

## Calendar No. 177

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### PREVENT INTERRUPTIONS IN PHYSICAL THERAPY ACT OF 2015

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JULY 30, 2015.—Ordered to be printed  
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Mr. HATCH, from the Committee on Finance,  
submitted the following

### R E P O R T

[To accompany S. 313]

The Committee on Finance, to which was referred the bill (S. 313) to amend title XVIII of the Social Security Act to add physical therapists to the list of providers allowed to utilize locum tenens arrangements under Medicare, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### I. LEGISLATIVE BACKGROUND

The Committee on Finance, to which was referred the bill (S. 313), to amend title XVIII of the Social Security Act to add physical therapists to the list of providers allowed to utilize locum tenens arrangements under Medicare, having considered the same, reports favorably thereon with an amendment, and recommends that the bill, as amended, do pass.

#### *Background and need for legislative action*

Under current law, physicians who are absent from their practices (for reasons such as illness, pregnancy, vacation, or continuing medical education) may retain substitute physicians to take over their practices temporarily. The regular physician may bill and receive payment for the substitute physician's services as though he/she performed them; the regular physician generally pays the substitute physician a fixed amount on a per diem or similar fee-for-time basis, with the substitute physician having the status of an independent contractor rather than of an employee. These substitute physicians are generally called "locum tenens" physicians.

Section 125(b) of the Social Security Act Amendments of 1994 authorized regular physicians to bill Medicare for the services of a locum tenens physicians beginning January 1, 1995. The current Medicare statute (Section 1861(r)) defines a physician as a doctor of medicine or osteopathy, licensed in the state where he or she practices. In addition, for certain purposes and within limitations, a doctor of dental surgery or of dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor is also considered a physician. Health care professionals not included in this list are not physicians under the Medicare program and therefore unable to serve locum tenens.

In many parts of the country, physical therapists are solo practitioners or in small group practices. Patients rely on them for care and when those therapists are absent from their practices, patients may not have access to other providers and therefore may have breaks in care that could be harmful or delay progress in care.

## II. EXPLANATION OF THE BILL

### PRESENT LAW

#### *In general*

Under title XVIII of the Social Security Act,<sup>1</sup> Section 125(b) authorizes regular physicians to bill Medicare for the services of a locum tenens physicians beginning January 1, 1995. Current Medicare statute (Section 1861(r)) defines a physician as a doctor of medicine or osteopathy, licensed in the state where he or she practices. In addition, for certain purposes and within limitations, a doctor of dental surgery or of dental medicine, a doctor of podiatric medicine, a doctor of optometry, or a chiropractor is also considered a physician. Health care professionals not included in this list are not physicians under the Medicare program and therefore unable to serve locum tenens.

### REASONS FOR CHANGE

The Committee recognizes the importance of allowing Medicare beneficiaries who live in rural areas or areas where there is a shortage of health professionals or are medically underserved to have access to physical therapy care. The bill allows physical therapists the same flexibility to bill under a locum tenens arrangements that physicians currently enjoy.

### EXPLANATION OF PROVISION

Under the provision, solely for areas defined as rural, health professional shortage areas, or medically underserved areas, physical therapists will be able to retain substitute therapists to take over their practices when the originating therapist is absent due to illness, pregnancy, vacation, or continuing education. Medicare payments remain the same whether for the originating provider, or the substituting provider.

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<sup>1</sup> Pub. L. No. 74-271.

## EFFECTIVE DATE

The provision applies to services furnished after the date of enactment of this Act.

**III. BUDGET EFFECTS OF THE BILL**

## A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the “Prevent Interruptions in Physical Therapy Act of 2015” as reported.

The bill is estimated to have the following effects on Federal budget receipts for fiscal years 2015–2025:

[Fiscal years—millions of dollars]

2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–20	2016–25
	0	1	2	2	2	2	2	2	2	3	7	18

Note: Details do not add to totals due to rounding.  
Source: Estimate provided by the staff of the Congressional Budget Office.

## B. BUDGET AUTHORITY AND TAX EXPENDITURES

*Budget authority*

In compliance with section 308(a)(1) of the Congressional Budget and Impoundment Control Act of 1974 (“Budget Act”),<sup>2</sup> the Committee states that no provisions of the bill as reported involve new or increased budget authority.

