

111TH CONGRESS
1ST SESSION

H. R. 2516

To guarantee the rights of patients and doctors against Federal restrictions or delay in the provision of privately funded health care.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2009

Mr. KIRK (for himself, Mr. DENT, Mrs. BIGGERT, Mr. BOUSTANY, Mr. PLATTS, Mr. PAULSEN, Ms. GINNY BROWN-WAITE of Florida, Mr. SCHOCK, Mr. TIBERI, Mr. WILSON of South Carolina, Mr. LANCE, Ms. FOXX, and Mr. REICHERT) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To guarantee the rights of patients and doctors against Federal restrictions or delay in the provision of privately funded health care.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medical Rights Act
5 of 2009”.

1 **SEC. 2. PROHIBITION ON RESTRICTIONS ON THE PRACTICE**
2 **OF MEDICINE AND OTHER HEALTH CARE**
3 **PROFESSIONS.**

4 (a) IN GENERAL.—Subject to subsection (b), no Fed-
5 eral funds shall be used to permit any Federal officer or
6 employee to exercise any supervision or control over—

7 (1) the practice of medicine, the practice of
8 other health care professions, or the manner in
9 which health care services are provided;

10 (2) the provision, by a physician or a health
11 care practitioner, of advice to a patient about the
12 patient's health status or recommended treatment
13 for a condition or disease;

14 (3) the selection, tenure, or compensation of
15 any officer, employee, or contractor of any institu-
16 tion, business, non-Federal agency, or individual
17 providing health care services; or

18 (4) the administration or operation of any such
19 institution, business, non-Federal agency, or indi-
20 vidual, with respect to the provision of health care
21 services to a patient.

22 (b) PRESERVING CERTAIN CURRENT PROGRAMS.—
23 Subsection (a) shall not prohibit the Federal government
24 from operating, managing, supervising employees of, or
25 defining the scope of services provided by Federal entities

1 when directly providing health care services and products,
2 only with respect to the following:

3 (1) The Veterans Health Administration—

4 (A) in the case of directly providing health
5 care services through its own facilities and by
6 its own employees; or

7 (B) in the case of coordinating health care
8 services not described in subparagraph (A) and
9 paid for with Federal funds under programs op-
10 erated by the Veterans Health Administration.

11 (2) The Department of Defense—

12 (A) in the case of directly providing health
13 care services through military treatment facili-
14 ties;

15 (B) in the case of paying for health care
16 services for active-duty members of the armed
17 forces or members of the reserve component
18 when called to active duty;

19 (C) in the case of directly providing health
20 care services to the public in the event of emer-
21 gency or under other lawful circumstances; or

22 (D) when necessary to determine whether
23 health care services provided to those who are
24 not active-duty members of the Armed Forces
25 are eligible for payment with Federal funds or

1 to coordinate health care services for patients
2 who are served by both non-Federal entities and
3 military treatment facilities.

4 (3) The United States Public Health Service—

5 (A) in the case of providing health care
6 services through its own facilities or by its offi-
7 cers or civilian Federal employees;

8 (B) in the case of providing or paying for
9 health care services to active-duty members of
10 uniformed services or to reserve members of
11 such services when called to active duty; or

12 (C) when necessary to determine whether
13 health care services provided to those who are
14 not active-duty members of uniformed services
15 are eligible for payment with Federal funds or
16 to coordinate health care services for patients
17 who are served by both non-Federal entities and
18 Public Health Service treatment facilities

19 (4) The Indian Health Service—

20 (A) in the case of directly providing health
21 care services through its own facilities or Fed-
22 eral employees; or

23 (B) in the case of providing care by non-
24 Federal entities, to the extent necessary to ad-

1 minister contracts and grants pursuant to the
2 Indian Health Care Improvement Act;

3 (5) The National Institutes of Health—

4 (A) in the case of providing direct patient
5 care incident to medical research; or

6 (B) in the case of administering grants for
7 medical research, but in no case shall a non-
8 Federal entity be required or requested to waive
9 the protections of subsection (a) for health care
10 services not incident to medical research funded
11 by the National Institutes of Health as a condi-
12 tion of receiving research grant funding from
13 the National Institutes of Health.

