

113TH CONGRESS
1ST SESSION

H. R. 3776

To amend title XVIII of the Social Security Act to create alternative sanctions for technical noncompliance with the Stark rule under Medicare, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2013

Mr. BOUSTANY (for himself, Mr. KIND, Mr. BUCSHON, and Mr. VEASEY) 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 amend title XVIII of the Social Security Act to create alternative sanctions for technical noncompliance with the Stark rule under Medicare, and for other purposes.

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 “Stark Administrative
5 Simplification Act”.

1 **SEC. 2. ALTERNATIVE SANCTIONS FOR TECHNICAL NON-**
2 **COMPLIANCE WITH STARK RULE UNDER**
3 **MEDICARE.**

4 Section 1877(g) of the Social Security Act (42 U.S.C.
5 1395nn(g)) is amended—

6 (1) in paragraph (1), by striking “No” and in-
7 serting “Subject to paragraph (7), no”;

8 (2) in paragraph (2), by striking “If” and in-
9 serting “Subject to paragraph (7), if”;

10 (3) in paragraph (3), by striking “Any” and in-
11 serting “Subject to paragraph (7), any”; and

12 (4) by adding at the end the following new
13 paragraph:

14 “(7) ALTERNATIVE SANCTIONS FOR TECHNICAL
15 NONCOMPLIANCE.—

16 “(A) SINGLE PENALTY FOR COMPENSA-
17 TION ARRANGEMENTS IN TECHNICAL NON-
18 COMPLIANCE.—In the case of a compensation
19 arrangement between a physician (or an imme-
20 diate family member of such physician) and a
21 person or entity that is in violation of sub-
22 section (a)(1) solely due to technical noncompli-
23 ance, instead of the sanctions described in para-
24 graphs (1), (2), and (3) for any such violation,
25 the person or entity with respect to such ar-
26 rangement shall be subject to a single civil mon-

etary penalty under this paragraph in an amount that does not exceed—

“(i) in the case where the disclosure of the violation is submitted to the Secretary not later than the date that is one year after the initial date of noncompliance, \$5,000; and

“(ii) in the case where the disclosure of the violation is submitted to the Secretary after the date that is one year after the initial date of noncompliance, \$10,000.

“(B) ACCEPTANCE OF VOLUNTARY DISCLOSURES.—

“(i) IN GENERAL.—Effective on the date of the enactment of this paragraph, the Secretary shall accept the voluntary disclosure of a technically noncompliant compensation arrangement if such voluntary disclosure is made as described in clause (iii). The Secretary may accept and reasonably rely on information provided by a person or entity that is in violation of subsection (a)(1) only because of a compensation arrangement that is technically noncompliant.

1 “(ii) ACCEPTANCE OF DISCLOSURE.—

2 The Secretary may reject any voluntary
3 disclosure submitted under clause (iii)
4 within 90 days after the receipt of the dis-
5 closure only if the Secretary determines
6 that the disclosure does not conform to the
7 requirements described in clause (iii). If
8 the Secretary fails to reject a voluntary
9 disclosure within such 90-day period, the
10 voluntary disclosure is deemed to be ac-
11 cepted.

12 “(iii) VOLUNTARY DISCLOSURE.—A
13 voluntary disclosure described in this
14 clause, with respect to a compensation ar-
15 rangement, is a disclosure submitted to the
16 Secretary, by a party to such arrangement
17 that contains the following:

18 “(I) The identification of the dis-
19 closing party and all other parties to
20 the disclosed compensation arrange-
21 ment.

22 “(II) A description of the com-
23 pensation paid under the arrangement
24 and the dates of noncompliance.

1 “(III) A certification by the dis-
2 closing party that the compensation
3 arrangement—

4 “(aa) is technically non-
5 compliant (as defined by sub-
6 paragraph (C));

7 “(bb) has been cured of the
8 technical noncompliance, or is
9 otherwise terminated; and

10 “(cc) is, in the case of tech-
11 nical noncompliance under sub-
12 paragraph (C)(i), a valid contract
13 under State law, an arrangement
14 consistent with fair market value,
15 and one in which remuneration
16 under the arrangement is not de-
17 termined in a manner that takes
18 into account directly or indirectly
19 the volume or value of any refer-
20 rals.

21 “(IV) Payment for the full
22 amount of the civil monetary penalty
23 under clause (i) or (ii), as applicable,
24 of subparagraph (A).

“(C) DEFINITION TECHNICAL NONCOMPLIANCE.—For purposes of this paragraph, the term ‘technical noncompliance’ means an arrangement that is in violation of subsection (a)(1) only because—

“(i) the arrangement is not set forth in writing;

“(ii) the arrangement is not signed by 1 or more parties to the arrangement; or

“(iii) a prior arrangement expired and services continued without the execution of an amendment to such arrangement or a new arrangement.

“(D) APPLICABILITY TO PRE-ENACTMENT DISCLOSURES TO RELIEVE BACKLOG.—The Secretary shall provide for the application of this paragraph to any technically noncompliant compensation arrangement that has been disclosed, and to which there has not been a final settlement as of the date of enactment of this paragraph.

“(E) REPORT.—Not later than 24 months after the date of enactment of this paragraph, the Inspector General of the Department of Health and Human Services shall submit to

1 Congress a report on the implementation of this
2 paragraph. Such report shall include—

3 “(i) the number of persons or entities
4 making disclosures of technical noncompli-
5 ance under this paragraph;

6 “(ii) the amount and type of alter-
7 native sanctions collected or imposed for
8 technical noncompliance;

9 “(iii) the types of violations disclosed;
10 and

11 “(iv) such other information as the
12 Inspector General determines may be nec-
13 essary to evaluate the impact of this para-
14 graph.”.

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