

107TH CONGRESS
2D SESSION

S. 2614

To amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2002

Mr. CORZINE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves.

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 “Patient and Physician

5 Safety and Protection Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

12 (3) The excessive numbers of hours worked by
13 resident-physicians is inherently dangerous for pa-
14 tient care and for the lives of resident-physicians.

15 (4) The scientific literature has consistently
16 demonstrated that the sleep deprivation of the mag-
17 nitude seen in residency training programs leads to
18 cognitive impairment.

19 (5) A substantial body of research indicates
20 that excessive hours worked by resident-physicians
21 lead to higher rates of medical error, motor vehicle
22 accidents, depression, and pregnancy complications.

23 (6) The medical community has not adequately
24 addressed the issue of excessive resident-physician
25 work hours.

8 SEC. 3. REVISION OF MEDICARE HOSPITAL CONDITIONS OF
9 PARTICIPATION REGARDING WORKING
10 HOURS OF RESIDENTS.

11 (a) IN GENERAL.—Section 1866 of the Social Secu-
12 rity Act (42 U.S.C. 1395cc) is amended—

13 (1) in subsection (a)(1)—

14 (A) by striking “and” at the end of sub-
15 paragraph (R);

16 (B) by striking the period at the end of
17 subparagraph (S) and inserting “, and”; and

18 (C) by inserting after subparagraph (S)
19 the following new subparagraph:

20 “(T) in the case of a hospital that uses the
21 services of physician residents or postgraduate train-
22 ees, to meet the requirements of subsection (j).”;
23 and

24 (2) by adding at the end the following new sub-
25 section:

1 “(j)(1)(A) In order that the working conditions and
2 working hours of physicians and postgraduate trainees
3 promote the provision of quality medical care in hospitals,
4 as a condition of participation under this title each hos-
5 pital shall establish the following limits on working hours
6 for certain members of the medical staff and postgraduate
7 trainees:

8 “(i) Subject to subparagraph (C), postgraduate
9 trainees may work no more than a total of 80 hours
10 per week and 24 hours per shift.

11 “(ii) Subject to subparagraph (C), postgraduate
12 trainees—

13 “(I) shall have at least 10 hours between
14 scheduled shifts;

15 “(II) shall have at least 1 full day out of
16 every 7 days off and 1 full weekend off per
17 month;

18 “(III) who are assigned to patient care re-
19 sponsibilities in an emergency department shall
20 work no more than 12 continuous hours in that
21 department; and

22 “(IV) shall not be scheduled to be on call
23 in the hospital more often than every third
24 night.

1 “(B) The Secretary shall promulgate such regulations
2 as may be necessary to ensure quality of care is main-
3 tained during the transfer of direct patient care from 1
4 postgraduate trainee to another at the end of each such
5 24-hour period referred to in subparagraph (A) and shall
6 take into account cases of individual patient emergencies.

7 “(C) The work hour limitations under subparagraph
8 (A) and requirements of subparagraph (B) shall not apply
9 to a hospital during a state of emergency declared by the
10 Secretary that applies with respect to that hospital.

11 “(2) The Secretary shall promulgate such regulations
12 as may be necessary to monitor and supervise post-
13 graduate trainees assigned patient care responsibilities as
14 part of an approved medical training program, as well as
15 to assure quality patient care.

16 “(3) Each hospital shall inform postgraduate trainees
17 of—

18 “(A) their rights under this subsection, includ-
19 ing methods to enforce such rights (including so-
20 called whistle-blower protections); and

21 “(B) the effects of their acute and chronic sleep
22 deprivation both on themselves and on their pa-
23 tients.

1 “(4) For purposes of this subsection, the term ‘post-
2 graduate trainee’ includes a postgraduate intern, resident,
3 or fellow.”.

4 (b) DESIGNATION.—

5 (1) IN GENERAL.—The Secretary of Health and
6 Human Services shall designate an individual within
7 the Department of Health and Human Services to
8 handle all complaints of violations that arise from
9 residents who report that their programs are in vio-
10 lation of the requirements of section 1866(j) of the
11 Social Security Act (as added by subsection (a)).

12 (2) GRIEVANCE RIGHTS.—A postgraduate train-
13 ee or physician resident may file a complaint with
14 the Secretary of Health and Human Services con-
15 cerning a violation of such requirements. Such a
16 complaint may be filed anonymously. The Secretary
17 may conduct an investigation and take such correc-
18 tive action with respect to such a violation.

19 (3) CIVIL MONEY PENALTY ENFORCEMENT.—
20 Any hospital that violates such requirement is sub-
21 ject to a civil money penalty not to exceed \$100,000
22 for each resident training program in any 6-month
23 period. The provisions of section 1128A of the Social
24 Security Act (other than subsections (a) and (b))
25 shall apply to civil money penalties under this para-

1 graph in the same manner as they apply to a pen-
2 alty or proceeding under section 1128A(a) of such
3 Act.

4 (4) DISCLOSURE OF VIOLATIONS AND ANNUAL
5 REPORTS.—The individual designated under para-
6 graph (1) shall—

7 (A) provide for annual anonymous surveys
8 of postgraduate trainees to determine compli-
9 ance with such requirements and for the disclo-
10 sure of the results of such surveys to the public
11 on a residency-program specific basis;

12 (B) based on such surveys, conduct appro-
13 priate on-site investigations;

14 (C) provide for disclosure to the public of
15 violations of and compliance with, on a hospital
16 and residence-program specific basis, such re-
17 quirements; and

18 (D) make an annual report to Congress on
19 the compliance of hospitals with such require-
20 ments, including providing a list of hospitals
21 found to be in violation of such requirements.

22 (c) WHISTLEBLOWER PROTECTIONS.—

23 (1) IN GENERAL.—A hospital covered by the re-
24 quirements of section 1866(j)(1) of the Social Secu-
25 rity Act (as added by subsection (a)) shall not penal-

1 ize, discriminate, or retaliate in any manner against
2 an employee with respect to compensation, terms,
3 conditions, or privileges of employment, who in good
4 faith (as defined in paragraph (2)), individually or
5 in conjunction with another person or persons—

6 (A) reports a violation or suspected viola-
7 tion of such requirements to a public regulatory
8 agency, a private accreditation body, or man-
9 agement personnel of the hospital;

10 (B) initiates, cooperates or otherwise par-
11 ticipates in an investigation or proceeding
12 brought by a regulatory agency or private ac-
13 creditation body concerning matters covered by
14 such requirements;

15 (C) informs or discusses with other em-
16 ployees, with a representative of the employees,
17 with patients or patient representatives, or with
18 the public, violations or suspected violations of
19 such requirements; or

20 (D) otherwise avails himself or herself of
21 the rights set forth in such section or this sub-
22 section.

23 (2) GOOD FAITH DEFINED.—For purposes of
24 this subsection, an employee is deemed to act “in
25 good faith” if the employee reasonably believes—

5 (d) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect on the first July 1 that
7 begins at least 1 year after the date of enactment of this
8 Act.

9 SEC. 4. ADDITIONAL FUNDING FOR HOSPITAL COSTS.

10 There are hereby appropriated to the Secretary of
11 Health and Human Services such amounts as may be re-
12 quired to provide for additional payments to hospitals for
13 their reasonable additional, incremental costs incurred in
14 order to comply with the requirements imposed by this Act
15 (and the amendments made by this Act).

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