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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

# H. R.

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To amend title XVIII of the Social Security Act to increase hospital competition, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. BANKS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend title XVIII of the Social Security Act to increase hospital competition, 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 “Hospital Competition  
5 Act of 2019”.

6 **SEC. 2. HOSPITAL CONSOLIDATION.**

7 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
8 authorized to be appropriated \$160,000,000 to the Fed-  
9 eral Trade Commission to hire staff to investigate, as con-

1 sistent with the Sherman Antitrust Act and other relevant  
2 Federal laws, anti-competitive mergers and practices  
3 under such laws to the extent such mergers and practices  
4 relate to providers of inpatient and outpatient health care  
5 services, as defined by the Secretary of Health and  
6 Human Services.

7 (b) MEDICARE RATES APPLIED TO CERTAIN HHI  
8 HOSPITALS.—

9 (1) IN GENERAL.—Section 1866(a) of the So-  
10 cial Security Act (42 U.S.C. 1395cc(a)) is amend-  
11 ed—

12 (A) in paragraph (1)—

13 (i) in subparagraph (X), by striking  
14 “and” at the end;

15 (ii) in subparagraph (Y), by striking  
16 the period at the end and inserting “;  
17 and”; and

18 (iii) by inserting after subparagraph  
19 (Y) the following new subparagraph:

20 “(Z) subject to paragraph (4), in the case of a  
21 hospital in an urban area and with respect to which  
22 there is a Herfindahl-Hirschman Index (HHI) of  
23 greater than 4,000 and in the case of a hospital in  
24 a rural area and with respect to which there is  
25 Herfindahl-Hirschman Index (HHI) of greater than

1 5,000, to apply the reimbursement rate with respect  
2 to individuals (regardless of whether such an indi-  
3 vidual is entitled to or eligible for benefits under this  
4 title, but excluding individuals eligible for medical  
5 assistance under a State plan under title XIX) fur-  
6 nished items and services at such hospital that  
7 would be billable under this title for such items and  
8 services if furnished by such hospital to an indi-  
9 vidual entitled to or enrolled for benefits under this  
10 title.”; and

11 (B) by adding at the end the following new  
12 paragraph:

13 “(4)(A) The requirement under paragraph (1)(Z)  
14 shall not apply in the case of a hospital in a hospital refer-  
15 ral region if the HRR market share of such hospital (as  
16 determined under subparagraph (B)) is less than 0.15.

17 “(B) For purposes of subparagraph (A), the HRR  
18 market share of a hospital in a hospital referral region  
19 is equal to—

20 “(i) the total revenue of the hospital, divided by

21 “(ii) the total revenue of all hospital in the hos-  
22 pital referral region.”.

23 (2) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply with respect to items  
25 and services furnished on or after January 1, 2021.

1 (c) GRANTS FOR HOSPITAL INFRASTRUCTURE IM-  
2 PROVEMENT.—

3 (1) IN GENERAL.—The Secretary of Health and  
4 Human Services shall carry out a grant program  
5 under which the Secretary shall provide grants to el-  
6 igible States, in accordance with this subsection.

7 (2) USES.—An eligible State receiving a grant  
8 under this subsection may use such grant to improve  
9 the State hospital infrastructure and to supplement  
10 any other funds provided for a purpose authorized  
11 under a State or local hospital grant programs  
12 under State law.

13 (3) ELIGIBILITY.—

14 (A) IN GENERAL.—An eligible State may  
15 receive not more than one grant under this sub-  
16 section with respect to each qualifying criterion  
17 described in subparagraph (B) that is met by  
18 the State.

19 (B) ELIGIBLE STATE.—For purposes of  
20 this subsection, the term “eligible State” means  
21 a State that meets any one or more of the fol-  
22 lowing qualifying criteria:

23 (i) The State does not have in effect  
24 any State certificate of need law that re-  
25 quires a health care provider to provide to

1 a regulatory body a certification that the  
2 community needs the services provided by  
3 the health care provider.

4 (ii) The State has in effect State  
5 scope of practice laws that—

6 (I) allow advanced practice pro-  
7 viders (such as nurse practitioners,  
8 advanced practice registered nurses,  
9 clinical nurse specialists, and physi-  
10 cian assistants) to evaluate patients;  
11 diagnose, order, and interpret diag-  
12 nostic tests; and initiate and manage  
13 treatments; or

14 (II) provide that the only jus-  
15 tification for limiting the scope of  
16 practice of a health care provider is  
17 safety to the public.

18 (iii) The State does not have in effect  
19 any State laws that require managed care  
20 plans to accept into the network of such  
21 plan any qualified provider who is willing  
22 to accept the terms and conditions of the  
23 managed care plan.

24 (iv) The State does not have in effect  
25 a law that prohibits health insurers from

1 directing policy-holders to lower-cost op-  
2 tions through unsolicited recommendations.

3 (4) FUNDING.—There is authorized to be ap-  
4 propriated to carry out this subsection  
5 \$1,000,000,000 for each of the fiscal years 2019  
6 through 2028. Funds appropriated under this para-  
7 graph shall remain available until expended.

