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1ST SESSION

S. 2319

To ensure the continued and future availability of life saving trauma health care in the United States and to prevent further trauma center closures and downgrades by assisting trauma centers with uncompensated care costs, core mission services, and emergency needs.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 2007

Mrs. MURRAY (for herself, Mr. ISAKSON, Mr. BINGAMAN, and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure the continued and future availability of life saving trauma health care in the United States and to prevent further trauma center closures and downgrades by assisting trauma centers with uncompensated care costs, core mission services, and emergency needs.

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 “National Trauma Cen-
5 ter Stabilization Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Victims of traumatic injury should have ac-
2 cess to lifesaving care regardless of their geographic
3 location or ability to pay. Major multi-system trau-
4 ma victims receiving care within the first “Golden
5 Hour” following their injury are substantially more
6 likely to survive.

7 (2) Maintaining a strong and effective trauma
8 care system for all victims of traumatic injury re-
9 quires the availability of a sufficient number of trau-
10 ma centers at appropriate levels of trauma care ca-
11 pability in all geographic regions of the United
12 States.

13 (3) Regional trauma centers annually treat
14 678,000 patients, regardless of their ability to pay.
15 When a trauma victim cannot afford treatment, the
16 trauma center pays for care that may save their life.

17 (4) The cost of delivering trauma care has
18 steadily increased in the last decade. Trauma centers
19 collectively have incurred \$230,000,000 per year in
20 losses for treating victims who are either uninsured
21 or whose care is reimbursed well below the cost of
22 providing care.

23 (5) Substantial uncompensated care costs are
24 distressing trauma centers and threatening the avail-
25 ability of life-saving trauma services in numerous

1 areas across the United States. Since 2000, 19 hos-
2 pitals have closed their trauma centers, and 10 oth-
3 ers have downgraded their trauma service by 1 or 2
4 levels.

5 (6) At a time when the threat of mass emer-
6 gencies are high, financial pressures are placing
7 trauma centers at serious risk. Trauma centers are
8 required to respond to mass emergencies including
9 natural disasters, large scale accidents and terrorist
10 attacks. By their very nature, trauma centers main-
11 tain a constant state of readiness, extra capacity,
12 and strong healthcare facility connections with the
13 local and regional emergency care community.

14 (7) Medical liability exposure and its related
15 costs have contributed to the closing of trauma cen-
16 ters and downgrading of trauma levels. It is impor-
17 tant to find ways to minimize risk to those who pro-
18 vide lifesaving care in those initial critical hours fol-
19 lowing a trauma event.

20 **SEC. 3. GRANTS FOR TRAUMA CARE CENTERS.**

21 Section 1241 of the Public Health Service Act (42
22 U.S.C. 300d-41) is amended by striking subsections (a)
23 and (b) and inserting the following:

24 “(a) IN GENERAL.—The Secretary shall establish 3
25 programs to award grants to qualified public, non-profit,

1 Indian Health Service, Indian tribal, and urban Indian
2 trauma centers—

3 “(1) to assist in defraying substantial uncom-
4 pensated care costs as defined in section 1246;

5 “(2) to further their core missions, including by
6 addressing costs associated with patient stabilization
7 and transfer, trauma education and outreach, co-
8 ordination with local and regional trauma systems,
9 and essential personnel and other fixed costs; and

10 “(3) to provide emergency relief to ensure the
11 continued and future availability of trauma services
12 by trauma centers at risk of closing or centers oper-
13 ating in an area where a closing has occurred within
14 their primary service area.

15 “(b) MINIMUM QUALIFICATIONS OF TRAUMA CEN-
16 TERS.—

17 “(1) PARTICIPATION IN TRAUMA CARE SYSTEM
18 OPERATING UNDER CERTAIN PROFESSIONAL GUIDE-
19 LINES.—Subject to paragraph (2), the Secretary
20 may not award a grant to a trauma center under
21 subsection (a) unless the trauma center involved is
22 a participant in a trauma system that substantially
23 complies with section 1213.

1 “(2) EXEMPTION.—Paragraph (1) shall not
2 apply to trauma centers that are located in States
3 with no existing trauma care system.

4 “(3) QUALIFICATION FOR SUBSTANTIAL UN-
5 COMPENSATED CARE COSTS.—The Secretary shall
6 only award substantial uncompensated care grants
7 under subsection (a)(1) to trauma centers meeting
8 at least 1 of the criteria in 1 of the following 3 cat-
9 egories:

10 “(A) CATEGORY A.—The criteria for cat-
11 egory A are as follows:

12 “(i) At least 50 percent of the visits
13 in the emergency department of the hos-
14 pital in which the trauma center is located
15 were charity or self-pay patients.

