

109TH CONGRESS  
1ST SESSION

# H. R. 1200

To provide for health care for every American and to control the cost and enhance the quality of the health care system.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2005

Mr. McDERMOTT (for himself, Mr. RANGEL, Mr. STARK, Mr. GEORGE MILLER of California, Mr. HINCHEY, Mr. DICKS, Ms. WOOLSEY, Mr. FARR, Mr. WEINER, Mr. RUSH, Mr. BROWN of Ohio, Mr. KUCINICH, Mr. PALLONE, Ms. SCHAKOWSKY, Ms. LEE, Mr. CONYERS, Ms. CARSON, Ms. MILLENDER-McDONALD, Mr. OLVER, Mr. PAYNE, Mr. BERMAN, Mr. GRIJALVA, Mrs. CHRISTENSEN, Ms. BALDWIN, Mr. TOWNS, Mr. TIERNEY, Mr. THOMPSON of Mississippi, Mr. SANDERS, and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, and Armed Services, 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

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## A BILL

To provide for health care for every American and to control the cost and enhance the quality of the health care system.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Health Security Act of 2005”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ESTABLISHMENT OF A STATE-BASED AMERICAN  
 HEALTH SECURITY PROGRAM; UNIVERSAL ENTITLEMENT; EN-  
 ROLLMENT

- Sec. 101. Establishment of a State-based American Health Security Program.  
 Sec. 102. Universal entitlement.  
 Sec. 103. Enrollment.  
 Sec. 104. Portability of benefits.  
 Sec. 105. Effective date of benefits.  
 Sec. 106. Relationship to existing Federal health programs.

TITLE II—COMPREHENSIVE BENEFITS, INCLUDING PREVENTIVE  
 BENEFITS AND BENEFITS FOR LONG-TERM CARE

- Sec. 201. Comprehensive benefits.  
 Sec. 202. Definitions relating to services.  
 Sec. 203. Special rules for home and community-based long-term care services.  
 Sec. 204. Exclusions and limitations.  
 Sec. 205. Certification; quality review; plans of care.

TITLE III—PROVIDER PARTICIPATION

- Sec. 301. Provider participation and standards.  
 Sec. 302. Qualifications for providers.  
 Sec. 303. Qualifications for comprehensive health service organizations.  
 Sec. 304. Limitation on certain physician referrals.

TITLE IV—ADMINISTRATION

Subtitle A—General administrative provisions

- Sec. 401. American Health Security Standards Board.  
 Sec. 402. American Health Security Advisory Council.  
 Sec. 403. Consultation with private entities.  
 Sec. 404. State health security programs.  
 Sec. 405. Complementary conduct of related health programs.

Subtitle B—Control over fraud and abuse

- Sec. 411. Application of Federal sanctions to all fraud and abuse under Amer-  
 ican Health Security Program.  
 Sec. 412. Requirements for operation of State health care fraud and abuse con-  
 trol units.

TITLE V—QUALITY ASSESSMENT

- Sec. 501. American Health Security Quality Council.  
 Sec. 502. Development of certain methodologies, guidelines, and standards.  
 Sec. 503. State quality review programs.  
 Sec. 504. Elimination of utilization review programs; transition.

TITLE VI—HEALTH SECURITY BUDGET; PAYMENTS; COST  
CONTAINMENT MEASURES

Subtitle A—Budgeting and payments to States

- Sec. 601. National health security budget.
- Sec. 602. Computation of individual and State capitation amounts.
- Sec. 603. State health security budgets.
- Sec. 604. Federal payments to States.
- Sec. 605. Account for health professional education expenditures.

Subtitle B—Payments by States to providers

- Sec. 611. Payments to hospitals and other facility-based services for operating expenses on the basis of approved global budgets.
- Sec. 612. Payments to health care practitioners based on prospective fee schedule.
- Sec. 613. Payments to comprehensive health service organizations.
- Sec. 614. Payments for community-based primary health services.
- Sec. 615. Payments for prescription drugs.
- Sec. 616. Payments for approved devices and equipment.
- Sec. 617. Payments for other items and services.
- Sec. 618. Payment incentives for medically underserved areas.
- Sec. 619. Authority for alternative payment methodologies.

Subtitle C—Mandatory assignment and administrative provisions

- Sec. 631. Mandatory assignment.
- Sec. 632. Procedures for reimbursement; appeals.

TITLE VII—PROMOTION OF PRIMARY HEALTH CARE; DEVELOPMENT OF HEALTH SERVICE CAPACITY; PROGRAMS TO ASSIST THE MEDICALLY UNDERSERVED

Subtitle A—Promotion and expansion of primary care professional training

- Sec. 701. Role of Board; establishment of primary care professional output goals.
- Sec. 702. Establishment of Advisory Committee on Health Professional Education.
- Sec. 703. Grants for health professions education, nurse education, and the National Health Service Corps.

Subtitle B—Direct health care delivery

- Sec. 711. Setaside for public health.
- Sec. 712. Setaside for primary health care delivery.
- Sec. 713. Primary care service expansion grants.

Subtitle C—Primary care and outcomes research

- Sec. 721. Set-aside for outcomes research.
- Sec. 722. Office of Primary Care and Prevention Research.

Subtitle D—School-related health services

- Sec. 731. Authorizations of appropriations.
- Sec. 732. Eligibility for development and operation grants.
- Sec. 733. Preferences.

- Sec. 734. Grants for development of projects.
- Sec. 735. Grants for operation of projects.
- Sec. 736. Federal administrative costs.
- Sec. 737. Definitions.

#### TITLE VIII—FINANCING PROVISIONS; AMERICAN HEALTH SECURITY TRUST FUND

- Sec. 800. Amendment of 1986 code; section 15 not to apply.

##### Subtitle A—American Health Security Trust Fund

- Sec. 801. American Health Security Trust Fund.

##### Subtitle B—Taxes based on income and wages

- Sec. 811. Payroll tax on employers.
- Sec. 812. Health care income tax.

##### Subtitle C—Increase in excise taxes on tobacco products

- Sec. 821. Increase in excise taxes on tobacco products.

#### TITLE IX—CONFORMING AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

- Sec. 901. ERISA inapplicable to health coverage arrangements under State health security programs.
- Sec. 902. Exemption of State health security programs from ERISA preemption.
- Sec. 903. Prohibition of employee benefits duplicative of benefits under State health security programs; coordination in case of workers' compensation.
- Sec. 904. Repeal of continuation coverage requirements under ERISA and certain other requirements relating to group health plans.
- Sec. 905. Effective date of title.

#### TITLE X—ADDITIONAL CONFORMING AMENDMENTS

- Sec. 1001. Repeal of certain provisions in Internal Revenue Code of 1986.
- Sec. 1002. Repeal of certain provisions in the Employee Retirement Income Security Act of 1974.
- Sec. 1003. Repeal of certain provisions in the Public Health Service Act and related provisions.
- Sec. 1004. Effective date of title.

1 **TITLE I—ESTABLISHMENT OF A**  
2 **STATE-BASED AMERICAN**  
3 **HEALTH SECURITY PRO-**  
4 **GRAM; UNIVERSAL ENTITLE-**  
5 **MENT; ENROLLMENT**

6 **SEC. 101. ESTABLISHMENT OF A STATE-BASED AMERICAN**  
7 **HEALTH SECURITY PROGRAM.**

8 (a) IN GENERAL.—There is hereby established in the  
9 United States a State-Based American Health Security  
10 Program to be administered by the individual States in  
11 accordance with Federal standards specified in, or estab-  
12 lished under, this Act.

13 (b) STATE HEALTH SECURITY PROGRAMS.—In order  
14 for a State to be eligible to receive payment under section  
15 604, a State must establish a State health security pro-  
16 gram in accordance with this Act.

17 (c) STATE DEFINED.—

18 (1) IN GENERAL.—In this Act, subject to para-  
19 graph (2), the term “State” means each of the 50  
20 States and the District of Columbia.

21 (2) ELECTION.—If the Governor of Puerto  
22 Rico, the Virgin Islands, Guam, American Samoa, or  
23 the Northern Mariana Islands certifies to the Presi-  
24 dent that the legislature of the Commonwealth or  
25 territory has enacted legislation desiring that the

1 Commonwealth or territory be included as a State  
2 under the provisions of this Act, such Common-  
3 wealth or territory shall be included as a “State”  
4 under this Act beginning January 1 of the first year  
5 beginning 90 days after the President receives the  
6 notification.

7 **SEC. 102. UNIVERSAL ENTITLEMENT.**

8 (a) IN GENERAL.—Every individual who is a resident  
9 of the United States and is a citizen or national of the  
10 United States or lawful resident alien (as defined in sub-  
11 section (d)) is entitled to benefits for health care services  
12 under this Act under the appropriate State health security  
13 program. In this section, the term “appropriate State  
14 health security program” means, with respect to an indi-  
15 vidual, the State health security program for the State in  
16 which the individual maintains a primary residence.

17 (b) TREATMENT OF CERTAIN NONIMMIGRANTS.—

18 (1) IN GENERAL.—The American Health Secu-  
19 rity Standards Board (in this Act referred to as the  
20 “Board”) may make eligible for benefits for health  
21 care services under the appropriate State health se-  
22 curity program under this Act such classes of aliens  
23 admitted to the United States as nonimmigrants as  
24 the Board may provide.

1           (2) CONSIDERATION.—In providing for eligi-  
2           bility under paragraph (1), the Board shall consider  
3           reciprocity in health care services offered to United  
4           States citizens who are nonimmigrants in other for-  
5           eign states, and such other factors as the Board de-  
6           termines to be appropriate.

7           (c) TREATMENT OF OTHER INDIVIDUALS.—

8           (1) BY BOARD.—The Board also may make eli-  
9           gible for benefits for health care services under the  
10          appropriate State health security program under this  
11          Act other individuals not described in subsection (a)  
12          or (b), and regulate the nature of the eligibility of  
13          such individuals, in order—

14                (A) to preserve the public health of com-  
15          munities;

16                (B) to compensate States for the addi-  
17          tional health care financing burdens created by  
18          such individuals; and

19                (C) to prevent adverse financial and med-  
20          ical consequences of uncompensated care,  
21          while inhibiting travel and immigration to the  
22          United States for the sole purpose of obtaining  
23          health care services.

1           (2) BY STATES.—Any State health security pro-  
2       gram may make individuals described in paragraph  
3       (1) eligible for benefits at the expense of the State.

4       (d) LAWFUL RESIDENT ALIEN DEFINED.—For pur-  
5       poses of this section, the term “lawful resident alien”  
6       means an alien lawfully admitted for permanent residence  
7       and any other alien lawfully residing permanently in the  
8       United States under color of law, including an alien with  
9       lawful temporary resident status under section 210, 210A,  
10      or 234A of the Immigration and Nationality Act (8 U.S.C.  
11      1160, 1161, or 1255a).

12   **SEC. 103. ENROLLMENT.**

13       (a) IN GENERAL.—Each State health security pro-  
14      gram shall provide a mechanism for the enrollment of indi-  
15      viduals entitled or eligible for benefits under this Act. The  
16      mechanism shall—

17           (1) include a process for the automatic enroll-  
18      ment of individuals at the time of birth in the  
19      United States and at the time of immigration into  
20      the United States or other acquisition of lawful resi-  
21      dent status in the United States;

22           (2) provide for the enrollment, as of January 1,  
23      2007, of all individuals who are eligible to be en-  
24      rolled as of such date; and



1           (3) include a process for the enrollment of indi-  
2       viduals made eligible for health care services under  
3       subsections (b) and (c) of section 102.

4       (b) AVAILABILITY OF APPLICATIONS.—Each State  
5       health security program shall make applications for enroll-  
6       ment under the program available—

7           (1) at employment and payroll offices of em-  
8       ployers located in the State;

9           (2) at local offices of the Social Security Ad-  
10      ministration;

11          (3) at social services locations;

12          (4) at out-reach sites (such as provider and  
13      practitioner locations); and

14          (5) at other locations (including post offices  
15      and schools) accessible to a broad cross-section of in-  
16      dividuals eligible to enroll.

17      (c) ISSUANCE OF HEALTH SECURITY CARDS.—In  
18      conjunction with an individual's enrollment for benefits  
19      under this Act, the State health security program shall  
20      provide for the issuance of a health security card that shall  
21      be used for purposes of identification and processing of  
22      claims for benefits under the program. The State health  
23      security program may provide for issuance of such cards  
24      by employers for purposes of carrying out enrollment pur-  
25      suant to subsection (a)(2).

1 **SEC. 104. PORTABILITY OF BENEFITS.**

2 (a) IN GENERAL.—To ensure continuous access to  
3 benefits for health care services covered under this Act,  
4 each State health security program—

5 (1) shall not impose any minimum period of  
6 residence in the State, or waiting period, in excess  
7 of 3 months before residents of the State are enti-  
8 tled to, or eligible for, such benefits under the pro-  
9 gram;

10 (2) shall provide continuation of payment for  
11 covered health care services to individuals who have  
12 terminated their residence in the State and estab-  
13 lished their residence in another State, for the dura-  
14 tion of any waiting period imposed in the State of  
15 new residency for establishing entitlement to, or eli-  
16 gibility for, such services; and

17 (3) shall provide for the payment for health  
18 care services covered under this Act provided to indi-  
19 viduals while temporarily absent from the State  
20 based on the following principles:

21 (A) Payment for such health care services  
22 is at the rate that is approved by the State  
23 health security program in the State in which  
24 the services are provided, unless the States con-  
25 cerned agree to apportion the cost between  
26 them in a different manner.

1 (B) Payment for such health care services  
2 provided outside the United States is made on  
3 the basis of the amount that would have been  
4 paid by the State health security program for  
5 similar services rendered in the State, with due  
6 regard, in the case of hospital services, to the  
7 size of the hospital, standards of service, and  
8 other relevant factors.

9 (b) CROSS-BORDER ARRANGEMENTS.—A State  
10 health security program for a State may negotiate with  
11 such a program in an adjacent State a reciprocal arrange-  
12 ment for the coverage under such other program of health  
13 care services to enrollees residing in the border region.

14 **SEC. 105. EFFECTIVE DATE OF BENEFITS.**

15 Benefits shall first be available under this Act for  
16 items and services furnished on or after January 1, 2007.

17 **SEC. 106. RELATIONSHIP TO EXISTING FEDERAL HEALTH**  
18 **PROGRAMS.**

19 (a) MEDICARE, MEDICAID AND STATE CHILDREN’S  
20 HEALTH INSURANCE PROGRAM (SCHIP).—

21 (1) IN GENERAL.—Notwithstanding any other  
22 provision of law, subject to paragraph (2)—

23 (A) no benefits shall be available under  
24 title XVIII of the Social Security Act for any

1 item or service furnished after December 31,  
2 2006;

3 (B) no individual is entitled to medical as-  
4 sistance under a State plan approved under  
5 title XIX of such Act for any item or service  
6 furnished after such date;

7 (C) no individual is entitled to medical as-  
8 sistance under an SCHIP plan under title XXI  
9 of such Act for any item or service furnished  
10 after such date; and

11 (D) no payment shall be made to a State  
12 under section 1903(a) or 2105(a) of such Act  
13 with respect to medical assistance or child  
14 health assistance for any item or service fur-  
15 nished after such date.

16 (2) TRANSITION.—In the case of inpatient hos-  
17 pital services and extended care services during a  
18 continuous period of stay which began before Janu-  
19 ary 1, 2007, and which had not ended as of such  
20 date, for which benefits are provided under title  
21 XVIII, under a State plan under title XIX, or a  
22 State child health plan under title XXI, of the Social  
23 Security Act, the Secretary of Health and Human  
24 Services and each State plan, respectively, shall pro-

1       vide for continuation of benefits under such title or  
2       plan until the end of the period of stay.

3       (b) FEDERAL EMPLOYEES HEALTH BENEFITS PRO-  
4       GRAM.—No benefits shall be made available under chapter  
5       89 of title 5, United States Code, for any part of a cov-  
6       erage period occurring after December 31, 2006.

7       (c) CHAMPUS.—No benefits shall be made available  
8       under sections 1079 and 1086 of title 10, United States  
9       Code, for items or services furnished after December 31,  
10      2006.

11      (d) TREATMENT OF BENEFITS FOR VETERANS AND  
12      NATIVE AMERICANS.—Nothing in this Act shall affect the  
13      eligibility of veterans for the medical benefits and services  
14      provided under title 38, United States Code, or of Indians  
15      for the medical benefits and services provided by or  
16      through the Indian Health Service.

17      **TITLE II—COMPREHENSIVE BEN-**  
18      **EFITS, INCLUDING PREVEN-**  
19      **TIVE BENEFITS AND BENE-**  
20      **FITS FOR LONG-TERM CARE**

21      **SEC. 201. COMPREHENSIVE BENEFITS.**

22      (a) IN GENERAL.—Subject to the succeeding provi-  
23      sions of this title, individuals enrolled for benefits under  
24      this Act are entitled to have payment made under a State  
25      health security program for the following items and serv-

1 ices if medically necessary or appropriate for the mainte-  
2 nance of health or for the diagnosis, treatment, or rehabili-  
3 tation of a health condition:

4 (1) HOSPITAL SERVICES.—Inpatient and out-  
5 patient hospital care, including 24-hour-a-day emer-  
6 gency services.

7 (2) PROFESSIONAL SERVICES.—Professional  
8 services of health care practitioners authorized to  
9 provide health care services under State law, includ-  
10 ing patient education and training in self-manage-  
11 ment techniques.

12 (3) COMMUNITY-BASED PRIMARY HEALTH  
13 SERVICES.—Community-based primary health serv-  
14 ices (as defined in section 202(a)).

15 (4) PREVENTIVE SERVICES.—Preventive serv-  
16 ices (as defined in section 202(b)).

17 (5) LONG-TERM, ACUTE, AND CHRONIC CARE  
18 SERVICES.—

19 (A) Nursing facility services.

20 (B) Home health services.

21 (C) Home and community-based long-term  
22 care services (as defined in section 202(c)) for  
23 individuals described in section 203(a).

24 (D) Hospice care.

1 (E) Services in intermediate care facilities  
2 for individuals with mental retardation.

3 (6) PRESCRIPTION DRUGS, BIOLOGICALS, INSU-  
4 LIN, MEDICAL FOODS.—

5 (A) Outpatient prescription drugs and bio-  
6 logics, as specified by the Board consistent with  
7 section 615.

8 (B) Insulin.

9 (C) Medical foods (as defined in section  
10 202(e)).

11 (7) DENTAL SERVICES.—Dental services (as de-  
12 fined in section 202(h)).

13 (8) MENTAL HEALTH AND SUBSTANCE ABUSE  
14 TREATMENT SERVICES.—Mental health and sub-  
15 stance abuse treatment services (as defined in sec-  
16 tion 202(f)).

17 (9) DIAGNOSTIC TESTS.—Diagnostic tests.

18 (10) OTHER ITEMS AND SERVICES.—

19 (A) OUTPATIENT THERAPY.—Outpatient  
20 physical therapy services, outpatient speech pa-  
21 thology services, and outpatient occupational  
22 therapy services in all settings.

23 (B) DURABLE MEDICAL EQUIPMENT.—Du-  
24 rable medical equipment.

1 (C) HOME DIALYSIS.—Home dialysis sup-  
2 plies and equipment.

3 (D) AMBULANCE.—Emergency ambulance  
4 service.

5 (E) PROSTHETIC DEVICES.—Prosthetic de-  
6 vices, including replacements of such devices.

7 (F) ADDITIONAL ITEMS AND SERVICES.—  
8 Such other medical or health care items or serv-  
9 ices as the Board may specify.

10 (b) COST-SHARING.—

11 (1) IN GENERAL.—Except as provided in this  
12 subsection, there are no deductibles, coinsurance, or  
13 copayments applicable to acute care and preventive  
14 benefits provided under this title.

15 (2) COST-SHARING FOR LONG-TERM CARE  
16 SERVICES.—

17 (A) IN GENERAL.—

18 (i) payments for home and commu-  
19 nity-based long-term care services are sub-  
20 ject to coinsurance of 20 percent; and

21 (ii) payments for nursing facility serv-  
22 ices are subject to coinsurance of 35 per-  
23 cent.



1 (B) EXCEPTION.—With respect to the co-  
2 insurance established under subparagraph  
3 (A)—

- 4 (i) such coinsurance shall not apply to  
5 an individual with income (as defined by  
6 the Secretary) of not more than 100 per-  
7 cent of the income official poverty line ap-  
8 plicable to a family of the size involved;  
9 and
- 10 (ii) in the case of an individual with  
11 such income that exceeds 100 percent, but  
12 is less than 200 percent, of such applicable  
13 poverty line, the coinsurance shall be re-  
14 duced in the same proportion as the pro-  
15 portion of such income is less than 200  
16 percent of such applicable poverty line.

17 (c) PROHIBITION OF BALANCE BILLING.—As pro-  
18 vided in section 531, no person may impose a charge for  
19 covered services for which benefits are provided under this  
20 Act.

21 (d) NO DUPLICATE HEALTH INSURANCE.—Each  
22 State health security program shall prohibit the sale of  
23 health insurance in the State if payment under the insur-  
24 ance duplicates payment for any items or services for  
25 which payment may be made under such a program.

1 (e) STATE PROGRAM MAY PROVIDE ADDITIONAL  
2 BENEFITS.—Nothing in this Act shall be construed as  
3 limiting the benefits that may be made available under a  
4 State health security program to residents of the State  
5 at the expense of the State.

6 (f) EMPLOYERS MAY PROVIDE ADDITIONAL BENE-  
7 FITS.—Nothing in this Act shall be construed as limiting  
8 the additional benefits that an employer may provide to  
9 employees or their dependents, or to former employees or  
10 their dependents.

11 **SEC. 202. DEFINITIONS RELATING TO SERVICES.**

12 (a) COMMUNITY-BASED PRIMARY HEALTH SERV-  
13 ICES.—In this title, the term “community-based primary  
14 health services” means ambulatory health services fur-  
15 nished—

16 (1) by a rural health clinic;

17 (2) by a federally qualified health center (as de-  
18 fined in section 1905(l)(2)(B) of the Social Security  
19 Act), and which, for purposes of this Act, include  
20 services furnished by State and local health agencies;

21 (3) in a school-based setting;

22 (4) by public educational agencies and other  
23 providers of services to children entitled to assist-  
24 ance under the Individuals with Disabilities Edu-  
25 cation Act for services furnished pursuant to a writ-

1       ten Individualized Family Services Plan or Indi-  
2       vidual Education Plan under such Act; and

3               (5) public and private nonprofit entities receiv-  
4       ing Federal assistance under the Public Health  
5       Service Act.

6       (b) PREVENTIVE SERVICES.—

7               (1) IN GENERAL.—In this title, the term “pre-  
8       ventive services” means items and services—

9                       (A) which—

10                               (i) are specified in paragraph (2); or

11                               (ii) the Board determines to be effec-  
12       tive in the maintenance and promotion of  
13       health or minimizing the effect of illness,  
14       disease, or medical condition; and

15                       (B) which are provided consistent with the  
16       periodicity schedule established under para-  
17       graph (3).

18       (2) SPECIFIED PREVENTIVE SERVICES.—The  
19       services specified in this paragraph are as follows:

20                       (A) Basic immunizations.

21                       (B) Prenatal and well-baby care (for in-  
22       fants under 1 year of age).

23                       (C) Well-child care (including periodic  
24       physical examinations, hearing and vision  
25       screening, and developmental screening and ex-

1           aminations) for individuals under 18 years of  
2           age.

3           (D) Periodic screening mammography, Pap  
4           smears, and colorectal examinations and exami-  
5           nations for prostate cancer.

6           (E) Physical examinations.

7           (F) Family planning services.

8           (G) Routine eye examinations, eyeglasses,  
9           and contact lenses.

10          (H) Hearing aids, but only upon a deter-  
11          mination of a certified audiologist or physician  
12          that a hearing problem exists and is caused by  
13          a condition that can be corrected by use of a  
14          hearing aid.

15          (3) SCHEDULE.—The Board shall establish, in  
16          consultation with experts in preventive medicine and  
17          public health and taking into consideration those  
18          preventive services recommended by the Preventive  
19          Services Task Force and published as the Guide to  
20          Clinical Preventive Services, a periodicity schedule  
21          for the coverage of preventive services under para-  
22          graph (1). Such schedule shall take into consider-  
23          ation the cost-effectiveness of appropriate preventive  
24          care and shall be revised not less frequently than

1       once every 5 years, in consultation with experts in  
2       preventive medicine and public health.

