

117TH CONGRESS  
1ST SESSION

# S. 2576

To amend title XVIII of the Social Security Act to establish a program to allow qualified group practices to furnish certain items and services at qualified skilled nursing facilities to individuals entitled to benefits under part A and enrolled under part B of the Medicare program to reduce unnecessary hospitalizations, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2021

Mr. THUNE (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to establish a program to allow qualified group practices to furnish certain items and services at qualified skilled nursing facilities to individuals entitled to benefits under part A and enrolled under part B of the Medicare program to reduce unnecessary hospitalizations, 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 “Reducing Unnecessary  
3 Senior Hospitalizations Act of 2021” or the “RUSH Act  
4 of 2021”.

5 **SEC. 2. SNF-BASED PROVISION OF PREVENTIVE ACUTE**  
6 **CARE AND HOSPITALIZATION REDUCTION**  
7 **PROGRAM.**

8 Title XVIII of the Social Security Act is amended by  
9 adding at the end the following new section:

10 **“SEC. 1899C. SNF-BASED PROVISION OF PREVENTIVE**  
11 **ACUTE CARE AND HOSPITALIZATION REDUC-**  
12 **TION PROGRAM.**

13 “(a) ESTABLISHMENT.—There is established a pro-  
14 gram to be known as the ‘SNF-based Provision of Preven-  
15 tive Acute Care and Hospitalization Reduction Program’  
16 (in this section referred to as the ‘Program’), to be admin-  
17 istered by the Secretary, for purposes of reducing unneces-  
18 sary hospitalizations and emergency department visits by  
19 allowing qualified group practices (as defined in section  
20 1877(h)(4)) on or after January 1, 2022, to furnish items  
21 and services identified under subsection (b)(3) to individ-  
22 uals entitled to benefits under part A and enrolled under  
23 part B residing in qualified skilled nursing facilities.

24 “(b) OPERATION OF PROGRAM.—Under the Pro-  
25 gram, the Secretary shall provide for the following:

1           “(1) Certification of skilled nursing facilities as  
2 qualified skilled nursing facilities under subsection  
3 (c)(1).

4           “(2) Certification of group practices as quali-  
5 fied group practices under subsection (c)(2).

6           “(3) Identification on an annual basis of min-  
7 imum required, clinically appropriate nonsurgical  
8 items and services furnished at a hospital emergency  
9 department that may be safely furnished by a quali-  
10 fied group practice at a qualified skilled nursing fa-  
11 cility under the Program and that such qualified  
12 group practice shall offer to furnish under the Pro-  
13 gram. Such items and services may include provider  
14 review of lab and imaging reports for medical deci-  
15 sion making, medication management, blood glucose  
16 management, behavioral health services, and other  
17 services offered to diagnose or treat low acuity con-  
18 ditions.

19           “(4) Establishment of qualifications for non-  
20 physician employees who may furnish such items  
21 and services at a qualified skilled nursing facility.  
22 Such qualifications shall include the requirement  
23 that such an employee—

24                   “(A) be certified in basic life support by a  
25 nationally recognized specialty board of certifi-

1 cation or equivalent certification board, in ac-  
 2 cordance with requirements under section  
 3 483.24(a)(3) of title 42, Code of Federal Regu-  
 4 lations (or any successor regulation); and

5 “(B) have—

6 “(i) clinical experience furnishing  
 7 medical care—

8 “(I) in a skilled nursing facility;

9 “(II) in a hospital emergency de-  
 10 partment setting; or

11 “(III) as an employee of a pro-  
 12 vider or supplier of ambulance serv-  
 13 ices; or

14 “(ii) a certification in paramedicine.

15 “(5) Payment under this title for items and  
 16 services identified under paragraph (3) furnished by  
 17 such qualified group practices at such a facility in  
 18 amounts determined under subsection (d).

19 “(c) CERTIFICATIONS.—

20 “(1) QUALIFIED SKILLED NURSING FACILI-  
 21 TIES.—

22 “(A) IN GENERAL.—For purposes of this  
 23 section, the Secretary shall certify a skilled  
 24 nursing facility as a qualified skilled nursing fa-  
 25 cility if the facility submits an application in a

1 time and manner specified by the Secretary and  
2 meets the following requirements:

3 “(i) The facility has on-site diagnostic  
4 equipment necessary for a qualified group  
5 practice to furnish items and services  
6 under the Program and real-time audio  
7 and visual capabilities as provided by the  
8 agreement between the facility and the  
9 qualified group practice.

10 “(ii) The facility has at least one indi-  
11 vidual who meets the qualifications de-  
12 scribed in subsection (b)(4) or a physician  
13 present 24 hours a day and 7 days a week  
14 to work with the qualified group practice,  
15 in accordance with section 483.35(a) of  
16 title 42, Code of Federal Regulations (or  
17 any successor regulation). Such individual  
18 may be a member of the staff of the quali-  
19 fied skilled nursing facility or of the quali-  
20 fied group practice.

21 “(iii) The facility ensures that resi-  
22 dents of such facility, upon entering such  
23 facility, are allowed to specify in an ad-  
24 vanced care directive or otherwise docu-  
25 mented in the individual’s records whether

1 the resident wishes to receive items and  
2 services furnished at the facility under the  
3 Program in a case where communication  
4 with the resident is not possible.

5 “(iv) The facility ensures that individ-  
6 uals to be furnished such items and serv-  
7 ices under the Program at such facility  
8 have the opportunity, at their request, to  
9 instead be transported to a hospital emer-  
10 gency department.

