

115TH CONGRESS  
2D SESSION

# H. R. 7084

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

OCTOBER 23, 2018

Mr. BANKS of Indiana introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, 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 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 2018”.

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)(1) of the  
10 Social Security Act (42 U.S.C. 1395cc(a)(1)) is  
11 amended—

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

14 (B) in subparagraph (Y), by striking the  
15 period at the end and inserting “; and”; and

16 (C) by inserting after subparagraph (Y)  
17 the following new subparagraph:

18 “(Z) in the case of a hospital in an urban area  
19 and with respect to which there is a Herfindahl-  
20 Hirschman Index (HHI) of greater than 4,000 and  
21 in the case of a hospital in a rural area and with  
22 respect to which there is Herfindahl-Hirschman  
23 Index (HHI) of greater than 5,000, to apply the re-  
24 imbursement rate with respect to individuals (re-  
25 gardless of whether such an individual is entitled to

1 or eligible for benefits under this title, but excluding  
2 individuals eligible for medical assistance under a  
3 State plan under title XIX) furnished items and  
4 services at such hospital that would be billable under  
5 this title for such items and services if furnished by  
6 such hospital to an individual entitled to or enrolled  
7 for benefits under this title.”.

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

11 (c) GRANTS FOR HOSPITAL INFRASTRUCTURE IM-  
12 PROVEMENT.—

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

17 (2) USES.—An eligible State receiving a grant  
18 under this subsection may use such grant to improve  
19 the State hospital infrastructure and to supplement  
20 any other funds provided for a purpose authorized  
21 under a State or local hospital grant programs  
22 under State law.

23 (3) ELIGIBILITY.—

24 (A) IN GENERAL.—An eligible State may  
25 receive not more than one grant under this sub-

1 section with respect to each qualifying criterion  
2 described in subparagraph (B) that is met by  
3 the State.

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

8 (i) The State does not have in effect  
9 any State certificate of need law that re-  
10 quires a health care provider to provide to  
11 a regulatory body a certification that the  
12 community needs the services provided by  
13 the health care provider.

14 (ii) The State has in effect State  
15 scope of practice laws that—

16 (I) allow advanced practice pro-  
17 viders (such as nurse practitioners,  
18 advanced practice registered nurses,  
19 clinical nurse specialists, and physi-  
20 cian assistants) to evaluate patients;  
21 diagnose, order, and interpret diag-  
22 nostic tests; and initiate and manage  
23 treatments; or

24 (II) provide that the only jus-  
25 tification for limiting the scope of

1 practice of a health care provider is  
2 safety to the public.

3 (iii) The State does not have in effect  
4 any State laws that require managed care  
5 plans to accept into the network of such  
6 plan any qualified provider who is willing  
7 to accept the terms and conditions of the  
8 managed care plan.

9 (4) FUNDING.—There is authorized to be ap-  
10 propriated to carry out this subsection  
11 \$1,000,000,000 for each of the fiscal years 2019  
12 through 2028. Funds appropriated under this para-  
13 graph shall remain available until expended.

14 **SEC. 3. OFF-CAMPUS PROVIDER-BASED DEPARTMENT**  
15 **MEDICARE SITE NEUTRAL PAYMENT.**

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

19 “(w) OFF-CAMPUS PROVIDER-BASED DEPARTMENT  
20 SITE NEUTRAL PAYMENT.—

21 “(1) IN GENERAL.—With respect to items and  
22 services furnished in an off-campus provider-based  
23 department, payment under this section for such  
24 items and services shall be the amount determined  
25 under the fee schedule under section 1848 for such

1 items and services furnished if furnished in a physi-  
2 cian office setting.

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

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

10 **SEC. 4. REPEALING SHARED SAVINGS INCENTIVES FROM**  
11 **MEDICARE SHARED SAVINGS PROGRAM.**

12 (a) IN GENERAL.—Section 1899 of the Social Secu-  
13 rity Act (42 U.S.C. 1395jjj) is amended—

14 (1) in subsection (a)(1)—

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

16 (B) by striking “such program—

17 “(A) groups of providers” and inserting  
18 “such program, groups of providers”;

19 (2) in subsection (b)(2)—

20 (A) in subparagraph (C), by striking “that  
21 would allow the organization to receive and dis-  
22 tribute payments for shared savings under sub-  
23 section (d)(2) to participating providers of serv-  
24 ices and suppliers”; and

25 (B) in subparagraph (E)—

1 (i) by striking “the implementation”  
2 and inserting “and the implementation”;  
3 and

4 (ii) by striking “, and the determina-  
5 tion of payments for shared savings under  
6 subsection (d)(2)”;

7 (3) in subsection (d)—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking  
10 “except” and all that follows through the  
11 period at the end; and

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

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

14 (4) in subsection (g), by striking paragraph (4)  
15 and redesignating paragraphs (5) and (6) as para-  
16 graphs (4) and (5), respectively.

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

19 **SEC. 5. ADVISORY GROUP ON REDUCING BURDEN OF HOS-**  
20 **PITAL ADMINISTRATIVE REQUIREMENTS.**

21 (a) **IN GENERAL.**—Not later than January 1, 2021,  
22 the Secretary of Health and Human Services shall convene  
23 an advisory group to provide, in accordance with this sec-  
24 tion, recommendations on ways the Federal Government

1 could reduce the burden of administrative requirements on  
2 hospitals.

3 (b) RECOMMENDATIONS.—Not later than January 1,  
4 2022, the advisory board convened under this section  
5 shall—

6 (1) submit to the Secretary of Health and  
7 Human Services recommendations described under  
8 subsection (a) for executive action and any rec-  
9 ommendations for State actions for potential consid-  
10 eration in making grants under section 2(c) to  
11 States; and

12 (2) submit to Congress recommendations de-  
13 scribed under subsection (a) for legislative proposals.

14 (c) MEMBERSHIP.—The advisory board under this  
15 section shall consist of the following members:

16 (1) Three representatives of companies that  
17 have—

18 (A) geographically distributed workforces;

19 (B) at least 10,000 employees; and

20 (C) no more than 10 percent of such em-  
21 ployees in any single State.

22 (2) Three representatives of health insurance  
23 issuers and health plans, consisting of—

24 (A) one representative of for-profit health  
25 insurance issuers and health plans with at last



1 20,000,000 enrollees in the employer-sponsored  
2 market;

3 (B) one representative of non-profit health  
4 insurance issuers and health plans operating in  
5 at least 5 States; and

6 (C) one representative of non-profit health  
7 insurance issuers and health plans operating in  
8 a rural State (as defined by the Census Bu-  
9 reau).

10 (3) Seven public policy experts in the field of  
11 hospital consolidation.

12 **SEC. 6. PRICE TRANSPARENCY.**

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

15 (1) in subsection (a)(1)—

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

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

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

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

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

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

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

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

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

21           “(2) SERVICES.—For purposes of subsection  
22 (a)(1)(AA) and this subsection, the Secretary shall,  
23 for 2021 and each subsequent year, publish a list of  
24 the 100 services that are the most highly utilized in  
25 a hospital-based setting.

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

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