14 (6) The Health Resources and Services Admin-
15 istration—

16 (A) in the case of certifying federally quali-
17 fied health centers, as defined by section
18 1905(l)(2)(B) of the Social Security Act (42
19 U.S.C. 1396d(l)(2)(B)), certifying FQHC look-
20 alike status, as defined in section 413.65(n) of
21 title 45 of the Code of Federal Regulations, or
22 providing grants under section 330 of the Pub-
23 lic Health Service Act (42 U.S.C. 254b), but
24 only to the extent necessary to determine eligi-
25 bility for such certification and grant funding

1 and the appropriate amounts of such funding;
2 or

3 (B) in the case of operating the nation's
4 human organ, bone marrow, and umbilical cord
5 blood donation and transplantation systems, as
6 and to the extent authorized by law and nec-
7 essary for the operation of those programs.

8 **SEC. 3. RIGHT TO CONTRACT FOR HEALTH CARE SERVICES**
9 **AND HEALTH INSURANCE.**

10 (a) RECEIPT OF HEALTH SERVICES.—No Federal
11 funds shall be used by any Federal officer or employee
12 to prohibit any individual from receiving health care serv-
13 ices from any provider of health care services—

14 (1) under terms and conditions mutually ac-
15 ceptable to the patient and the provider; or

16 (2) under terms and conditions mutually ac-
17 ceptable to the patient, the provider, and any group
18 health plan or health insurance issuer that is obli-
19 gated to provide health insurance coverage to the pa-
20 tient or any other entity indemnifying the patient's
21 consumption of health care services;

22 provided that any such agreement shall be subject to the
23 requirements of section 1802(b) of the Social Security Act
24 (42 U.S.C. 1395a(b)), as amended by section 6.

1 (b) HEALTH INSURANCE COVERAGE.—No Federal
2 funds shall be used by any Federal officer or employee
3 to prohibit any person from entering into a contract with
4 any group health plan, health insurance issuer, or other
5 business, for the provision of, or payment to other parties
6 for, health care services to be determined and provided
7 subsequent to the effective date of the contract, according
8 to terms, conditions, and procedures specified in such con-
9 tract.

10 (c) ELIGIBILITY FOR FEDERAL BENEFITS.—No per-
11 son’s eligibility for benefits under any program operated
12 by or funded wholly or partly by the Federal Government
13 shall be adversely affected as a result of having received
14 services in a manner described by subsection (a) or having
15 entered into a contract described in subsection (b).

16 (d) FEDERAL PROGRAM PARTICIPATION.—No pro-
17 vider of health care services—

18 (1) shall be denied participation in a Federal
19 program for which it would otherwise be eligible as
20 a result of having provided services in a manner de-
21 scribed in subsection (a); or

22 (2) shall be denied payment for services other-
23 wise eligible for payment under a Federal program
24 as a result of having provided services in a manner

1 described in subsection (a), except to the extent re-
2 quired by subsection (a)(1).

3 **SEC. 4. PROHIBITION ON MANDATING STATE RESTRIC-**
4 **TIONS.**

5 (a) IN GENERAL.—No Federal funds shall be used
6 by any Federal officer or employee to induce or encourage
7 any State or other jurisdiction of the United States to
8 enact any restriction or prohibition prohibited to the Fed-
9 eral Government by this Act.

10 (b) PROTECTING STATE ELIGIBILITY FOR FEDERAL
11 FUNDS.—No State’s eligibility for participation in any
12 program operated by or funded wholly or partly by the
13 Federal Government, or for receiving funds from the Fed-
14 eral Government shall be conditioned on that State enact-
15 ing any restriction or prohibition prohibited to the Federal
16 Government by this Act, nor adversely affected by that
17 State’s failure to enact any restriction or prohibition pro-
18 hibited to the Federal Government by this Act.

