

111TH CONGRESS
1ST SESSION

H. R. 3556

To require the Secretary of Health and Human Services to establish a self-referral disclosure protocol under the Medicare Program to enable health care providers of services and suppliers to disclose violations of section 1877 of the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2009

Mr. McDERMOTT 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 require the Secretary of Health and Human Services to establish a self-referral disclosure protocol under the Medicare Program to enable health care providers of services and suppliers to disclose violations of section 1877 of the Social Security Act.

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. MEDICARE SELF-REFERRAL DISCLOSURE PRO-**
4 **TOCOL.**

5 (a) DEVELOPMENT OF SELF-REFERRAL DISCLO-
6 SURE PROTOCOL.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services, in cooperation with the Inspector
3 General of the Department of Health and Human
4 Services, shall establish, not later than 6 months
5 after the date of the enactment of this Act, a pro-
6 tocol to enable health care providers of services and
7 suppliers to disclose an actual or potential violation
8 of section 1877 of the Social Security Act (42
9 U.S.C. 1395nn) pursuant to a self-referral disclosure
10 protocol (in this section referred to as an “SRDP”).
11 The SRDP shall include direction to health care pro-
12 viders of services and suppliers on—

13 (A) a specific person, official, or office to
14 whom such disclosures shall be made; and

15 (B) instruction on the implication of the
16 SRDP on corporate integrity agreements and
17 corporate compliance agreements.

18 (2) PUBLICATION ON INTERNET WEBSITE OF
19 SRDP INFORMATION.—The Secretary of Health and
20 Human Services shall post information on the public
21 Internet website of the Centers for Medicare & Med-
22 icaid Services to inform relevant stakeholders of how
23 to disclose actual or potential violations pursuant to
24 an SRDP.

1 (3) RELATION TO ADVISORY OPINIONS.—The
2 SRDP shall be separate from the advisory opinion
3 process set forth in regulations implementing section
4 1877(g) of the Social Security Act.

5 (b) REDUCTION IN AMOUNTS OWED.—The Secretary
6 of Health and Human Services is authorized to reduce the
7 amount due and owing for all violations under section
8 1877 of the Social Security Act to an amount less than
9 that specified in subsection (g) of such section. In estab-
10 lishing such amount for a violation, the Secretary may
11 consider the following factors:

12 (1) The nature and extent of the improper or
13 illegal practice.

14 (2) The timeliness of such self-disclosure.

15 (3) The cooperation in providing additional in-
16 formation related to the disclosure.

17 (4) Such other factors as the Secretary con-
18 siders appropriate.

19 (c) REPORT.—Not later than 18 months after the
20 date on which the SRDP protocol is established under sub-
21 section (a)(1), the Secretary shall submit to Congress a
22 report on the implementation of this section. Such report
23 shall include—

1 (1) the number of health care providers of serv-
2 ices and suppliers making disclosures pursuant to
3 the SRDP;

4 (2) the amounts collected pursuant to the
5 SRDP;

6 (3) the types of violations reported under the
7 SRDP; and

8 (4) such other information as may be necessary
9 to evaluate the impact of this section.

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