

116TH CONGRESS
1ST SESSION

H. R. 1265

To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2019

Mr. DUFFY (for himself, Mr. PETERSON, and Mr. GIANFORTE) 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

A BILL

To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, 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 “Nursing Home Work-
5 force Quality Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Nursing facilities are an integral component
 2 of the continuum of care for Medicare and Medicaid
 3 patients.

4 (2) Many nursing facilities have in-house edu-
 5 cational programs approved by the Centers for Medi-
 6 care & Medicaid Services to train individuals as cer-
 7 tified nursing aides to provide extensive, direct care.

8 (3) The ability to provide this training is crit-
 9 ical for nursing facilities to ensure that—

10 (A) residents receive the highest quality
 11 care;

12 (B) caregivers are trained on the most
 13 timely best practices and clinical standards; and

14 (C) facilities can—

15 (i) sustain appropriate staffing levels;

16 and

17 (ii) recruit and retain qualified staff.

18 **SEC. 3. TRAINING AND COMPETENCY EVALUATION PRO-**
 19 **GRAMS.**

20 (a) **MEDICARE.**—Section 1819 of the Social Security
 21 Act (42 U.S.C. 1395i–3) is amended—

22 (1) in subsection (f)(2)—

23 (A) in subparagraph (A)(iv)(I), by striking
 24 “(unless the facility is described in subpara-
 25 graph (B)(iii)(I))”;

1 (B) in subparagraph (B)—

2 (i) in clause (i)—

3 (I) by striking “(subject to clause
4 (iii))”; and

5 (II) by inserting “and” after the
6 semicolon;

7 (ii) in clause (ii), by striking “; and”
8 and inserting a period;

9 (iii) by striking clause (iii); and

10 (iv) by striking “A State may not del-
11 egate (through subcontract or otherwise)
12 its responsibility under clause (iii)(II) to
13 the skilled nursing facility.”;

14 (C) by striking subparagraphs (C) and
15 (D); and

16 (D) by adding at the end the following:

17 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
18 ING AND COMPETENCY EVALUATION PROGRAMS
19 AND NURSE AIDE COMPETENCY EVALUATION
20 PROGRAMS.—

21 “(i) IN GENERAL.—With respect to a
22 State, the Secretary may, in consultation
23 with such State, disapprove a nurse aide
24 training and competency evaluation pro-
25 gram or a nurse aide competency evalua-

tion program offered by or in a skilled nursing facility if such facility—

“(I) has been assessed a civil monetary penalty under subsection (h)(2)(B)(ii) or section 1919(h)(2)(A)(ii) of not less than \$10,697 for providing substandard quality of care; and

“(II) has not, in the determination of the Secretary, corrected the deficiencies in quality of care for which such civil monetary penalty was assessed.

“(ii) RESCISSION OF DISAPPROVAL.—

The Secretary shall rescind a disapproval under clause (i) upon demonstration by a facility that all deficiencies for which the civil monetary penalty described in clause (i)(I) was assessed have been remedied.”; and

(2) in subsection (h)(2)(B)(ii)(I), by striking “\$10,000” and inserting “\$21,393”.

(b) MEDICAID.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(1) in subsection (f)(2)—

1 (A) in subparagraph (A)(iv)(I), by striking
 2 “(unless the facility is described in subpara-
 3 graph (B)(iii)(I))”;

4 (B) in subparagraph (B)—

5 (i) in clause (i), by inserting “and”
 6 after the semicolon;

7 (ii) in clause (ii), by striking “; and”
 8 and inserting a period;

9 (iii) by striking clause (iii); and

10 (iv) by striking “A State may not del-
 11 egate (through subcontract or otherwise)
 12 its responsibility under clause (iii)(II) to
 13 the nursing facility.”;

14 (C) by striking subparagraphs (C) and
 15 (D); and

16 (D) by adding at the end the following:

17 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
 18 ING AND COMPETENCY EVALUATION PROGRAMS
 19 AND NURSE AIDE COMPETENCY EVALUATION
 20 PROGRAMS.—

21 “(i) IN GENERAL.—With respect to a
 22 State, the Secretary may, in consultation
 23 with such State, disapprove a nurse aide
 24 training and competency evaluation pro-
 25 gram or a nurse aide competency evalua-

tion program offered by or in a nursing facility if such facility—

“(I) has been assessed a civil monetary penalty under section 1819(h)(2)(B)(ii) or subsection (h)(2)(A)(ii) of not less than \$10,697 for providing substandard quality of care; and

“(II) has not, in the determination of the Secretary, corrected the deficiencies in quality of care for which such civil monetary penalty was assessed.

“(ii) RESCISSION OF DISAPPROVAL.—

The Secretary shall rescind a disapproval under clause (i) upon demonstration by a facility that all deficiencies for which the civil monetary penalty described in clause (i)(I) was assessed have been remedied.”; and

(2) in subsection (h)(3)(C)(ii)(I), by striking “\$10,000” and inserting “\$21,393”.

(c) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health

1 and Human Services shall promulgate regulations as nec-
2 essary to implement the amendments made by this section.

3 (d) APPLICABILITY.—

4 (1) IN GENERAL.—

5 (A) TIMING OF DETERMINATIONS.—The
6 amendments made by subsections (a)(1)(D) and
7 (b)(1)(D) of this section shall apply only to a
8 civil monetary penalty if the relevant covered
9 determination was made on or after the date of
10 enactment of this Act.

11 (B) COVERED DETERMINATION DE-
12 FINED.—The term “covered determination”
13 means, with respect to a facility in a State, a
14 determination by the State or the Secretary of
15 Health and Human Services that the facility
16 has provided a substandard quality of care for
17 which a civil monetary penalty described in sec-
18 tion 1819(f)(2)(C)(i)(I) or 1919(f)(2)(C)(i)(I)
19 of the Social Security Act (as such sections
20 have been amended by this Act) may be as-
21 sessed.

22 (2) PREVIOUSLY PROHIBITED PROGRAMS.—

23 (A) WAIVER.—With respect to a facility
24 subject, on the day before the date of enact-
25 ment of this Act, to a prohibition under item

1 (a) of either section 1819(f)(2)(B)(iii)(I) or sec-
2 tion 1919(f)(2)(B)(iii)(I) of the Social Security
3 Act (as in effect on the day before such date of
4 enactment), such prohibition shall no longer
5 apply to the facility on or after such date of en-
6 actment.

7 (B) SURVEY OR CIVIL MONETARY PEN-
8 ALTY.—With respect to a facility subject, on
9 the day before the date of enactment of this
10 Act, to a prohibition under item (b) or (c) of ei-
11 ther section 1819(f)(2)(B)(iii)(I) or section
12 1919(f)(2)(B)(iii)(I) of the Social Security Act
13 (as in effect on the day before such date of en-
14 actment), such prohibition shall no longer apply
15 to the facility on or after such date of enact-
16 ment upon a determination by the Secretary of
17 Health and Human Services that the facility
18 has corrected the issue that resulted in such
19 prohibition.

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