

110TH CONGRESS  
1ST SESSION

# S. 1544

To amend title XVIII of the Social Security Act to improve the quality and efficiency of health care, to provide the public with information on provider and supplier performance, and to enhance the education and awareness of consumers for evaluating health care services through the development and release of reports based on Medicare enrollment, claims, survey, and assessment data.

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IN THE SENATE OF THE UNITED STATES

JUNE 5, 2007

Mr. GREGG (for himself and Mrs. CLINTON) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to improve the quality and efficiency of health care, to provide the public with information on provider and supplier performance, and to enhance the education and awareness of consumers for evaluating health care services through the development and release of reports based on Medicare enrollment, claims, survey, and assessment data.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Medicare Quality En-  
3 hancement Act of 2007”.

4 **SEC. 2. QUALITY AND EFFICIENCY REPORTS BASED ON**  
5 **MEDICARE ENROLLMENT, CLAIMS, SURVEY,**  
6 **AND ASSESSMENT DATA.**

7 Title XVIII of the Social Security Act is amended by  
8 adding at the end the following new section:

9 “QUALITY AND EFFICIENCY REPORTS BASED ON  
10 MEDICARE DATA

11 “SEC. 1898. (a) PURPOSE.—The purpose of this sec-  
12 tion is to provide for the development of reports based on  
13 Medicare data and private data that is publicly available  
14 or is provided by the entity making the request for the  
15 report in order to—

16 “(1) improve the quality and efficiency of  
17 health care;

18 “(2) enhance the education and awareness of  
19 consumers for evaluating health care services; and

20 “(3) provide the public with reports on national,  
21 regional, and provider- and supplier-specific per-  
22 formance, which may be in a provider- or supplier-  
23 identifiable format.

24 “(b) PROCEDURES FOR THE DEVELOPMENT OF RE-  
25 PORTS.—

“(1) IN GENERAL.—Notwithstanding section 552(b)(6) or 552a(b) of title 5, United States Code, not later than 12 months after the date of enactment of this section, the Secretary, in accordance with the purpose described in subsection (a), shall establish and implement procedures under which an entity may submit a request to a Medicare Quality Reporting Organization for the Organization to develop a report based on—

“(A) Medicare data disclosed to the Organization under subsection (c); and

“(B) private data that is publicly available or is provided to the Organization by the entity making the request for the report.

“(2) DEFINITIONS.—In this section:

“(A) MEDICARE DATA.—The term ‘Medicare data’ means—

“(i) enrollment data under this title, including de-identified beneficiary enrollment data;

“(ii) all claims for reimbursement for all items and services furnished by a provider of services (as defined in section 1861(u)) or a supplier (as defined in sec-

tion 1861(d)) under part A or B in a research identifiable format;

“(iii) on and after January 1, 2008, all data relating to enrollment in, and coverage for, qualified prescription drug coverage under part D; and

“(iv) additional data files relating to the program under this title collected by the Secretary for the purpose of nationwide quality measurement and reporting based on surveys and assessment data determined appropriate by the Secretary.

“(B) MEDICARE QUALITY REPORTING ORGANIZATION.—The term ‘Medicare Quality Reporting Organization’ means an entity with a contract under subsection (d).

“(c) ACCESS TO MEDICARE DATA.—

“(1) IN GENERAL.—The procedures established under subsection (b)(1) shall provide for the secure disclosure of Medicare data to each Medicare Quality Reporting Organization.

“(2) ALL DATA.—The Secretary shall ensure that all Medicare data files (beginning with files from January 1, 1998) are disclosed under paragraph (1), including the most recent data files avail-

1       able to the Secretary. Not less than every 6 months,  
2       the Secretary shall update the information disclosed  
3       under paragraph (1) to Medicare Quality Reporting  
4       Organizations.

5       “(d) MEDICARE QUALITY REPORTING ORGANIZA-  
6       TIONS.—

7               “(1) IN GENERAL.—

8                       “(A) THREE CONTRACTS.—Subject to sub-  
9                       paragraph (B), the Secretary shall enter into a  
10                      contract with 3 private entities to serve as  
11                      Medicare Quality Reporting Organizations  
12                      under which an entity shall—

13                               “(i) store the Medicare data that is to  
14                               be disclosed under subsection (c); and

15                               “(ii) develop and release reports pur-  
16                               suant to subsection (e).