3       (c) HOME AND COMMUNITY-BASED LONG-TERM  
4 CARE SERVICES.—In this title, the term “home and com-  
5 munity-based long-term care services” means the following  
6 services provided to an individual to enable the individual  
7 to remain in such individual’s place of residence within  
8 the community:

9           (1) Home health aide services.

10          (2) Adult day health care, social day care or  
11 psychiatric day care.

12          (3) Medical social work services.

13          (4) Care coordination services, as defined in  
14 subsection (g)(1).

15          (5) Respite care, including training for informal  
16 caregivers.

17          (6) Personal assistance services, and home-  
18 maker services (including meals) incidental to the  
19 provision of personal assistance services.

20       (d) HOME HEALTH SERVICES.—

21           (1) IN GENERAL.—The term “home health  
22 services” means items and services described in sec-  
23 tion 1861(m) of the Social Security Act and includes  
24 home infusion services.

1           (2) HOME INFUSION SERVICES.—The term  
2       “home infusion services” includes the nursing, phar-  
3       macy, and related services that are necessary to con-  
4       duct the home infusion of a drug regimen safely and  
5       effectively under a plan established and periodically  
6       reviewed by a physician and that are provided in  
7       compliance with quality assurance requirements es-  
8       tablished by the Secretary.

9       (e) MEDICAL FOODS.—In this title, the term “med-  
10      ical foods” means foods which are formulated to be con-  
11      sumed or administered enterally under the supervision of  
12      a physician and which are intended for the specific dietary  
13      management of a disease or condition for which distinctive  
14      nutritional requirements, based on recognized scientific  
15      principles, are established by medical evaluation.

16      (f) MENTAL HEALTH AND SUBSTANCE ABUSE  
17      TREATMENT SERVICES.—

18           (1) SERVICES DESCRIBED.—In this title, the  
19      term “mental health and substance abuse treatment  
20      services” means the following services related to the  
21      prevention, diagnosis, treatment, and rehabilitation  
22      of mental illness and promotion of mental health:

23           (A) INPATIENT HOSPITAL SERVICES.—In-  
24      patient hospital services furnished primarily for  
25      the diagnosis or treatment of mental illness or

1 substance abuse for up to 60 days during a  
2 year, reduced by a number of days determined  
3 by the Secretary so that the actuarial value of  
4 providing such number of days of services  
5 under this paragraph to the individual is equal  
6 to the actuarial value of the days of inpatient  
7 residential services furnished to the individual  
8 under subparagraph (B) during the year after  
9 such services have been furnished to the indi-  
10 vidual for 120 days during the year (rounded to  
11 the nearest day), but only if (with respect to  
12 services furnished to an individual described in  
13 section 204(b)(1)) such services are furnished  
14 in conformity with the plan of an organized sys-  
15 tem of care for mental health and substance  
16 abuse services in accordance with section  
17 204(b)(2).

18 (B) INTENSIVE RESIDENTIAL SERVICES.—

19 Intensive residential services (as defined in  
20 paragraph (2)) furnished to an individual for  
21 up to 120 days during any calendar year, ex-  
22 cept that—

23 (i) such services may be furnished to  
24 the individual for additional days during  
25 the year if necessary for the individual to

1 complete a course of treatment to the ex-  
2 tent that the number of days of inpatient  
3 hospital services described in subparagraph  
4 (A) that may be furnished to the individual  
5 during the year (as reduced under such  
6 subparagraph) is not less than 15; and

7 (ii) reduced by a number of days de-  
8 termined by the Secretary so that the actu-  
9 arial value of providing such number of  
10 days of services under this paragraph to  
11 the individual is equal to the actuarial  
12 value of the days of intensive community-  
13 based services furnished to the individual  
14 under subparagraph (D) during the year  
15 after such services have been furnished to  
16 the individual for 90 days (or, in the case  
17 of services described in subparagraph  
18 (D)(ii), for 180 days) during the year  
19 (rounded to the nearest day).

20 (C) OUTPATIENT SERVICES.—Outpatient  
21 treatment services of mental illness or sub-  
22 stance abuse (other than intensive community-  
23 based services under subparagraph (D)) for an  
24 unlimited number of days during any calendar  
25 year furnished in accordance with standards es-



1           tablished by the Secretary for the management  
2           of such services, and, in the case of services fur-  
3           nished to an individual described in section  
4           204(b)(1) who is not an inpatient of a hospital,  
5           in conformity with the plan of an organized sys-  
6           tem of care for mental health and substance  
7           abuse services in accordance with section  
8           204(b)(2).

9           (D) INTENSIVE COMMUNITY-BASED SERV-  
10          ICES.—Intensive community-based services (as  
11          described in paragraph (3))—

12                 (i) for an unlimited number of days  
13                 during any calendar year, in the case of  
14                 services described in section 1861(ff)(2)(E)  
15                 that are furnished to an individual who is  
16                 a seriously mentally ill adult, a seriously  
17                 emotionally disturbed child, or an adult or  
18                 child with serious substance abuse disorder  
19                 (as determined in accordance with criteria  
20                 established by the Secretary);

21                 (ii) in the case of services described in  
22                 section 1861(ff)(2)(C), for up to 180 days  
23                 during any calendar year, except that such  
24                 services may be furnished to the individual  
25                 for a number of additional days during the

1 year equal to the difference between the  
2 total number of days of intensive residen-  
3 tial services which the individual may re-  
4 ceive during the year under part A (as de-  
5 termined under subparagraph (B)) and the  
6 number of days of such services which the  
7 individual has received during the year; or

8 (iii) in the case of any other such  
9 services, for up to 90 days during any cal-  
10 endar year, except that such services may  
11 be furnished to the individual for the num-  
12 ber of additional days during the year de-  
13 scribed in clause (ii).

14 (2) INTENSIVE RESIDENTIAL SERVICES DE-

15 FINED.—

16 (A) IN GENERAL.—Subject to subpara-  
17 graphs (B) and (C), the term “intensive resi-  
18 dential services” means inpatient services pro-  
19 vided in any of the following facilities:

20 (i) Residential detoxification centers.

21 (ii) Crisis residential programs or  
22 mental illness residential treatment pro-  
23 grams.

24 (iii) Therapeutic family or group  
25 treatment homes.

1 (iv) Residential centers for substance  
2 abuse treatment.

3 (B) REQUIREMENTS FOR FACILITIES.—No  
4 service may be treated as an intensive residen-  
5 tial service under subparagraph (A) unless the  
6 facility at which the service is provided—

7 (i) is legally authorized to provide  
8 such service under the law of the State (or  
9 under a State regulatory mechanism pro-  
10 vided by State law) in which the facility is  
11 located or is certified to provide such serv-  
12 ice by an appropriate accreditation entity  
13 approved by the State in consultation with  
14 the Secretary; and

15 (ii) meets such other requirements as  
16 the Secretary may impose to assure the  
17 quality of the intensive residential services  
18 provided.

19 (C) SERVICES FURNISHED TO AT-RISK  
20 CHILDREN.—In the case of services furnished  
21 to an individual described in section 204(b)(1),  
22 no service may be treated as an intensive resi-  
23 dential service under this subsection unless the  
24 service is furnished in conformity with the plan  
25 of an organized system of care for mental

1 health and substance abuse services in accord-  
 2 ance with section 204(b)(2).

3 (D) MANAGEMENT STANDARDS.—No serv-  
 4 ice may be treated as an intensive residential  
 5 service under subparagraph (A) unless the serv-  
 6 ice is furnished in accordance with standards  
 7 established by the Secretary for the manage-  
 8 ment of such services.

9 (3) INTENSIVE COMMUNITY-BASED SERVICES  
 10 DEFINED.—

11 (A) IN GENERAL.—The term “intensive  
 12 community-based services” means the items  
 13 and services described in subparagraph (B) pre-  
 14 scribed by a physician (or, in the case of serv-  
 15 ices furnished to an individual described in sec-  
 16 tion 204(b)(1), by an organized system of care  
 17 for mental health and substance abuse services  
 18 in accordance with such section) and provided  
 19 under a program described in subparagraph  
 20 (D) under the supervision of a physician (or, to  
 21 the extent permitted under the law of the State  
 22 in which the services are furnished, a non-phy-  
 23 sician mental health professional) pursuant to  
 24 an individualized, written plan of treatment es-  
 25 tablished and periodically reviewed by a physi-

1           cian (in consultation with appropriate staff par-  
2           ticipating in such program) which sets forth the  
3           physician's diagnosis, the type, amount, fre-  
4           quency, and duration of the items and services  
5           provided under the plan, and the goals for  
6           treatment under the plan, but does not include  
7           any item or service that is not furnished in ac-  
8           cordance with standards established by the Sec-  
9           retary for the management of such services.

10           (B) ITEMS AND SERVICES DESCRIBED.—

11           The items and services described in this sub-  
12           paragraph are—

13                   (i) partial hospitalization services con-  
14                   sisting of the items and services described  
15                   in subparagraph (C);

16                   (ii) psychiatric rehabilitation services;

17                   (iii) day treatment services for indi-  
18                   viduals under 19 years of age;

19                   (iv) in-home services;

20                   (v) case management services, includ-  
21                   ing collateral services designated as such  
22                   case management services by the Sec-  
23                   retary;

24                   (vi) ambulatory detoxification services;

25                   and

(vii) such other items and services as the Secretary may provide (but in no event to include meals and transportation), that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

(C) ITEMS AND SERVICES INCLUDED AS PARTIAL HOSPITALIZATION SERVICES.—For purposes of subparagraph (B)(i), partial hospitalization services consist of the following:

(i) Individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law).

(ii) Occupational therapy requiring the skills of a qualified occupational therapist.

1 (iii) Services of social workers, trained  
2 psychiatric nurses, behavioral aides, and  
3 other staff trained to work with psychiatric  
4 patients (to the extent authorized under  
5 State law).

6 (iv) Drugs and biologicals furnished  
7 for therapeutic purposes (which cannot, as  
8 determined in accordance with regulations,  
9 be self-administered).

10 (v) Individualized activity therapies  
11 that are not primarily recreational or di-  
12 versionary.

13 (vi) Family counseling (the primary  
14 purpose of which is treatment of the indi-  
15 vidual's condition).

16 (vii) Patient training and education  
17 (to the extent that training and edu-  
18 cational activities are closely and clearly  
19 related to the individual's care and treat-  
20 ment).

21 (viii) Diagnostic services.

22 (D) PROGRAMS DESCRIBED.—A program  
23 described in this subparagraph is a program  
24 (whether facility-based or freestanding) which is  
25 furnished by an entity—

1 (i) legally authorized to furnish such a  
2 program under State law (or the State reg-  
3 ulatory mechanism provided by State law)  
4 or certified to furnish such a program by  
5 an appropriate accreditation entity ap-  
6 proved by the State in consultation with  
7 the Secretary; and

8 (ii) meeting such other requirements  
9 as the Secretary may impose to assure the  
10 quality of the intensive community-based  
11 services provided.

12 (g) CARE COORDINATION SERVICES.—

13 (1) IN GENERAL.—In this title, the term “care  
14 coordination services” means services provided by  
15 care coordinators (as defined in paragraph (2)) to  
16 individuals described in paragraph (3) for the co-  
17 ordination and monitoring of home and community-  
18 based long term care services to ensure appropriate,  
19 cost-effective utilization of such services in a com-  
20 prehensive and continuous manner, and includes—

21 (A) transition management between inpa-  
22 tient facilities and community-based services,  
23 including assisting patients in identifying and  
24 gaining access to appropriate ancillary services;  
25 and



1 (B) evaluating and recommending appro-  
2 priate treatment services, in cooperation with  
3 patients and other providers and in conjunction  
4 with any quality review program or plan of care  
5 under section 205.

6 (2) CARE COORDINATOR.—

7 (A) IN GENERAL.—In this title, the term  
8 “care coordinator” means an individual or non-  
9 profit or public agency or organization which  
10 the State health security program determines—

11 (i) is capable of performing directly,  
12 efficiently, and effectively the duties of a  
13 care coordinator described in paragraph  
14 (1); and

15 (ii) demonstrates capability in estab-  
16 lishing and periodically reviewing and re-  
17 vising plans of care, and in arranging for  
18 and monitoring the provision and quality  
19 of services under any plan.

20 (B) INDEPENDENCE.—State health secu-  
21 rity programs shall establish safeguards to as-  
22 sure that care coordinators have no financial in-  
23 terest in treatment decisions or placements.  
24 Care coordination may not be provided through

1           any structure or mechanism through which  
2           quality review is performed.

3           (3) ELIGIBLE INDIVIDUALS.—An individual de-  
4           scribed in this paragraph is an individual described  
5           in section 203 (relating to individuals qualifying for  
6           long term and chronic care services).

7           (h) DENTAL SERVICES.—

8           (1) IN GENERAL.—In this title, subject to sub-  
9           section (b), the term “dental services” means the  
10          following:

11           (A) Emergency dental treatment, including  
12           extractions, for bleeding, pain, acute infections,  
13           and injuries to the maxillofacial region.

14           (B) Prevention and diagnosis of dental dis-  
15           ease, including examinations of the hard and  
16           soft tissues of the oral cavity and related struc-  
17           tures, radiographs, dental sealants, fluorides,  
18           and dental prophylaxis.

19           (C) Treatment of dental disease, including  
20           non-cast fillings, periodontal maintenance serv-  
21           ices, and endodontic services.

22           (D) Space maintenance procedures to pre-  
23           vent orthodontic complications.

24           (E) Orthodontic treatment to prevent se-  
25           vere malocclusions.

1 (F) Full dentures.

2 (G) Medically necessary oral health care.

3 (H) Any items and services for special  
4 needs patients that are not described in sub-  
5 paragraphs (A) through (G) and that—

6 (i) are required to provide such pa-  
7 tients the items and services described in  
8 subparagraphs (A) through (G);

9 (ii) are required to establish oral func-  
10 tion (including general anesthesia for indi-  
11 viduals with physical or emotional limita-  
12 tions that prevent the provision of dental  
13 care without such anesthesia);

14 (iii) consist of orthodontic care for se-  
15 vere dentofacial abnormalities; or

16 (iv) consist of prosthetic dental de-  
17 vices for genetic or birth defects or fitting  
18 for such devices.

19 (I) Any dental care for individuals with a  
20 seizure disorder that is not described in sub-  
21 paragraphs (A) through (H) and that is re-  
22 quired because of an illness, injury, disorder, or  
23 other health condition that results from such  
24 seizure disorder.

1           (2) LIMITATIONS.—Dental services are subject  
2 to the following limitations:

3           (A) PREVENTION AND DIAGNOSIS.—

4           (i) EXAMINATIONS AND PROPHY-  
5 LAXIS.—The examinations and prophylaxis  
6 described in paragraph (1)(B) are covered  
7 only consistent with a periodicity schedule  
8 established by the Board, which schedule  
9 may provide for special treatment of indi-  
10 viduals less than 18 years of age and of  
11 special needs patients.

12          (ii) DENTAL SEALANTS.—The dental  
13 sealants described in such paragraph are  
14 not covered for individuals 18 years of age  
15 or older. Such sealants are covered for in-  
16 dividuals less than 10 years of age for pro-  
17 tection of the 1st permanent molars. Such  
18 sealants are covered for individuals 10  
19 years of age or older for protection of the  
20 2d permanent molars.

21          (B) TREATMENT OF DENTAL DISEASE.—

22 Prior to January 1, 2012, the items and serv-  
23 ices described in paragraph (1)(C) are covered  
24 only for individuals less than 18 years of age  
25 and special needs patients. On or after such

1 date, such items and services are covered for all  
2 individuals enrolled for benefits under this Act,  
3 except that endodontic services are not covered  
4 for individuals 18 years of age or older.

5 (C) SPACE MAINTENANCE.—The items and  
6 services described in paragraph (1)(D) are cov-  
7 ered only for individuals at least 3 years of age,  
8 but less than 13 years of age and—

9 (i) are limited to posterior teeth;

10 (ii) involve maintenance of a space or  
11 spaces for permanent posterior teeth that  
12 would otherwise be prevented from normal  
13 eruption if the space were not maintained;  
14 and

15 (iii) do not include a space maintainer  
16 that is placed within 6 months of the ex-  
17 pected eruption of the permanent posterior  
18 tooth concerned.

19 (D) ORTHODONTIC TREATMENT.—Prior to  
20 January 1, 2012, the items and services de-  
21 scribed in paragraph (1)(E) are covered only  
22 for individuals at least 6 years of age, but less  
23 than 12 years of age, who have severe  
24 dentofacial abnormalities. On or after such  
25 date, such items and services are covered only

1 for individuals at least 6 years of age, but less  
2 than 12 years of age.

3 (E) DENTURES.—Prior to January 1,  
4 2012, the dentures described in paragraph  
5 (1)(F) are not covered, except for special needs  
6 patients. On or after such date, dentures are  
7 covered for an individual consistent with a peri-  
8 odicity schedule established by the Board, ex-  
9 cept that the limitation of periodicity provided  
10 in such schedule shall not apply to a special  
11 needs patient.

12 (3) DEFINITIONS.—For purposes of this title:

13 (A) MEDICALLY NECESSARY ORAL HEALTH  
14 CARE.—The term “medically necessary oral  
15 health care” means oral health care that is re-  
16 quired as a direct result of, or would have a di-  
17 rect impact on, an underlying medical condi-  
18 tion. Such term includes oral health care di-  
19 rected toward control or elimination of pain, in-  
20 fection, or reestablishment of oral function.

21 (B) SPECIAL NEEDS PATIENT.—The term  
22 “special needs patient” includes an individual  
23 with a genetic or birth defect, a developmental  
24 disability, or an acquired medical disability.

1 (i) NURSING FACILITY; NURSING FACILITY SERV-  
 2 ICES.—Except as may be provided by the Board, the  
 3 terms “nursing facility” and “nursing facility services”  
 4 have the meanings given such terms in sections 1919(a)  
 5 and 1905(f), respectively, of the Social Security Act.

6 (j) SERVICES IN INTERMEDIATE CARE FACILITIES  
 7 FOR INDIVIDUALS WITH MENTAL RETARDATION.—Ex-  
 8 cept as may be provided by the Board—

9 (1) the term “intermediate care facility for indi-  
 10 viduals with mental retardation” has the meaning  
 11 specified in section 1905(d) of the Social Security  
 12 Act (as in effect before the enactment of this Act);  
 13 and

14 (2) the term “services in intermediate care fa-  
 15 cilities for individuals with mental retardation”  
 16 means services described in section 1905(a)(15) of  
 17 such Act (as so in effect) in an intermediate care fa-  
 18 cility for individuals with mental retardation to an  
 19 individual determined to require such services in ac-  
 20 cordance with standards specified by the Board and  
 21 comparable to the standards described in section  
 22 1902(a)(31)(A) of such Act (as so in effect).

23 (k) OTHER TERMS.—Except as may be provided by  
 24 the Board, the definitions contained in section 1861 of the  
 25 Social Security Act shall apply.

1 **SEC. 203. SPECIAL RULES FOR HOME AND COMMUNITY-**  
2 **BASED LONG-TERM CARE SERVICES.**

3 (a) **QUALIFYING INDIVIDUALS.**—For purposes of sec-  
4 tion 201(a)(5)(C), individuals described in this subsection  
5 are the following individuals:

6 (1) **ADULTS.**—Individuals 18 years of age or  
7 older determined (in a manner specified by the  
8 Board)—

9 (A) to be unable to perform, without the  
10 assistance of an individual, at least 2 of the fol-  
11 lowing 5 activities of daily living (or who has a  
12 similar level of disability due to cognitive im-  
13 pairment)—

14 (i) bathing;

15 (ii) eating;

16 (iii) dressing;

17 (iv) toileting; and

18 (v) transferring in and out of a bed or  
19 in and out of a chair;

20 (B) due to cognitive or mental impair-  
21 ments, to require supervision because the indi-  
22 vidual behaves in a manner that poses health or  
23 safety hazards to himself or herself or others;  
24 or



1           (C) due to cognitive or mental impair-  
2           ments, to require queuing to perform activities  
3           of daily living.

4           (2) CHILDREN.—Individuals under 18 years of  
5           age determined (in a manner specified by the Board)  
6           to meet such alternative standard of disability for  
7           children as the Board develops. Such alternative  
8           standard shall be comparable to the standard for  
9           adults and appropriate for children.

10          (b) LIMIT ON SERVICES.—

11           (1) IN GENERAL.—The aggregate expenditures  
12           by a State health security program with respect to  
13           home and community-based long-term care services  
14           in a period (specified by the Board) may not exceed  
15           65 percent (or such alternative ratio as the Board  
16           establishes under paragraph (2)) of the average of  
17           the amount of payment that would have been made  
18           under the program during the period if all the home-  
19           based long-term care beneficiaries had been resi-  
20           dents of nursing facilities in the same area in which  
21           the services were provided.

22           (2) ALTERNATIVE RATIO.—The Board may es-  
23           tablish for purposes of paragraph (1) an alternative  
24           ratio (of payments for home and community-based  
25           long term care services to payments for nursing fa-

1 cility services) as the Board determines to be more  
2 consistent with the goal of providing cost-effective  
3 long-term care in the most appropriate and least re-  
4 strictive setting.

5 **SEC. 204. EXCLUSIONS AND LIMITATIONS.**

6 (a) IN GENERAL.—Subject to section 201(e), benefits  
7 for service are not available under this Act unless the serv-  
8 ices meet the standards specified in section 201(a).

9 (b) SPECIAL DELIVERY REQUIREMENTS FOR MEN-  
10 TAL HEALTH AND SUBSTANCE ABUSE TREATMENT SERV-  
11 ICES PROVIDED TO AT-RISK CHILDREN.—

12 (1) REQUIRING SERVICES TO BE PROVIDED  
13 THROUGH ORGANIZED SYSTEMS OF CARE.—A State  
14 health security program shall ensure that mental  
15 health services and substance abuse treatment serv-  
16 ices are furnished through an organized system of  
17 care, as described in paragraph (2), if—

18 (A) the services are provided to an indi-  
19 vidual less than 22 years of age;

20 (B) the individual has a serious emotional  
21 disturbance or a substance abuse disorder; and

22 (C) the individual is, or is at imminent risk  
23 of being, subject to the authority of, or in need  
24 of the services of, at least 1 public agency that  
25 serves the needs of children, including an agen-

1           cy involved with child welfare, special education,  
2           juvenile justice, or criminal justice.

3           (2) REQUIREMENTS FOR SYSTEM OF CARE.—In  
4           this subsection, an “organized system of care” is a  
5           community-based service delivery network, which  
6           may consist of public and private providers, that  
7           meets the following requirements:

8                   (A) The system has established linkages  
9                   with existing mental health services and sub-  
10                  stance abuse treatment service delivery pro-  
11                  grams in the plan service area (or is in the  
12                  process of developing or operating a system  
13                  with appropriate public agencies in the area to  
14                  coordinate the delivery of such services to indi-  
15                  viduals in the area).

16                  (B) The system provides for the participa-  
17                  tion and coordination of multiple agencies and  
18                  providers that serve the needs of children in the  
19                  area, including agencies and providers involved  
20                  with child welfare, education, juvenile justice,  
21                  criminal justice, health care, mental health, and  
22                  substance abuse prevention and treatment.

23                  (C) The system provides for the involve-  
24                  ment of the families of children to whom mental  
25                  health services and substance abuse treatment

1 services are provided in the planning of treat-  
2 ment and the delivery of services.

3 (D) The system provides for the develop-  
4 ment and implementation of individualized  
5 treatment plans by multidisciplinary and multi-  
6 agency teams, which are recognized and fol-  
7 lowed by the applicable agencies and providers  
8 in the area.

9 (E) The system ensures the delivery and  
10 coordination of the range of mental health serv-  
11 ices and substance abuse treatment services re-  
12 quired by individuals under 22 years of age who  
13 have a serious emotional disturbance or a sub-  
14 stance abuse disorder.

15 (F) The system provides for the manage-  
16 ment of the individualized treatment plans de-  
17 scribed in subparagraph (D) and for a flexible  
18 response to changes in treatment needs over  
19 time.

20 (c) TREATMENT OF EXPERIMENTAL SERVICES.—In  
21 applying subsection (a), the Board shall make national  
22 coverage determinations with respect to those services that  
23 are experimental in nature. Such determinations shall be  
24 made consistent with a process that provides for input

1 from representatives of health care professionals and pa-  
2 tients and public comment.

