

105TH CONGRESS  
2D SESSION

# S. 2061

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities.

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IN THE SENATE OF THE UNITED STATES

MAY 11, 1998

Mr. GRAHAM (for himself, Mr. CHAFEE, Mr. JOHNSON, Mr. HARKIN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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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.

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. RESTRICTIONS ON TRANSFERS OR DIS-**  
4                       **CHARGES OF NURSING FACILITY RESIDENTS**  
5                       **UNDER THE MEDICAID PROGRAM.**

6       (a) IN GENERAL.—Section 1919(d) of the Social Se-  
7       curity Act (42 U.S.C. 1396r(d)) is amended—

8               (1) by redesignating paragraph (4) as para-  
9       graph (5); and

1 (2) by inserting after paragraph (3), the follow-  
 2 ing:

3 “(4) RESTRICTIONS ON TRANSFERS OR DIS-  
 4 CHARGES OF RESIDENTS.—

5 “(A) IN GENERAL.—A nursing facility  
 6 shall not—

7 “(i) transfer or discharge (or seek to  
 8 transfer or discharge) from the facility any  
 9 resident on the basis of the resident’s eligi-  
 10 bility for medical assistance for services  
 11 provided by the facility (and for having  
 12 payment made) under the State plan under  
 13 this title; and

14 “(ii) if the facility ceases or will cease  
 15 to be a participating provider under the  
 16 State plan under this title, transfer or dis-  
 17 charge (or seek to transfer or discharge)  
 18 from the facility any resident on the basis  
 19 of the resident’s eligibility for medical as-  
 20 sistance under the State plan with respect  
 21 to such services.

22 “(B) CONTINUATION OF PAYMENTS AND  
 23 OVERSIGHT AUTHORITY.—Notwithstanding any  
 24 other provision of this title, a facility described  
 25 in subparagraph (A)(ii) shall be deemed to be

a participating provider under the State plan under this title with respect to the residents determined to be eligible for medical assistance under the State plan who remain in the facility after the facility otherwise ceases to be a participating provider under the State plan for purposes of—

“(i) receiving payments under the State plan for services provided to such residents; and

“(ii) maintaining compliance with all applicable requirements of this title.

“(C) NEW RESIDENTS.—This paragraph shall not apply to or affect a facility’s refusal to accept any individual as a new resident of the facility.”.

(b) CLARIFICATION REGARDING TRANSFERS OR DISCHARGES FOR FAILURE TO PAY.—Section 1919(c)(2)(A) of such Act (42 U.S.C. 1396r(c)(2)(A)) is amended, in the matter following clause (vi), by inserting before the period the following: “, and in no case shall the withdrawal or termination of the facility as a participating provider under the State plan under this title be construed as a failure to pay on the part of a resident who has been deter-

1 mined to be eligible for medical assistance for services pro-  
2 vided by the facility under the State plan”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to transfers or discharges occur-  
5 ring on or after the date of enactment of this section.

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