

115TH CONGRESS  
2D SESSION

# H. R. 7177

To amend title III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 27, 2018

Mr. PAULSEN 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

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## A BILL

To amend title III of the Public Health Service Act and titles XI and XVIII of the Social Security Act to accelerate the adoption of value-based payment and delivery arrangements among health care stakeholders intended to coordinate care, improve patient outcomes, share accountability, or lower costs, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Shared Accountability  
3 for Improved Patient Outcomes Act of 2018”.

4 **SEC. 2. VALUE-BASED ARRANGEMENTS.**

5 Subpart I of part S of title III of the Public Health  
6 Service Act (42 U.S.C. 280j et seq.) is amended by adding  
7 at the end the following new section:

8 **“SEC. 399KK-1. EDUCATIONAL CAMPAIGNS TO ENCOURAGE**

9 **VALUE-BASED HEALTH CARE DELIVERY AND**  
10 **QUALITY IMPROVEMENT.**

11 “(a) IN GENERAL.—Beginning not later than Janu-  
12 ary 1, 2019, the Secretary shall conduct annual education  
13 campaigns targeted to health care providers and payers  
14 to encourage the development of value-based arrange-  
15 ments (as defined in section 1128B(b)(5)(B) of the Social  
16 Security Act) that are designed to meet one or more of  
17 the following goals:

18 “(1) Promotion of accountability with respect to  
19 quality, cost, coordination, and overall care of pa-  
20 tient populations, including patient populations that  
21 receive services which are reimbursed by various  
22 health care payers.

23 “(2) Improvement of management and coordi-  
24 nation of care for patients through such arrange-  
25 ments approved by the parties to the arrangement.

1 “(3) Encouragement of investment in health  
2 care infrastructure and redesigned care processes for  
3 high-quality and efficient service delivery for pa-  
4 tients, including individuals entitled to benefits  
5 under part A of title XVIII of the Social Security  
6 Act or enrolled under part B of such title, such as  
7 appropriate reduction of costs or growth in expendi-  
8 tures for items and services provided to patients,  
9 consistent with quality of care, physician medical  
10 judgment, and patient freedom of choice.

11 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to carry out this section  
13 such sums as may be necessary for each of fiscal years  
14 2019 through 2023.”.

15 **SEC. 3. ANTIKICKBACK EXCEPTION FOR VALUE-BASED AR-**  
16 **RANGEMENTS.**

17 (a) IN GENERAL.—Section 1128B(b) of the Social  
18 Security Act (42 U.S.C. 1320a–7b(b)) is amended by add-  
19 ing at the end the following new paragraph:

20 “(5)(A) Paragraphs (1) and (2) shall not apply to  
21 any remuneration exchanged under a value-based arrange-  
22 ment (as defined in subparagraph (B)) directly or indi-  
23 rectly between, among, or on behalf of one or more parties  
24 paid under such arrangement.

1 “(B) For purposes of this paragraph, the term ‘value-  
2 based arrangement’ means an arrangement that meets the  
3 following criteria:

4 “(i) The arrangement is set out in writing in  
5 advance of the execution of the arrangement and  
6 specifies the health care items and services covered  
7 by the arrangement.

8 “(ii) The arrangement is reasonably related to  
9 one or more of the goals described in section  
10 399KK–1(a) of the Public Health Service Act.

11 “(iii) The arrangement—

12 “(I) is a value-based risk-sharing trans-  
13 action (as defined in subparagraph (C));

14 “(II) provides for payment for items and  
15 services furnished under the arrangement be-  
16 tween, among, or on behalf of one or more par-  
17 ties participating in a value-based risk-sharing  
18 network arrangement (as defined in subpara-  
19 graph (C)); or

20 “(III) is another arrangement determined  
21 appropriate by the Secretary.

22 “(C) In this paragraph:

23 “(i) The term ‘financial risk’ means upside or  
24 downside risk such that each party is eligible or lia-  
25 ble for payment through a specified methodology

1 that may include shared savings, withholds, or bo-  
2 nuses.

3 “(ii) The term ‘value-based risk-sharing net-  
4 work arrangement’ means an arrangement under  
5 which an entity is established between or organized  
6 and operated by two or more parties (which may in-  
7 clude providers, suppliers, corporations, or individ-  
8 uals)—

9 “(I) to accept capitation payments with re-  
10 spect to certain items and services furnished to  
11 an individual;

12 “(II) to accept as payment for such items  
13 and services a predetermined percentage of the  
14 value-based risk-sharing network’s revenue  
15 under the arrangement; or

16 “(III) to provide financial incentives to  
17 parties to the arrangement for purposes of  
18 achieving one or more of the goals described in  
19 section 399KK–1(a) of the Public Health Serv-  
20 ice Act through the use of—

21 “(aa) arrangements under which such  
22 parties agree to a withhold of a significant  
23 amount of the compensation due them, to  
24 be used to cover losses of the arrangement,  
25 to cover losses of other parties within the

1 arrangement, to be returned to all parties  
2 to the arrangement if such parties meet  
3 their utilization management or cost-con-  
4 tainment goals for a specified time period,  
5 or to be distributed among all parties if  
6 the arrangement meets its utilization man-  
7 agement or cost-containment goals for a  
8 specified time period;

9 “(bb) arrangements where such par-  
10 ties agree to preestablished cost or utiliza-  
11 tion targets and to subsequent significant  
12 financial rewards or penalties (which may  
13 include a reduction in payments to down-  
14 stream providers or suppliers in the net-  
15 work) based on the performance of all such  
16 parties with respect to such targets; or

17 “(cc) other mechanisms that dem-  
18 onstrate significant shared financial risk  
19 (as defined in clause (i)) or significantly  
20 assist such parties in meeting risk-sharing  
21 targets, including shared-savings pay-  
22 ments, withholds, or bonuses.

23 Remuneration to parties who participate in a value-  
24 based risk-sharing network arrangement may be in-  
25 kind or monetary payments, which may but are not

1 required to place the parties to such arrangement at  
2 financial risk (as defined in clause (i)).

3 “(iii) The term ‘value-based risk-sharing trans-  
4 action’ means a payment made under an arrange-  
5 ment under which each party agrees—

6 “(I) to contribute to the achievement of  
7 preidentified clinical or economic target metrics  
8 that are specifically tailored to improve patient  
9 outcomes or reduce the costs of health care de-  
10 livery without negatively affecting patient out-  
11 comes;

12 “(II) to implement processes or procedures  
13 that otherwise optimize the delivery, efficiency,  
14 or quality of patient-centered care; and

15 “(III) to predetermine the allocation of fi-  
16 nancial risk (as defined in clause (i)) assumed  
17 by each party based on the participant’s relative  
18 contribution to the achievement of targeted out-  
19 comes.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to arrangements entered into on  
22 or after the date of enactment of this Act.

1 **SEC. 4. STARK LAW EXCEPTION FOR VALUE-BASED AR-**  
2 **RANGEMENTS.**

3 (a) Section 1877(e) of the Social Security Act (42  
4 U.S.C. 1395nn(e)) is amended by adding at the end the  
5 following new paragraphs:

6 “(9) VALUE-BASED ARRANGEMENTS.—Remu-  
7 nation to a physician (or an immediate family  
8 member of such physician) paid under a value-based  
9 arrangement (as defined in section  
10 1128B(b)(5)(B)).”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply with respect to arrangements en-  
13 tered into on or after the date of enactment of this Act.

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