3 (d) APPLICATION OF PRACTICE GUIDELINES.—In  
4 the case of services for which the American Health Secu-  
5 rity Quality Council (established under section 501) has  
6 recognized a national practice guideline, the services are  
7 considered to meet the standards specified in section  
8 201(a) if they have been provided in accordance with such  
9 guideline or in accordance with such guidelines as are pro-  
10 vided by the State health security program consistent with  
11 title V. For purposes of this subsection, a service shall  
12 be considered to have been provided in accordance with  
13 a practice guideline if the health care provider providing  
14 the service exercised appropriate professional discretion to  
15 deviate from the guideline in a manner authorized or an-  
16 ticipated by the guideline.

17 (e) SPECIFIC LIMITATIONS.—

18 (1) LIMITATIONS ON EYEGLASSES, CONTACT  
19 LENSES, HEARING AIDS, AND DURABLE MEDICAL  
20 EQUIPMENT.—Subject to section 201(e), the Board  
21 may impose such limits relating to the costs and fre-  
22 quency of replacement of eyeglasses, contact lenses,  
23 hearing aids, and durable medical equipment to  
24 which individuals enrolled for benefits under this Act  
25 are entitled to have payment made under a State

1 health security program as the Board deems appro-  
2 priate.

3 (2) OVERLAP WITH PREVENTIVE SERVICES.—

4 The coverage of services described in section 201(a)  
5 (other than paragraph (3)) which also are preventive  
6 services are required to be covered only to the extent  
7 that they are required to be covered as preventive  
8 services.

9 (3) MISCELLANEOUS EXCLUSIONS FROM COV-  
10 ERED SERVICES.—Covered services under this Act  
11 do not include the following:

12 (A) Surgery and other procedures (such as  
13 orthodontia) performed solely for cosmetic pur-  
14 poses (as defined in regulations) and hospital or  
15 other services incident thereto, unless—

16 (i) required to correct a congenital  
17 anomaly;

18 (ii) required to restore or correct a  
19 part of the body which has been altered as  
20 a result of accidental injury, disease, or  
21 surgery; or

22 (iii) otherwise determined to be medi-  
23 cally necessary and appropriate under sec-  
24 tion 201(a).

1 (B) Personal comfort items or private  
2 rooms in inpatient facilities, unless determined  
3 to be medically necessary and appropriate  
4 under section 201(a).

5 (C) The services of a professional practi-  
6 tioner if they are furnished in a hospital or  
7 other facility which is not a participating pro-  
8 vider.

9 (f) NURSING FACILITY SERVICES AND HOME  
10 HEALTH SERVICES.—Nursing facility services and home  
11 health services (other than post-hospital services, as de-  
12 fined by the Board) furnished to an individual who is not  
13 described in section 203(a) are not covered services unless  
14 the services are determined to meet the standards speci-  
15 fied in section 201(a) and, with respect to nursing facility  
16 services, to be provided in the least restrictive and most  
17 appropriate setting.

18 **SEC. 205. CERTIFICATION; QUALITY REVIEW; PLANS OF**  
19 **CARE.**

20 (a) CERTIFICATIONS.—State health security pro-  
21 grams may require, as a condition of payment for institu-  
22 tional health care services and other services of the type  
23 described in such sections 1814(a) and 1835(a) of the So-  
24 cial Security Act, periodic professional certifications of the  
25 kind described in such sections.

1 (b) QUALITY REVIEW.—For requirement that each  
 2 State health security program establish a quality review  
 3 program that meets the requirements for such a program  
 4 under title V, see section 404(b)(1)(H).

5 (c) PLAN OF CARE REQUIREMENTS.—A State health  
 6 security program may require, consistent with standards  
 7 established by the Board, that payment for services ex-  
 8 ceeding specified levels or duration be provided only as  
 9 consistent with a plan of care or treatment formulated by  
 10 one or more providers of the services or other qualified  
 11 professionals. Such a plan may include, consistent with  
 12 subsection (b), case management at specified intervals as  
 13 a further condition of payment for services.

## 14 **TITLE III—PROVIDER** 15 **PARTICIPATION**

### 16 **SEC. 301. PROVIDER PARTICIPATION AND STANDARDS.**

17 (a) IN GENERAL.—An individual or other entity fur-  
 18 nishing any covered service under a State health security  
 19 program under this Act is not a qualified provider unless  
 20 the individual or entity—

21 (1) is a qualified provider of the services under  
 22 section 302;

23 (2) has filed with the State health security pro-  
 24 gram a participation agreement described in sub-  
 25 section (b); and



1           (3) meets such other qualifications and condi-  
2           tions as are established by the Board or the State  
3           health security program under this Act.

4           (b) REQUIREMENTS IN PARTICIPATION AGREE-  
5           MENT.—

6           (1) IN GENERAL.—A participation agreement  
7           described in this subsection between a State health  
8           security program and a provider shall provide at  
9           least for the following:

10           (A) Services to eligible persons will be fur-  
11           nished by the provider without discrimination  
12           on the ground of race, national origin, income,  
13           religion, age, sex or sexual orientation, dis-  
14           ability, handicapping condition, or (subject to  
15           the professional qualifications of the provider)  
16           illness. Nothing in this subparagraph shall be  
17           construed as requiring the provision of a type  
18           or class of services which services are outside  
19           the scope of the provider's normal practice.

20           (B) No charge will be made for any cov-  
21           ered services other than for payment authorized  
22           by this Act.

23           (C) The provider agrees to furnish such in-  
24           formation as may be reasonably required by the  
25           Board or a State health security program, in

1 accordance with uniform reporting standards  
2 established under section 401(g)(1), for—

3 (i) quality review by designated enti-  
4 ties;

5 (ii) the making of payments under  
6 this Act (including the examination of  
7 records as may be necessary for the  
8 verification of information on which pay-  
9 ments are based);

10 (iii) statistical or other studies re-  
11 quired for the implementation of this Act;  
12 and

13 (iv) such other purposes as the Board  
14 or State may specify.

15 (D) The provider agrees not to bill the pro-  
16 gram for any services for which benefits are not  
17 available because of section 204(d).

18 (E) In the case of a provider that is not  
19 an individual, the provider agrees not to employ  
20 or use for the provision of health services any  
21 individual or other provider who or which has  
22 had a participation agreement under this sub-  
23 section terminated for cause.

24 (F) In the case of a provider paid under a  
25 fee-for-service basis under section 612, the pro-

1 vider agrees to submit bills and any required  
2 supporting documentation relating to the provi-  
3 sion of covered services within 30 days (or such  
4 shorter period as a State health security pro-  
5 gram may require) after the date of providing  
6 such services.

7 (2) TERMINATION OF PARTICIPATION AGREE-  
8 MENTS.—

9 (A) IN GENERAL.—Participation agree-  
10 ments may be terminated, with appropriate no-  
11 tice—

12 (i) by the Board or a State health se-  
13 curity program for failure to meet the re-  
14 quirements of this title; or

15 (ii) by a provider.

16 (B) TERMINATION PROCESS.—Providers  
17 shall be provided notice and a reasonable oppor-  
18 tunity to correct deficiencies before the Board  
19 or a State health security program terminates  
20 an agreement unless a more immediate termi-  
21 nation is required for public safety or similar  
22 reasons.

1 **SEC. 302. QUALIFICATIONS FOR PROVIDERS.**

2 (a) IN GENERAL.—A health care provider is consid-  
3 ered to be qualified to provide covered services if the pro-  
4 vider is licensed or certified and meets—

5 (1) all the requirements of State law to provide  
6 such services;

7 (2) applicable requirements of Federal law to  
8 provide such services; and

9 (3) any applicable standards established under  
10 subsection (b).

11 (b) MINIMUM PROVIDER STANDARDS.—

12 (1) IN GENERAL.—The Board shall establish,  
13 evaluate, and update national minimum standards to  
14 assure the quality of services provided under this  
15 Act and to monitor efforts by State health security  
16 programs to assure the quality of such services. A  
17 State health security program may also establish ad-  
18 ditional minimum standards which providers must  
19 meet.

20 (2) NATIONAL MINIMUM STANDARDS.—The na-  
21 tional minimum standards under paragraph (1) shall  
22 be established for institutional providers of services,  
23 individual health care practitioners, and comprehen-  
24 sive health service organizations. Except as the  
25 Board may specify in order to carry out this title,  
26 a hospital, nursing facility, or other institutional

1 provider of services shall meet standards for such a  
2 facility under the medicare program under title  
3 XVIII of the Social Security Act. Such standards  
4 also may include, where appropriate, elements relat-  
5 ing to—

6 (A) adequacy and quality of facilities;

7 (B) training and competence of personnel  
8 (including continuing education requirements);

9 (C) comprehensiveness of service;

10 (D) continuity of service;

11 (E) patient satisfaction (including waiting  
12 time and access to services); and

13 (F) performance standards (including or-  
14 ganization, facilities, structure of services, effi-  
15 ciency of operation, and outcome in palliation,  
16 improvement of health, stabilization, cure, or  
17 rehabilitation).

18 (3) TRANSITION IN APPLICATION.—If the  
19 Board provides for additional requirements for pro-  
20 viders under this subsection, any such additional re-  
21 quirement shall be implemented in a manner that  
22 provides for a reasonable period during which a pre-  
23 viously qualified provider is permitted to meet such  
24 an additional requirement.

1           (4) EXCHANGE OF INFORMATION.—The Board  
2       shall provide for an exchange, at least annually,  
3       among State health security programs of informa-  
4       tion with respect to quality assurance and cost con-  
5       tainment.

6   **SEC. 303. QUALIFICATIONS FOR COMPREHENSIVE HEALTH**  
7                           **SERVICE ORGANIZATIONS.**

8       (a) IN GENERAL.—For purposes of this Act, a com-  
9       prehensive health service organization (in this section re-  
10      ferred to as a “CHSO”) is a public or private organization  
11      which, in return for a capitated payment amount, under-  
12      takes to furnish, arrange for the provision of, or provide  
13      payment with respect to—

14           (1) a full range of health services (as identified  
15      by the Board), including at least hospital services  
16      and physicians services; and

17           (2) out-of-area coverage in the case of urgently  
18      needed services;

19      to an identified population which is living in or near a  
20      specified service area and which enrolls voluntarily in the  
21      organization.

22      (b) ENROLLMENT.—

23           (1) IN GENERAL.—All eligible persons living in  
24      or near the specified service area of a CHSO are eli-  
25      gible to enroll in the organization; except that the

1        number of enrollees may be limited to avoid over-  
2        taxing the resources of the organization.

3            (2) MINIMUM ENROLLMENT PERIOD.—Subject  
4        to paragraph (3), the minimum period of enrollment  
5        with a CHSO shall be twelve months, unless the en-  
6        rolled individual becomes ineligible to enroll with the  
7        organization.

8            (3) WITHDRAWAL FOR CAUSE.—Each CHSO  
9        shall permit an enrolled individual to disenroll from  
10       the organization for cause at any time.

11        (c) REQUIREMENTS FOR CHSOs.—

12            (1) ACCESSIBLE SERVICES.—Each CHSO, to  
13        the maximum extent feasible, shall make all services  
14        readily and promptly accessible to enrollees who live  
15        in the specified service area.

16            (2) CONTINUITY OF CARE.—Each CHSO shall  
17        furnish services in such manner as to provide con-  
18        tinuity of care and (when services are furnished by  
19        different providers) shall provide ready referral of  
20        patients to such services and at such times as may  
21        be medically appropriate.

22            (3) BOARD OF DIRECTORS.—In the case of a  
23        CHSO that is a private organization—

24            (A) CONSUMER REPRESENTATION.—At  
25        least one-third of the members of the CHSO's

1 board of directors must be consumer members  
2 with no direct or indirect, personal or family fi-  
3 nancial relationship to the organization.

4 (B) PROVIDER REPRESENTATION.—The  
5 CHSO's board of directors must include at  
6 least one member who represents health care  
7 providers.

8 (4) PATIENT GRIEVANCE PROGRAM.—Each  
9 CHSO must have in effect a patient grievance pro-  
10 gram and must conduct regularly surveys of the sat-  
11 isfaction of members with services provided by or  
12 through the organization.

13 (5) MEDICAL STANDARDS.—Each CHSO must  
14 provide that a committee or committees of health  
15 care practitioners associated with the organization  
16 will promulgate medical standards, oversee the pro-  
17 fessional aspects of the delivery of care, perform the  
18 functions of a pharmacy and drug therapeutics com-  
19 mittee, and monitor and review the quality of all  
20 health services (including drugs, education, and pre-  
21 ventive services).

22 (6) PREMIUMS.—Premiums or other charges by  
23 a CHSO for any services not paid for under this Act  
24 must be reasonable.



1 (7) UTILIZATION AND BONUS INFORMATION.—

2 Each CHSO must—

3 (A) comply with the requirements of sec-  
4 tion 1876(i)(8) of the Social Security Act (re-  
5 lating to prohibiting physician incentive plans  
6 that provide specific inducements to reduce or  
7 limit medically necessary services); and

8 (B) make available to its membership utili-  
9 zation information and data regarding financial  
10 performance, including bonus or incentive pay-  
11 ment arrangements to practitioners.

12 (8) PROVISION OF SERVICES TO ENROLLEES AT  
13 INSTITUTIONS OPERATING UNDER GLOBAL BUDG-  
14 ETS.—The organization shall arrange to reimburse  
15 for hospital services and other facility-based services  
16 (as identified by the Board) for services provided to  
17 members of the organization in accordance with the  
18 global operating budget of the hospital or facility ap-  
19 proved under section 611.

20 (9) BROAD MARKETING.—Each CHSO must  
21 provide for the marketing of its services (including  
22 dissemination of marketing materials) to potential  
23 enrollees in a manner that is designed to enroll indi-  
24 viduals representative of the different population  
25 groups and geographic areas included within its

1 service area and meets such requirements as the  
2 Board or a State health security program may speci-  
3 fy.

4 (10) ADDITIONAL REQUIREMENTS.—Each  
5 CHSO must meet—

6 (A) such requirements relating to min-  
7 imum enrollment;

8 (B) such requirements relating to financial  
9 solvency;

10 (C) such requirements relating to quality  
11 and availability of care; and

12 (D) such other requirements,

13 as the Board or a State health security program  
14 may specify.

15 (d) PROVISION OF EMERGENCY SERVICES TO NON-  
16 ENROLLEES.—A CHSO may furnish emergency services  
17 to persons who are not enrolled in the organization. Pay-  
18 ment for such services, if they are covered services to eligi-  
19 ble persons, shall be made to the organization unless the  
20 organization requests that it be made to the individual  
21 provider who furnished the services.

22 **SEC. 304. LIMITATION ON CERTAIN PHYSICIAN REFERRALS.**

23 (a) APPLICATION TO AMERICAN HEALTH SECURITY  
24 PROGRAM.—Section 1877 of the Social Security Act, as  
25 amended by subsections (b) and (c), shall apply under this

1 Act in the same manner as it applies under title XVIII  
 2 of the Social Security Act; except that in applying such  
 3 section under this Act any references in such section to  
 4 the Secretary or title XVIII of the Social Security Act are  
 5 deemed references to the Board and the American Health  
 6 Security Program under this Act, respectively.

7 (b) EXPANSION OF PROHIBITION TO CERTAIN ADDI-  
 8 TIONAL DESIGNATED SERVICES.—Section 1877(h)(6) of  
 9 the Social Security Act (42 U.S.C. 1395nn(h)(6)) is  
 10 amended by adding at the end the following:

11 “(L) Ambulance services.

12 “(M) Home infusion therapy services.”.

13 (c) CONFORMING AMENDMENTS.—Section 1877 of  
 14 such Act is further amended—

15 (1) in subsection (a)(1)(A), by striking “for  
 16 which payment otherwise may be made under this  
 17 title” and inserting “for which a charge is imposed”;

18 (2) in subsection (a)(1)(B), by striking “under  
 19 this title”;

20 (3) by amending paragraph (1) of subsection  
 21 (g) to read as follows:

22 “(1) DENIAL OF PAYMENT.—No payment may  
 23 be made under a State health security program for  
 24 a designated health service for which a claim is pre-  
 25 sented in violation of subsection (a)(1)(B). No indi-

vidual, third party payor, or other entity is liable for  
 payment for designated health services for which a  
 claim is presented in violation of such subsection.”;  
 and

(4) in subsection (g)(3), by striking “for which  
 payment may not be made under paragraph (1)”  
 and inserting “for which such a claim may not be  
 presented under subsection (a)(1)”.

## **TITLE IV—ADMINISTRATION**

### **Subtitle A—General Administrative Provisions**

#### **SEC. 401. AMERICAN HEALTH SECURITY STANDARDS BOARD.**

(a) ESTABLISHMENT.—There is hereby established  
 an American Health Security Standards Board.

(b) APPOINTMENT AND TERMS OF MEMBERS.—

(1) IN GENERAL.—The Board shall be composed of—

(A) the Secretary of Health and Human  
 Services; and

(B) 6 other individuals (described in paragraph (2)) appointed by the President with the  
 advice and consent of the Senate.

The President shall first nominate individuals under  
 subparagraph (B) on a timely basis so as to provide

1 for the operation of the Board by not later than  
2 January 1, 2006.

3 (2) SELECTION OF APPOINTED MEMBERS.—

4 With respect to the individuals appointed under  
5 paragraph (1)(B):

6 (A) They shall be chosen on the basis of  
7 backgrounds in health policy, health economics,  
8 the healing professions, and the administration  
9 of health care institutions.

10 (B) They shall provide a balanced point of  
11 view with respect to the various health care in-  
12 terests and at least 2 of them shall represent  
13 the interests of individual consumers.

14 (C) Not more than 3 of them shall be from  
15 the same political party.

16 (D) To the greatest extent feasible, they  
17 shall represent the various geographic regions  
18 of the United States and shall reflect the racial,  
19 ethnic, and gender composition of the popu-  
20 lation of the United States.

21 (3) TERMS OF APPOINTED MEMBERS.—Individ-  
22 uals appointed under paragraph (1)(B) shall serve  
23 for a term of 6 years, except that the terms of 5 of  
24 the individuals initially appointed shall be, as des-  
25 ignated by the President at the time of their ap-

1 pointment, for 1, 2, 3, 4, and 5 years. During a  
2 term of membership on the Board, no member shall  
3 engage in any other business, vocation or employ-  
4 ment.

5 (c) VACANCIES.—

6 (1) IN GENERAL.—The President shall fill any  
7 vacancy in the membership of the Board in the same  
8 manner as the original appointment. The vacancy  
9 shall not affect the power of the remaining members  
10 to execute the duties of the Board.

11 (2) VACANCY APPOINTMENTS.—Any member  
12 appointed to fill a vacancy shall serve for the re-  
13 mainder of the term for which the predecessor of the  
14 member was appointed.

15 (3) REAPPOINTMENT.—The President may re-  
16 appoint an appointed member of the Board for a  
17 second term in the same manner as the original ap-  
18 pointment. A member who has served for 2 consecu-  
19 tive 6-year terms shall not be eligible for reappoint-  
20 ment until 2 years after the member has ceased to  
21 serve.

22 (4) REMOVAL FOR CAUSE.—Upon confirmation,  
23 members of the Board may not be removed except  
24 by the President for cause.

1 (d) CHAIR.—The President shall designate 1 of the  
2 members of the Board, other than the Secretary, to serve  
3 at the will of the President as Chair of the Board.

4 (e) COMPENSATION.—Members of the Board (other  
5 than the Secretary) shall be entitled to compensation at  
6 a level equivalent to level II of the Executive Schedule,  
7 in accordance with section 5313 of title 5, United States  
8 Code.

9 (f) GENERAL DUTIES OF THE BOARD.—

10 (1) IN GENERAL.—The Board shall develop  
11 policies, procedures, guidelines, and requirements to  
12 carry out this Act, including those related to—

13 (A) eligibility;

14 (B) enrollment;

15 (C) benefits;

16 (D) provider participation standards and  
17 qualifications, as defined in title III;

18 (E) national and State funding levels;

19 (F) methods for determining amounts of  
20 payments to providers of covered services, con-  
21 sistent with subtitle B of title VI;

22 (G) the determination of medical necessity  
23 and appropriateness with respect to coverage of  
24 certain services;

1           (H) assisting State health security pro-  
2           grams with planning for capital expenditures  
3           and service delivery;

4           (I) planning for health professional edu-  
5           cation funding (as specified in title VI);

6           (J) allocating funds provided under title  
7           VII; and

8           (K) encouraging States to develop regional  
9           planning mechanisms (described in section  
10          404(a)(3)).

11          (2) REGULATIONS.—Regulations authorized by  
12          this Act shall be issued by the Board in accordance  
13          with the provisions of section 553 of title 5, United  
14          States Code.

15          (g) UNIFORM REPORTING STANDARDS; ANNUAL RE-  
16          PORT; STUDIES.—

17               (1) UNIFORM REPORTING STANDARDS.—

18                   (A) IN GENERAL.—The Board shall estab-  
19                   lish uniform reporting requirements and stand-  
20                   ards to ensure an adequate national data base  
21                   regarding health services practitioners, services  
22                   and finances of State health security programs,  
23                   approved plans, providers, and the costs of fa-  
24                   cilities and practitioners providing services.



1           Such standards shall include, to the maximum  
2           extent feasible, health outcome measures.

3           (B) REPORTS.—The Board shall analyze  
4           regularly information reported to it, and to  
5           State health security programs pursuant to  
6           such requirements and standards.

7           (2) ANNUAL REPORT.—Beginning January 1,  
8           of the second year beginning after the date of the  
9           enactment of this Act, the Board shall annually re-  
10          port to Congress on the following:

11           (A) The status of implementation of the  
12          Act.

13           (B) Enrollment under this Act.

14           (C) Benefits under this Act.

15           (D) Expenditures and financing under this  
16          Act.

17           (E) Cost-containment measures and  
18          achievements under this Act.

19           (F) Quality assurance.

20           (G) Health care utilization patterns, in-  
21          cluding any changes attributable to the pro-  
22          gram.

23           (H) Long-range plans and goals for the de-  
24          livery of health services.

1 (I) Differences in the health status of the  
2 populations of the different States, including in-  
3 come and racial characteristics.

4 (J) Necessary changes in the education of  
5 health personnel.

6 (K) Plans for improving service to medi-  
7 cally underserved populations.

8 (L) Transition problems as a result of im-  
9 plementation of this Act.

10 (M) Opportunities for improvements under  
11 this Act.

12 (3) STATISTICAL ANALYSES AND OTHER STUD-  
13 IES.—The Board may, either directly or by con-  
14 tract—

15 (A) make statistical and other studies, on  
16 a nationwide, regional, state, or local basis, of  
17 any aspect of the operation of this Act, includ-  
18 ing studies of the effect of the Act upon the  
19 health of the people of the United States and  
20 the effect of comprehensive health services upon  
21 the health of persons receiving such services;

22 (B) develop and test methods of providing  
23 through payment for services or otherwise, ad-  
24 ditional incentives for adherence by providers to  
25 standards of adequacy, access, and quality;

1 methods of consumer and peer review and peer  
2 control of the utilization of drugs, of laboratory  
3 services, and of other services; and methods of  
4 consumer and peer review of the quality of serv-  
5 ices;

6 (C) develop and test, for use by the Board,  
7 records and information retrieval systems and  
8 budget systems for health services administra-  
9 tion, and develop and test model systems for  
10 use by providers of services;

11 (D) develop and test, for use by providers  
12 of services, records and information retrieval  
13 systems useful in the furnishing of preventive  
14 or diagnostic services;

15 (E) develop, in collaboration with the phar-  
16 maceutical profession, and test, improved ad-  
17 ministrative practices or improved methods for  
18 the reimbursement of independent pharmacies  
19 for the cost of furnishing drugs as a covered  
20 service; and

21 (F) make such other studies as it may con-  
22 sider necessary or promising for the evaluation,  
23 or for the improvement, of the operation of this  
24 Act.

1           (4) REPORT ON USE OF EXISTING FEDERAL  
2 HEALTH CARE FACILITIES.—Not later than 1 year  
3 after the date of the enactment of this Act, the  
4 Board shall recommend to the Congress one or more  
5 proposals for the treatment of health care facilities  
6 of the Federal Government.

7           (h) EXECUTIVE DIRECTOR.—

8           (1) APPOINTMENT.—There is hereby estab-  
9 lished the position of Executive Director of the  
10 Board. The Director shall be appointed by the  
11 Board and shall serve as secretary to the Board and  
12 perform such duties in the administration of this  
13 title as the Board may assign.

14           (2) DELEGATION.—The Board is authorized to  
15 delegate to the Director or to any other officer or  
16 employee of the Board or, with the approval of the  
17 Secretary of Health and Human Services (and sub-  
18 ject to reimbursement of identifiable costs), to any  
19 other officer or employee of the Department of  
20 Health and Human Services, any of its functions or  
21 duties under this Act other than—

22                   (A) the issuance of regulations; or

23                   (B) the determination of the availability of  
24 funds and their allocation to implement this  
25 Act.