16 “(ii) At least 70 percent of the visits
17 in such emergency department were Med-
18 icaid (title XIX of the Social Security Act)
19 and charity and self-pay patients com-
20 bined.

21 “(B) CATEGORY B.—The criteria for cat-
22 egory B are as follows:

23 “(i) At least 35 percent of the visits
24 in such emergency department were char-
25 ity or self-pay patients.

1 “(ii) At least 50 percent of the visits
2 in such emergency department were Med-
3 icaid (title XIX of the Social Security Act)
4 and charity and self-pay patients com-
5 bined.

6 “(C) CATEGORY C.—The criteria for cat-
7 egory C are as follows:

8 “(i) At least 20 percent of the visits
9 in such emergency department were char-
10 ity or self-pay patients.

11 “(ii) At least 30 percent of the visits
12 in such emergency department were Med-
13 icaid (title XIX of the Social Security Act)
14 and charity and self pay patients com-
15 bined.

16 “(4) TRAUMA CENTERS IN 1115 WAIVER
17 STATES.—Notwithstanding paragraph (3), the Sec-
18 retary may award a substantial uncompensated care
19 grant to a trauma center under subsection (a)(1) if
20 the trauma center qualifies for funds under a Low
21 Income Pool or Safety Net Care Pool established
22 through a waiver approved under section 1115 of the
23 Social Security Act.

1 “(c) **ADDITIONAL REQUIREMENTS.**—The Secretary
 2 may not award a grant to a trauma center under sub-
 3 section (a)(1) unless the trauma center involved—

4 “(1) submits to the Secretary a plan satisfac-
 5 tory to the Secretary that—

6 “(A) is developed on the assumption that
 7 the center will continue to incur substantial un-
 8 compensated costs in providing trauma care;
 9 and

10 “(B) provides for the long-term continued
 11 operation of the center at similar or greater lev-
 12 els of medical care than in prior years notwith-
 13 standing such substantial uncompensated costs;

14 “(2) agrees to implement the plan according to
 15 a schedule approved by the Secretary; and

16 “(3) has policies in place to assist patients who
 17 cannot pay for part or all of the care they receive,
 18 including a sliding fee scale, and to ensure fair bill-
 19 ing and collection practices.”.

20 **SEC. 4. CONSIDERATIONS IN MAKING GRANTS.**

21 Section 1242 of the Public Health Service Act (42
 22 U.S.C. 300d–42) is amended by striking subsections (a)
 23 and (b) and inserting the following:

24 “(a) **SUBSTANTIAL UNCOMPENSATED CARE**
 25 **AWARDS.**—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish an award basis for each eligible trauma center
3 for grants under section 1241(a)(1) according to the
4 percentage described in paragraph (2), subject to the
5 requirements of section 1241(b)(3).

6 “(2) PERCENTAGES.—The applicable percent-
7 ages are as follows:

8 “(A) With respect to a category A trauma
9 center, 100 percent of the uncompensated care
10 costs.

11 “(B) With respect to a category B trauma
12 center, not to exceed 75 percent of the uncom-
13 pensated care costs.

14 “(C) With respect to a category C trauma
15 center, not to exceed 50 percent of the uncom-
16 pensated care costs.

17 “(b) CORE MISSION AWARDS.—

18 “(1) IN GENERAL.—In awarding grants under
19 section 1241(a)(2), the Secretary shall—

20 “(A) reserve 25 percent of the amount al-
21 located for core mission awards for Level III
22 and Level IV trauma centers, and reallocate
23 such amount to Level I and Level II trauma
24 centers if there are not sufficient qualifying

1 Level III and IV centers to which such funds
2 may be obligated;

3 “(B) reserve 25 percent of the amount al-
4 located for core mission awards for large urban
5 Level 1 trauma centers that—

6 “(i) have at least 1 graduate medical
7 education fellowship in trauma or trauma
8 related specialties, including neurological
9 surgery, surgical critical care, vascular sur-
10 gery, and spinal cord injury for which de-
11 mand is exceeding supply;

12 “(ii) have either annual uncompen-
13 sated care costs exceeding \$10,000,000 or
14 where at least 20 percent of emergency de-
15 partment visits are charity or self-pay or
16 Medicaid patients; and

17 “(iii) are not eligible for substantial
18 uncompensated care awards under section
19 1241(a)(1); and

20 “(C) give preference to any application
21 made by a trauma center—

22 “(i) in a geographic area where
23 growth in demand for trauma services ex-
24 ceeds capacity; or

1 “(ii) that demonstrates the financial
2 support of the State or political subdivision
3 involved.

