

112TH CONGRESS  
1ST SESSION

# H. R. 2267

To amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2011

Mr. WALDEN (for himself, Ms. SCHWARTZ, Mr. JONES, Mr. ELLISON, Mr. LANCE, Ms. HANABUSA, Mr. WU, Mr. BARLETTA, Mr. GRIJALVA, Mr. COFFMAN of Colorado, Mr. LANGEVIN, Mr. BILBRAY, Mr. BLUMENAUER, Mr. LATHAM, Mr. SCHRADER, Mr. LATOURETTE, Mrs. CAPPS, Mr. HANNA, Mr. THOMPSON of California, Mr. TERRY, Mr. NEAL, Mr. BASS of New Hampshire, Mr. CHANDLER, Ms. LEE of California, Ms. SCHA-KOWSKY, Mr. CICILLINE, Mr. BRADY of Pennsylvania, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

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 “Home Health Care  
3 Planning Improvement Act of 2011”.

4 **SEC. 2. IMPROVING CARE PLANNING FOR MEDICARE HOME**  
5 **HEALTH SERVICES.**

6 (a) PART A PROVISIONS.—Section 1814(a) of the So-  
7 cial Security Act (42 U.S.C. 1395f(a)) is amended—

8 (1) in paragraph (2)—

9 (A) in the matter preceding subparagraph  
10 (A), by inserting “, a nurse practitioner or clin-  
11 ical nurse specialist who is working in collabo-  
12 ration with a physician in accordance with  
13 State law, a certified nurse-midwife (as defined  
14 in section 1861(gg)) as authorized by State law,  
15 or a physician assistant (as defined in section  
16 1861(aa)(5)) under the supervision of a physi-  
17 cian” after “1866(j)”; and

18 (B) in subparagraph (C)—

19 (i) by inserting “, a nurse practi-  
20 tioner, a clinical nurse specialist, a cer-  
21 tified nurse-midwife, or a physician assist-  
22 ant (as the case may be)” after “physi-  
23 cian” the first 2 times it appears; and

24 (ii) by striking “, and, in the case of  
25 a certification made by a physician” and  
26 all that follows through “face-to-face en-

1 counter” and inserting “, and, in the case  
2 of a certification made by a physician after  
3 January 1, 2010, or by a nurse practi-  
4 tioner, clinical nurse specialist, certified  
5 nurse-midwife, or physician assistant (as  
6 the case may be) after January 1, 2012,  
7 prior to making such certification the phy-  
8 sician, nurse practitioner, clinical nurse  
9 specialist, certified nurse-midwife, or physi-  
10 cian assistant must document that the  
11 physician, nurse practitioner, clinical nurse  
12 specialist, certified nurse-midwife, or physi-  
13 cian assistant has had a face-to-face en-  
14 counter”;

15 (2) in the second sentence, by inserting “cer-  
16 tified nurse-midwife,” after “clinical nurse spe-  
17 cialist,”;

18 (3) in the third sentence—

19 (A) by striking “physician certification”  
20 and inserting “certification”;

21 (B) by inserting “(or on January 1, 2012,  
22 in the case of regulations to implement the  
23 amendments made by section 2 of the Home  
24 Health Care Planning Improvement Act of  
25 2011)” after “1981”; and

1 (C) by striking “a physician who” and in-  
2 serting “a physician, nurse practitioner, clinical  
3 nurse specialist, certified nurse-midwife, or phy-  
4 sician assistant who”; and

5 (4) in the fourth sentence, by inserting “, nurse  
6 practitioner, clinical nurse specialist, certified nurse-  
7 midwife, or physician assistant” after “physician”.

8 (b) PART B PROVISIONS.—Section 1835(a) of the So-  
9 cial Security Act (42 U.S.C. 1395n(a)) is amended—

10 (1) in paragraph (2)—

11 (A) in the matter preceding subparagraph  
12 (A), by inserting “, a nurse practitioner or clin-  
13 ical nurse specialist (as those terms are defined  
14 in 1861(aa)(5)) who is working in collaboration  
15 with a physician in accordance with State law,  
16 a certified nurse-midwife (as defined in section  
17 1861(gg)) as authorized by State law, or a phy-  
18 sician assistant (as defined in section  
19 1861(aa)(5)) under the supervision of a physi-  
20 cian” after “1866(j)”;

21 (B) in subparagraph (A)—

22 (i) in each of clauses (ii) and (iii) of  
23 subparagraph (A) by inserting “, a nurse  
24 practitioner, a clinical nurse specialist, a  
25 certified nurse-midwife, or a physician as-