1           (3) COMPENSATION.—The Executive Director  
2       of the Board shall be entitled to compensation at a  
3       level equivalent to level III of the Executive Sched-  
4       ule, in accordance with section 5314 of title 5,  
5       United States Code.

6       (i) INSPECTOR GENERAL.—The Inspector General  
7       Act of 1978 (5 U.S.C. App.) is amended—

8           (1) in section 11(1), by inserting after “Cor-  
9       poration;” the first place it appears the following:  
10      “the Chair of the American Health Security Stand-  
11      ards Board;”;

12          (2) in section 11(2), by inserting after “Resolu-  
13      tion Trust Corporation,” the following: “the Amer-  
14      ican Health Security Standards Board,”; and

15          (3) by inserting before section 9 the following:

16      “SPECIAL PROVISIONS CONCERNING AMERICAN HEALTH  
17                              SECURITY STANDARDS BOARD

18      “SEC. 8L. The Inspector General of the American  
19      Health Security Standards Board, in addition to the other  
20      authorities vested by this Act, shall have the same author-  
21      ity, with respect to the Board and the American Health  
22      Security Program under this Act, as the Inspector General  
23      for the Department of Health and Human Services has  
24      with respect to the Secretary of Health and Human Serv-  
25      ices and the medicare and medicaid programs, respec-  
26      tively.”.

1 (j) STAFF.—The Board shall employ such staff as the  
2 Board may deem necessary.

3 (k) ACCESS TO INFORMATION.—The Secretary of  
4 Health and Human Services shall make available to the  
5 Board all information available from sources within the  
6 Department or from other sources, pertaining to the du-  
7 ties of the Board.

8 **SEC. 402. AMERICAN HEALTH SECURITY ADVISORY COUN-**  
9 **CIL.**

10 (a) IN GENERAL.—The Board shall provide for an  
11 American Health Security Advisory Council (in this sec-  
12 tion referred to as the “Council”) to advise the Board on  
13 its activities.

14 (b) MEMBERSHIP.—The Council shall be composed  
15 of—

16 (1) the Chair of the Board, who shall serve as  
17 Chair of the Council; and

18 (2) twenty members, not otherwise in the em-  
19 ploy of the United States, appointed by the Board  
20 without regard to the provisions of title 5, United  
21 States Code, governing appointments in the competi-  
22 tive service.

23 The appointed members shall include, in accordance with  
24 subsection (e), individuals who are representative of State  
25 health security programs, public health professionals, pro-

1 viders of health services, and of individuals (who shall con-  
2 stitute a majority of the Council) who are representative  
3 of consumers of such services, including a balanced rep-  
4 resentation of employers, unions, consumer organizations,  
5 and population groups with special health care needs. To  
6 the greatest extent feasible, the membership of the Council  
7 shall represent the various geographic regions of the  
8 United States and shall reflect the racial, ethnic, and gen-  
9 der composition of the population of the United States.

10 (c) TERMS OF MEMBERS.—Each appointed member  
11 shall hold office for a term of 4 years, except that—

12 (1) any member appointed to fill a vacancy oc-  
13 ccurring during the term for which the member's  
14 predecessor was appointed shall be appointed for the  
15 remainder of that term; and

16 (2) the terms of the members first taking office  
17 shall expire, as designated by the Board at the time  
18 of appointment, 5 at the end of the first year, 5 at  
19 the end of the second year, 5 at the end of the third  
20 year, and 5 at the end of the fourth year after the  
21 date of enactment of this Act.

22 (d) VACANCIES.—

23 (1) IN GENERAL.—The Board shall fill any va-  
24 cancy in the membership of the Council in the same  
25 manner as the original appointment. The vacancy

1 shall not affect the power of the remaining members  
2 to execute the duties of the Council.

3 (2) VACANCY APPOINTMENTS.—Any member  
4 appointed to fill a vacancy shall serve for the re-  
5 mainder of the term for which the predecessor of the  
6 member was appointed.

7 (3) REAPPOINTMENT.—The Board may re-  
8 appoint an appointed member of the Council for a  
9 second term in the same manner as the original ap-  
10 pointment.

11 (e) QUALIFICATIONS.—

12 (1) PUBLIC HEALTH REPRESENTATIVES.—  
13 Members of the Council who are representative of  
14 State health security programs and public health  
15 professionals shall be individuals who have extensive  
16 experience in the financing and delivery of care  
17 under public health programs.

18 (2) PROVIDERS.—Members of the Council who  
19 are representative of providers of health care shall  
20 be individuals who are outstanding in fields related  
21 to medical, hospital, or other health activities, or  
22 who are representative of organizations or associa-  
23 tions of professional health practitioners.

24 (3) CONSUMERS.—Members who are represent-  
25 ative of consumers of such care shall be individuals,



1 not engaged in and having no financial interest in  
2 the furnishing of health services, who are familiar  
3 with the needs of various segments of the population  
4 for personal health services and are experienced in  
5 dealing with problems associated with the consump-  
6 tion of such services.

7 (f) DUTIES.—

8 (1) IN GENERAL.—It shall be the duty of the  
9 Council—

10 (A) to advise the Board on matters of gen-  
11 eral policy in the administration of this Act, in  
12 the formulation of regulations, and in the per-  
13 formance of the Board's duties under section  
14 401; and

15 (B) to study the operation of this Act and  
16 the utilization of health services under it, with  
17 a view to recommending any changes in the ad-  
18 ministration of the Act or in its provisions  
19 which may appear desirable.

20 (2) REPORT.—The Council shall make an an-  
21 nual report to the Board on the performance of its  
22 functions, including any recommendations it may  
23 have with respect thereto, and the Board shall  
24 promptly transmit the report to the Congress, to-  
25 gether with a report by the Board on any rec-

1       ommendations of the Council that have not been fol-  
2       lowed.

3       (g) STAFF.—The Council, its members, and any com-  
4       mittees of the Council shall be provided with such secre-  
5       tarial, clerical, or other assistance as may be authorized  
6       by the Board for carrying out their respective functions.

7       (h) MEETINGS.—The Council shall meet as fre-  
8       quently as the Board deems necessary, but not less than  
9       4 times each year. Upon request by 7 or more members  
10      it shall be the duty of the Chair to call a meeting of the  
11      Council.

12      (i) COMPENSATION.—Members of the Council shall  
13      be reimbursed by the Board for travel and per diem in  
14      lieu of subsistence expenses during the performance of du-  
15      ties of the Board in accordance with subchapter I of chap-  
16      ter 57 of title 5, United States Code.

17      (j) FACA NOT APPLICABLE.—The provisions of the  
18      Federal Advisory Committee Act shall not apply to the  
19      Council.

20      **SEC. 403. CONSULTATION WITH PRIVATE ENTITIES.**

21      The Secretary and the Board shall consult with pri-  
22      vate entities, such as professional societies, national asso-  
23      ciations, nationally recognized associations of experts,  
24      medical schools and academic health centers, consumer  
25      groups, and labor and business organizations in the for-

1 mulation of guidelines, regulations, policy initiatives, and  
2 information gathering to assure the broadest and most in-  
3 formed input in the administration of this Act. Nothing  
4 in this Act shall prevent the Secretary from adopting  
5 guidelines developed by such a private entity if, in the Sec-  
6 retary's and Board's judgment, such guidelines are gen-  
7 erally accepted as reasonable and prudent and consistent  
8 with this Act.

9 **SEC. 404. STATE HEALTH SECURITY PROGRAMS.**

10 (a) SUBMISSION OF PLANS.—

11 (1) IN GENERAL.—Each State shall submit to  
12 the Board a plan for a State health security pro-  
13 gram for providing for health care services to the  
14 residents of the State in accordance with this Act.

15 (2) REGIONAL PROGRAMS.—A State may join  
16 with 1 or more neighboring States to submit to the  
17 Board a plan for a regional health security program  
18 instead of separate State health security programs.

19 (3) REGIONAL PLANNING MECHANISMS.—The  
20 Board shall provide incentives for States to develop  
21 regional planning mechanisms to promote the ration-  
22 al distribution of, adequate access to, and efficient  
23 use of, tertiary care facilities, equipment, and serv-  
24 ices.

25 (b) REVIEW AND APPROVAL OF PLANS.—

1           (1) IN GENERAL.—The Board shall review  
2       plans submitted under subsection (a) and determine  
3       whether such plans meet the requirements for ap-  
4       proval. The Board shall not approve such a plan un-  
5       less it finds that the plan (or State law) provides,  
6       consistent with the provisions of this Act, for the fol-  
7       lowing:

8                   (A) Payment for required health services  
9       for eligible individuals in the State in accord-  
10      ance with this Act.

11                  (B) Adequate administration, including the  
12      designation of a single State agency responsible  
13      for the administration (or supervision of the ad-  
14      ministration) of the program.

15                  (C) The establishment of a State health se-  
16      curity budget.

17                  (D) Establishment of payment methodolo-  
18      gies (consistent with subtitle B of title VII).

19                  (E) Assurances that individuals have the  
20      freedom to choose practitioners and other  
21      health care providers for services covered under  
22      this Act.

23                  (F) A procedure for carrying out long-term  
24      regional management and planning functions

1 with respect to the delivery and distribution of  
2 health care services that—

3 (i) ensures participation of consumers  
4 of health services and providers of health  
5 services; and

6 (ii) gives priority to the most acute  
7 shortages and maldistributions of health  
8 personnel and facilities and the most seri-  
9 ous deficiencies in the delivery of covered  
10 services and to the means for the speedy  
11 alleviation of these shortcomings.

12 (G) The licensure and regulation of all  
13 health providers and facilities to ensure compli-  
14 ance with Federal and State laws and to pro-  
15 mote quality of care.

16 (H) Establishment of a quality review sys-  
17 tem in accordance with section 503.

18 (I) Establishment of an independent om-  
19 budsman for consumers to register complaints  
20 about the organization and administration of  
21 the State health security program and to help  
22 resolve complaints and disputes between con-  
23 sumers and providers.

24 (J) Publication of an annual report on the  
25 operation of the State health security program,

1           which report shall include information on cost,  
2           progress towards achieving full enrollment, pub-  
3           lic access to health services, quality review,  
4           health outcomes, health professional training,  
5           and the needs of medically underserved popu-  
6           lations.

7           (K) Provision of a fraud and abuse preven-  
8           tion and control unit that the Inspector General  
9           determines meets the requirements of section  
10          412(a).

11          (L) Prohibit payment in cases of prohib-  
12          ited physician referrals under section 304.

13          (2) CONSEQUENCES OF FAILURE TO COMPLY.—

14       If the Board finds that a State plan submitted  
15       under paragraph (1) does not meet the requirements  
16       for approval under this section or that a State  
17       health security program or specific portion of such  
18       program, the plan for which was previously ap-  
19       proved, no longer meets such requirements, the  
20       Board shall provide notice to the State of such fail-  
21       ure and that unless corrective action is taken within  
22       a period specified by the Board, the Board shall  
23       place the State health security program (or specific  
24       portions of such program) in receivership under the  
25       jurisdiction of the Board.

1       (c) STATE HEALTH SECURITY ADVISORY COUN-  
2 CILS.—

3           (1) IN GENERAL.—For each State, the Gov-  
4 ernor shall provide for appointment of a State  
5 Health Security Advisory Council to advise and  
6 make recommendations to the Governor and State  
7 with respect to the implementation of the State  
8 health security program in the State.

9           (2) MEMBERSHIP.—Each State Health Security  
10 Advisory Council shall be composed of at least 11 in-  
11 dividuals. The appointed members shall include indi-  
12 viduals who are representative of the State health  
13 security program, public health professionals, pro-  
14 viders of health services, and of individuals (who  
15 shall constitute a majority) who are representative of  
16 consumers of such services, including a balanced  
17 representation of employers, unions and consumer  
18 organizations. To the greatest extent feasible, the  
19 membership of each State Health Security Advisory  
20 Council shall represent the various geographic re-  
21 gions of the State and shall reflect the racial, ethnic,  
22 and gender composition of the population of the  
23 State.

24           (3) DUTIES.—

1 (A) IN GENERAL.—Each State Health Se-  
2 curity Advisory Council shall review, and sub-  
3 mit comments to the Governor concerning the  
4 implementation of the State health security pro-  
5 gram in the State.

6 (B) ASSISTANCE.—Each State Health Se-  
7 curity Advisory Council shall provide assistance  
8 and technical support to community organiza-  
9 tions and public and private non-profit agencies  
10 submitting applications for funding under ap-  
11 propriate State and Federal public health pro-  
12 grams, with particular emphasis placed on as-  
13 sisting those applicants with broad consumer  
14 representation.

15 (d) STATE USE OF FISCAL AGENTS.—

16 (1) IN GENERAL.—Each State health security  
17 program, using competitive bidding procedures, may  
18 enter into such contracts with qualified entities, such  
19 as voluntary associations, as the State determines to  
20 be appropriate to process claims and to perform  
21 other related functions of fiscal agents under the  
22 State health security program.

23 (2) RESTRICTION.—Except as the Board may  
24 provide for good cause shown, in no case may more



1       than 1 contract described in paragraph (1) be en-  
2       tered into under a State health security program.

3   **SEC. 405. COMPLEMENTARY CONDUCT OF RELATED**  
4       **HEALTH PROGRAMS.**

5       In performing functions with respect to health per-  
6   sonnel education and training, health research, environ-  
7   mental health, disability insurance, vocational rehabilita-  
8   tion, the regulation of food and drugs, and all other mat-  
9   ters pertaining to health, the Secretary of Health and  
10   Human Services shall direct all activities of the Depart-  
11   ment of Health and Human Services toward contributions  
12   to the health of the people complementary to this Act.

13       **Subtitle B—Control Over Fraud**  
14               **and Abuse**

15   **SEC. 411. APPLICATION OF FEDERAL SANCTIONS TO ALL**  
16               **FRAUD AND ABUSE UNDER AMERICAN**  
17               **HEALTH SECURITY PROGRAM.**

18       The following sections of the Social Security Act shall  
19   apply to State health security programs in the same man-  
20   ner as they apply to State medical assistance plans under  
21   title XIX of such Act (except that in applying such provi-  
22   sions any reference to the Secretary is deemed a reference  
23   to the Board):

24               (1) Section 1128 (relating to exclusion of indi-  
25       viduals and entities).

1 (2) Section 1128A (civil monetary penalties).

2 (3) Section 1128B (criminal penalties).

3 (4) Section 1124 (relating to disclosure of own-  
4 ership and related information).

5 (5) Section 1126 (relating to disclosure of cer-  
6 tain owners).

7 **SEC. 412. REQUIREMENTS FOR OPERATION OF STATE**  
8 **HEALTH CARE FRAUD AND ABUSE CONTROL**  
9 **UNITS.**

10 (a) REQUIREMENT.—In order to meet the require-  
11 ment of section 404(b)(1)(K), each State health security  
12 program must establish and maintain a health care fraud  
13 and abuse control unit (in this section referred to as a  
14 “fraud unit”) that meets requirements of this section and  
15 other requirements of the Board. Such a unit may be a  
16 State medicaid fraud control unit (described in section  
17 1903(q) of the Social Security Act).

18 (b) STRUCTURE OF UNIT.—The fraud unit must—

19 (1) be a single identifiable entity of the State  
20 government;

21 (2) be separate and distinct from the State  
22 agency with principal responsibility for the adminis-  
23 tration of the State health security program; and

24 (3) meet 1 of the following requirements:

1           (A) It must be a unit of the office of the  
2           State Attorney General or of another depart-  
3           ment of State government which possesses  
4           statewide authority to prosecute individuals for  
5           criminal violations.

6           (B) If it is in a State the constitution of  
7           which does not provide for the criminal prosecu-  
8           tion of individuals by a statewide authority and  
9           has formal procedures, approved by the Board,  
10          that—

11                 (i) assure its referral of suspected  
12                 criminal violations relating to the State  
13                 health insurance plan to the appropriate  
14                 authority or authorities in the States for  
15                 prosecution; and

16                 (ii) assure its assistance of, and co-  
17                 ordination with, such authority or authori-  
18                 ties in such prosecutions.

19          (C) It must have a formal working rela-  
20          tionship with the office of the State Attorney  
21          General and have formal procedures (including  
22          procedures for its referral of suspected criminal  
23          violations to such office) which are approved by  
24          the Board and which provide effective coordina-  
25          tion of activities between the fraud unit and

1           such office with respect to the detection, inves-  
2           tigation, and prosecution of suspected criminal  
3           violations relating to the State health insurance  
4           plan.

5           (c) FUNCTIONS.—The fraud unit must—

6           (1) have the function of conducting a statewide  
7           program for the investigation and prosecution of vio-  
8           lations of all applicable State laws regarding any  
9           and all aspects of fraud in connection with any as-  
10          pect of the provision of health care services and ac-  
11          tivities of providers of such services under the State  
12          health security program;

13          (2) have procedures for reviewing complaints of  
14          the abuse and neglect of patients of providers and  
15          facilities that receive payments under the State  
16          health security program, and, where appropriate, for  
17          acting upon such complaints under the criminal laws  
18          of the State or for referring them to other State  
19          agencies for action; and

20          (3) provide for the collection, or referral for col-  
21          lection to a single State agency, of overpayments  
22          that are made under the State health security pro-  
23          gram to providers and that are discovered by the  
24          fraud unit in carrying out its activities.

25          (d) RESOURCES.—The fraud unit must—

1           (1) employ such auditors, attorneys, investiga-  
2           tors, and other necessary personnel;

3           (2) be organized in such a manner; and

4           (3) provide sufficient resources (as specified by  
5           the Board),

6 as is necessary to promote the effective and efficient con-  
7 duct of the unit's activities.

8           (e) COOPERATIVE AGREEMENTS.—The fraud unit  
9 must have cooperative agreements (as specified by the  
10 Board) with—

11           (1) similar fraud units in other States;

12           (2) the Inspector General; and

13           (3) the Attorney General of the United States.

14           (f) REPORTS.—The fraud unit must submit to the  
15 Inspector General an application and annual reports con-  
16 taining such information as the Inspector General deter-  
17 mines to be necessary to determine whether the unit meets  
18 the previous requirements of this section.

## 19   **TITLE V—QUALITY ASSESSMENT**

### 20   **SEC. 501. AMERICAN HEALTH SECURITY QUALITY COUNCIL.**

21           (a) ESTABLISHMENT.—There is hereby established  
22 an American Health Security Quality Council (in this title  
23 referred to as the “Council”).

24           (b) DUTIES OF THE COUNCIL.—The Council shall  
25 perform the following duties:

1           (1) PRACTICE GUIDELINES.—The Council shall  
2       review and evaluate each practice guideline devel-  
3       oped under part B of title IX of the Public Health  
4       Service Act. The Council shall determine whether  
5       the guideline should be recognized as a national  
6       practice guideline to be used under section 204(d)  
7       for purposes of determining payments under a State  
8       health security program.

9           (2) STANDARDS OF QUALITY, PERFORMANCE  
10       MEASURES, AND MEDICAL REVIEW CRITERIA.—The  
11       Council shall review and evaluate each standard of  
12       quality, performance measure, and medical review  
13       criterion developed under part B of title IX of the  
14       Public Health Service Act. The Council shall deter-  
15       mine whether the standard, measure, or criterion is  
16       appropriate for use in assessing or reviewing the  
17       quality of services provided by State health security  
18       programs, health care institutions, or health care  
19       professionals.

20          (3) CRITERIA FOR ENTITIES CONDUCTING  
21       QUALITY REVIEWS.—The Council shall develop min-  
22       imum criteria for competence for entities that can  
23       qualify to conduct ongoing and continuous external  
24       quality review for State quality review programs  
25       under section 503. Such criteria shall require such

1 an entity to be administratively independent of the  
2 individual or board that administers the State health  
3 security program and shall ensure that such entities  
4 do not provide financial incentives to reviewers to  
5 favor one pattern of practice over another. The  
6 Council shall ensure coordination and reporting by  
7 such entities to assure national consistency in qual-  
8 ity standards.

9 (4) REPORTING.—The Council shall report to  
10 the Board annually on the conduct of activities  
11 under such title and shall report to the Board annu-  
12 ally specifically on findings from outcomes research  
13 and development of practice guidelines that may af-  
14 fect the Board’s determination of coverage of serv-  
15 ices under section 401(f)(1)(G).

16 (5) OTHER FUNCTIONS.—The Council shall  
17 perform the functions of the Council described in  
18 section 502.

19 (c) APPOINTMENT AND TERMS OF MEMBERS.—

20 (1) IN GENERAL.—The Council shall be com-  
21 posed of 10 members appointed by the President.  
22 The President shall first appoint individuals on a  
23 timely basis so as to provide for the operation of the  
24 Council by not later than January 1, 2006.

1           (2) SELECTION OF MEMBERS.—Each member  
2       of the Council shall be a member of a health profes-  
3       sion. Five members of the Council shall be physi-  
4       cians. Individuals shall be appointed to the Council  
5       on the basis of national reputations for clinical and  
6       academic excellence. To the greatest extent feasible,  
7       the membership of the Council shall represent the  
8       various geographic regions of the United States and  
9       shall reflect the racial, ethnic, and gender composi-  
10      tion of the population of the United States.

11          (3) TERMS OF MEMBERS.—Individuals ap-  
12      pointed to the Council shall serve for a term of 5  
13      years, except that the terms of 4 of the individuals  
14      initially appointed shall be, as designated by the  
15      President at the time of their appointment, for 1, 2,  
16      3, and 4 years.

17      (d) VACANCIES.—

18          (1) IN GENERAL.—The President shall fill any  
19      vacancy in the membership of the Council in the  
20      same manner as the original appointment. The va-  
21      cancy shall not affect the power of the remaining  
22      members to execute the duties of the Council.

23          (2) VACANCY APPOINTMENTS.—Any member  
24      appointed to fill a vacancy shall serve for the re-



1       mainder of the term for which the predecessor of the  
2       member was appointed.

3           (3) REAPPOINTMENT.—The President may re-  
4       appoint a member of the Council for a second term  
5       in the same manner as the original appointment. A  
6       member who has served for 2 consecutive 5-year  
7       terms shall not be eligible for reappointment until 2  
8       years after the member has ceased to serve.

9       (e) CHAIR.—The President shall designate 1 of the  
10      members of the Council to serve at the will of the Presi-  
11      dent as Chair of the Council.

12      (f) COMPENSATION.—Members of the Council who  
13      are not employees of the Federal Government shall be en-  
14      titled to compensation at a level equivalent to level II of  
15      the Executive Schedule, in accordance with section 5313  
16      of title 5, United States Code.

17      **SEC. 502. DEVELOPMENT OF CERTAIN METHODOLOGIES,**  
18                                   **GUIDELINES, AND STANDARDS.**

19      (a) PROFILING OF PATTERNS OF PRACTICE; IDENTI-  
20      FICATION OF OUTLIERS.—The Council shall adopt meth-  
21      odologies for profiling the patterns of practice of health  
22      care professionals and for identifying outliers (as defined  
23      in subsection (e)).

24      (b) CENTERS OF EXCELLENCE.—The Council shall  
25      develop guidelines for certain medical procedures des-

1   ignated by the Board to be performed only at tertiary care  
2   centers which can meet standards for frequency of proce-  
3   dure performance and intensity of support mechanisms  
4   that are consistent with the high probability of desired pa-  
5   tient outcome. Reimbursement under this Act for such a  
6   designated procedure may only be provided if the proce-  
7   dure was performed at a center that meets such stand-  
8   ards.

9       (c) REMEDIAL ACTIONS.—The Council shall develop  
10   standards for education and sanctions with respect to  
11   outliers so as to assure the quality of health care services  
12   provided under this Act. The Council shall develop criteria  
13   for referral of providers to the State licensing board if edu-  
14   cation proves ineffective in correcting provider practice be-  
15   havior.

16       (d) DISSEMINATION.—The Council shall disseminate  
17   to the State—

18           (1) the methodologies adopted under subsection

19           (a);

20           (2) the guidelines developed under subsection

21           (b); and

22           (3) the standards developed under subsection

23           (c);

24   for use by the States under section 503.

1       (e) OUTLIER DEFINED.—In this title, the term  
2 “outlier” means a health care provider whose pattern of  
3 practice, relative to applicable practice guidelines, suggests  
4 deficiencies in the quality of health care services being pro-  
5 vided.