4 “(2) FINANCIAL SUPPORT.—For purposes of
5 paragraph (1)(C)(ii), for any of the purposes speci-
6 fied in section 1241 for each fiscal year during
7 which payments are made to the trauma center in-
8 volved from the grant, such financial support may be
9 demonstrated by State or political subdivision fund-
10 ing for the trauma center’s capital or operating ex-
11 penses (including through State trauma regional ad-
12 visory coordination activities or Medicaid funding
13 designated for trauma services, or other govern-
14 mental funding). State funding derived from Federal
15 support provided through the Trauma Systems Plan-
16 ning Grants awarded to States or political subdivi-
17 sions shall not constitute State or local financial
18 support for purposes of preferential treatment under
19 this subsection.

20 “(c) EMERGENCY AWARDS.—In awarding grants
21 under section 1241(a)(3), the Secretary shall—

22 “(1) give preference to any application sub-
23 mitted by a trauma center that demonstrates the fi-
24 nancial support (in accordance with subsection
25 (b)(2)) of the State or political subdivision involved

1 for any of the purposes specified in section 1241 for
2 each fiscal year during which payments are made to
3 the center under the grant;

4 “(2) give preference to any application sub-
5 mitted by a trauma center that—

6 “(A) is providing trauma care in a geo-
7 graphic area in which the availability of trauma
8 care has either significantly decreased as a re-
9 sult of a trauma center in the area permanently
10 ceasing participation in such system as of a
11 date occurring during the 2-year period pre-
12 ceding the fiscal year for which the trauma cen-
13 ter is applying to receive a grant under section
14 1241(a)(3), or in geographic areas where
15 growth in demand for trauma services exceeds
16 capacity;

17 “(B) will, in providing trauma care during
18 the 1-year period beginning on the date on
19 which the application for the grant is sub-
20 mitted, incur substantial uncompensated costs
21 in an amount that renders the center unable to
22 continue participation in such system and re-
23 sults in a significant decrease in the availability
24 of trauma care in the geographic area; or

1 “(C) operates in rural areas where trauma
2 care availability will significantly decrease if the
3 center is forced to close or downgrade service
4 and substantial uncompensated costs are con-
5 tributing to a likelihood of such closure or
6 downgradation; and

7 “(3) reallocate any emergency awards funds not
8 obligated due to insufficient, or a lack of qualified,
9 applications to the significant uncompensated care
10 award program.”.

11 **SEC. 5. CERTAIN AGREEMENTS.**

12 Section 1243 of the Public Health Service Act (42
13 U.S.C. 300d-43) is amended by striking subsections (a),
14 (b), and (c) and inserting the following:

15 “(a) COMMITMENT REGARDING CONTINUED PAR-
16 TICIPATION IN TRAUMA CARE SYSTEM.—The Secretary
17 may not award a grant to a trauma center under section
18 1241(a) unless the trauma center involved agrees that—

19 “(1) the center will continue participation in
20 the system described in section 1241(b), except as
21 provided in subsection (b)(2) of such section,
22 throughout the grant period beginning on the date
23 that the center first receives payments under the
24 grant; and

1 “(2) if the agreement made pursuant to para-
2 graph (1) is violated by the center, the center will
3 be liable to the United States for an amount equal
4 to the sum of—

5 “(A) the amount of assistance provided to
6 the center under section 1241(a); and

7 “(B) an amount representing interest on
8 the amount specified in subparagraph (A).

9 “(b) MAINTENANCE OF FINANCIAL SUPPORT.—With
10 respect to activities for which a grant awarded under sec-
11 tion 1241 are authorized to be expended, the Secretary
12 may not award such a grant unless the trauma center in-
13 volved agrees that, during the period in which the center
14 is receiving payments under the grant, the center will
15 maintain access to trauma services at levels not less than
16 the levels for the prior year, taking into account reason-
17 able volume fluctuation that is not caused by intentional
18 trauma boundary reduction, downgrading of the level of
19 services, or diversion of services in excess of 5 percent.