17                       “(B) ADDITIONAL CONTRACTS.—If the  
18                       Secretary determines that reports are not being  
19                       developed and released within 6 months of the  
20                       receipt of the request for the report, the Sec-  
21                       retary shall enter into contracts with additional  
22                       private entities in order to ensure that such re-  
23                       ports are developed and released in a timely  
24                       manner.

1           “(2) QUALIFICATIONS.—The Secretary shall  
 2           enter into a contract with an entity under paragraph  
 3           (1) only if the Secretary determines that the enti-  
 4           ty—

5                   “(A) has the research capability to conduct  
 6                   and complete reports under this section;

7                   “(B) has in place—

8                           “(i) an information technology infra-  
 9                           structure to support the entire database of  
 10                          Medicare data; and

11                          “(ii) operational standards to provide  
 12                          security for such database;

13                   “(C) has experience with, and expertise on,  
 14                   the development of reports on health care qual-  
 15                   ity and efficiency based on Medicare or private  
 16                   sector claims data; and

17                   “(D) has a significant business presence in  
 18                   the United States.

19           “(3) CONTRACT REQUIREMENTS.—Each con-  
 20           tract with an entity under paragraph (1) shall con-  
 21           tain the following requirements:

22                   “(A) ENSURING BENEFICIARY PRIVACY.—

23                           “(i) HIPAA.—The entity shall meet  
 24                           the requirements imposed on a covered en-  
 25                           tity for purposes of applying part C of title

1 XI and all regulatory provisions promul-  
2 gated thereunder, including regulations  
3 (relating to privacy) adopted pursuant to  
4 the authority of the Secretary under sec-  
5 tion 264(c) of the Health Insurance Port-  
6 ability and Accountability Act of 1996 (42  
7 U.S.C. 1320d–2 note).

8 “(ii) PRIVACY.—The entity shall pro-  
9 vide assurances that the entity will not use  
10 the Medicare data disclosed under sub-  
11 section (c) in a manner that violates sec-  
12 tions 552 or 552a of title 5, United States  
13 Code, with regard to the privacy of individ-  
14 ually identifiable beneficiary health infor-  
15 mation.

16 “(B) PROPRIETARY INFORMATION.—The  
17 entity shall provide assurances that the entity  
18 will not, with respect to data relating to part D,  
19 disclose any negotiated price concessions, such  
20 as discounts, direct or indirect subsidies, re-  
21 bates, and direct or indirect remunerations, ob-  
22 tained by prescription drug plans and MA–PD  
23 plans for covered part D drugs, or any other  
24 proprietary cost information.

1           “(C) DISCLOSURE.—The entity shall dis-  
2           close—

3                   “(i) any financial, reporting, or con-  
4                   tractual relationship between the entity  
5                   and any provider of services (as defined in  
6                   section 1861(u)) or supplier (as defined in  
7                   section 1861(d)); and

8                   “(ii) if applicable, the fact that the  
9                   entity is managed, controlled, or operated  
10                  by any such provider of services or sup-  
11                  plier.

12           “(D) COMPONENT OF ANOTHER ORGANIZA-  
13           TION.—If the entity is a component of another  
14           organization—

15                   “(i) the entity shall maintain Medi-  
16                   care data and reports separately from the  
17                   rest of the organization and establish ap-  
18                   propriate security measures to maintain  
19                   the confidentiality and privacy of the Medi-  
20                   care data and reports; and

21                   “(ii) the entity shall not make an un-  
22                   authorized disclosure to the rest of the or-  
23                   ganization of Medicare data or reports in  
24                   breach of such confidentiality and privacy  
25                   requirement.

1           “(E) TERMINATION OR NONRENEWAL.—If  
 2           a contract under this section is terminated or  
 3           not renewed, the following requirements shall  
 4           apply:

5                   “(i) CONFIDENTIALITY AND PRIVACY  
 6                   PROTECTIONS.—The entity shall continue  
 7                   to comply with the confidentiality and pri-  
 8                   vacy requirements under this section with  
 9                   respect to all Medicare data disclosed to  
 10                  the entity and each report developed by the  
 11                  entity.