6 **SEC. 503. STATE QUALITY REVIEW PROGRAMS.**

7       (a) REQUIREMENT.—In order to meet the require-  
8 ment of section 404(b)(1)(H), each State health security  
9 program shall establish 1 or more qualified entities to con-  
10 duct quality reviews of persons providing covered services  
11 under the program, in accordance with standards estab-  
12 lished under subsection (b)(1) (except as provided in sub-  
13 section (b)(2)) and subsection (d).

14       (b) FEDERAL STANDARDS.—

15           (1) IN GENERAL.—The Council shall establish  
16 standards with respect to—

17               (A) the adoption of practice guidelines  
18               (whether developed by the Federal Government  
19               or other entities);

20               (B) the identification of outliers (con-  
21               sistent with methodologies adopted under sec-  
22               tion 502(a));

23               (C) the development of remedial programs  
24               and monitoring for outliers; and

1 (D) the application of sanctions (consistent  
2 with the standards developed under section  
3 502(c)).

4 (2) STATE DISCRETION.—A State may apply  
5 under subsection (a) standards other than those es-  
6 tablished under paragraph (1) so long as the State  
7 demonstrates to the satisfaction of the Council on an  
8 annual basis that the standards applied have been as  
9 efficacious in promoting and achieving improved  
10 quality of care as the application of the standards  
11 established under paragraph (1). Positive improve-  
12 ments in quality shall be documented by reductions  
13 in the variations of clinical care process and im-  
14 provement in patient outcomes.

15 (c) QUALIFICATIONS.—An entity is not qualified to  
16 conduct quality reviews under subsection (a) unless the  
17 entity satisfies the criteria for competence for such entities  
18 developed by the Council under section 501(b)(3).

19 (d) INTERNAL QUALITY REVIEW.—Nothing in this  
20 section shall preclude an institutional provider from estab-  
21 lishing its own internal quality review and enhancement  
22 programs.

1 **SEC. 504. ELIMINATION OF UTILIZATION REVIEW PRO-**  
2 **GRAMS; TRANSITION.**

3 (a) INTENT.—It is the intention of this title to re-  
4 place by January 1, 2009, random utilization controls with  
5 a systematic review of patterns of practice that com-  
6 promise the quality of care.

7 (b) SUPERSEDING CASE REVIEWS.—

8 (1) IN GENERAL.—Subject to the succeeding  
9 provisions of this subsection, the program of quality  
10 review provided under the previous sections of this  
11 title supersede all existing Federal requirements for  
12 utilization review programs, including requirements  
13 for random case-by-case reviews and programs re-  
14 quiring pre-certification of medical procedures on a  
15 case-by-case basis.

16 (2) TRANSITION.—Before January 1, 2009, the  
17 Board and the States may employ existing utiliza-  
18 tion review standards and mechanisms as may be  
19 necessary to effect the transition to pattern of prac-  
20 tice-based reviews.

21 (3) CONSTRUCTION.—Nothing in this sub-  
22 section shall be construed—

23 (A) as precluding the case-by-case review  
24 of the provision of care—

- 1 (i) in individual incidents where the  
 2 quality of care has significantly deviated  
 3 from acceptable standards of practice; and  
 4 (ii) with respect to a provider who has  
 5 been determined to be an outlier; or  
 6 (B) as precluding the case management of  
 7 catastrophic, mental health, or substance abuse  
 8 cases or long-term care where such manage-  
 9 ment is necessary to achieve appropriate, cost-  
 10 effective, and beneficial comprehensive medical  
 11 care, as provided for in section 204.

12 **TITLE VI—HEALTH SECURITY**  
 13 **BUDGET; PAYMENTS; COST**  
 14 **CONTAINMENT MEASURES**  
 15 **Subtitle A—Budgeting and**  
 16 **Payments to States**

17 **SEC. 601. NATIONAL HEALTH SECURITY BUDGET.**

- 18 (a) NATIONAL HEALTH SECURITY BUDGET.—  
 19 (1) IN GENERAL.—By not later than September  
 20 1 before the beginning of each year (beginning with  
 21 2006), the Board shall establish a national health  
 22 security budget, which—  
 23 (A) specifies the total expenditures (includ-  
 24 ing expenditures for administrative costs) to be  
 25 made by the Federal Government and the

1 States for covered health care services under  
2 this Act; and

3 (B) allocates those expenditures among the  
4 States consistent with section 604.

5 Pursuant to subsection (b), such budget for a year  
6 shall not exceed the budget for the preceding year  
7 increased by the percentage increase in gross domes-  
8 tic product.

9 (2) DIVISION OF BUDGET INTO COMPONENTS.—

10 The national health security budget shall consist of  
11 at least 4 components:

12 (A) A component for quality assessment  
13 activities (described in title V).

14 (B) A component for health professional  
15 education expenditures.

16 (C) A component for administrative costs.

17 (D) A component (in this title referred to  
18 as the “operating component”) for operating  
19 and other expenditures not described in sub-  
20 paragraphs (A) through (C), consisting of  
21 amounts not included in the other components.  
22 A State may provide for the allocation of this  
23 component between capital expenditures and  
24 other expenditures.

1           (3) ALLOCATION AMONG COMPONENTS.—Tak-  
2       ing into account the State health security budgets  
3       established and submitted under section 603, the  
4       Board shall allocate the national health security  
5       budget among the components in a manner that—

6           (A) assures a fair allocation for quality as-  
7       sessment activities (consistent with the national  
8       health security spending growth limit); and

9           (B) assures that the health professional  
10      education expenditure component is sufficient  
11      to provide for the amount of health professional  
12      education expenditures sufficient to meet the  
13      need for covered health care services (consistent  
14      with the national health security spending  
15      growth limit under subsection (b)(2)).

16      (b) BASIS FOR TOTAL EXPENDITURES.—

17           (1) IN GENERAL.—The total expenditures speci-  
18      fied in such budget shall be the sum of the capita-  
19      tion amounts computed under section 602(a) and  
20      the amount of Federal administrative expenditures  
21      needed to carry out this Act.

22           (2) NATIONAL HEALTH SECURITY SPENDING  
23      GROWTH LIMIT.—For purposes of this subtitle, the  
24      national health security spending growth limit de-  
25      scribed in this paragraph for a year is (A) zero, or,



1 if greater, (B) the average annual percentage in-  
2 crease in the gross domestic product (in current dol-  
3 lars) during the 3-year period beginning with the  
4 first quarter of the fourth previous year to the first  
5 quarter of the previous year minus the percentage  
6 increase (if any) in the number of eligible individuals  
7 residing in any State the United States from the  
8 first quarter of the second previous year to the first  
9 quarter of the previous year.

10 (c) DEFINITIONS.—In this title:

11 (1) CAPITAL EXPENDITURES.—The term “cap-  
12 ital expenditures” means expenses for the purchase,  
13 lease, construction, or renovation of capital facilities  
14 and for equipment and includes return on equity  
15 capital.

16 (2) HEALTH PROFESSIONAL EDUCATION EX-  
17 PENDITURES.—The term “health professional edu-  
18 cation expenditures” means expenditures in hospitals  
19 and other health care facilities to cover costs associ-  
20 ated with teaching and related research activities.

21 **SEC. 602. COMPUTATION OF INDIVIDUAL AND STATE CAPI-**  
22 **TATION AMOUNTS.**

23 (a) CAPITATION AMOUNTS.—

24 (1) INDIVIDUAL CAPITATION AMOUNTS.—In es-  
25 tablishing the national health security budget under

1 section 601(a) and in computing the national aver-  
 2 age per capita cost under subsection (b) for each  
 3 year, the Board shall establish a method for com-  
 4 puting the capitation amount for each eligible indi-  
 5 vidual residing in each State. The capitation amount  
 6 for an eligible individual in a State classified within  
 7 a risk group (established under subsection (d)(2)) is  
 8 the product of—

9 (A) a national average per capita cost for  
 10 all covered health care services (computed  
 11 under subsection (b));

12 (B) the State adjustment factor (estab-  
 13 lished under subsection (c)) for the State; and

14 (C) the risk adjustment factor (established  
 15 under subsection (d)) for the risk group.

16 (2) STATE CAPITATION AMOUNT.—

17 (A) IN GENERAL.—For purposes of this  
 18 title, the term “State capitation amount”  
 19 means, for a State for a year, the sum of the  
 20 capitation amounts computed under paragraph  
 21 (1) for all the residents of the State in the year,  
 22 as estimated by the Board before the beginning  
 23 of the year involved.

24 (B) USE OF STATISTICAL MODEL.—The  
 25 Board may provide for the computation of

1 State capitation amounts based on statistical  
2 models that fairly reflect the elements that com-  
3 prise the State capitation amount described in  
4 subparagraph (A).

5 (C) POPULATION INFORMATION.—The Bu-  
6 reau of the Census shall assist the Board in de-  
7 termining the number, place of residence, and  
8 risk group classification of eligible individuals.

9 (b) COMPUTATION OF NATIONAL AVERAGE PER CAP-  
10 ITA COST.—

11 (1) FOR 2006.—For 2006, the national average  
12 per capita cost under this paragraph is equal to—

13 (A) the average per capita health care ex-  
14 penditures in the United States in 2004 (as es-  
15 timated by the Board);

16 (B) increased to 2005 by the Board's esti-  
17 mate of the actual amount of such per capita  
18 expenditures during 2005; and

19 (C) updated to 2006 by the national health  
20 security spending growth limit specified in sec-  
21 tion 601(b)(2) for 2006.

22 (2) FOR SUCCEEDING YEARS.—For each suc-  
23 ceeding year, the national average per capita cost  
24 under this subsection is equal to the national aver-  
25 age per capita cost computed under this subsection

1 for the previous year increased by the national  
2 health security spending growth limit (specified in  
3 section 601(b)(2)) for the year involved.

4 (c) STATE ADJUSTMENT FACTORS.—

5 (1) IN GENERAL.—Subject to the succeeding  
6 paragraphs of this subsection, the Board shall de-  
7 velop for each State a factor to adjust the national  
8 average per capita costs to reflect differences be-  
9 tween the State and the United States in—

10 (A) average labor and nonlabor costs that  
11 are necessary to provide covered health services;

12 (B) any social, environmental, or geo-  
13 graphic condition affecting health status or the  
14 need for health care services, to the extent such  
15 a condition is not taken into account in the es-  
16 tablishment of risk groups under subsection (d);

17 (C) the geographic distribution of the  
18 State's population, particularly the proportion  
19 of the population residing in medically under-  
20 served areas, to the extent such a condition is  
21 not taken into account in the establishment of  
22 risk groups under subsection (d); and

23 (D) any other factor relating to operating  
24 costs required to assure equitable distribution  
25 of funds among the States.

1           (2) MODIFICATION OF HEALTH PROFESSIONAL  
2 EDUCATION COMPONENT.—With respect to the por-  
3 tion of the national health security budget allocated  
4 to expenditures for health professional education, the  
5 Board shall modify the State adjustment factors so  
6 as to take into account—

7           (A) differences among States in health  
8 professional education programs in operation as  
9 of the date of the enactment of this Act; and

10          (B) differences among States in their rel-  
11 ative need for expenditures for health profes-  
12 sional education, taking into account the health  
13 professional education expenditures proposed in  
14 State health security budgets under section  
15 603(a).

16          (3) BUDGET NEUTRALITY.—The State adjust-  
17 ment factors, as modified under paragraph (2), shall  
18 be applied under this subsection in a manner that  
19 results in neither an increase nor a decrease in the  
20 total amount of the Federal contributions to all  
21 State health security programs under subsection (b)  
22 as a result of the application of such factors.

23          (4) PHASE-IN.—In applying State adjustment  
24 factors under this subsection during the 5-year pe-  
25 riod beginning with 2006, the Board shall phase-in,

1 over such period, the use of factors described in  
2 paragraph (1) in a manner so that the adjustment  
3 factor for a State is based on a blend of such factors  
4 and a factor that reflects the relative actual average  
5 per capita costs of health services of the different  
6 States as of the time of enactment of this Act.

7 (5) PERIODIC ADJUSTMENT.—In establishing  
8 the national health security budget before the begin-  
9 ning of each year, the Board shall provide for appro-  
10 priate adjustments in the State adjustment factors  
11 under this subsection.

12 (d) ADJUSTMENTS FOR RISK GROUP CLASSIFICA-  
13 TION.—

14 (1) IN GENERAL.—The Board shall develop an  
15 adjustment factor to the national average per capita  
16 costs computed under subsection (b) for individuals  
17 classified in each risk group (as designated under  
18 paragraph (2)) to reflect the difference between the  
19 average national average per capita costs and the  
20 national average per capita cost for individuals clas-  
21 sified in the risk group.

22 (2) RISK GROUPS.—The Board shall designate  
23 a series of risk groups, determined by age, health in-  
24 dicators, and other factors that represent distinct  
25 patterns of health care services utilization and costs.

1           (3) PERIODIC ADJUSTMENT.—In establishing  
 2           the national health security budget before the begin-  
 3           ning of each year, the Board shall provide for appro-  
 4           priate adjustments in the risk adjustment factors  
 5           under this subsection.

6 **SEC. 603. STATE HEALTH SECURITY BUDGETS.**

7           (a) ESTABLISHMENT AND SUBMISSION OF BUDG-  
 8           ETS.—

9           (1) IN GENERAL.—Each State health security  
 10          program shall establish and submit to the Board for  
 11          each year a proposed and a final State health secu-  
 12          rity budget, which specifies the following:

13               (A) The total expenditures (including ex-  
 14               penditures for administrative costs) to be made  
 15               under the program in the State for covered  
 16               health care services under this Act, consistent  
 17               with subsection (b), broken down as follows:

18                       (i) By the 4 components (described in  
 19                       section 601(a)(2)), consistent with sub-  
 20                       section (b).

21                       (ii) Within the operating component—

22                               (I) expenditures for operating  
 23                               costs of hospitals and other facility-  
 24                               based services in the State;

1 (II) expenditures for payment to  
2 comprehensive health service organiza-  
3 tions;

4 (III) expenditures for payment of  
5 services provided by health care prac-  
6 titioners; and

7 (IV) expenditures for other cov-  
8 ered items and services.

9 Amounts included in the operating compo-  
10 nent include amounts that may be used by  
11 providers for capital expenditures.

12 (B) The total revenues required to meet  
13 the State health security expenditures.

14 (2) PROPOSED BUDGET DEADLINE.—The pro-  
15 posed budget for a year shall be submitted under  
16 paragraph (1) not later than June 1 before the year.

17 (3) FINAL BUDGET.—The final budget for a  
18 year shall—

19 (A) be established and submitted under  
20 paragraph (1) not later than October 1 before  
21 the year, and

22 (B) take into account the amounts estab-  
23 lished under the national health security budget  
24 under section 601 for the year.



1           (4) ADJUSTMENT IN ALLOCATIONS PER-  
2       MITTED.—

3           (A) IN GENERAL.—Subject to subpara-  
4       graphs (B) and (C), in the case of a final budg-  
5       et, a State may change the allocation of  
6       amounts among components.

7           (B) NOTICE.—No such change may be  
8       made unless the State has provided prior notice  
9       of the change to the Board.

10          (C) DENIAL.—Such a change may not be  
11       made if the Board, within such time period as  
12       the Board specifies, disapproves such change.

13       (b) EXPENDITURE LIMITS.—

14          (1) IN GENERAL.—The total expenditures speci-  
15       fied in each State health security budget under sub-  
16       section (a)(1) shall take into account Federal con-  
17       tributions made under section 604.

18          (2) LIMIT ON CLAIMS PROCESSING AND BILL-  
19       ING EXPENDITURES.—Each State health security  
20       budget shall provide that State administrative ex-  
21       penditures, including expenditures for claims proc-  
22       essing and billing, shall not exceed 3 percent of the  
23       total expenditures under the State health security  
24       program, unless the Board determines, on a case-by-  
25       case basis, that additional administrative expendi-

1       tures would improve health care quality and cost ef-  
2       fectiveness.

3           (3) WORKER ASSISTANCE.—A State health se-  
4       curity program may provide that, for budgets for  
5       years before 2009, up to 1 percent of the budget  
6       may be used for purposes of programs providing as-  
7       sistance to workers who are currently performing  
8       functions in the administration of the health insur-  
9       ance system and who may experience economic dis-  
10      location as a result of the implementation of the pro-  
11      gram.

12      (c) APPROVAL PROCESS FOR CAPITAL EXPENDI-  
13      TURES PERMITTED.—Nothing in this title shall be con-  
14      strued as preventing a State health security program from  
15      providing for a process for the approval of capital expendi-  
16      tures based on information derived from regional planning  
17      agencies.

18   **SEC. 604. FEDERAL PAYMENTS TO STATES.**

19      (a) IN GENERAL.—Each State with an approved  
20      State health security program is entitled to receive, from  
21      amounts in the American Health Security Trust Fund, on  
22      a monthly basis each year, of an amount equal to one-  
23      twelfth of the product of—

1           (1) the State capitation amount (computed  
2       under section 602(a)(2)) for the State for the year;  
3       and

4           (2) the Federal contribution percentage (estab-  
5       lished under subsection (b)).

6       (b) FEDERAL CONTRIBUTION PERCENTAGE.—The  
7       Board shall establish a formula for the establishment of  
8       a Federal contribution percentage for each State. Such  
9       formula shall take into consideration a State's per capita  
10      income and revenue capacity and such other relevant eco-  
11      nomic indicators as the Board determines to be appro-  
12      priate. In addition, during the 5-year period beginning  
13      with 2006, the Board may provide for a transition adjust-  
14      ment to the formula in order to take into account current  
15      expenditures by the State (and local governments thereof)  
16      for health services covered under the State health security  
17      program. The weighted-average Federal contribution per-  
18      centage for all States shall equal 86 percent and in no  
19      event shall such percentage be less than 81 percent nor  
20      more than 91 percent.

21      (c) USE OF PAYMENTS.—All payments made under  
22      this section may only be used to carry out the State health  
23      security program.

24      (d) EFFECT OF SPENDING EXCESS OR SURPLUS.—

1           (1) SPENDING EXCESS.—If a State exceeds it's  
2       budget in a given year, the State shall continue to  
3       fund covered health services from its own revenues.

4           (2) SURPLUS.—If a State provides all covered  
5       health services for less than the budgeted amount  
6       for a year, it may retain its Federal payment for  
7       that year for uses consistent with this Act.

8   **SEC. 605. ACCOUNT FOR HEALTH PROFESSIONAL EDU-**  
9                           **CATION EXPENDITURES.**

10       (a) SEPARATE ACCOUNT.—Each State health secu-  
11   rity program shall—

12           (1) include a separate account for health pro-  
13       fessional education expenditures; and

14           (2) specify the general manner, consistent with  
15       subsection (b), in which such expenditures are to be  
16       distributed among different types of institutions and  
17       the different areas of the State.

18       (b) DISTRIBUTION RULES.—The distribution of  
19   funds to hospitals and other health care facilities from the  
20   account must conform to the following principles:

21           (1) The disbursement of funds must be con-  
22       sistent with achievement of the national and pro-  
23       gram goals (specified in section 701(b)) within the  
24       State health security program and the distribution  
25       of funds from the account must be conditioned upon

1 the receipt of such reports as the Board may require  
 2 in order to monitor compliance with such goals.

3 (2) The distribution of funds from the account  
 4 must take into account the potentially higher costs  
 5 of placing health professional students in clinical  
 6 education programs in health professional shortage  
 7 areas.

## 8 **Subtitle B—Payments by States to** 9 **Providers**

### 10 **SEC. 611. PAYMENTS TO HOSPITALS AND OTHER FACILITY-** 11 **BASED SERVICES FOR OPERATING EXPENSES** 12 **ON THE BASIS OF APPROVED GLOBAL BUDG-** 13 **ETS.**

14 (a) DIRECT PAYMENT UNDER GLOBAL BUDGET.—  
 15 Payment for operating expenses for institutional and facil-  
 16 ity-based care, including hospital services and nursing fa-  
 17 cility services, under State health security programs shall  
 18 be made directly to each institution or facility by each  
 19 State health security program under an annual prospec-  
 20 tive global budget approved under the program. Such a  
 21 budget shall include payment for outpatient care and non-  
 22 facility-based care that is furnished by or through the fa-  
 23 cility. In the case of a hospital that is wholly owned (or  
 24 controlled) by a comprehensive health service organization  
 25 that is paid under section 614 on the basis of a global

1 budget, the global budget of the organization shall include  
2 the budget for the hospital.

3 (b) Annual Negotiations; Budget Approval—

4 (1) IN GENERAL.—The prospective global budg-  
5 et for an institution or facility shall—

6 (A) be developed through annual negotia-  
7 tions between—

8 (i) a panel of individuals who are ap-  
9 pointed by the Governor of the State and  
10 who represent consumers, labor, business,  
11 and the State government; and

12 (ii) the institution or facility; and

13 (B) be based on a nationally uniform sys-  
14 tem of cost accounting established under stand-  
15 ards of the Board.

16 (2) CONSIDERATIONS.—In developing a budget  
17 through negotiations, there shall be taken into ac-  
18 count at least the following:

19 (A) With respect to inpatient hospital serv-  
20 ices, the number, and classification by diag-  
21 nosis-related group, of discharges.

22 (B) An institution's or facility's past ex-  
23 penditures.

1           (C) The extent to which debt service for  
2 capital expenditures has been included in the  
3 proposed operating budget.

4           (D) The extent to which capital expendi-  
5 tures are financed directly or indirectly through  
6 reductions in direct care to patients, including  
7 (but not limited to) reductions in registered  
8 nursing staffing patterns or changes in emer-  
9 gency room or primary care services or avail-  
10 ability.

11           (E) Change in the consumer price index  
12 and other price indices.

13           (F) The cost of reasonable compensation  
14 to health care practitioners;

15           (G) The compensation level of the institu-  
16 tion's or facility's work force.

17           (H) The extent to which the institution or  
18 facility is providing health care services to meet  
19 the needs of residents in the area served by the  
20 institution or facility, including the institution's  
21 or facility's occupancy level.

22           (I) The institution's or facility's previous  
23 financial and clinical performance, based on uti-  
24 lization and outcomes data provided under this  
25 Act.

1           (J) The type of institution or facility, in-  
2           cluding whether the institution or facility is  
3           part of a clinical education program or serves  
4           a health professional education, research or  
5           other training purpose.

6           (K) Technological advances or changes.

7           (L) Costs of the institution or facility asso-  
8           ciated with meeting Federal and State regula-  
9           tions.

10          (M) The costs associated with necessary  
11          public outreach activities.

12          (N) In the case of a for-profit facility, a  
13          reasonable rate of return on equity capital,  
14          independent of those operating expenses nec-  
15          essary to fulfill the objectives of this Act.

16          (O) Incentives to facilities that maintain  
17          costs below previous reasonable budgeted levels  
18          without reducing the care provided.

19          (P) With respect to facilities that provide  
20          mental health services and substance abuse  
21          treatment services, any additional costs involved  
22          in the treatment of dually diagnosed individ-  
23          uals.

24          The portion of such a budget that relates to expendi-  
25          tures for health professional education shall be con-



1       sistent with the State health security budget for  
2       such expenditures.

3               (3) PROVISION OF REQUIRED INFORMATION; DI-  
4       AGNOSIS-RELATED GROUP.—No budget for an insti-  
5       tution or facility for a year may be approved unless  
6       the institution or facility has submitted on a timely  
7       basis to the State health security program such in-  
8       formation as the program or the Board shall specify,  
9       including in the case of hospitals information on dis-  
10      charges classified by diagnosis-related group.

11      (c) ADJUSTMENTS IN APPROVED BUDGETS.—

12              (1) ADJUSTMENTS TO GLOBAL BUDGETS THAT  
13      CONTRACT WITH COMPREHENSIVE HEALTH SERVICE  
14      ORGANIZATIONS.—Each State health security pro-  
15      gram shall develop an administrative mechanism for  
16      reducing operating funds to institutions or facilities  
17      in proportion to payments made to such institutions  
18      or facilities for services contracted for by a com-  
19      prehensive health service organization.

20              (2) AMENDMENTS.—In accordance with stand-  
21      ards established by the Board, an operating and  
22      capital budget approved under this section for a year  
23      may be amended before, during, or after the year if  
24      there is a substantial change in any of the factors  
25      relevant to budget approval.

1 (d) DONATIONS PERMISSIBLE.—The States health  
 2 security programs may permit institutions and facilities  
 3 to raise funds from private sources to pay for newly con-  
 4 structed facilities, major renovations, and equipment. The  
 5 expenditure of such funds, whether for operating or cap-  
 6 ital expenditures, does not obligate the State health secu-  
 7 rity program to provide for continued support for such ex-  
 8 penditures unless included in an approved global budget.