8 **SEC. 3. OFF-CAMPUS PROVIDER-BASED DEPARTMENT**  
9 **MEDICARE SITE NEUTRAL PAYMENT.**

10 (a) IN GENERAL.—Section 1834 of the Social Secu-  
11 rity Act (42 U.S.C. 1395m) is amended by adding at the  
12 end the following new subsection:

13 “(x) OFF-CAMPUS PROVIDER-BASED DEPARTMENT  
14 SITE NEUTRAL PAYMENT.—

15 “(1) IN GENERAL.—With respect to items and  
16 services furnished in an off-campus provider-based  
17 department, payment under this section for such  
18 items and services shall be the amount determined  
19 under the fee schedule under section 1848 for such  
20 items and services furnished if furnished in a physi-  
21 cian office setting.

22 “(2) OFF-CAMPUS PROVIDER-BASED DEPART-  
23 MENT.—For purposes of this subsection, the term  
24 ‘off-campus provider-based department’ has such  
25 meaning as specified by the Secretary.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply with respect to items and serv-  
3 ices furnished on or after January 1, 2021.

4 **SEC. 4. REPEALING SHARED SAVINGS INCENTIVES FROM**  
5 **MEDICARE SHARED SAVINGS PROGRAM.**

6 (a) IN GENERAL.—Section 1899 of the Social Secu-  
7 rity Act (42 U.S.C. 1395j) is amended—

8 (1) in subsection (a)(1)—

9 (A) by striking subparagraph (B); and

10 (B) by striking “such program—

11 “(A) groups of providers” and inserting  
12 “such program, groups of providers”;

13 (2) in subsection (b)(2)—

14 (A) in subparagraph (C), by striking “that  
15 would allow the organization to receive and dis-  
16 tribute payments for shared savings under sub-  
17 section (d)(2) to participating providers of serv-  
18 ices and suppliers”; and

19 (B) in subparagraph (E)—

20 (i) by striking “the implementation”  
21 and inserting “and the implementation”;  
22 and

23 (ii) by striking “, and the determina-  
24 tion of payments for shared savings under  
25 subsection (d)(2)”;

1 (3) in subsection (d)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by striking  
4 “except” and all that follows through the  
5 period at the end; and

6 (ii) by striking subparagraph (B); and

7 (B) by striking paragraph (2); and

8 (4) in subsection (g), by striking paragraph (4)  
9 and redesignating paragraphs (5) and (6) as para-  
10 graphs (4) and (5), respectively.

11 (b) **EFFECTIVE DATE.**—The amendments made by  
12 subsection (a) shall take effect on January 1, 2021.

13 **SEC. 5. PRICE TRANSPARENCY.**

14 Section 1866 of the Social Security Act (42 U.S.C.  
15 1395cc), as amended by section 2, is further amended—

16 (1) in subsection (a)(1)—

17 (A) in subparagraph (Y), by striking  
18 “and” at the end;

19 (B) in subparagraph (Z), by striking the  
20 period at the end and inserting “; and”; and

21 (C) by inserting after subparagraph (Z)  
22 the following new subparagraph:

23 “(AA) in the case of a hospital, to comply with  
24 the requirement under subsection (l).”; and



1           (2) by adding at the end the following new sub-  
2           section:

3           “(1) REQUIREMENT RELATING TO PUBLISHING CER-  
4           TAIN HOSPITAL PRICES.—

5           “(1) IN GENERAL.—For purposes of subsection  
6           (a)(1)(AA), the requirement described in this sub-  
7           section is, with respect to a hospital and year (begin-  
8           ning with 2021), for the hospital to publicly post,  
9           through the system established under paragraph (3),  
10          for each service included in the list published under  
11          paragraph (2) for such year, the volume-weighted  
12          average price charged by the hospital to—

13           “(A) individuals enrolled during such year  
14           in group health plans or health insurance cov-  
15           erage offered in the individual or group market  
16           (as such terms are defined in section 2791 of  
17           the Public Health Service Act); and

18           “(B) individuals who are not enrolled in  
19           any health insurance coverage or health benefits  
20           plan and individuals who are enrolled in such  
21           coverage or plan but such coverage or plan does  
22           not provide benefits for the service.

23           “(2) SERVICES.—For purposes of subsection  
24           (a)(1)(AA) and this subsection, the Secretary shall,  
25           for 2021 and each subsequent year, publish a list of

1 the 100 services that are the most highly utilized in  
2 a hospital-based setting.

3 “(3) STANDARDIZED DIGITAL REPORTING SYS-  
4 TEM.—Not later than January 1, 2021, the Sec-  
5 retary shall establish a standardized digital system  
6 for purposes of paragraph (1).”.

7 **SEC. 6. REPEAL OF HEALTH CARE REFORM PROVISIONS**  
8 **LIMITING MEDICARE EXCEPTION TO THE**  
9 **PROHIBITION ON CERTAIN PHYSICIAN RE-**  
10 **FERRALS FOR HOSPITALS.**

11 Sections 6001 and 10601 of the Patient Protection  
12 and Affordable Care Act (Public Law 111–148; 124 Stat.  
13 684, 1005) and section 1106 of the Health Care and Edu-  
14 cation Reconciliation Act of 2010 (Public Law 111–152;  
15 124 Stat. 1049) are repealed and the provisions of law  
16 amended by such sections are restored as if such sections  
17 had never been enacted.