12                  “(ii) DISPOSITION OF DATA AND RE-  
 13                  PORTS.—The entity shall—

14                   “(I) return to the Secretary all  
 15                   Medicare data disclosed to the entity  
 16                   and each report developed by the enti-  
 17                   ty; or

18                   “(II) if returning the Medicare  
 19                   data and reports is not practicable,  
 20                   destroy the reports and Medicare  
 21                   data.

22                  “(4) COMPETITIVE PROCEDURES.—Competitive  
 23                  procedures (as defined in section 4(5) of the Federal  
 24                  Procurement Policy Act) shall be used to enter into  
 25                  contracts under paragraph (1).

1           “(5) REVIEW OF CONTRACT IN THE EVENT OF  
 2           A MERGER OR ACQUISITION.—The Secretary shall  
 3           review the contract with a Medicare Quality Report-  
 4           ing Organization under this section in the event of  
 5           a merger or acquisition of the Organization in order  
 6           to ensure that the requirements under this section  
 7           will continue to be met.

8           “(e) DEVELOPMENT AND RELEASE OF REPORTS  
 9           BASED ON REQUESTS.—

10           “(1) REQUEST FOR A REPORT.—

11           “(A) REQUEST.—

12           “(i) IN GENERAL.—The procedures  
 13           established under subsection (b)(1) shall  
 14           include a process for an entity to submit a  
 15           request to a Medicare Quality Reporting  
 16           Organization for a report based on Medi-  
 17           care data and private data that is publicly  
 18           available or is provided by the entity mak-  
 19           ing the request for the report. Such re-  
 20           quest shall comply with the purpose de-  
 21           scribed in subsection (a).

22           “(ii) REQUEST FOR SPECIFIC METH-  
 23           ODOLOGY.—The process described in  
 24           clause (i) shall permit an entity making a  
 25           request for a report to request that a spe-

1           cific methodology be used by the Medicare  
 2           Quality Reporting Organization in devel-  
 3           oping the report. The Organization shall  
 4           work with the entity making the request to  
 5           finalize the methodology to be used.

6           “(iii) REQUEST FOR A SPECIFIC  
 7           MQRO.—The process described in clause (i)  
 8           shall permit an entity to submit the re-  
 9           quest for a report to any Medicare Quality  
 10          Reporting Organization.

11          “(B) RELEASE TO PUBLIC.—The proce-  
 12          dures established under subsection (b)(1) shall  
 13          provide that at the time a request for a report  
 14          is finalized under subparagraph (A) by a Medi-  
 15          care Quality Reporting Organization, the Orga-  
 16          nization shall make available to the public,  
 17          through the Internet website of the Centers for  
 18          Medicare & Medicaid Services and other appro-  
 19          priate means, a brief description of both the re-  
 20          quested report and the methodology to be used  
 21          to develop such report.

22          “(2) DEVELOPMENT AND RELEASE OF RE-  
 23          PORT.—

24          “(A) DEVELOPMENT.—

1                   “(i) IN GENERAL.—If the request for  
 2                   a report complies with the purpose de-  
 3                   scribed in subsection (a), the Medicare  
 4                   Quality Reporting Organization may de-  
 5                   velop the report based on the request.

6                   “(ii) REQUIREMENT.—A report devel-  
 7                   oped under clause (i) shall include a de-  
 8                   tailed description of the standards, meth-  
 9                   odologies, and measures of quality used in  
 10                  developing the report.

11                  “(B) REVIEW OF REPORT BY SECRETARY  
 12                  TO ENSURE COMPLIANCE WITH PRIVACY RE-  
 13                  QUIREMENT.—Prior to a Medicare Quality Re-  
 14                  porting Organization releasing a report under  
 15                  subparagraph (C), the Secretary shall review  
 16                  the report to ensure that the report complies  
 17                  with the Federal regulations (concerning the  
 18                  privacy of individually identifiable beneficiary  
 19                  health information) promulgated under section  
 20                  264(c) of the Health Insurance Portability and  
 21                  Accountability Act of 1996 and sections 552 or  
 22                  552a of title 5, United States Code, with regard  
 23                  to the privacy of individually identifiable bene-  
 24                  ficiary health information. The Secretary shall

1 act within 30 business days of receiving such  
2 report.

3 “(C) RELEASE OF REPORT.—

4 “(i) RELEASE TO ENTITY MAKING RE-  
5 QUEST.—If the Secretary finds that the re-  
6 port complies with the provisions described  
7 in subparagraph (B), the Medicare Quality  
8 Reporting Organization shall release the  
9 report to the entity that made the request  
10 for the report.

