifying health care waste, fraud, and abuse.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Strengthening the Health Care Fraud Prevention Task Force Act of 2018”.

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SEC. 2. PUBLIC-PRIVATE PARTNERSHIP FOR HEALTH CARE

WASTE, FRAUD, AND ABUSE DETECTION.

(a) In General.—Section 1128C(a) of the Social Security Act (42 U.S.C. 1320a–7c(a)) is amended by adding at the end the following new paragraph:

“(6) PUBLIC-PRIVATE PARTNERSHIP FOR WASTE, FRAUD, AND ABUSE DETECTION.—

“(A) In General.—Under the program described in paragraph (1), there is established a public-private partnership (in this paragraph referred to as the ‘partnership’) of health plans for purposes of detecting and preventing waste, fraud, and abuse with respect to such plans.

“(B) CONTRACT WITH TRUSTED THIRD PARTY.—

“(i) In General.—In carrying out the partnership, the Secretary shall enter into a contract with a trusted third party for purposes of carrying out the duties of the partnership described in subparagraph (C).

“(ii) LENGTH OF CONTRACT.—A contract with a trusted third party described in clause (i) shall be for [a period of 4 years]. Such contract with such party may
be renewed as determined appropriate by
the Secretary.

“(C) Duties of Partnership.—The
partnership shall—

“(i) provide technical and operational
support to facilitate data sharing between
health plans in the partnership;

“(ii) analyze data so shared to identify fraudulent and aberrant billing patterns;

“(iii) conduct aggregate analyses of
health care data so shared across Federal,
State, and private health plans for purposes of detecting fraud, waste, and abuse schemes;

“(iv) identify outlier trends and potential vulnerabilities of health plans in the partnership;

“(v) refer specific cases of potential criminal conduct to appropriate law enforcement entities;

“(vi) convene, not less than annually,
meetings with health plans in the partnership for purposes of providing updates on
the partnership’s work;
“(vii) enter into data sharing and data use agreements with health plans in the partnership in such a manner so as to ensure the partnership has access to data necessary to identify waste, fraud, and abuse while maintaining the confidentiality and integrity of such data;

“(viii) provide health plans in the partnership with plan-specific, confidential feedback on any aberrant billing patterns or potential fraud identified by the partnership with respect to such plan;

“(ix) establish a process by which health plans may enter the partnership and requirements health plans must meet to enter the partnership;

“(x) provide appropriate training, outreach, and education to health plans based on the results of data analyses described in clauses (ii) and (iii); and

“(xi) perform such other duties as the Secretary determines appropriate.

In carrying out the duties specified in the preceding clauses, the partnership (including the executive board of the partnership or any com-
mittee of the partnership) shall not, as a group, provide advice to the Federal Government, any Federal official, or any Federal agency.

“(D) SUBSTANCE USE DISORDER TREATMENT ANALYSIS.—Not later than 2 years after the date of the enactment of the Strengthening the Health Care Fraud Prevention Task Force Act of 2018, the trusted third party with a contract in effect under subparagraph (B) shall perform an analysis of aberrant or fraudulent billing patterns and trends with respect to providers and suppliers of substance use disorder treatments from data shared with the partnership.

“(E) EXECUTIVE BOARD.—

“(i) EXECUTIVE BOARD COMPOSITION.—

“(I) IN GENERAL.—There shall be an executive board of the partnership comprised of representatives of the Federal Government described in subclause (III) and representatives of the private sector described in subclause (IV).
“(II) CHAIRS.—The executive board shall be co-chaired by one Federal Government official and one representative from the private sector.

“(III) FEDERAL GOVERNMENT REPRESENTATIVES.—

“(aa) REQUIRED MEMBERS.—The executive board shall consist of the following members from the Federal Government:


“(BB) The Deputy Attorney General for the Department of Justice.

“(CC) The Deputy Secretary of the Department of Health and Human Services.

“(EE) The Director of
the Federal Bureau of In-
vestigation.

