

108TH CONGRESS
1ST SESSION

H. R. 1382

To amend title XVIII of the Social Security Act to improve the regulatory operation of the Emergency Medical Treatment and Labor Act (EMTALA).

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2003

Mr. SHADEGG introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to improve the regulatory operation of the Emergency Medical Treatment and Labor Act (EMTALA).

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 “EMTALA Regulatory
5 Improvement Act of 2003”.

6 **SEC. 2. EMTALA IMPROVEMENTS.**

7 (a) NOTIFICATION OF PROVIDERS WHEN EMTALA
8 INVESTIGATION CLOSED.—Section 1867(d) of the Social

1 Security Act (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended
2 by adding at the end the following new paragraph:

3 “(4) NOTICE UPON CLOSING AN INVESTIGA-
4 TION.—The Secretary shall establish a procedure to
5 notify hospitals and physicians when an investigation
6 under this section is closed.”.

7 (b) PRIOR REVIEW BY PEER REVIEW ORGANIZA-
8 TIONS IN EMTALA CASES INVOLVING TERMINATION OF
9 PARTICIPATION.—

10 (1) IN GENERAL.—Section 1867(d)(3) of such
11 Act (42 U.S.C. 1395dd(d)(3)) is amended—

12 (A) in the first sentence, by inserting “or
13 in terminating a hospital’s participation under
14 this title” after “in imposing sanctions under
15 paragraph (1)”; and

16 (B) by adding at the end the following new
17 sentences: “Except in the case in which a delay
18 would jeopardize the health or safety of individ-
19 uals, the Secretary shall also request such a re-
20 view before making a compliance determination
21 as part of the process of terminating a hos-
22 pital’s participation under this title for viola-
23 tions related to the appropriateness of a med-
24 ical screening examination, stabilizing treat-
25 ment, or an appropriate transfer as required by

1 this section, and shall provide a period of 5
 2 days for such review. The Secretary shall pro-
 3 vide a copy of the organization’s report to the
 4 hospital or physician consistent with confiden-
 5 tiality requirements imposed on the organiza-
 6 tion under such part B.”.

7 (2) EFFECTIVE DATE.—The amendments made
 8 by paragraph (1) shall apply to terminations of par-
 9 ticipation initiated on or after the date of the enact-
 10 ment of this Act.

11 **SEC. 3. EMERGENCY MEDICAL TREATMENT AND ACTIVE**
 12 **LABOR ACT (EMTALA) TECHNICAL ADVISORY**
 13 **GROUP.**

14 (a) ESTABLISHMENT.—The Secretary shall establish
 15 a Technical Advisory Group (in this section referred to
 16 as the “Advisory Group”) to review issues related to the
 17 Emergency Medical Treatment and Labor Act
 18 (EMTALA) and its implementation. In this section, the
 19 term “EMTALA” refers to the provisions of section 1867
 20 of the Social Security Act (42 U.S.C. 1395dd).

21 (b) MEMBERSHIP.—The Advisory Group shall be
 22 composed of 19 members, including the Administrator of
 23 the Centers for Medicare & Medicaid Services and the In-
 24 specter General of the Department of Health and Human
 25 Services and of which—

1 (1) 4 shall be representatives of hospitals, in-
2 cluding at least one public hospital, that have experi-
3 ence with the application of EMTALA and at least
4 2 of which have not been cited for EMTALA viola-
5 tions;

6 (2) 7 shall be practicing physicians drawn from
7 the fields of emergency medicine, cardiology or
8 cardiothoracic surgery, orthopedic surgery, neuro-
9 surgery, pediatrics or a pediatric subspecialty, ob-
10 stetrics-gynecology, and psychiatry, with not more
11 than one physician from any particular field;

12 (3) 2 shall represent patients;

13 (4) 2 shall be staff involved in EMTALA inves-
14 tigations from different regional offices of the Cen-
15 ters for Medicare & Medicaid Services; and

16 (5) 1 shall be from a State survey office in-
17 volved in EMTALA investigations and 1 shall be
18 from a peer review organization, both of whom shall
19 be from areas other than the regions represented
20 under paragraph (4).

21 In selecting members described in paragraphs (1) through
22 (3), the Secretary shall consider qualified individuals nom-
23 inated by organizations representing providers and pa-
24 tients.

1 (c) GENERAL RESPONSIBILITIES.—The Advisory
2 Group—

3 (1) shall review EMTALA regulations;

4 (2) may provide advice and recommendations to
5 the Secretary with respect to those regulations and
6 their application to hospitals and physicians;

7 (3) shall solicit comments and recommendations
8 from hospitals, physicians, and the public regarding
9 the implementation of such regulations; and

10 (4) may disseminate information on the applica-
11 tion of such regulations to hospitals, physicians, and
12 the public.

13 (d) ADMINISTRATIVE MATTERS.—

14 (1) CHAIRPERSON.—The members of the Advi-
15 sory Group shall elect a member to serve as chair-
16 person of the Advisory Group for the life of the Ad-
17 visory Group.

18 (2) MEETINGS.—The Advisory Group shall first
19 meet at the direction of the Secretary. The Advisory
20 Group shall then meet twice per year and at such
21 other times as the Advisory Group may provide.

22 (e) TERMINATION.—The Advisory Group shall termi-
23 nate 30 months after the date of its first meeting.

24 (f) WAIVER OF ADMINISTRATIVE LIMITATION.—The
25 Secretary shall establish the Advisory Group notwith-

- 1 standing any limitation that may apply to the number of
- 2 advisory committees that may be established (within the
- 3 Department of Health and Human Services or otherwise).

