

112TH CONGRESS
1ST SESSION

H. R. 816

To prevent the Patient Protection and Affordable Care Act from establishing health care provider standards of care in medical malpractice or medical product liability cases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2011

Mr. GINGREY of Georgia (for himself, Mr. CUELLAR, Mr. BROUN of Georgia, Mr. SMITH of Texas, Mr. MURPHY of Pennsylvania, Mr. GRAVES of Missouri, and Mr. BENISHEK) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on 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

A BILL

To prevent the Patient Protection and Affordable Care Act from establishing health care provider standards of care in medical malpractice or medical product liability cases, 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 “Provider Shield Act
5 of 2011”.

1 **SEC. 2. CONSTRUCTION REGARDING HEALTH CARE PRO-**
2 **VIDER STANDARDS OF CARE.**

3 (a) IN GENERAL.—The development, recognition, or
4 implementation of any guideline or other standard under
5 any health care reform provision shall not be construed
6 to establish the standard of care or duty of care owed by
7 a health care provider to a patient in any medical mal-
8 practice or medical product liability case.

9 (b) DEFINITIONS.—For purposes of this Act:

10 (1) The term “health care reform provision”
11 means any provision of the Patient Protection and
12 Affordable Care Act (Public Law 111–148) and the
13 amendments made by that Act, including the fol-
14 lowing:

15 (A) Section 2701 (relating to adult health
16 quality measures).

17 (B) Section 2702 (relating to payment ad-
18 justment for health care-acquired conditions).

19 (C) Section 3001 (relating to hospital
20 value-based purchasing program).

21 (D) Section 3002 (relating to improve-
22 ments to the physician quality reporting sys-
23 tem).

24 (E) Section 3003 (relating to improve-
25 ments to the physician feedback program).

1 (F) Section 3007 (relating to value-based
2 payment modifier under the physician fee
3 schedule).

4 (G) Section 3008 (relating to payment ad-
5 justment for conditions acquired in hospitals).

6 (H) Section 3013 (relating to quality
7 measure development).

8 (I) Section 3014 (relating to quality meas-
9 urement).

10 (J) Section 3021 (relating to establishment
11 of Center for Medicare and Medicaid Innovation
12 within CMS).

13 (K) Section 3025 (relating to hospital re-
14 admissions reduction program).

15 (L) Section 3501 (relating to health care
16 delivery system research; quality improvement
17 technical assistance).

18 (M) Section 4003 (relating to clinical and
19 community preventive services).

20 (N) Section 4301 (relating to research on
21 optimizing the delivery of public health serv-
22 ices).

23 (2) The term “medical malpractice or medical
24 product liability case” means a medical malpractice
25 action or claim (as defined in section 431(7) of the

1 Health Care Quality Improvement Act of 1986 (42
2 U.S.C. 11151(7))) and includes a liability action or
3 claim relating to a health care provider’s prescrip-
4 tion or provision of a drug, device, or biological
5 product (as such terms are defined in section 201 of
6 the Federal Food, Drug, and Cosmetic Act or sec-
7 tion 351 of the Public Health Service Act).

8 (3) The term “State” includes the District of
9 Columbia, Puerto Rico, and any other common-
10 wealth, possession, or territory of the United States.

11 (c) SAVINGS CLAUSE FOR STATE MEDICAL MAL-
12 PRACTICE OR MEDICAL PRODUCT LIABILITY LAWS.—
13 Nothing in this Act shall be construed to modify or pre-
14 empt any substantive or procedural state law governing
15 medical malpractice or medical product liability cases or
16 to impair State authority regarding legal standards or pro-
17 cedures used in medical malpractice or medical product
18 liability cases.

19 (d) CONFORMING AMENDMENT.—Section 3512 of the
20 Patient Protection and Affordable Care Act (Public Law
21 111–148) is repealed.

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