

106TH CONGRESS  
1ST SESSION

# H. R. 540

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the Medicaid Program.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1999

Mr. DAVIS of Florida (for himself, Mr. BILIRAKIS, Mr. DINGELL, Mr. BROWN of Ohio, Mr. SHAW, Mr. WAXMAN, Mr. FOLEY, Mr. MARKEY, Mr. CANADY of Florida, Mr. DEUTSCH, Mrs. FOWLER, Mr. STUPAK, Mr. MCCOLLUM, Mr. BOUCHER, Mr. LAFALCE, Mr. PALLONE, Mr. LOBIONDO, Mr. LEWIS of Georgia, Mr. GOSS, Mrs. THURMAN, Mr. WEXLER, Mr. RUSH, Mr. SPRATT, Mr. STRICKLAND, Mr. GREEN of Texas, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Ms. STABENOW, Mr. MORAN of Virginia, Mr. BISHOP, Mr. BENTSEN, Mr. BOYD, Mr. LANTOS, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the Medicaid Program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Nursing Home Resi-  
3 dent Protection Amendments of 1999”.

4 **SEC. 2. RESTRICTIONS ON TRANSFERS OR DISCHARGES OF**  
5 **NURSING FACILITY RESIDENTS IN THE CASE**  
6 **OF VOLUNTARY WITHDRAWAL FROM PAR-**  
7 **TICIPATION UNDER THE MEDICAID PRO-**  
8 **GRAM.**

9       (a) IN GENERAL.—Section 1919(c)(2) of the Social  
10 Security Act (42 U.S.C. 1396r(c)(2)) is amended by add-  
11 ing at the end the following new subparagraph:

12               “(F) CONTINUING RIGHTS IN CASE OF  
13 VOLUNTARY WITHDRAWAL FROM PARTICIPA-  
14 TION.—

15               “(i) IN GENERAL.—In the case of a  
16 nursing facility that voluntarily withdraws  
17 from participation in a State plan under  
18 this title but continues to provide services  
19 of the type provided by nursing facilities—

20               “(I) the facility’s voluntary with-  
21 drawal from participation is not an  
22 acceptable basis for the transfer or  
23 discharge of residents of the facility  
24 who were residing in the facility on  
25 the day before the effective date of the  
26 withdrawal (including those residents

1 who were not entitled to medical as-  
2 sistance as of such day);

3 “(II) the provisions of this sec-  
4 tion continue to apply to such resi-  
5 dents until the date of their discharge  
6 from the facility; and

7 “(III) in the case of each individ-  
8 ual who begins residence in the facil-  
9 ity after the effective date of such  
10 withdrawal, the facility shall provide  
11 notice orally and in a prominent man-  
12 ner in writing on a separate page at  
13 the time the individual begins resi-  
14 dence of the information described in  
15 clause (ii) and shall obtain from each  
16 such individual at such time an ac-  
17 knowledgment of receipt of such infor-  
18 mation that is in writing, signed by  
19 the individual, and separate from  
20 other documents signed by such indi-  
21 vidual.

22 Nothing in this subparagraph shall be con-  
23 strued as affecting any requirement of a  
24 participation agreement that a nursing fa-  
25 cility provide advance notice to the State

1 or the Secretary, or both, of its intention  
2 to terminate the agreement.

3 “(ii) INFORMATION FOR NEW RESI-  
4 DENTS.—The information described in this  
5 clause for a resident is the following:

6 “(I) The facility is not participat-  
7 ing in the program under this title  
8 with respect to that resident.

9 “(II) The facility may transfer or  
10 discharge the resident from the facil-  
11 ity at such time as the resident is un-  
12 able to pay the charges of the facility,  
13 even though the resident may have be-  
14 come eligible for medical assistance  
15 for nursing facility services under this  
16 title.

17 “(iii) CONTINUATION OF PAYMENTS  
18 AND OVERSIGHT AUTHORITY.—Notwith-  
19 standing any other provision of this title,  
20 with respect to the residents described in  
21 clause (i)(I), a participation agreement of  
22 a facility described in clause (i) is deemed  
23 to continue in effect under such plan after  
24 the effective date of the facility’s voluntary

1 withdrawal from participation under the  
2 State plan for purposes of—

3 “(I) receiving payments under  
4 the State plan for nursing facility  
5 services provided to such residents;

6 “(II) maintaining compliance  
7 with all applicable requirements of  
8 this title; and

9 “(III) continuing to apply the  
10 survey, certification, and enforcement  
11 authority provided under subsections  
12 (g) and (h) (including involuntary ter-  
13 mination of a participation agreement  
14 deemed continued under this clause).

15 “(iv) NO APPLICATION TO NEW RESI-  
16 DENTS.—This paragraph (other than sub-  
17 clause (III) of clause (i)) shall not apply to  
18 an individual who begins residence in a fa-  
19 cility on or after the effective date of the  
20 withdrawal from participation under this  
21 subparagraph.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) applies to voluntary withdrawals from par-

- 1 participation occurring on or after the date of the enactment
- 2 of this Act.