*Tax expenditures*

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue-reducing provisions of the bill involve increased tax expenditures (see revenue table in Part A, above).

*S. 313—Prevent Interruptions in Physical Therapy Act of 2015*

Summary: S. 313 would allow physical therapists in areas with a shortage of health professionals, medically underserved areas, and rural areas to utilize substitute physical therapists, in what are known as locum tenens arrangements, under the Medicare program.

CBO estimates that enacting the legislation would increase direct spending by \$18 million over the 2016–2025 period. Because the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

S. 313 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 313 is shown in the following table. The costs of this legislation fall within budget function 570 (Medicare).

<sup>2</sup>Pub. L. No. 93–344.

	By fiscal year, in millions of dollars—														2016– 2020	2016– 2025
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025						
	CHANGES IN DIRECT SPENDING															
Estimated Budget Authority .....	0	1	2	2	2	2	2	2	2	2	3	7	18			
Estimated Outlays .....	0	1	2	2	2	2	2	2	2	2	3	7	18			

Basis of estimate: Since January 1, 1995, physicians participating in the Medicare program may retain substitute (locum tenens) physicians to take over their professional practices when they are absent. Under a locum tenens arrangement, the physician who is normally scheduled to see a patient may bill and receive payment for the substitute services as though she or he had performed them. The regular physician then pays the locum tenens physician as if that physician were an independent contractor (not an employee).

S. 313 would allow physical therapists participating in the Medicare program to utilize locum tenens arrangements in areas with a shortage of health professionals, medically underserved areas, and rural areas. CBO estimates that enacting S. 313 would increase direct spending for Medicare by \$18 million over the 2016–2025 period.

Companies that specialize in locum tenens staffing already exist. The Bureau of Labor Statistics estimates that in 2012 about one in four physical therapists worked part-time. Part-time physical therapists could be a ready pool of substitutes for physical therapists who participate in the Medicare program. Based on information provided by the American Physical Therapy Association and an analysis of the use of locum tenens for physicians' services, CBO expects that utilization and spending would increase over time as awareness of the policy grew and the marketplace for providing such staffing developed. Taking into account the proportion of spending in rural and underserved areas (about 30 percent), CBO estimates that the legislation would result in an increase in utilization and spending for physical therapy services furnished to Medicare patients of about 0.07 percent by 2019, adding about \$2 million to the roughly \$3 billion in spending for such services projected under current law.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 313, THE PREVENT INTERRUPTIONS IN PHYSICAL THERAPY ACT OF 2015, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON FINANCE ON JUNE 24, 2015

	By fiscal year, in millions of dollars—														2015– 2020	2015– 2025
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025					
	NET INCREASE IN THE DEFICIT															
Statutory Pay-As-You-Go Impact ....	0	0	1	2	2	2	2	2	2	2	3	7	18			

Intergovernmental and private-sector impact: S. 313 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Jamease Kowalczyk; Impact on State, Local, and Tribal Government: J'nell Blanco Suchy; Impact on the Private Sector: Amy Petz.

Estimate approved by: Holly Harvey, Deputy Assistant Director for Budget Analysis.

#### **IV. VOTES OF THE COMMITTEE**

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that, with a majority present, the “Prevent Interruptions in Physical Therapy Act of 2015,” as modified, was ordered favorably reported on June 24, 2015 as follows:

Final Passage of “The Prevent Interruptions in Physical Therapy Act of 2015,” as modified—approved by a voice vote.

#### **V. REGULATORY IMPACT AND OTHER MATTERS**

##### **A. REGULATORY IMPACT**

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

##### *Impact on individuals and businesses, personal privacy and paperwork*

The bill is not expected to impose additional administrative requirements or regulatory burdens on individuals. The bill is expected to reduce administrative requirements and regulatory burdens on some businesses.

The provisions of the bill do not impact personal privacy.

##### **B. UNFUNDED MANDATES STATEMENT**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain any private sector mandates. The Committee has determined that the bill contains no intergovernmental mandate.

#### **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).