

111TH CONGRESS
1ST SESSION

S. 956

To amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

IN THE SENATE OF THE UNITED STATES

MAY 1, 2009

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

A BILL

To amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

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 “Preserve Patient Ac-
5 cess to Reputable DMEPOS Providers Act of 2009”.

1 **SEC. 2. APPLICATION OF DMEPOS SURETY BOND REQUIRE-**
2 **MENT TO CERTAIN RETAIL PHARMACIES.**

3 (a) IN GENERAL.—Section 1834(a)(16) of the Social
4 Security Act (42 U.S.C. 1395m(a)(16)) is amended by
5 adding at the end the following new sentences: “The re-
6 quirement of a bond under subparagraph (B) shall only
7 apply to a State-licensed retail pharmacy or a mail-order
8 pharmacy if there has been a final adverse action (as de-
9 fined in section 424.57(a) of title 42, Code of Federal Reg-
10 ulations, as in effect on the date of the enactment of this
11 Act) that is not subject to administrative or judicial appeal
12 taken against such respective pharmacy during the 10-
13 year period preceding the issuance (or renewal) under this
14 part of the provider number involved. In the case of a
15 chain of such pharmacies (or other grouping of more than
16 one such pharmacy), the previous sentence shall be applied
17 separately to each such pharmacy within such chain (or
18 grouping). For purposes of this paragraph, the term
19 ‘State-licensed retail pharmacy’ means any State-licensed
20 independent, chain, supermarket, or mass merchandiser
21 pharmacy and the term ‘mail-order pharmacy’ means a
22 pharmacy that is State-licensed and that conducts its
23 pharmaceutical business primarily through mail services.”.

24 (b) TREATMENT OF CURRENT DMEPOS SURETY
25 BOND EXEMPTIONS.—Nothing in the amendment made
26 by subsection (a) shall affect the application of any exemp-

1 tion specified in section 424.57(d)(15) of title 42, Code
2 of Federal Regulations (as in effect as of the date of the
3 enactment of this Act).

4 (c) EFFECTIVE DATE; RELEASE FROM OBLIGATION
5 WITH RESPECT TO CERTAIN SURETY BONDS.—

6 (1) EFFECTIVE DATE.—The amendment made
7 by this section shall take effect as of the date of the
8 enactment of this Act and shall apply to provider
9 numbers issued or renewed before, on, or after such
10 date.

11 (2) RELEASE FROM OBLIGATION WITH RESPECT
12 TO CERTAIN SURETY BONDS.—In the case of a
13 State-licensed retail pharmacy or mail-order phar-
14 macy (as such terms are defined in the last sentence
15 of section 1834(a)(16) of the Social Security Act, as
16 added by subsection (a)) to which the surety bond
17 requirement under subparagraph (B) of such section
18 does not apply under the amendment made by sub-
19 section (a) but for which a surety bond was provided
20 prior to the date of the enactment of this Act, the
21 respective pharmacy is released from any obligation
22 under title XVIII of the Social Security Act with re-
23 spect to such bond and, upon request, the Secretary

1 of Health and Human Services shall provide such
2 pharmacy with a document indicating such release.

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