11 “(ii) RELEASE TO PUBLIC.—The pro-  
12 cedures established under subsection (b)(1)  
13 shall provide for the following:

14 “(I) UPDATED DESCRIPTION.—

15 At the time of the release of a report  
16 by a Medicare Quality Reporting Or-  
17 ganization under clause (i), the entity  
18 shall make available to the public,  
19 through the Internet website of the  
20 Centers for Medicare & Medicaid  
21 Services and other appropriate means,  
22 an updated brief description of both  
23 the requested report and the method-  
24 ology used to develop such report.

1                   “(II) COMPLETE REPORT.—Not  
 2                   later than 1 year after the date of the  
 3                   release of a report under clause (i),  
 4                   the report shall be made available to  
 5                   the public through the Internet  
 6                   website of the Centers for Medicare &  
 7                   Medicaid Services and other appro-  
 8                   priate means.

9           “(f) ANNUAL REVIEW OF REPORTS AND TERMI-  
 10 NATION OF CONTRACTS.—

11           “(1) ANNUAL REVIEW OF REPORTS.—The  
 12           Comptroller General of the United States shall re-  
 13           view reports released under subsection (e)(2)(C) to  
 14           ensure that such reports comply with the purpose  
 15           described in subsection (a) and annually submit a  
 16           report to the Secretary on such review.

17           “(2) TERMINATION OF CONTRACTS.—The Sec-  
 18           retary may terminate a contract with a Medicare  
 19           Quality Reporting Organization if the Secretary de-  
 20           termines that there is a pattern of reports being re-  
 21           leased by the Organization that do not comply with  
 22           the purpose described in subsection (a).

23           “(g) FEES.—

1           “(1) FEES FOR SECRETARY.—The Secretary  
2       shall charge a Medicare Quality Reporting Organiza-  
3       tion a fee for—

4                   “(A) disclosing the data under subsection  
5               (c); and

6                   “(B) conducting the review under sub-  
7               section (e)(2)(B).

8       The Secretary shall ensure that such fees are suffi-  
9       cient to cover the costs of the activities described in  
10      subparagraph (A) and (B).

11           “(2) FEES FOR MQRO.—

12                   “(A) IN GENERAL.—Subject to subpara-  
13               graphs (A) and (B), a Medicare Quality Report-  
14               ing Organization may charge an entity making  
15               a request for a report a reasonable fee for the  
16               development and release of the report.

17                   “(B) DISCOUNT FOR SMALL ENTITIES.—In  
18               the case of an entity making a request for a re-  
19               port (including a not-for-profit) that has annual  
20               revenue that does not exceed \$10,000,000, the  
21               Medicare Quality Reporting Organization shall  
22               reduce the reasonable fee charged to such entity  
23               under subparagraph (A) by an amount equal to  
24               10 percent of such fee.

1           “(C) INCREASE FOR LARGE ENTITIES  
2           THAT DO NOT AGREE TO RELEASE REPORTS  
3           WITHIN 6 MONTHS.—In the case of an entity  
4           making a request for a report that is not de-  
5           scribed in subparagraph (B) and that does not  
6           agree to the report being released to the public  
7           under clause (ii)(II) of subsection (e)(2)(C)  
8           within 6 months of the date of the release of  
9           the report to the entity under clause (i) of such  
10          subsection, the Medicare Quality Reporting Or-  
11          ganization shall increase the reasonable fee  
12          charged to such entity under subparagraph (A)  
13          by an amount equal to 10 percent of such fee.

14          “(D) RULE OF CONSTRUCTION.—Nothing  
15          in this paragraph shall be construed to effect  
16          the requirement that a report be released to the  
17          public under clause (ii)(II) of subsection  
18          (e)(2)(C)(ii)(II) by not later than 1 year after  
19          the date of the release of the report to the re-  
20          questing entity under clause (i) of such sub-  
21          section.

22          “(h) REGULATIONS.—Not later than 6 months after  
23          the date of enactment of this section, the Secretary shall  
24          prescribe regulations to carry out this section.