“(bb) PERMISSIVE ADDI-
TIONAL MEMBERS.—If deter-
mined by unanimous consent of
the members of the executive
board, the board may include
other Federal or State Govern-
ment representation as appro-
priate, including senior-level rep-
resentation from the TRICARE
Management Activity, the De-
partment of Veterans Affairs, the
Office of Personnel Management,
State Medicaid agencies, and
State medicaid fraud control
units.

“(IV) PRIVATE SECTOR MEM-
BERSHIP.—

“(aa) IN GENERAL.—The
executive board shall consist of at
least three senior-level represent-
atives from various private sector
health care related associations,
including any national association focusing on Medicaid fraud at the State level. The private health sector associations shall be national professional associations or trade groups that are focused on health care insurance, anti-fraud, or both.

“(bb) SELECTION.—The members of the board from private sector health care related associations shall be jointly selected by the Federal Government members [(described in subclause (III)[(aa)]], after outreach to [all] known relevant private sector health care related associations with a national scope. After considering any appropriate individual input from private-sector partners, the Secretary and Attorney General (or their designees) shall make [all final executive decisions]. In the case that the executive board expands the
number of members from the Federal Government pursuant to subclause (III)(bb), the number of members of the executive board from the private health sector [may][shall] also increase by the same number of representatives[, through the same process as described in this item for purposes of selection of members from the private sector].

“(ii) MEETINGS.—The executive board of the Partnership shall meet at least twice per year.

“(iii) EXECUTIVE BOARD DUTIES.—The duties of the executive board shall include the following:

“(I) Providing strategic direction for the partnership, including membership criteria and a mission statement.

“(II) Communicating with the leadership of the Department of Health and Human Services and the
Department of Justice and the various private health sector associations.

“(III) Sharing topics for studies and analysis.

[F] REPORTS.—Not later than September 30, 2021, and every 2 years thereafter, the Secretary shall submit to Congress and make available on the public website of the Centers for Medicare & Medicaid Services a report containing—

[“(i) a review of activities conducted by the partnership over the 2-year period ending on the date of the submission of such report, including any progress to any objectives established by the partnership;]

[“(ii) any savings voluntarily reported by health plans participating in the partnership attributable to the partnership during such period;]

[“(iii) any savings to the Federal government attributable to the partnership during such period;]

[“(iv) any other savings attributable to the partnership, as determined by the Secretary, during such period; and]
(v) a strategic plan for the 2-year period beginning on the day after the date of the submission of such report, including a description of any emerging fraud and abuse schemes, trends, or practices that the partnership intends to study during such period.

“(G) FUNDING.—The partnership shall be funded by amounts otherwise made available to the Secretary for carrying out the program described in paragraph (1).

“(H) TRANSITIONAL PROVISIONS.—To the extent consistent with this subsection, all functions, personnel, assets, liabilities, and administrative actions applicable on the date before the date of the enactment of this paragraph to the National Fraud Prevention Partnership established on September 10, 2012 by charter of the Secretary shall be transferred to the partnership established under subparagraph (A) as of the date of the enactment of this paragraph.

“(I) DEFINITION.—For purposes of this paragraph, the term ‘trusted third party’ means an entity that—
“(i) demonstrates the capability to carry out the duties of the partnership described in subparagraph (C);

“(ii) complies with such conflict of interest standards determined appropriate by the Secretary; and

“(iii) meets such other requirements as the Secretary may prescribe.”

(b) Potential Expansion of Public-Private Partnership Analyses.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study and submit to Congress a report on the feasibility of the partnership (as described in section 1128C(a)(6) of the Social Security Act, as added by subsection (a)) establishing a system to conduct real-time data analysis to proactively identify ongoing as well as emergent fraud trends for the entities participating in the partnership and provide such entities with real-time feedback on potentially fraudulent claims. Such report shall include the estimated cost of and any potential barriers to the partnership establishing such a system.