9 **SEC. 612. PAYMENTS TO HEALTH CARE PRACTITIONERS**

10 **BASED ON PROSPECTIVE FEE SCHEDULE.**

11 (a) FEE FOR SERVICE.—

12 (1) IN GENERAL.—Every independent health  
 13 care practitioner is entitled to be paid, for the provi-  
 14 sion of covered health services under the State  
 15 health security program, a fee for each billable cov-  
 16 ered service.

17 (2) GLOBAL FEE PAYMENT METHODOLOGIES.—

18 The Board shall establish models and encourage  
 19 State health security programs to implement alter-  
 20 native payment methodologies that incorporate glob-  
 21 al fees for related services (such as all outpatient  
 22 procedures for treatment of a condition) or for a  
 23 basic group of services (such as primary care serv-  
 24 ices) furnished to an individual over a period of  
 25 time, in order to encourage continuity and efficiency

1 in the provision of services. Such methodologies shall  
2 be designed to ensure a high quality of care.

3 (3) BILLING DEADLINES; ELECTRONIC BILL-  
4 ING.—A State health security program may deny  
5 payment for any service of an independent health  
6 care practitioner for which it did not receive a bill  
7 and appropriate supporting documentation (which  
8 had been previously specified) within 30 days after  
9 the date the service was provided. Such a program  
10 may require that bills for services for which payment  
11 may be made under this section, or for any class of  
12 such services, be submitted electronically.

13 (b) PAYMENT RATES BASED ON NEGOTIATED PRO-  
14 SPECTIVE FEE SCHEDULES.—With respect to any pay-  
15 ment method for a class of services of practitioners, the  
16 State health security program shall establish, on a pro-  
17 spective basis, a payment schedule. The State health secu-  
18 rity program may establish such a schedule after negotia-  
19 tions with organizations representing the practitioners in-  
20 volved. Such fee schedules shall be designed to provide in-  
21 centives for practitioners to choose primary care medicine,  
22 including general internal medicine and pediatrics, over  
23 medical specialization. Nothing in this section shall be con-  
24 strued as preventing a State from adjusting the payment  
25 schedule amounts on a quarterly or other periodic basis

1 depending on whether expenditures under the schedule will  
 2 exceed the budgeted amount with respect to such expendi-  
 3 tures.

4 (c) **BILLABLE COVERED SERVICE DEFINED.**—In this  
 5 section, the term “billable covered service” means a service  
 6 covered under section 201 for which a practitioner is enti-  
 7 tled to compensation by payment of a fee determined  
 8 under this section.

9 **SEC. 613. PAYMENTS TO COMPREHENSIVE HEALTH SERV-**  
 10 **ICE ORGANIZATIONS.**

11 (a) **IN GENERAL.**—Payment under a State health se-  
 12 curity program to a comprehensive health service organi-  
 13 zation to its enrollees shall be determined by the State—

14 (1) based on a global budget described in sec-  
 15 tion 611; or

16 (2) based on the basic capitation amount de-  
 17 scribed in subsection (b) for each of its enrollees.

18 (b) **BASIC CAPITATION AMOUNT.**—

19 (1) **IN GENERAL.**—The basic capitation amount  
 20 described in this subsection for an enrollee shall be  
 21 determined by the State health security program on  
 22 the basis of the average amount of expenditures that  
 23 is estimated would be made under the State health  
 24 security program for covered health care services for

1 an enrollee, based on actuarial characteristics (as de-  
 2 fined by the State health security program).

3 (2) ADJUSTMENT FOR SPECIAL HEALTH  
 4 NEEDS.—The State health security program shall  
 5 adjust such average amounts to take into account  
 6 the special health needs, including a disproportionate  
 7 number of medically underserved individuals, of pop-  
 8 ulations served by the organization.

9 (3) ADJUSTMENT FOR SERVICES NOT PRO-  
 10 VIDED.—The State health security program shall ad-  
 11 just such average amounts to take into account the  
 12 cost of covered health care services that are not pro-  
 13 vided by the comprehensive health service organiza-  
 14 tion under section 303(a).

15 **SEC. 614. PAYMENTS FOR COMMUNITY-BASED PRIMARY**  
 16 **HEALTH SERVICES.**

17 (a) IN GENERAL.—In the case of community-based  
 18 primary health services, subject to subsection (b), pay-  
 19 ments under a State health security program shall—

20 (1) be based on a global budget described in  
 21 section 611;

22 (2) be based on the basic primary care capita-  
 23 tion amount described in subsection (c) for each in-  
 24 dividual enrolled with the provider of such services;  
 25 or

1           (3) be made on a fee-for-service basis under  
2       section 612.

3       (b) PAYMENT ADJUSTMENT.—Payments under sub-  
4       section (a) may include, consistent with the budgets devel-  
5       oped under this title—

6           (1) an additional amount, as set by the State  
7       health security program, to cover the costs incurred  
8       by a provider which serves persons not covered by  
9       this Act whose health care is essential to overall  
10      community health and the control of communicable  
11      disease, and for whom the cost of such care is other-  
12      wise uncompensated;

13          (2) an additional amount, as set by the State  
14      health security program, to cover the reasonable  
15      costs incurred by a provider that furnishes case  
16      management services (as defined in section  
17      1915(g)(2) of the Social Security Act), transpor-  
18      tation services, and translation services; and

19          (3) an additional amount, as set by the State  
20      health security program, to cover the costs incurred  
21      by a provider in conducting health professional edu-  
22      cation programs in connection with the provision of  
23      such services.

24      (c) BASIC PRIMARY CARE CAPITATION AMOUNT.—

1           (1) IN GENERAL.—The basic primary care capi-  
2           tation amount described in this subsection for an en-  
3           rollee with a provider of community-based primary  
4           health services shall be determined by the State  
5           health security program on the basis of the average  
6           amount of expenditures that is estimated would be  
7           made under the State health security program for  
8           such an enrollee, based on actuarial characteristics  
9           (as defined by the State health security program).

10          (2) ADJUSTMENT FOR SPECIAL HEALTH  
11          NEEDS.—The State health security program shall  
12          adjust such average amounts to take into account  
13          the special health needs, including a disproportionate  
14          number of medically underserved individuals, of pop-  
15          ulations served by the provider.

16          (3) ADJUSTMENT FOR SERVICES NOT PRO-  
17          VIDED.—The State health security program shall ad-  
18          just such average amounts to take into account the  
19          cost of community-based primary health services  
20          that are not provided by the provider.

21          (d) COMMUNITY-BASED PRIMARY HEALTH SERVICES  
22          DEFINED.—In this section, the term “community-based  
23          primary health services” has the meaning given such term  
24          in section 202(a).

1 **SEC. 615. PAYMENTS FOR PRESCRIPTION DRUGS.**

2 (a) ESTABLISHMENT OF LIST.—

3 (1) IN GENERAL.—The Board shall establish a  
4 list of approved prescription drugs and biologicals  
5 that the Board determines are necessary for the  
6 maintenance or restoration of health or of employ-  
7 ability or self-management and eligible for coverage  
8 under this Act.

9 (2) EXCLUSIONS.—The Board may exclude re-  
10 imbursement under this Act for ineffective, unsafe,  
11 or over-priced products where better alternatives are  
12 determined to be available.

13 (b) PRICES.—For each such listed prescription drug  
14 or biological covered under this Act, for insulin, and for  
15 medical foods, the Board shall from time to time deter-  
16 mine a product price or prices which shall constitute the  
17 maximum to be recognized under this Act as the cost of  
18 a drug to a provider thereof. The Board may conduct ne-  
19 gotiations, on behalf of State health security programs,  
20 with product manufacturers and distributors in deter-  
21 mining the applicable product price or prices.

22 (c) CHARGES BY INDEPENDENT PHARMACIES.—  
23 Each State health security program shall provide for pay-  
24 ment for a prescription drug or biological or insulin fur-  
25 nished by an independent pharmacy based on the drug's  
26 cost to the pharmacy (not in excess of the applicable prod-



1 uct price established under subsection (b)) plus a dis-  
2 pensing fee. In accordance with standards established by  
3 the Board, each State health security program, after con-  
4 sultation with representatives of the pharmaceutical pro-  
5 fession, shall establish schedules of dispensing fees, de-  
6 signed to afford reasonable compensation to independent  
7 pharmacies after taking into account variations in their  
8 cost of operation resulting from regional differences, dif-  
9 ferences in the volume of prescription drugs dispensed, dif-  
10 ferences in services provided, the need to maintain expend-  
11 itures within the budgets established under this title, and  
12 other relevant factors.

13 **SEC. 616. PAYMENTS FOR APPROVED DEVICES AND EQUIP-**  
14 **MENT.**

15 (a) ESTABLISHMENT OF LIST.—The Board shall es-  
16 tablish a list of approved durable medical equipment and  
17 therapeutic devices and equipment (including eyeglasses,  
18 hearing aids, and prosthetic appliances), that the Board  
19 determines are necessary for the maintenance or restora-  
20 tion of health or of employability or self-management and  
21 eligible for coverage under this Act.

22 (b) CONSIDERATIONS AND CONDITIONS.—In estab-  
23 lishing the list under subsection (a), the Board shall take  
24 into consideration the efficacy, safety, and cost of each  
25 item contained on such list, and shall attach to any item

1 such conditions as the Board determines appropriate with  
2 respect to the circumstances under which, or the frequency  
3 with which, the item may be prescribed.

4 (c) PRICES.—For each such listed item covered under  
5 this Act, the Board shall from time to time determine a  
6 product price or prices which shall constitute the max-  
7 imum to be recognized under this Act as the cost of the  
8 item to a provider thereof. The Board may conduct nego-  
9 tiations, on behalf of State health security programs, with  
10 equipment and device manufacturers and distributors in  
11 determining the applicable product price or prices.

12 (d) EXCLUSIONS.—The Board may exclude from cov-  
13 erage under this Act ineffective, unsafe, or overpriced  
14 products where better alternatives are determined to be  
15 available.

16 **SEC. 617. PAYMENTS FOR OTHER ITEMS AND SERVICES.**

17 In the case of payment for other covered health serv-  
18 ices, the amount of payment under a State health security  
19 program shall be established by the program—

20 (1) in accordance with payment methodologies  
21 which are specified by the Board, after consultation  
22 with the American Health Security Advisory Coun-  
23 cil, or methodologies established by the State under  
24 section 620; and

1           (2) consistent with the State health security  
2       budget.

3   **SEC. 618. PAYMENT INCENTIVES FOR MEDICALLY UNDER-**  
4                   **SERVED AREAS.**

5       (a) MODEL PAYMENT METHODOLOGIES.—In addi-  
6   tion to the payment amounts otherwise provided in this  
7   title, the Board shall establish model payment methodolo-  
8   gies and other incentives that promote the provision of  
9   covered health care services in medically underserved  
10  areas, particularly in rural and inner-city underserved  
11  areas.

12       (b) CONSTRUCTION.—Nothing in this title shall be  
13  construed as limiting the authority of State health security  
14  programs to increase payment amounts or otherwise pro-  
15  vide additional incentives, consistent with the State health  
16  security budget, to encourage the provision of medically  
17  necessary and appropriate services in underserved areas.

18   **SEC. 619. AUTHORITY FOR ALTERNATIVE PAYMENT METH-**  
19                   **ODOLOGIES.**

20       A State health security program, as part of its plan  
21  under section 404(a), may use a payment methodology  
22  other than a methodology required under this subtitle so  
23  long as—

24           (1) such payment methodology does not affect  
25       the entitlement of individuals to coverage, the

1       weighting of fee schedules to encourage an increase  
 2       in the number of primary care providers, the ability  
 3       of individuals to choose among qualified providers,  
 4       the benefits covered under the program, or the com-  
 5       pliance of the program with the State health security  
 6       budget under subtitle A; and

7               (2) the program submits periodic reports to the  
 8       Board showing the operation and effectiveness of the  
 9       alternative methodology, in order for the Board to  
 10      evaluate the appropriateness of applying the alter-  
 11      native methodology to other States.

## 12   **Subtitle C—Mandatory Assignment** 13   **and Administrative Provisions**

### 14   **SEC. 631. MANDATORY ASSIGNMENT.**

15       (a) NO BALANCE BILLING.—Payments for benefits  
 16      under this Act shall constitute payment in full for such  
 17      benefits and the entity furnishing an item or service for  
 18      which payment is made under this Act shall accept such  
 19      payment as payment in full for the item or service and  
 20      may not accept any payment or impose any charge for  
 21      any such item or service other than accepting payment  
 22      from the State health security program in accordance with  
 23      this Act.

24       (b) ENFORCEMENT.—If an entity knowingly and will-  
 25      fully bills for an item or service or accepts payment in

1 violation of subsection (a), the Board may apply sanctions  
2 against the entity in the same manner as sanctions could  
3 have been imposed under section 1842(j)(2) of the Social  
4 Security Act for a violation of section 1842(j)(1) of such  
5 Act. Such sanctions are in addition to any sanctions that  
6 a State may impose under its State health security pro-  
7 gram.

8 **SEC. 632. PROCEDURES FOR REIMBURSEMENT; APPEALS.**

9 (a) PROCEDURES FOR REIMBURSEMENT.—In accord-  
10 ance with standards issued by the Board, a State health  
11 security program shall establish a timely and administra-  
12 tively simple procedure to assure payment within 60 days  
13 of the date of submission of clean claims by providers  
14 under this Act.

15 (b) APPEALS PROCESS.—Each State health security  
16 program shall establish an appeals process to handle all  
17 grievances pertaining to payment to providers under this  
18 title.

1 **TITLE VII—PROMOTION OF PRI-**  
2 **MARY HEALTH CARE; DEVEL-**  
3 **OPMENT OF HEALTH SERV-**  
4 **ICE CAPACITY; PROGRAMS TO**  
5 **ASSIST THE MEDICALLY UN-**  
6 **DERSERVED**

7 **Subtitle A—Promotion and Expan-**  
8 **sion of Primary Care Profes-**  
9 **sional Training**

10 **SEC. 701. ROLE OF BOARD; ESTABLISHMENT OF PRIMARY**  
11 **CARE PROFESSIONAL OUTPUT GOALS.**

12 (a) IN GENERAL.—The Board is responsible for—

13 (1) coordinating health professional education  
14 policies and goals, in consultation with the Secretary  
15 of Health and Human Services (in this title referred  
16 to as the “Secretary”), to achieve the national goals  
17 specified in subsection (b);

18 (2) overseeing the health professional education  
19 expenditures of the State health security programs  
20 from the account established under section 602(c);

21 (3) developing and maintaining, in cooperation  
22 with the Secretary, a system to monitor the number  
23 and specialties of individuals through their health  
24 professional education, any postgraduate training,  
25 and professional practice; and

1           (4) developing, coordinating, and promoting  
2           other policies that expand the number of primary  
3           care practitioners.

4           (b) NATIONAL GOALS.—The national goals specified  
5           in this subsection are as follows:

6           (1) GRADUATE MEDICAL EDUCATION.—By not  
7           later than 5 years after the date of the enactment  
8           of this Act, at least 50 percent of the residents in  
9           medical residency education programs (as defined in  
10          subsection (e)(1)) are primary care residents (as de-  
11          fined in subsection (e)(3)).

12          (2) MIDDLELEVEL PRIMARY CARE PRACTI-  
13          TIONERS.—To assure an adequate supply of primary  
14          care practitioners, there shall be a number, specified  
15          by the Board, of midlevel primary care practitioners  
16          (as defined in subsection (e)(2)) employed in the  
17          health care system as of January 1, 2009.

18          (c) METHOD FOR ATTAINMENT OF NATIONAL GOAL  
19          FOR GRADUATE MEDICAL EDUCATION; PROGRAM  
20          GOALS.—

21          (1) IN GENERAL.—The Board shall establish a  
22          method of applying the national goal in subsection  
23          (b)(1) to program goals for each medical residency  
24          education program or to medical residency education  
25          consortia.

1           (2) CONSIDERATION.—The program goals  
2       under paragraph (1) shall be based on the distribu-  
3       tion of medical schools and other teaching facilities  
4       within each State health security program, and the  
5       number of positions for graduate medical education.

6           (3) MEDICAL RESIDENCY EDUCATION CONSOR-  
7       TIUM.—In this subsection, the term “medical resi-  
8       dency education consortium” means a consortium of  
9       medical residency education programs in a contig-  
10      uous geographic area (which may be an interstate  
11      area) if the consortium—

12           (A) includes at least 1 medical school with  
13      a teaching hospital and related teaching set-  
14      tings; and

15           (B) has an affiliation with qualified com-  
16      munity-based primary health service providers  
17      described in section 202(a) and with at least 1  
18      comprehensive health service organization es-  
19      tablished under section 303.

20           (4) ENFORCEMENT THROUGH STATE HEALTH  
21      SECURITY BUDGETS.—The Board shall develop a  
22      formula for reducing payments to State health secu-  
23      rity programs (that provide for payments to a med-  
24      ical residency education program) that failed to meet



1 the goal for the program established under this sub-  
2 section.

3 (d) METHOD FOR ATTAINMENT OF NATIONAL GOAL  
4 FOR MIDDLELEVEL PRIMARY CARE PRACTITIONERS.—To as-  
5 sist in attaining the national goal identified in subsection  
6 (b)(2), the Board shall—

7 (1) advise the Public Health Service on alloca-  
8 tions of funding under titles VII and VIII of the  
9 Public Health Service Act, the National Health  
10 Service Corps, and other programs in order to in-  
11 crease the supply of midlevel primary care practi-  
12 tioners; and

13 (2) commission a study of the potential benefits  
14 and disadvantages of expanding the scope of practice  
15 authorized under State laws for any class of midlevel  
16 primary care practitioners.

17 (e) DEFINITIONS.—In this title:

18 (1) MEDICAL RESIDENCY EDUCATION PRO-  
19 GRAM.—The term “medical residency education pro-  
20 gram” means a program that provides education  
21 and training to graduates of medical schools in order  
22 to meet requirements for licensing and certification  
23 as a physician, and includes the medical school su-  
24 pervising the program and includes the hospital or  
25 other facility in which the program is operated.

1           (2) MIDDLELEVEL PRIMARY CARE PRACTI-  
 2           TIONER.—The term “midlevel primary care practi-  
 3           tioner” means a clinical nurse practitioner, certified  
 4           nurse midwife, physician assistance, or other non-  
 5           physician practitioner, specified by the Board, as au-  
 6           thorized to practice under State law.

7           (3) PRIMARY CARE RESIDENT.—The term “pri-  
 8           mary care resident” means (in accordance with cri-  
 9           teria established by the Board) a resident being  
 10          trained in a distinct program of family practice med-  
 11          icine, general practice, general internal medicine, or  
 12          general pediatrics.

13 **SEC. 702. ESTABLISHMENT OF ADVISORY COMMITTEE ON**  
 14 **HEALTH PROFESSIONAL EDUCATION.**

15          (a) IN GENERAL.—The Board shall provide for an  
 16          Advisory Committee on Health Professional Education (in  
 17          this section referred to as the “Committee”) to advise the  
 18          Board on its activities under section 701.

19          (b) MEMBERSHIP.—The Committee shall be com-  
 20          posed of—

21               (1) the Chair of the Board, who shall serve as  
 22          Chair of the Committee; and

23               (2) 12 members, not otherwise in the employ of  
 24          the United States, appointed by the Board without  
 25          regard to the provisions of title 5, United States

1 Code, governing appointments in the competitive  
2 service.

3 The appointed members shall provide a balanced point of  
4 view with respect to health professional education, primary  
5 care disciplines, and health care policy and shall include  
6 individuals who are representative of medical schools,  
7 other health professional schools, residency programs, pri-  
8 mary care practitioners, teaching hospitals, professional  
9 associations, public health organizations, State health se-  
10 curity programs, and consumers.

11 (c) TERMS OF MEMBERS.—Each appointed member  
12 shall hold office for a term of 5 years, except that—

13 (1) any member appointed to fill a vacancy oc-  
14 ccurring during the term for which the member's  
15 predecessor was appointed shall be appointed for the  
16 remainder of that term; and

17 (2) the terms of the members first taking office  
18 shall expire, as designated by the Board at the time  
19 of appointment, 2 at the end of the second year, 2  
20 at the end of the third year, 2 at the end of the  
21 fourth year, and 3 at the end of the fifth year after  
22 the date of enactment of this Act.

23 (d) VACANCIES.—

24 (1) IN GENERAL.—The Board shall fill any va-  
25 cancy in the membership of the Committee in the

1 same manner as the original appointment. The va-  
2 cancy shall not affect the power of the remaining  
3 members to execute the duties of the Committee.

4 (2) VACANCY APPOINTMENTS.—Any member  
5 appointed to fill a vacancy shall serve for the re-  
6 mainder of the term for which the predecessor of the  
7 member was appointed.

8 (3) REAPPOINTMENT.—The Board may re-  
9 appoint an appointed member of the Committee for  
10 a second term in the same manner as the original  
11 appointment.

12 (e) DUTIES.—It shall be the duty of the Committee  
13 to advise the Board concerning graduate medical edu-  
14 cation policies under this title.

15 (f) STAFF.—The Committee, its members, and any  
16 committees of the Committee shall be provided with such  
17 secretarial, clerical, or other assistance as may be author-  
18 ized by the Board for carrying out their respective func-  
19 tions.

20 (g) MEETINGS.—The Committee shall meet as fre-  
21 quently as the Board deems necessary, but not less than  
22 4 times each year. Upon request by 4 or more members  
23 it shall be the duty of the Chair to call a meeting of the  
24 Committee.

1       (h) COMPENSATION.—Members of the Committee  
2 shall be reimbursed by the Board for travel and per diem  
3 in lieu of subsistence expenses during the performance of  
4 duties of the Board in accordance with subchapter I of  
5 chapter 57 of title 5, United States Code.

6       (i) FACA NOT APPLICABLE.—The provisions of the  
7 Federal Advisory Committee Act shall not apply to the  
8 Committee.

9   **SEC. 703. GRANTS FOR HEALTH PROFESSIONS EDUCATION,**  
10                   **NURSE EDUCATION, AND THE NATIONAL**  
11                   **HEALTH SERVICE CORPS.**

12       (a) TRANSFERS TO PUBLIC HEALTH SERVICE.—  
13 From the amounts provided under subsection (c), the  
14 Board shall make transfers from the American Health Se-  
15 curity Trust Fund to the Public Health Service under sub-  
16 part II of part D of title III, title VII, and title VIII of  
17 the Public Health Service Act for the support of the Na-  
18 tional Health Service Corps, health professions education,  
19 and nursing education, including education of clinical  
20 nurse practitioners, certified registered nurse anesthetists,  
21 certified nurse midwives, and physician assistants. Of the  
22 amounts so transferred in each year, not less than 50 per-  
23 cent shall be expended for the support of the National  
24 Health Service Corps.

1 (b) RANGE OF FUNDS.—The amount of transfers  
 2 under subsection (a) for any fiscal year shall be an amount  
 3 (specified by the Board each year) not less than  $\frac{4}{100}$  per-  
 4 cent and not to exceed  $\frac{6}{100}$  percent of the amounts the  
 5 Board estimates will be expended from the Trust Fund  
 6 in the fiscal year.

7 (c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The  
 8 funds provided under this section with respect to provision  
 9 of services are in addition to, and not in replacement of,  
 10 funds made available under the provisions referred to in  
 11 subsection (a) and shall be administered in accordance  
 12 with the terms of such provisions. The Board shall make  
 13 no transfer of funds under this section for any fiscal year  
 14 for which the total appropriations for the programs au-  
 15 thorized by such provisions are less than the total amount  
 16 appropriated for such programs in fiscal year 2004.

## 17 **Subtitle B—Direct Health Care** 18 **Delivery**

### 19 **SEC. 711. SETASIDE FOR PUBLIC HEALTH.**

20 (a) TRANSFERS TO PUBLIC HEALTH SERVICE.—  
 21 From the amounts provided under subsection (c), the  
 22 Board shall make transfers from the American Health Se-  
 23 curity Trust Fund to the Public Health Service for the  
 24 following purposes (other than payment for services cov-  
 25 ered under title II):

1           (1) For payments to States under the maternal  
2           and child health block grants under title V of the  
3           Social Security Act.

4           (2) For prevention and treatment of tuber-  
5           culosis under section 317 of the Public Health Serv-  
6           ice Act.

7           (3) For the prevention and treatment of sexu-  
8           ally transmitted diseases under section 318 of the  
9           Public Health Service Act.