25          “(i) GAO STUDIES AND REPORT.—

1           “(1) STUDIES.—The Comptroller General of  
 2           the United States shall conduct a study on each of  
 3           the following:

4                   “(A) The feasibility of requiring Medicare  
 5           Advantage organizations under part C to share  
 6           utilization and quality data with the Secretary  
 7           for the purpose of releasing such information to  
 8           Medicare Quality Reporting Organizations  
 9           under this section.

10                   “(B) The Medicare data released to Medi-  
 11           care Quality Reporting Organizations under  
 12           subsection (c) in order to determine the accu-  
 13           racy of such data with respect to—

14                           “(i) the coding of demographic data;

15                           “(ii) diagnosis and procedures; and

16                           “(iii) any other data elements impor-  
 17           tant for the development of reports under  
 18           this section in accordance with the purpose  
 19           described in subsection (a).

20                   “(C) The feasibility of collecting State  
 21           Medicaid data for the purpose of aggregating  
 22           all Medicaid data for study under this section.

23           “(2) REPORT.—Not later than 12 months after  
 24           the date of enactment of this section, the Comp-  
 25           troller General of the United States shall submit a

1 report to Congress on each of the studies conducted  
 2 under paragraph (1) together with recommendations  
 3 for such legislation and administrative actions as the  
 4 Comptroller General considers appropriate.”.

5 **SEC. 3. QUALITY ADVISORY BOARD.**

6 (a) ESTABLISHMENT.—Not later than 12 months  
 7 after the date of enactment of this Act, the Secretary of  
 8 Health and Human Services shall establish within the Of-  
 9 fice of the Secretary a board to be known as the Quality  
 10 Advisory Board (in this section referred to as the  
 11 “Board”).

12 (b) MEMBERSHIP.—The members of the Board shall  
 13 include, but not be limited to, an appropriate number of  
 14 representatives of—

15 (1) groups representing Medicare beneficiaries;

16 (2) groups representing providers of services (as  
 17 defined in subsection (u) of section 1861 of the So-  
 18 cial Security Act (42 U.S.C. 1395x)) and suppliers  
 19 (as defined in subsection (d) of such section) receiv-  
 20 ing reimbursement under the Medicare program;

21 (3) purchasers and employers or groups rep-  
 22 resenting purchasers and employers;

23 (4) organizations focused on the development of  
 24 quality health care measures;

1           (5) researchers or research institutions with ex-  
2           perience in the measurement of, and reporting on,  
3           health care quality; and

4           (6) health plans or groups representing health  
5           plans.

6           (c) DUTIES.—The duties of the Board are as follows:

7           (1) To submit requests for reports to Medicare  
8           Quality Reporting Organizations under section 1898  
9           of the Social Security Act, as added by section 2.

10          (2) To examine how clinical registries can be  
11          linked to Medicare data (as defined in subsection  
12          (b)(2)(A) of such section 1898) in order to develop  
13          reports on the quality and efficiency of providers of  
14          services (as defined in subsection (u) of section 1861  
15          of the Social Security Act (42 U.S.C. 1395x)) and  
16          suppliers (as defined in subsection (d) of such sec-  
17          tion).

18          (3) To coordinate with existing collaborative ef-  
19          forts identifying quality and efficiency health care  
20          measures.

21          (4) To provide the Secretary of Health and  
22          Human Services with recommendations for the de-  
23          velopment of model quality health care measure-  
24          ments.

1           (5) Other duties determined appropriate by the  
2       Secretary.

3       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated to the Secretary of  
5 Health and Human Services such sums as may be nec-  
6 essary for the purpose of carrying out this section.

7       **SEC. 4. RESEARCH ACCESS TO MEDICARE DATA AND RE-**  
8                               **PORTING ON PERFORMANCE.**

9       The Secretary of Health and Human Services shall  
10 permit researchers that meet existing criteria used to  
11 evaluate the appropriateness of the release of Centers for  
12 Medicare & Medicaid Services (CMS) data for research  
13 purposes to—

14           (1) have access to all Medicare data (as defined  
15       in section 1898(b)(2)(A) of the Social Security Act,  
16       as added by section 2); and

17           (2) report on the performance of providers of  
18       services (as defined in subsection (u) of section 1861  
19       of such Act (42 U.S.C. 1395x)) and suppliers (as  
20       defined in subsection (d) of such section), including  
21       reporting in a provider- or supplier-identifiable for-  
22       mat.

○