1           sistant (as the case may be)” after “physi-  
2           cian”; and

3           (ii) in clause (iv), by striking “after  
4           January 1, 2010” and all that follows  
5           through “face-to-face encounter” and in-  
6           serting “made by a physician after Janu-  
7           ary 1, 2010, or by a nurse practitioner,  
8           clinical nurse specialist, certified nurse-  
9           midwife, or physician assistant (as the case  
10          may be) after January 1, 2012, prior to  
11          making such certification the physician,  
12          nurse practitioner, clinical nurse specialist,  
13          certified nurse-midwife, or physician assist-  
14          ant must document that the physician,  
15          nurse practitioner, clinical nurse specialist,  
16          certified nurse-midwife, or physician assist-  
17          ant has had a face-to-face encounter”;

18          (2) in the third sentence, by inserting “, nurse  
19          practitioner, clinical nurse specialist, certified nurse-  
20          midwife, or physician assistant (as the case may  
21          be)” after physician;

22          (3) in the fourth sentence—

23                  (A) by striking “physician certification”  
24                  and inserting “certification”;

1 (B) by inserting “(or on January 1, 2012,  
2 in the case of regulations to implement the  
3 amendments made by section 2 of the Home  
4 Health Care Planning Improvement Act of  
5 2011)” after “1981”; and

6 (C) by striking “a physician who” and in-  
7 serting “a physician, nurse practitioner, clinical  
8 nurse specialist, certified nurse-midwife, or phy-  
9 sician assistant who”; and

10 (4) in the fifth sentence, by inserting “, nurse  
11 practitioner, clinical nurse specialist, certified nurse-  
12 midwife, or physician assistant” after “physician”.

13 (c) DEFINITION PROVISIONS.—

14 (1) HOME HEALTH SERVICES.—Section  
15 1861(m) of the Social Security Act (42 U.S.C.  
16 1395x(m)) is amended—

17 (A) in the matter preceding paragraph  
18 (1)—

19 (i) by inserting “, a nurse practitioner  
20 or a clinical nurse specialist (as those  
21 terms are defined in subsection (aa)(5)), a  
22 certified nurse-midwife (as defined in sec-  
23 tion 1861(gg)), or a physician assistant (as  
24 defined in subsection (aa)(5))” after “phy-  
25 sician” the first place it appears; and

1 (ii) by inserting “, a nurse practi-  
2 tioner, a clinical nurse specialist, a cer-  
3 tified nurse-midwife, or a physician assist-  
4 ant” after “physician” the second place it  
5 appears; and

6 (B) in paragraph (3), by inserting “, a  
7 nurse practitioner, a clinical nurse specialist, a  
8 certified nurse-midwife, or a physician assist-  
9 ant” after “physician”.

10 (2) HOME HEALTH AGENCY.—Section  
11 1861(o)(2) of the Social Security Act (42 U.S.C.  
12 1395x(o)(2)) is amended—

13 (A) by inserting “, nurse practitioners or  
14 clinical nurse specialists (as those terms are de-  
15 fined in subsection (aa)(5)), certified nurse-mid-  
16 wives (as defined in section 1861(gg)), or physi-  
17 cian assistants (as defined in subsection  
18 (aa)(5))” after “physicians”; and

19 (B) by inserting “, nurse practitioner, clin-  
20 ical nurse specialist, certified nurse-midwife,  
21 physician assistant,” after “physician”.

22 (d) HOME HEALTH PROSPECTIVE PAYMENT SYSTEM  
23 PROVISIONS.—Section 1895 of the Social Security Act (42  
24 U.S.C. 1395fff) is amended—

1           (1) in subsection (c)(1), by inserting “, the  
2 nurse practitioner or clinical nurse specialist (as  
3 those terms are defined in section 1861(aa)(5)), the  
4 certified nurse-midwife (as defined in section  
5 1861(gg)), or the physician assistant (as defined in  
6 section 1861(aa)(5)),” after “physician”; and

7           (2) in subsection (e)—

8           (A) in paragraph (1)(A), by inserting “, a  
9 nurse practitioner or clinical nurse specialist (as  
10 those terms are defined in section 1861(aa)(5)),  
11 a certified nurse-midwife (as defined in section  
12 1861(gg)), or a physician assistant (as defined  
13 in section 1861(aa)(5))” after “physician”; and

14           (B) in paragraph (2)—

15           (i) in the heading, by striking “PHY-  
16 SICIAN CERTIFICATION” and inserting  
17 “RULE OF CONSTRUCTION REGARDING RE-  
18 QUIREMENT FOR CERTIFICATION”; and

19           (ii) by striking “physician”.

20           (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to items and services furnished on  
22 or after January 1, 2012.

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