10          (4) Preventive health block grants under part A  
11          of title XIX of the Public Health Service Act.

12          (5) Grants to States for community mental  
13          health services under subpart I of part B of title  
14          XIX of the Public Health Service Act.

15          (6) Grants to States for prevention and treat-  
16          ment of substance abuse under subpart II of part B  
17          of title XIX of the Public Health Service Act.

18          (7) Grants for HIV health care services under  
19          parts A, B, and C of title XXVI of the Public  
20          Health Service Act.

21          (8) Public health formula grants described in  
22          subsection (d).

23          (b) RANGE OF FUNDS.—The amount of transfers  
24          under subsection (a) for any fiscal year shall be an amount  
25          (specified by the Board each year) not less than  $\frac{1}{10}$  per-

1 cent and not to exceed  $14/100$  percent of the amounts the  
2 Board estimates will be expended from the Trust Fund  
3 in the fiscal year.

4 (c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The  
5 funds provided under this section with respect to provision  
6 of services are in addition to, and not in replacement of,  
7 funds made available under the programs referred to in  
8 subsection (a) and shall be administered in accordance  
9 with the terms of such programs.

10 (d) REQUIRED REPORTS ON HEALTH STATUS.—The  
11 Secretary shall require each State receiving funds under  
12 this section to submit annual reports to the Secretary on  
13 the health status of the population and measurable objec-  
14 tives for improving the health of the public in the State.  
15 Such reports shall include the following:

16 (1) A comparison of the measures of the State  
17 and local public health system compared to relevant  
18 objectives set forth in “Healthy People 2000” or  
19 subsequent national objectives set by the Secretary.

20 (2) A description of health status measures to  
21 be improved within the State (at the State and local  
22 levels) through expanded public health functions and  
23 health promotion and disease prevention programs.



1           (3) Measurable outcomes and process objectives  
2       for improving health status, and a report on out-  
3       comes from the previous year.

4           (4) Information regarding how Federal funding  
5       has improved population-based prevention activities  
6       and programs.

7           (5) A description of the core public health func-  
8       tions to be carried out at the local level.

9           (6) A description of the relationship between  
10      the State's public health system, community-based  
11      health promotion and disease prevention providers,  
12      and the State health security program.

13      (e) LIMITATION ON FUND TRANSFERS.—The Board  
14      shall make no transfer of funds under this section for any  
15      fiscal year for which the total appropriations for such pro-  
16      grams are less than the total amount appropriated for  
17      such programs in fiscal year 2004.

18      (f) PUBLIC HEALTH FORMULA GRANTS.—The Sec-  
19      retary shall provide stable funds to States through for-  
20      mula grants for the purpose of carrying out core public  
21      health functions to monitor and protect the health of com-  
22      munities from communicable diseases and exposure to  
23      toxic environmental pollutants, occupational hazards,  
24      harmful products, and poor health outcomes. Such func-  
25      tions include the following:

1           (1) Data collection, analysis, and assessment of  
2       public health data, vital statistics, and personal  
3       health data to assess community health status and  
4       outcomes reporting. This function includes the ac-  
5       quisition and installation of hardware and software,  
6       and personnel training and technical assistance to  
7       operate and support automated and integrated infor-  
8       mation systems.

9           (2) Activities to protect the environment and to  
10      assure the safety of housing, workplaces, food, and  
11      water.

12          (3) Investigation and control of adverse health  
13      conditions, and threats to the health status of indi-  
14      viduals and the community. This function includes  
15      the identification and control of outbreaks of infec-  
16      tious disease, patterns of chronic disease and injury,  
17      and cooperative activities to reduce the levels of vio-  
18      lence.

19          (4) Health promotion and disease prevention  
20      activities for which there is a significant need and a  
21      high priority of the Public Health Service.

22          (5) The provision of public health laboratory  
23      services to complement private clinical laboratory  
24      services, including—

1 (A) screening tests for metabolic diseases  
2 in newborns;

3 (B) toxicology assessments of blood lead  
4 levels and other environmental toxins;

5 (C) tuberculosis and other diseases requir-  
6 ing partner notification; and

7 (D) testing for infectious and food-borne  
8 diseases.

9 (6) Training and education for the public  
10 health professions.

11 (7) Research on effective and cost-effective pub-  
12 lic health practices. This function includes the devel-  
13 opment, testing, evaluation, and publication of re-  
14 sults of new prevention and public health control  
15 interventions.

16 (8) Integration and coordination of the preven-  
17 tion programs and services of community-based pro-  
18 viders, local and State health departments, and  
19 other sectors of State and local government that af-  
20 fect health.

21 **SEC. 712. SETASIDE FOR PRIMARY HEALTH CARE DELIV-**  
22 **ERY.**

23 (a) TRANSFERS TO PUBLIC HEALTH SERVICE.—  
24 From the amounts provided under subsection (c), the  
25 Board shall make transfers from the American Health Se-

1 curity Trust Fund to the Public Health Service for the  
2 program of primary care service expansion grants under  
3 subpart V of part D of title III of the Public Health Serv-  
4 ice Act (as added by section 713 of this Act).

5 (b) RANGE OF FUNDS.—The amount of transfers  
6 under subsection (a) for any fiscal year shall be an amount  
7 (specified by the Board each year) not less than  $\frac{6}{100}$  per-  
8 cent and not to exceed  $\frac{1}{10}$  percent of the amounts the  
9 Board estimates will be expended from the Trust Fund  
10 in the fiscal year.

11 (c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The  
12 funds provided under this section with respect to provision  
13 of services are in addition to, and not in replacement of,  
14 funds made available under the sections 329, 330, 340,  
15 340A, 1001, and 2655 of the Public Health Service Act.  
16 The Board shall make no transfer of funds under this sec-  
17 tion for any fiscal year for which the total appropriations  
18 for such sections are less than the total amount appro-  
19 priated under such sections in fiscal year 2004.

20 **SEC. 713. PRIMARY CARE SERVICE EXPANSION GRANTS.**

21 Part D of title III of the Public Health Service Act  
22 (42 U.S.C. 254b et seq.) is amended by adding at the end  
23 thereof the following new subpart:

1           **“Subpart XI—Primary Care Expansion**

2   **“SEC. 340H. EXPANDING PRIMARY CARE DELIVERY CAPAC-**  
3           **ITY IN URBAN AND RURAL AREAS.**

4           “(a) GRANTS FOR PRIMARY CARE CENTERS.—From  
5 the amounts described in subsection (c), the American  
6 Health Security Standards Board shall make grants to  
7 public and nonprofit private entities for projects to plan  
8 and develop primary care centers which will serve medi-  
9 cally underserved populations (as defined in section  
10 330(b)(3)) in urban and rural areas and to deliver primary  
11 care services to such populations in such areas. The funds  
12 provided under such a grant may be used for the same  
13 purposes for which a grant may be made under subsection  
14 (c), (e), (f), (g), (h), or (i) of section 330.

15          “(b) PROCESS OF AWARDING GRANTS.—The provi-  
16 sions of subsection (k)(1) of section 330 shall apply to  
17 a grant under this section in the same manner as they  
18 apply to a grant under the corresponding subsection of  
19 such section. The provisions of subsection (r)(2)(A) of  
20 such section shall apply to grants for projects to plan and  
21 develop primary care centers under this section in the  
22 same manner as they apply to grants under such section.

23          “(c) FUNDING AS SET-ASIDE FROM TRUST FUND.—  
24 Funding to carry out this section is provided from the  
25 American Health Security Trust Fund in accordance with  
26 section 912 of the American Health Security Act of 2005.

1       “(d) PRIMARY CARE CENTER DEFINED.—In this sec-  
2       tion, the term ‘primary care center’ means—

3               “(1) a health center (as defined in section  
4       330(1));

5               “(2) an entity qualified to receive a grant under  
6       section 330, 1001 or 2655; or

7               “(3) a federally qualified health center (as de-  
8       fined in section 1905(l)(2)(B) of the Social Security  
9       Act).”.

## 10       **Subtitle C—Primary Care and** 11       **Outcomes Research**

### 12       **SEC. 721. SET-ASIDE FOR OUTCOMES RESEARCH.**

13       (a) GRANTS FOR OUTCOMES RESEARCH.—The  
14       Board shall make transfers from the American Health Se-  
15       curity Trust Fund to the Agency for Health Care Policy  
16       and Research under title IX of the Public Health Service  
17       Act for the purpose of carrying out activities under such  
18       title. The Secretary shall assure that there is a special em-  
19       phasis placed on pediatric outcomes research.

20       (b) RANGE OF FUNDS.—The amount of transfers  
21       under subsection (a) for any fiscal year shall be an amount  
22       (specified by the Board each year) not less than  $\frac{1}{100}$  per-  
23       cent and not to exceed  $\frac{2}{100}$  percent of the amounts the  
24       Board estimates will be expended from the Trust Fund  
25       in the fiscal year.

1       (c) FUNDS SUPPLEMENTAL TO OTHER FUNDS.—The  
2 funds provided under this section with respect to provision  
3 of services are in addition to, and not in replacement of,  
4 funds made available to the Agency for Health Care Policy  
5 and Research under section 926 of the Public Health  
6 Service Act. The Board shall make no transfer of funds  
7 under this section for any fiscal year for which the total  
8 appropriations under such section are less than the total  
9 amount appropriated under such section and title in fiscal  
10 year 2004.

11       (d) CONFORMING AMENDMENT.—Section 927(b) of  
12 the Public Health Service Act (42 U.S.C. 299c–6(b)) is  
13 amended by striking “of the fiscal years 2001 through  
14 2005” and inserting “subsequent fiscal year”.

15 **SEC. 722. OFFICE OF PRIMARY CARE AND PREVENTION RE-**  
16 **SEARCH.**

17       (a) IN GENERAL.—Title IV of the Public Health  
18 Service Act is amended—

19               (1) by redesignating parts G through I as parts  
20 H through J, respectively; and

21               (2) by inserting after part F the following new  
22 part:

1     **“PART G—RESEARCH ON PRIMARY CARE AND**  
2                     **PREVENTION**

3     **“SEC. 486E. OFFICE OF PRIMARY CARE AND PREVENTION**  
4                     **RESEARCH.**

5             “(a) ESTABLISHMENT.—There is established within  
6 the Office of the Director of NIH an office to be known  
7 as the Office of Primary Care and Prevention Research  
8 (in this part referred to as the ‘Office’). The Office shall  
9 be headed by a director, who shall be appointed by the  
10 Director of NIH.

11            “(b) PURPOSE.—The Director of the Office shall—

12                    “(1) identify projects of research on primary  
13 care and prevention, for children as well as adults,  
14 that should be conducted or supported by the na-  
15 tional research institutes, with particular emphasis  
16 on—

17                            “(A) clinical patient care, with special em-  
18 phasis on pediatric clinical care and diagnosis;

19                            “(B) diagnostic effectiveness;

20                            “(C) primary care education;

21                            “(D) health and family planning services;

22                            “(E) medical effectiveness outcomes of pri-  
23 mary care procedures and interventions; and

24                            “(F) the use of multidisciplinary teams of  
25 health care practitioners;



1           “(2) identify multidisciplinary research related  
2           to primary care and prevention that should be so  
3           conducted;

4           “(3) promote coordination and collaboration  
5           among entities conducting research identified under  
6           any of paragraphs (1) and (2);

7           “(4) encourage the conduct of such research by  
8           entities receiving funds from the national research  
9           institutes;

10          “(5) recommend an agenda for conducting and  
11          supporting such research;

12          “(6) promote the sufficient allocation of the re-  
13          sources of the national research institutes for con-  
14          ducting and supporting such research; and

15          “(7) prepare the report required in section  
16          486G.

17          “(c) PRIMARY CARE AND PREVENTION RESEARCH  
18          DEFINED.—For purposes of this part, the term ‘primary  
19          care and prevention research’ means research on improve-  
20          ment of the practice of family medicine, general internal  
21          medicine, and general pediatrics, and includes research re-  
22          lating to—

23                 “(1) obstetrics and gynecology, dentistry, or  
24                 mental health or substance abuse treatment when

1 provided by a primary care physician or other pri-  
2 mary care practitioner; and

3 “(2) primary care provided by multidisciplinary  
4 teams.

5 **“SEC. 486F. NATIONAL DATA SYSTEM AND CLEARINGHOUSE**  
6 **ON PRIMARY CARE AND PREVENTION RE-**  
7 **SEARCH.**

8 “(a) DATA SYSTEM.—The Director of NIH, in con-  
9 sultation with the Director of the Office, shall establish  
10 a data system for the collection, storage, analysis, re-  
11 trieval, and dissemination of information regarding pri-  
12 mary care and prevention research that is conducted or  
13 supported by the national research institutes. Information  
14 from the data system shall be available through informa-  
15 tion systems available to health care professionals and pro-  
16 viders, researchers, and members of the public.

17 “(b) CLEARINGHOUSE.—The Director of NIH, in  
18 consultation with the Director of the Office and with the  
19 National Library of Medicine, shall establish, maintain,  
20 and operate a program to provide, and encourage the use  
21 of, information on research and prevention activities of the  
22 national research institutes that relate to primary care  
23 and prevention research.

1 **“SEC. 486G. BIENNIAL REPORT.**

2 “(a) IN GENERAL.—With respect to primary care  
3 and prevention research, the Director of the Office shall,  
4 not later than 1 year after the date of the enactment of  
5 this part, and biennially thereafter, prepare a report—

6 “(1) describing and evaluating the progress  
7 made during the preceding 2 fiscal years in research  
8 and treatment conducted or supported by the Na-  
9 tional Institutes of Health;

10 “(2) summarizing and analyzing expenditures  
11 made by the agencies of such Institutes (and by  
12 such Office) during the preceding 2 fiscal years; and

13 “(3) making such recommendations for legisla-  
14 tive and administrative initiatives as the Director of  
15 the Office determines to be appropriate.

16 “(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR  
17 OF NIH.—The Director of the Office shall submit each  
18 report prepared under subsection (a) to the Director of  
19 NIH for inclusion in the report submitted to the President  
20 and the Congress under section 403.

21 **“SEC. 486H. AUTHORIZATION OF APPROPRIATIONS.**

22 “For the Office of Primary Care and Prevention Re-  
23 search, there are authorized to be appropriated  
24 \$150,000,000 for fiscal year 2006, \$180,000,000 for fis-  
25 cal year 2007, and \$216,000,000 for fiscal year 2008.”.

1 (b) REQUIREMENT OF SUFFICIENT ALLOCATION OF  
 2 RESOURCES OF INSTITUTES.—Section 402(b) of the Pub-  
 3 lic Health Service Act (42 U.S.C. 282(b)) is amended—

4 (1) in paragraph (13), by striking “and” after  
 5 the semicolon at the end;

6 (2) in paragraph (14), by striking the period at  
 7 the end and inserting “; and”; and

8 (3) by inserting after paragraph (14) the fol-  
 9 lowing new paragraph:

10 “(15) after consultation with the Director of  
 11 the Office of Primary Care and Prevention Re-  
 12 search, shall ensure that resources of the National  
 13 Institutes of Health are sufficiently allocated for  
 14 projects on primary care and prevention research  
 15 that are identified under section 486E(b).”.

## 16 **Subtitle D—School-related Health** 17 **Services**

### 18 **SEC. 731. AUTHORIZATIONS OF APPROPRIATIONS.**

19 (a) FUNDING FOR SCHOOL-RELATED HEALTH SERV-  
 20 ICES.—For the purpose of carrying out this subtitle, there  
 21 are authorized to be appropriated \$100,000,000 for fiscal  
 22 year 2008, \$275,000,000 for fiscal year 2009,  
 23 \$350,000,000 for fiscal year 2010, and \$400,000,000 for  
 24 each of the fiscal years 2011 and 2012.

1 (b) RELATION TO OTHER FUNDS.—The authoriza-  
2 tions of appropriations established in subsection (a) are  
3 in addition to any other authorizations of appropriations  
4 that are available for the purpose described in such sub-  
5 section.

6 **SEC. 732. ELIGIBILITY FOR DEVELOPMENT AND OPER-**  
7 **ATION GRANTS.**

8 (a) IN GENERAL.—Entities eligible to apply for and  
9 receive grants under section 734 or 735 are the following:

10 (1) State health agencies that apply on behalf  
11 of local community partnerships and other commu-  
12 nities in need of health services for school-aged chil-  
13 dren within the State.

14 (2) Local community partnerships in States in  
15 which health agencies have not applied.

16 (b) LOCAL COMMUNITY PARTNERSHIPS.—

17 (1) IN GENERAL.—A local community partner-  
18 ship under subsection (a)(2) is an entity that, at a  
19 minimum, includes—

20 (A) a local health care provider with expe-  
21 rience in delivering services to school-aged chil-  
22 dren;

23 (B) 1 or more local public schools; and

24 (C) at least 1 community based organiza-  
25 tion located in the community to be served that

1           has a history of providing services to school-  
2           aged children in the community who are at-risk.

3           (2) PARTICIPATION.—A partnership described  
4           in paragraph (1) shall, to the maximum extent fea-  
5           sible, involve broad based community participation  
6           from parents and adolescent children to be served,  
7           health and social service providers, teachers and  
8           other public school and school board personnel, de-  
9           velopment and service organizations for adolescent  
10          children, and interested business leaders. Such par-  
11          ticipation may be evidenced through an expanded  
12          partnership, or an advisory board to such partner-  
13          ship.

14          (c) DEFINITIONS REGARDING CHILDREN.—For pur-  
15          poses of this subtitle:

16               (1) The term “adolescent children” means  
17               school-aged children who are adolescents.

18               (2) The term “school-aged children” means in-  
19               dividuals who are between the ages of 4 and 19 (in-  
20               clusive).

21   **SEC. 733. PREFERENCES.**

22          (a) IN GENERAL.—In making grants under sections  
23   734 and 735, the Secretary shall give preference to appli-  
24   cants whose communities to be served show the most sub-  
25   stantial level of need for such services among school-aged

1 children, as measured by indicators of community health  
2 including the following:

3 (1) High levels of poverty.

4 (2) The presence of a medically underserved  
5 population.

6 (3) The presence of a health professional short-  
7 age area.

8 (4) High rates of indicators of health risk  
9 among school-aged children, including a high propor-  
10 tion of such children receiving services through the  
11 Individuals with Disabilities Education Act, adoles-  
12 cent pregnancy, sexually transmitted disease (includ-  
13 ing infection with the human immunodeficiency  
14 virus), preventable disease, communicable disease,  
15 intentional and unintentional injuries, community  
16 and gang violence, unemployment among adolescent  
17 children, juvenile justice involvement, and high rates  
18 of drug and alcohol exposure.

19 (b) LINKAGE TO COMMUNITY HEALTH CENTERS.—  
20 In making grants under sections 734 and 735, the Sec-  
21 retary shall give preference to applicants that demonstrate  
22 a linkage to community health centers.

1 **SEC. 734. GRANTS FOR DEVELOPMENT OF PROJECTS.**

2 (a) IN GENERAL.—The Secretary may make grants  
3 to State health agencies or to local community partner-  
4 ships to develop school health service sites.

5 (b) USE OF FUNDS.—A project for which a grant  
6 may be made under subsection (a) may include but not  
7 be limited to the cost of the following:

8 (1) Planning for the provision of school health  
9 services.

10 (2) Recruitment, compensation, and training of  
11 health and administrative staff.

12 (3) The development of agreements, and the ac-  
13 quisition and development of equipment and infor-  
14 mation services, necessary to support information  
15 exchange between school health service sites and  
16 health plans, health providers, and other entities au-  
17 thorized to collect information under this Act.

18 (4) Other activities necessary to assume oper-  
19 ational status.

20 (c) APPLICATION FOR GRANT.—

21 (1) IN GENERAL.—Applicants shall submit ap-  
22 plications in a form and manner prescribed by the  
23 Secretary.

24 (2) APPLICATIONS BY STATE HEALTH AGEN-  
25 CIES.—



1           (A) In the case of applicants that are State  
2 health agencies, the application shall contain  
3 assurances that the State health agency is ap-  
4 plying for funds—

5                 (i) on behalf of at least 1 local com-  
6 munity partnership; and

7                 (ii) on behalf of at least 1 other com-  
8 munity identified by the State as in need  
9 of the services funded under this subtitle  
10 but without a local community partnership.

11           (B) In the case of the communities identi-  
12 fied in applications submitted by State health  
13 agencies that do not yet have local community  
14 partnerships (including the community identi-  
15 fied under subparagraph (A)(ii)), the State  
16 shall describe the steps that will be taken to aid  
17 the communities in developing a local commu-  
18 nity partnership.

19           (C) A State applying on behalf of local  
20 community partnerships and other communities  
21 may retain not more than 10 percent of grants  
22 awarded under this subtitle for administrative  
23 costs.

1 (d) CONTENTS OF APPLICATION.—In order to receive  
2 a grant under this section, an applicant must include in  
3 the application the following information:

4 (1) An assessment of the need for school health  
5 services in the communities to be served, using the  
6 latest available health data and health goals and ob-  
7 jectives established by the Secretary.

8 (2) A description of how the applicant will de-  
9 sign the proposed school health services to reach the  
10 maximum number of school-aged children who are at  
11 risk.

12 (3) An explanation of how the applicant will in-  
13 tegrate its services with those of other health and  
14 social service programs within the community.

15 (4) A description of a quality assurance pro-  
16 gram which complies with standards that the Sec-  
17 retary may prescribe.

18 (e) NUMBER OF GRANTS.—Not more than 1 planning  
19 grant may be made to a single applicant. A planning grant  
20 may not exceed 2 years in duration.

21 **SEC. 735. GRANTS FOR OPERATION OF PROJECTS.**

22 (a) IN GENERAL.—The Secretary may make grants  
23 to State health agencies or to local community partner-  
24 ships for the cost of operating school health service sites.

1       (b) USE OF GRANT.—The costs for which a grant  
2 may be made under this section include but are not limited  
3 to the following:

4           (1) The cost of furnishing health services that  
5 are not otherwise covered under this Act or by any  
6 other public or private insurer.

7           (2) The cost of furnishing services whose pur-  
8 pose is to increase the capacity of individuals to uti-  
9 lize available health services, including transpor-  
10 tation, community and patient outreach, patient  
11 education, translation services, and such other serv-  
12 ices as the Secretary determines to be appropriate in  
13 carrying out such purpose.

14           (3) Training, recruitment and compensation of  
15 health professionals and other staff.

16           (4) Outreach services to school-aged children  
17 who are at risk and to the parents of such children.

18           (5) Linkage of individuals to health plans, com-  
19 munity health services and social services.

20           (6) Other activities deemed necessary by the  
21 Secretary.

22       (c) APPLICATION FOR GRANT.—Applicants shall sub-  
23 mit applications in a form and manner prescribed by the  
24 Secretary. In order to receive a grant under this section,

1 an applicant must include in the application the following  
2 information:

3 (1) A description of the services to be furnished  
4 by the applicant.

5 (2) The amounts and sources of funding that  
6 the applicant will expend, including estimates of the  
7 amount of payments the applicant will receive from  
8 sources other than the grant.

9 (3) Such other information as the Secretary de-  
10 termines to be appropriate.

11 (d) ADDITIONAL CONTENTS OF APPLICATION.—In  
12 order to receive a grant under this section, an applicant  
13 must meet the following conditions:

14 (1) The applicant furnishes the following serv-  
15 ices:

16 (A) Diagnosis and treatment of simple ill-  
17 nesses and minor injuries.

18 (B) Preventive health services, including  
19 health screenings.

20 (C) Services provided for the purpose de-  
21 scribed in subsection (b)(2).

22 (D) Referrals and followups in situations  
23 involving illness or injury.

24 (E) Health and social services, counseling  
25 services, and necessary referrals, including re-

1           ferrals regarding mental health and substance  
2           abuse.

3                   (F) Such other services as the Secretary  
4           determines to be appropriate.

5           (2) The applicant is a participating provider in  
6           the State's program for medical assistance under  
7           title XIX of the Social Security Act.

8           (3) The applicant does not impose charges on  
9           students or their families for services (including col-  
10          lection of any cost-sharing for services under the  
11          comprehensive benefit package that otherwise would  
12          be required).

13          (4) The applicant has reviewed and will periodi-  
14          cally review the needs of the population served by  
15          the applicant in order to ensure that its services are  
16          accessible to the maximum number of school-aged  
17          children in the area, and that, to the maximum ex-  
18          tent possible, barriers to access to services of the ap-  
19          plicant are removed (including barriers resulting  
20          from the area's physical characteristics, its eco-  
21          nomic, social and cultural grouping, the health care  
22          utilization patterns of such children, and available  
23          transportation).