19 **SEC. 5. CLARIFICATION.**

20 Nothing in this Act shall be construed to permit the
21 expenditure of funds otherwise prohibited by law.

22 **SEC. 6. CONFORMING AMENDMENT.**

23 Section 1802(b)(3) of the Social Security Act (42
24 U.S.C. 1395(2)(B)) is hereby repealed.

1 **SEC. 7. DEFINITIONS.**

2 For purposes of this Act:

3 (1) HEALTH CARE SERVICES.—The term
4 “health care services” means any lawful service in-
5 tended to diagnose, cure, prevent, or mitigate the
6 adverse effects of any disease, injury, infirmity, or
7 physical or mental disability, including the provision
8 of any lawful product the use of which is so in-
9 tended.

10 (2) PHYSICIAN.—The term “physician”
11 means—

12 (A) a doctor of medicine or osteopathy le-
13 gally authorized to practice medicine and sur-
14 gery by the State in which he performs such
15 practice and surgery;

16 (B) a doctor of dental surgery or of dental
17 medicine who is legally authorized to practice
18 dentistry by the State in which he performs
19 such function and who is acting within the
20 scope of his license when he performs such
21 functions;

22 (C) a doctor of podiatric medicine but only
23 with respect to functions which he is legally au-
24 thorized to perform as such by the State in
25 which he performs them;

1 (D) a doctor of optometry with respect to
2 the provision of items or services which he is le-
3 gally authorized to perform as a doctor of op-
4 tometry by the State in which he performs
5 them; or

6 (E) a chiropractor who is licensed as such
7 by the State (or in a State which does not li-
8 cense chiropractors as such, is legally author-
9 ized to perform the services of a chiropractor in
10 the jurisdiction in which he performs such serv-
11 ices), but only with respect to treatment which
12 he is legally authorized to perform by the State
13 or jurisdiction in which such treatment is pro-
14 vided.

15 (3) PRACTICE OF MEDICINE.—The term “prac-
16 tice of medicine” means—

17 (A) health care services that are performed
18 by physicians; and

19 (B) services and supplies furnished as an
20 incident to a physician’s professional service.

21 (4) HEALTH CARE PRACTITIONER.—The term
22 “health care practitioner” means a physician assist-
23 ant, registered nurse, nurse practitioner, psycholo-
24 gist, clinical social worker, midwife, or other indi-
25 vidual (other than a physician) licensed or legally

1 authorized to perform health care services in the
2 State in which the individual performs such services.

3 (5) PRACTICE OF OTHER HEALTH CARE PRO-
4 FESSIONS.—The term “practice of other health care
5 professions” means—

6 (A) health care services performed by a
7 health care practitioner; and

8 (B) services and supplies furnished as an
9 incident to a health care practitioner’s profes-
10 sional service.

11 (6) GROUP HEALTH PLAN.—The term “group
12 health plan” has the meaning given such term in
13 section 733(a)(1) of the Employee Retirement In-
14 come Security Act of 1974 (29 U.S.C. 1191b(a)(1)).

15 (7) HEALTH INSURANCE ISSUER.—The term
16 “health insurance issuer” has the meaning given
17 such term in section 733(b)(2) of the Employee Re-
18 tirement Income Security Act of 1974 (29 U.S.C.
19 1191b(b)(2)).

20 (8) BUSINESS.—The term “business” means
21 any sole proprietorship, partnership, for-profit cor-
22 poration, or not-for-profit corporation.

23 (9) STATE.—The term “State” means any of
24 the United States, the Commonwealth of Puerto
25 Rico, the Commonwealth of the Northern Mariana

1 Islands, the United States Virgin Islands, Guam,
2 American Samoa, or the District of Columbia.

3 **SEC. 8. EFFECTIVE DATE.**

4 The provisions of this Act shall apply to Federal enti-
5 ties, including employees and officials of such entities, be-
6 ginning on January 1, 2009.