20 “(c) TRAUMA CARE REGISTRY.—The Secretary may
21 not award a grant under section 1241(a) unless the trau-
22 ma center involved agrees that—

23 “(1) not later than 6 months after the date on
24 which the center submits a grant application to the
25 Secretary, the center will establish and operate a

1 registry of trauma cases in accordance with guide-
2 lines developed by the American College of Surgeons;
3 and

4 “(2) in carrying out paragraph (1), the center
5 will maintain information on the number of trauma
6 cases treated by the center and, for each such case,
7 the extent to which the center incurs substantial un-
8 compensated costs in providing trauma care.”.

9 **SEC. 6. GENERAL PROVISIONS.**

10 Section 1244 of the Public Health Service Act (42
11 U.S.C. 300d–44) is amended by striking subsections (a),
12 (b), and (c) and inserting the following:

13 “(a) APPLICATION.—The Secretary may not award
14 a grant to a trauma center under section 1241(a) unless
15 an application for the grant is submitted by the center
16 to the Secretary and the application is in such form, is
17 made in such manner, and contains such agreements, as-
18 surances, and information as the Secretary determines to
19 be necessary to carry out this part.

20 “(b) LIMITATION ON DURATION OF SUPPORT.—The
21 period during which a trauma center receives payments
22 under a grant under section 1241(a)(3) shall be for 3 fis-
23 cal years, except that the Secretary may waive such re-
24 quirement for the center and authorize the center to re-
25 ceive such payments for 1 additional fiscal year.

1 “(c) LIMITATION ON AMOUNT OF GRANT.—Notwith-
2 standing section 1242(a), a grant under section 1241 may
3 not be made in an amount exceeding \$2,000,000.

4 “(d) ELIGIBILITY.—Except as provided in section
5 1242 (b)(1)(B)(iii), acquisition of, or eligibility for, a
6 grant under section 1241(a) shall not preclude a trauma
7 center’s eligibility for the other grants described in such
8 section.

9 “(e) FUNDING DISTRIBUTION.—Of the total amount
10 appropriated for a fiscal year under section 1245, 70 per-
11 cent shall be used for substantial uncompensated care
12 awards under section 1241(a)(1), 20 percent shall be used
13 for core mission awards under section 1241(a)(2), and 10
14 percent shall be used for emergency awards under section
15 1241(a)(3).

16 “(f) MINIMUM ALLOWANCE.—Notwithstanding sub-
17 section (e), if the amount appropriated for a fiscal year
18 under section 1245 is less than \$25,000,000, all available
19 funding for such fiscal year shall be utilized for substantial
20 uncompensated care awards under section 1241(a)(1).

21 “(g) SUBSTANTIAL UNCOMPENSATED CARE AWARD
22 DISTRIBUTION AND PROPORTIONAL SHARE.—Notwith-
23 standing section 1242(a), of the amount appropriated for
24 substantial uncompensated care grants for a fiscal year,
25 the Secretary shall—

1 “(1) make available—

2 “(A) 50 percent of such funds for category

3 A trauma center grantees;

4 “(B) 35 percent of such funds for category

5 B trauma center grantees; and

6 “(C) 15 percent of such funds for category

7 C trauma center grantees; and

8 “(2) provide available funds within each cat-
9 egory in a manner proportional to the award basis
10 specified in section 1242(a)(2) to each eligible trau-
11 ma center.

12 “(h) REPORT.—Beginning 2 years after the date of
13 enactment of the National Trauma Center Stabilization
14 Act of 2007, and every two years thereafter, the Secretary
15 shall biennially—

16 “(1) report to Congress on the status of the
17 grants made pursuant to section 1241; and

18 “(2) evaluate and report to Congress on the
19 overall financial stability of trauma centers in the
20 United States.”.

21 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 1245 of the Public Health Service Act (42
23 U.S.C. 300d–45) is amended to read as follows:

1 **“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

2 “For the purpose of carrying out this part, there are
3 authorized to be appropriated \$100,000,000 for fiscal year
4 2009, and such sums as may be necessary for each of fis-
5 cal years 2010 through 2014. Such authorization of ap-
6 propriations is in addition to any other authorization of
7 appropriations or amounts that are available for such pur-
8 pose.”.

9 **SEC. 8. DEFINITION.**

10 Part D of title XII of the Public Health Service Act
11 (42 U.S.C. 300d–41 et seq.) is amended by adding at the
12 end the following:

13 **“SEC. 1246. DEFINITION.**

14 “In this part, the term ‘uncompensated care costs’
15 means unreimbursed costs from serving self-pay, charity,
16 or Medicaid patients, without regard to payment under
17 section 1923 of the Social Security Act, all of which are
18 attributable to emergency care and trauma care, including
19 costs related to subsequent inpatient admissions to the
20 hospital.”.

○