24          (5) In the case of an applicant which serves a  
25          population that includes a substantial proportion of

1 individuals of limited English speaking ability, the  
2 applicant has developed a plan to meet the needs of  
3 such population to the extent practicable in the lan-  
4 guage and cultural context most appropriate to such  
5 individuals.

6 (6) The applicant will provide non-Federal con-  
7 tributions toward the cost of the project in an  
8 amount determined by the Secretary.

9 (7) The applicant will operate a quality assur-  
10 ance program consistent with section 734(d).

11 (e) DURATION OF GRANT.—A grant under this sec-  
12 tion shall be for a period determined by the Secretary.

13 (f) REPORTS.—A recipient of funding under this sec-  
14 tion shall provide such reports and information as are re-  
15 quired in regulations of the Secretary.

16 **SEC. 736. FEDERAL ADMINISTRATIVE COSTS.**

17 Of the amounts made available under section 731, the  
18 Secretary may reserve not more than 5 percent for admin-  
19 istrative expenses regarding this subtitle.

20 **SEC. 737. DEFINITIONS.**

21 For purposes of this subtitle:

22 (1) The term “adolescent children” has the  
23 meaning given such term in section 732(c).

24 (2) The term “at risk” means at-risk with re-  
25 spect to health.

1           (3) The term “community health center” has  
2           the meaning given such term in section 330 of the  
3           Public Health Service Act.

4           (4) The term “health professional shortage  
5           area” means a health professional shortage area des-  
6           ignated under section 332 of the Public Health Serv-  
7           ice Act.

8           (5) The term “medically underserved popu-  
9           lation” has the meaning given such term in section  
10          330 of the Public Health Service Act.

11          (6) The term “school-aged children” has the  
12          meaning given such term in section 732(c).

13 **TITLE VIII—FINANCING PROVI-**  
14 **SIONS; AMERICAN HEALTH**  
15 **SECURITY TRUST FUND**

16 **SEC. 800. AMENDMENT OF 1986 CODE; SECTION 15 NOT TO**  
17 **APPLY.**

18          (a) AMENDMENT OF 1986 CODE.—Except as other-  
19 wise expressly provided, whenever in this title an amend-  
20 ment or repeal is expressed in terms of an amendment  
21 to, or repeal of, a section or other provision, the reference  
22 shall be considered to be made to a section or other provi-  
23 sion of the Internal Revenue Code of 1986.

24          (b) SECTION 15 NOT TO APPLY.—The amendments  
25 made by subtitle B shall not be treated as a change in

1 a rate of tax for purposes of section 15 of the Internal  
2 Revenue Code of 1986.

3       **Subtitle A—American Health**  
4               **Security Trust Fund**

5 **SEC. 801. AMERICAN HEALTH SECURITY TRUST FUND.**

6       (a) IN GENERAL.—There is hereby created on the  
7 books of the Treasury of the United States a trust fund  
8 to be known as the American Health Security Trust Fund  
9 (in this section referred to as the “Trust Fund”). The  
10 Trust Fund shall consist of such gifts and bequests as  
11 may be made and such amounts as may be deposited in,  
12 or appropriated to, such Trust Fund as provided in this  
13 Act.

14       (b) APPROPRIATIONS INTO TRUST FUND.—

15               (1) TAXES.—There are hereby appropriated to  
16 the Trust Fund for each fiscal year (beginning with  
17 fiscal year 2006), out of any moneys in the Treasury  
18 not otherwise appropriated, amounts equivalent to  
19 100 percent of the aggregate increase in tax liabil-  
20 ities under the Internal Revenue Code of 1986 which  
21 is attributable to the application of the amendments  
22 made by this title. The amounts appropriated by the  
23 preceding sentence shall be transferred from time to  
24 time (but not less frequently than monthly) from the  
25 general fund in the Treasury to the Trust Fund,



1 such amounts to be determined on the basis of esti-  
2 mates by the Secretary of the Treasury of the taxes  
3 paid to or deposited into the Treasury; and proper  
4 adjustments shall be made in amounts subsequently  
5 transferred to the extent prior estimates were in ex-  
6 cess of or were less than the amounts that should  
7 have been so transferred.

8 (2) CURRENT PROGRAM RECEIPTS.—Notwith-  
9 standing any other provision of law, there are hereby  
10 appropriated to the Trust Fund for each fiscal year  
11 (beginning with fiscal year 2006) the amounts that  
12 would otherwise have been appropriated to carry out  
13 the following programs:

14 (A) The medicare program, under parts A,  
15 B, and D of title XVIII of the Social Security  
16 Act (other than amounts attributable to any  
17 premiums under such parts).

18 (B) The medicaid program, under State  
19 plans approved under title XIX of such Act.

20 (C) The Federal employees health benefit  
21 program, under chapter 89 of title 5, United  
22 States Code.

23 (D) The TRICARE program (formerly  
24 known as the CHAMPUS program), under  
25 chapter 55 of title 10, United States Code.

1           (E) The maternal and child health pro-  
2           gram (under title V of the Social Security Act),  
3           vocational rehabilitation programs, programs  
4           for drug abuse and mental health services  
5           under the Public Health Service Act, programs  
6           providing general hospital or medical assistance,  
7           and any other Federal program identified by  
8           the Board, in consultation with the Secretary of  
9           the Treasury, to the extent the programs pro-  
10          vide for payment for health services the pay-  
11          ment of which may be made under this Act.

12          (c) INCORPORATION OF PROVISIONS.—The provisions  
13          of subsections (b) through (i) of section 1817 of the Social  
14          Security Act shall apply to the Trust Fund under this Act  
15          in the same manner as they applied to the Federal Hos-  
16          pital Insurance Trust Fund under part A of title XVIII  
17          of such Act, except that the American Health Security  
18          Standards Board shall constitute the Board of Trustees  
19          of the Trust Fund.

20          (d) TRANSFER OF FUNDS.—Any amounts remaining  
21          in the Federal Hospital Insurance Trust Fund or the Fed-  
22          eral Supplementary Medical Insurance Trust Fund after  
23          the settlement of claims for payments under title XVIII  
24          have been completed, shall be transferred into the Amer-  
25          ican Health Security Trust Fund.

1 **Subtitle B—Taxes Based on Income**  
2 **and Wages**

3 **SEC. 811. PAYROLL TAX ON EMPLOYERS.**

4 (a) IN GENERAL.—Section 3111 (relating to tax on  
5 employers) is amended by redesignating subsection (c) as  
6 subsection (d) and inserting after subsection (b) the fol-  
7 lowing new subsection:

8 “(c) HEALTH CARE.—In addition to other taxes,  
9 there is hereby imposed on every employer an excise tax,  
10 with respect to having individuals in his employ, equal to  
11 8.7 percent of the wages (as defined in section 3121(a))  
12 paid by him with respect to employment (as defined in  
13 section 3121(b)).”

14 (b) SELF-EMPLOYMENT INCOME.—Section 1401 (re-  
15 lating to rate of tax on self-employment income) is amend-  
16 ed by redesignating subsection (c) as subsection (d) and  
17 inserting after subsection (b) the following new subsection:

18 “(c) HEALTH CARE.—In addition to other taxes,  
19 there shall be imposed for each taxable year, on the self-  
20 employment income of every individual, a tax equal to 8.7  
21 percent of the amount of the self-employment income for  
22 such taxable year.”

23 (c) COMPARABLE TAXES FOR RAILROAD SERV-  
24 ICES.—

1           (1) TAX ON EMPLOYERS.—Section 3221 is  
2       amended by redesignating subsection (c) as sub-  
3       sections (d) and inserting after subsection (b) the  
4       following new subsection:

5       “(c) HEALTH CARE.—In addition to other taxes,  
6       there is hereby imposed on every employer an excise tax,  
7       with respect to having individuals in his employ, equal to  
8       8.7 percent of the compensation paid by such employer  
9       for services rendered to such employer.”

10           (2) TAX ON EMPLOYEE REPRESENTATIVES.—  
11       Section 3211 (relating to tax on employee represent-  
12       atives) is amended by redesignating subsection (c) as  
13       subsection (d) and inserting after subsection (b) the  
14       following new paragraph:

15       “(c) HEALTH CARE.—In addition to other taxes,  
16       there is hereby imposed on the income of each employee  
17       representative a tax equal to 8.7 percent of the compensa-  
18       tion received during the calendar year by such employee  
19       representative for services rendered by such employee rep-  
20       resentative.”

21           (3) NO APPLICABLE BASE.—Subparagraph (A)  
22       of section 3231(e)(2) is amended by adding at the  
23       end thereof the following new clause:

1 “(iv) HEALTH CARE TAXES.—Clause  
 2 (i) shall not apply to the taxes imposed by  
 3 sections 3221(c) and 3211(c).”

4 (4) TECHNICAL AMENDMENT.—

5 (A) Subsection (d) of section 3211, as re-  
 6 designated by paragraph (2), is amended by  
 7 striking “and (b)” and inserting “, (b), and  
 8 (c)”.

9 (B) Subsection (d) of section 3221, as re-  
 10 designated by paragraph (1), is amended by  
 11 striking “and (b)” and inserting “, (b), and  
 12 (c)”.

13 (d) EFFECTIVE DATE.—The amendments made by  
 14 this section shall apply to remuneration paid after Decem-  
 15 ber 31, 2006.

## 16 **SEC. 812. HEALTH CARE INCOME TAX.**

17 (a) GENERAL RULE.—Subchapter A of chapter 1 (re-  
 18 lating to determination of tax liability) is amended by add-  
 19 ing at the end thereof the following new part:

## 20 **“PART VIII—HEALTH CARE INCOME TAX ON** 21 **INDIVIDUALS**

“Sec. 59B. Health care income tax.

## 22 **“SEC. 59B. HEALTH CARE INCOME TAX.**

23 “(a) IMPOSITION OF TAX.—In the case of an indi-  
 24 vidual, there is hereby imposed a tax (in addition to any

1 other tax imposed by this subtitle) equal to 2.2 percent  
 2 of the taxable income of the taxpayer for the taxable year.

3 “(b) NO CREDITS AGAINST TAX; NO EFFECT ON  
 4 MINIMUM TAX.—The tax imposed by this section shall not  
 5 be treated as a tax imposed by this chapter for purposes  
 6 of determining—

7 “(1) the amount of any credit allowable under  
 8 this chapter, or

9 “(2) the amount of the minimum tax imposed  
 10 by section 55.

11 “(c) SPECIAL RULES.—

12 “(1) TAX TO BE WITHHELD, ETC.—For pur-  
 13 poses of this title, the tax imposed by this section  
 14 shall be treated as imposed by section 1.

15 “(2) REIMBURSEMENT OF TAX BY EMPLOYER  
 16 NOT INCLUDIBLE IN GROSS INCOME.—The gross in-  
 17 come of an employee shall not include any payment  
 18 by his employer to reimburse the employee for the  
 19 tax paid by the employee under this section.

20 “(3) OTHER RULES.—The rules of section  
 21 59A(d) shall apply to the tax imposed by this sec-  
 22 tion.”

23 (b) CLERICAL AMENDMENT.—The table of parts for  
 24 subchapter A of chapter 1 is amended by adding at the  
 25 end the following new item:

“PART VIII. HEALTH CARE INCOME TAX ON INDIVIDUALS”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2006.

4 **Subtitle C—Increase in Excise**  
5 **Taxes on Tobacco Products**

6 **SEC. 821. INCREASE IN EXCISE TAXES ON TOBACCO PROD-**  
7 **UCTS.**

8 (a) CIGARETTES.—Subsection (b) of section 5701 is  
9 amended—

10 (1) by striking “\$19.50 per thousand (\$17 per  
11 thousand on cigarettes removed during 2000 or  
12 2001)” in paragraph (1) and inserting “\$22.50 per  
13 thousand”, and

14 (2) by striking “\$40.95 per thousand (\$35.70  
15 per thousand on cigarettes removed during 2000 or  
16 2001)” in paragraph (2) and inserting “\$47.25 per  
17 thousand”.

18 (b) CIGARS.—Subsection (a) of section 5701 is  
19 amended—

20 (1) in paragraph (1), by striking “\$1.828 cents  
21 per thousand (\$1.594 per thousand on cigars re-  
22 moved during 2000 or 2001)” in paragraph (1) and  
23 inserting “\$2.11 per thousand”, and

24 (2) in paragraph (2) by striking “equal to” and  
25 all that follows in such paragraph and inserting

1 “equal to 23.91 percent of the price for which sold  
2 but not more than \$56.25 per thousand.”

3 (c) CIGARETTE PAPERS.—Subsection (c) of section  
4 5701 is amended by striking “1.22 cents (1.06 cents on  
5 cigarette papers removed during 2000 or 2001)” and in-  
6 serting “1.41 cents”.

7 (d) CIGARETTE TUBES.—Subsection (d) of section  
8 5701 is amended by striking “2.44 cents (2.13 cents on  
9 cigarette tubes removed during 2000 or 2001)” and in-  
10 serting “2.81 cents”.

11 (e) SMOKELESS TOBACCO.—Subsection (e) of section  
12 5701 is amended—

13 (1) by striking “58.5 cents (51 cents on snuff  
14 removed during 2000 or 2001)” in paragraph (1)  
15 and inserting “67.5 cents”, and

16 (2) by striking “19.5 cents (17 cents on chew-  
17 ing tobacco removed during 2000 or 2001)” in para-  
18 graph (2) and inserting “22.5 cents”.

19 (f) PIPE TOBACCO.—Subsection (f) of section 5701  
20 is amended by striking “\$1.0969 cents (95.67 cents on  
21 pipe tobacco removed during 2000 or 2001)” and insert-  
22 ing “\$1.27”.

23 (g) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to articles removed (as defined in



1 section 5702(k) of the Internal Revenue Code of 1986)  
2 after December 31, 2006.

3 (h) FLOOR STOCKS TAXES.—

4 (1) IMPOSITION OF TAX.—On tobacco products  
5 and cigarette papers and tubes manufactured in or  
6 imported into the United States which are removed  
7 before January 1, 2007, and held on such date for  
8 sale by any person, there is hereby imposed a tax in  
9 an amount equal to the excess of—

10 (A) the tax which would be imposed under  
11 section 5701 of the Internal Revenue Code of  
12 1986 on the article if the article had been re-  
13 moved on such date, over

14 (B) the prior tax (if any) imposed under  
15 section 5701 or 7652 of such Code on such ar-  
16 ticle.

17 (2) AUTHORITY TO EXEMPT CIGARETTES HELD  
18 IN VENDING MACHINES.—To the extent provided in  
19 regulations prescribed by the Secretary, no tax shall  
20 be imposed by paragraph (1) on cigarettes held for  
21 retail sale on January 1, 2007, by any person in any  
22 vending machine. If the Secretary provides such a  
23 benefit with respect to any person, the Secretary  
24 may reduce the \$500 amount in paragraph (3) with  
25 respect to such person.

1           (3) CREDIT AGAINST TAX.—Each person shall  
2       be allowed as a credit against the taxes imposed by  
3       paragraph (1) an amount equal to \$500. Such credit  
4       shall not exceed the amount of taxes imposed by  
5       paragraph (1) for which such person is liable.

6           (4) LIABILITY FOR TAX AND METHOD OF PAY-  
7       MENT.—

8           (A) LIABILITY FOR TAX.—A person hold-  
9       ing any article on January 1, 2007, to which  
10      any tax imposed by paragraph (1) applies shall  
11      be liable for such tax.

12          (B) METHOD OF PAYMENT.—The tax im-  
13      posed by paragraph (1) shall be paid in such  
14      manner as the Secretary shall prescribe by reg-  
15      ulations.

16          (C) TIME FOR PAYMENT.—The tax im-  
17      posed by paragraph (1) shall be paid on or be-  
18      fore July 31, 2007.

19          (5) ARTICLES IN FOREIGN TRADE ZONES.—  
20      Notwithstanding the Act of June 18, 1934 (48 Stat.  
21      998, 19 U.S.C. 81a) and any other provision of law,  
22      any article which is located in a foreign trade zone  
23      on January 1, 2007, shall be subject to the tax im-  
24      posed by paragraph (1) if—

1 (A) internal revenue taxes have been deter-  
2 mined, or customs duties liquidated, with re-  
3 spect to such article before such date pursuant  
4 to a request made under the 1st proviso of sec-  
5 tion 3(a) of such Act, or

6 (B) such article is held on such date under  
7 the supervision of a customs officer pursuant to  
8 the 2d proviso of such section 3(a).

9 (6) DEFINITIONS.—For purposes of this sub-  
10 section—

11 (A) IN GENERAL.—Terms used in this sub-  
12 section which are also used in section 5702 of  
13 the Internal Revenue Code of 1986 shall have  
14 the respective meanings such terms have in  
15 such section.

16 (B) SECRETARY.—The term “Secretary”  
17 means the Secretary of the Treasury or his del-  
18 egate.

19 (7) CONTROLLED GROUPS.—Rules similar to  
20 the rules of section 5061(e)(3) of such Code shall  
21 apply for purposes of this subsection.

22 (8) OTHER LAWS APPLICABLE.—All provisions  
23 of law, including penalties, applicable with respect to  
24 the taxes imposed by section 5701 of such Code  
25 shall, insofar as applicable and not inconsistent with

1 the provisions of this subsection, apply to the floor  
 2 stocks taxes imposed by paragraph (1), to the same  
 3 extent as if such taxes were imposed by such section  
 4 5701. The Secretary may treat any person who bore  
 5 the ultimate burden of the tax imposed by para-  
 6 graph (1) as the person to whom a credit or refund  
 7 under such provisions may be allowed or made.

8 **TITLE IX—CONFORMING AMEND-**  
 9 **MENTS TO THE EMPLOYEE**  
 10 **RETIREMENT INCOME SECU-**  
 11 **RITY ACT OF 1974**

12 **SEC. 901. ERISA INAPPLICABLE TO HEALTH COVERAGE AR-**  
 13 **RANGEMENTS UNDER STATE HEALTH SECU-**  
 14 **RITY PROGRAMS.**

15 Section 4 of the Employee Retirement Income Secu-  
 16 rity Act of 1974 (29 U.S.C. 1003) is amended—

17 (1) in subsection (a), by striking “or (c)” and  
 18 inserting “(c), or (d)”; and

19 (2) by adding at the end the following new sub-  
 20 section:

21 “(d) The provisions of this title shall not apply to  
 22 any arrangement forming a part of a State health security  
 23 program established pursuant to section 101(b) of the  
 24 American Health Security Act of 2005.”.

1 **SEC. 902. EXEMPTION OF STATE HEALTH SECURITY PRO-**  
2 **GRAMS FROM ERISA PREEMPTION.**

3 Section 514(b) of the Employee Retirement Income  
4 Security Act of 1974 (29 U.S.C. 1144(b)) is amended by  
5 adding at the end the following new paragraph:

6 “(10) Subsection (a) of this section shall not  
7 apply to State health security programs established  
8 pursuant to section 101(b) of the American Health  
9 Security Act of 2005.”.

10 **SEC. 903. PROHIBITION OF EMPLOYEE BENEFITS DUPLICA-**  
11 **TIVE OF BENEFITS UNDER STATE HEALTH**  
12 **SECURITY PROGRAMS; COORDINATION IN**  
13 **CASE OF WORKERS’ COMPENSATION.**

14 (a) IN GENERAL.—Part 5 of subtitle B of title I of  
15 the Employee Retirement Income Security Act of 1974 is  
16 amended by adding at the end the following new section:

17 “PROHIBITION OF EMPLOYEE BENEFITS DUPLICATIVE OF  
18 STATE HEALTH SECURITY PROGRAM BENEFITS; CO-  
19 ORDINATION IN CASE OF WORKERS’ COMPENSATION

20 “SEC. 519. (a) Subject to subsection (b), no employee  
21 benefit plan may provide benefits which duplicate payment  
22 for any items or services for which payment may be made  
23 under a State health security program established pursu-  
24 ant to section 101(b) of the American Health Security Act  
25 of 2005.

1       “(b)(1) Each workers compensation carrier that is  
2 liable (or would be liable but for the enactment of the  
3 American Health Security Act of 2005) for payment for  
4 workers compensation services furnished in a State shall  
5 reimburse the State health security plan for the State in  
6 which the services are furnished for the cost of such serv-  
7 ices.

8       “(2) In this subsection:

9           “(A) The term ‘workers compensation carrier’  
10 means an insurance company that underwrites work-  
11 ers compensation medical benefits with respect to 1  
12 or more employers and includes an employer or fund  
13 that is financially at risk for the provision of work-  
14 ers compensation medical benefits.

15           “(B) The term ‘workers compensation medical  
16 benefits’ means, with respect to an enrollee who is  
17 an employee subject to the workers compensation  
18 laws of a State, the comprehensive medical benefits  
19 for work-related injuries and illnesses provided for  
20 under such laws with respect to such an employee.

21           “(C) The term ‘workers compensation services’  
22 means items and services included in workers com-  
23 pensation medical benefits and includes items and  
24 services (including rehabilitation services and long-

1 term-care services) commonly used for treatment of  
 2 work-related injuries and illnesses.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
 4 in section 1 of such Act is amended by inserting after the  
 5 item relating to section 518 the following new items:

“519. Prohibition of employee benefits duplicative of state health security pro-  
 gram benefits; coordination in case of workers’ compensation.”.

6 **SEC. 904. REPEAL OF CONTINUATION COVERAGE REQUIRE-**  
 7 **MENTS UNDER ERISA AND CERTAIN OTHER**  
 8 **REQUIREMENTS RELATING TO GROUP**  
 9 **HEALTH PLANS.**

10 (a) IN GENERAL.—Part 6 of subtitle B of title I of  
 11 the Employee Retirement Income Security Act of 1974  
 12 (29 U.S.C. 1161 et seq.) is repealed.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 502(a) of such Act (29 U.S.C.  
 15 1132(a)) is amended—

16 (A) by striking paragraph (7); and

17 (B) by redesignating paragraphs (8) and  
 18 (9) as paragraphs (7) and (8), respectively.

19 (2) Section 502(c)(1) of such Act (29 U.S.C.  
 20 1132(c)(1)) is amended by striking “paragraph (1)  
 21 or (4) of section 606 or”.

22 (3) Section 4301(c)(4) of the Omnibus Budget  
 23 Reconciliation Act of 1993 (Public Law 103–66; 107

1 Stat. 377) and the amendments made thereby are  
2 repealed.

3 (4) The table of contents in section 1 of the  
4 Employee Retirement Income Security Act of 1974  
5 is amended by striking the items relating to part 6  
6 of subtitle B of title I of such Act.

7 **SEC. 905. EFFECTIVE DATE OF TITLE.**

8 The amendments made by this title shall take effect  
9 January 1, 2007.

10 **TITLE X—ADDITIONAL**  
11 **CONFORMING AMENDMENTS**

12 **SEC. 1001. REPEAL OF CERTAIN PROVISIONS IN INTERNAL**  
13 **REVENUE CODE OF 1986.**

14 The provisions of titles III and IV of the Health In-  
15 surance Portability and Accountability Act of 1996, other  
16 than subtitles D and H of title III and section 342, are  
17 repealed and the provisions of law that were amended or  
18 repealed by such provisions are hereby restored as if such  
19 provisions had not been enacted.

20 **SEC. 1002. REPEAL OF CERTAIN PROVISIONS IN THE EM-**  
21 **PLOYEE RETIREMENT INCOME SECURITY**  
22 **ACT OF 1974.**

23 (a) IN GENERAL.—Part 7 of subtitle B of title I of  
24 the Employee Retirement Income Security Act of 1974 is



1 repealed and the items relating to such part in the table  
2 of contents in section 1 of such Act are repealed.

3 (b) CONFORMING AMENDMENT.—Section 514(b) of  
4 such Act (29 U.S.C. 1144(b)) is amended by striking  
5 paragraph (9).

6 **SEC. 1003. REPEAL OF CERTAIN PROVISIONS IN THE PUB-**  
7 **LIC HEALTH SERVICE ACT AND RELATED**  
8 **PROVISIONS.**

9 (a) IN GENERAL.—Titles XXII and XXVII of the  
10 Public Health Service Act are repealed.

11 (b) ADDITIONAL AMENDMENTS.—

12 (1) Section 1301(b) of such Act (42 U.S.C.  
13 300e(b)) is amended by striking paragraph (6).

14 (2) Sections 104 and 191 of the Health Insur-  
15 ance Portability and Accountability Act of 1996 are  
16 repealed.

17 **SEC. 1004. EFFECTIVE DATE OF TITLE.**

18 The amendments made by this title shall take effect  
19 January 1, 2007.

○