H. R. 36

To improve access to emergency medical services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2013

Mr. Dent (for himself and Mr. Sessions) introduced the following bill; which
was referred to the Committee on Energy and Commerce

A BILL

To improve access to emergency medical services, and for
other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Health Care Safety
Net Enhancement Act of 2013”.

SEC. 2. CONSTITUTIONAL AUTHORITY.

The constitutional authority upon which this Act
rests is the power of the Congress to provide for the gen-
eral welfare, to regulate commerce, and to make all laws
which shall be necessary and proper for carrying into exe-
ution Federal powers, as enumerated in section 8 of article I of the Constitution of the United States.

SEC. 3. PROTECTION FOR EMERGENCY AND RELATED SERVICES FURNISHED PURSUANT TO EMTALA.

Section 224(g) of the Public Health Service Act (42 U.S.C. 233(g)) is amended—

(1) in paragraph (4), by striking “An entity” and inserting “Subject to paragraph (6), an entity”;

and

(2) by adding at the end the following:

“(6)(A) For purposes of this section—

“(i) an entity described in subparagraph (B) shall be considered to be an entity described in paragraph (4); and

“(ii) the provisions of this section shall apply to an entity described in subparagraph (B) in the same manner as such provisions apply to an entity described in paragraph (4), except that—

“(I) notwithstanding paragraph (1)(B), the deeming of any entity described in subparagraph (B), or of an officer, governing board member, employee, contractor, or on-call provider of such an enti-
ty, to be an employee of the Public Health Service for purposes of this section shall apply only with respect to items and services that are furnished to an individual pursuant to section 1867 of the Social Security Act and to post stabilization services (as defined in subparagraph (D)) furnished to such an individual;

"(II) nothing in paragraph (1)(D) shall be construed as preventing a physician or physician group described in subparagraph (B)(ii) from making the application referred to in such paragraph or as conditioning the deeming of a physician or physician group that makes such an application upon receipt by the Secretary of an application from the hospital or emergency department that employs or contracts with the physician or group, or enlists the physician or physician group as an on-call provider;

"(III) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts

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or omissions that occur on or after January 1, 2014;

“(IV) paragraph (5) shall not apply to a physician or physician group described in subparagraph (B)(ii);

“(V) the Attorney General, in consultation with the Secretary, shall make separate estimates under subsection (k)(1) with respect to entities described in subparagraph (B) and entities described in paragraph (4) (other than those described in subparagraph (B)), and the Secretary shall establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for entities described in subparagraph (B) shall be separate from the amounts authorized by subsection (k)(2);

“(VI) notwithstanding subsection (k)(2), the amount of the fund established by the Secretary under such subsection with respect to entities described in subparagraph (B) may exceed a total of $10,000,000 for a fiscal year; and
“(VII) subsection (m) shall not apply to entities described in subparagraph (B). “(B) An entity described in this subparagraph is—

“(i) a hospital or an emergency department to which section 1867 of the Social Security Act applies; and

“(ii) a physician or physician group that is employed by, is under contract with, or is an on-call provider of such hospital or emergency department, to furnish items and services to individuals under such section.

“(C) For purposes of this paragraph, the term ‘on-call provider’ means a physician or physician group that—

“(i) has full, temporary, or locum tenens staff privileges at a hospital or emergency department to which section 1867 of the Social Security Act applies; and

“(ii) is not employed by or under contract with such hospital or emergency department, but agrees to be ready and available to provide services pursuant to section 1867 of the Social Security Act or post-stabilization services to individuals being treated in the hospital or emer-
gency department with or without compensation
from the hospital or emergency department.

“(D) For purposes of this paragraph, the term
‘post stabilization services’ means, with respect to an
individual who has been treated by an entity de-
scribed in subparagraph (B) for purposes of com-
plying with section 1867 of the Social Security Act,
services that are—

“(i) related to the condition that was so
treated; and

“(ii) provided after the individual is sta-
bilized in order to maintain the stabilized condi-
tion or to improve or resolve the condition of
the individual.

“(E)(i) Nothing in this paragraph (or in any
other provision of this section as such provision ap-
plies to entities described in subparagraph (B) by
operation of subparagraph (A)) shall be construed as
authorizing or requiring the Secretary to make pay-
ments to such entities, the budget authority for
which is not provided in advance by appropriation
Acts.

“(ii) The Secretary shall limit the total amount
of payments under this paragraph for a fiscal year
to the total amount appropriated in advance by ap-

propriation Acts for such purpose for such fiscal year. If the total amount of payments that would otherwise be made under this paragraph for a fiscal year exceeds such total amount appropriated, the Secretary shall take such steps as may be necessary to ensure that the total amount of payments under this paragraph for such fiscal year does not exceed such total amount appropriated.”.

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