11 “(v) The facility is not part of the  
12 Special Focus Facility program of the Cen-  
13 ters for Medicare & Medicaid Services (al-  
14 though the facility may, at the discretion  
15 of the Secretary, be a candidate for selec-  
16 tion under such program).

17 “(B) REQUIRED PROVISION OF SERVICES  
18 AND ACTIVITIES.—Nothing in this paragraph  
19 shall affect the application of requirements  
20 under section 1819(b)(4), relating to provision  
21 of services and activities, to a facility.

22 “(2) QUALIFIED GROUP PRACTICES.—For pur-  
23 poses of this section, the Secretary shall certify a  
24 group practice as a qualified group practice for a pe-  
25 riod of 3 years if the group practice submits an ap-

1       plication in a time and manner specified by the Sec-  
2       retary and meets the following requirements:

3               “(A) The group practice offers to furnish  
4               all minimum required items and services identi-  
5               fied under subsection (b)(3) under the Pro-  
6               gram.

7               “(B) The group practice submits a notifi-  
8               cation to the Secretary annually specifying  
9               which (if any) additional items and services  
10              identified under subsection (b)(3) for a year the  
11              group practice will offer to furnish for such  
12              year under the Program.

13              “(C) The group practice ensures that only  
14              individuals who meet the qualifications estab-  
15              lished under subsection (b)(4) or a physician  
16              who is part of such group practice may furnish  
17              such minimum required items and services and  
18              such additional items and services.

19              “(D) The group practice, as provided by  
20              the agreement between the facility and the  
21              group practice or under the supervision of the  
22              medical director of the facility, ensures that, in  
23              the case where such minimum required items  
24              and services or such additional items and serv-  
25              ices are furnished by such an individual, such

1 individual furnishes such minimum required  
2 items and services or additional items and serv-  
3 ices under the supervision, either in-person or  
4 through the use of telehealth (not including  
5 store-and-forward technologies), of—

6 “(i) a physician—

7 “(I) who is board certified or  
8 board eligible in emergency medicine,  
9 family medicine, geriatrics, or internal  
10 medicine; or

11 “(II) who has been certified by a  
12 nationally recognized specialty board  
13 of certification or equivalent certifi-  
14 cation board in basic life support;

15 “(ii) a nurse practitioner who has  
16 been certified by a nationally recognized  
17 specialty board of certification or equiva-  
18 lent certification board in basic life sup-  
19 port; or

20 “(iii) a physician assistant who has  
21 been certified by a nationally recognized  
22 specialty board of certification or equiva-  
23 lent certification board in basic life sup-  
24 port.



1           “(E) With respect to any year in which the  
2 qualified group practice would participate in the  
3 Program, the Chief Actuary for the Centers for  
4 Medicare & Medicaid Services determines that  
5 such participation during such year will not re-  
6 sult in total estimated expenditures under this  
7 title for such year being greater than total esti-  
8 mated expenditures under such title for such  
9 year without such participation.

10           “(d) PAYMENTS AND TREATMENT OF SAVINGS.—

11           “(1) PAYMENTS.—

12           “(A) IN GENERAL.—For 2022 and each  
13 subsequent year, payments shall continue to be  
14 made to qualified group practices and qualified  
15 skilled nursing facilities participating in the  
16 Program under the original Medicare fee-for-  
17 service program under parts A and B in the  
18 same manner as they would otherwise be made  
19 except that such group practices and skilled  
20 nursing facilities are eligible to receive payment  
21 for shared savings under paragraph (2) if they  
22 meet the requirement under subparagraph  
23 (B)(i).

24           “(B) SAVINGS REQUIREMENT AND BENCH-  
25 MARK.—

1           “(i) DETERMINING SAVINGS.—In each  
2           year of the Program, a qualified group  
3           practice (and any qualified skilled nursing  
4           facility participating in the Program that  
5           has an agreement with the group practice  
6           for the furnishing of items and services  
7           identified under subsection (b)(3) to resi-  
8           dents of the facility) shall be eligible to re-  
9           ceive payment for shared savings under  
10          paragraph (2) only if the estimated aver-  
11          age per capita Medicare expenditures for  
12          Medicare fee-for-service beneficiaries for  
13          parts A and B services furnished under the  
14          Program by the group practice (and any  
15          such facility), adjusted for beneficiary  
16          characteristics, is at least the percent spec-  
17          ified by the Secretary below the applicable  
18          benchmark under clause (ii). The Sec-  
19          retary shall determine the appropriate per-  
20          cent described in the preceding sentence to  
21          account for normal variation in expendi-  
22          tures under this title, based upon the num-  
23          ber of Medicare fee-for-service beneficiaries  
24          participating in the Program.

1                   “(ii) ESTABLISH AND UPDATE  
2                   BENCHMARK.—For each qualified group  
3                   practice (and any qualified skilled nursing  
4                   facility participating in the Program that  
5                   has an agreement with the group practice  
6                   for the furnishing of items and services  
7                   identified under subsection (b)(3) to resi-  
8                   dents of the facility) the Secretary shall es-  
9                   timate a single benchmark for each year  
10                  that is applicable to both the group prac-  
11                  tice (and any such facility) using the most  
12                  recent available 3 years of per-beneficiary  
13                  expenditures for parts A and B services for  
14                  Medicare fee-for-service beneficiaries for  
15                  items and services furnished by such group  
16                  practice or skilled nursing facility under  
17                  the Program. Such benchmark shall be ad-  
18                  justed for beneficiary characteristics and  
19                  such other factors as the Secretary deter-  
20                  mines appropriate. Such benchmark shall  
21                  be reset at the start of each year.

22                  “(2) PAYMENTS FOR SHARED SAVINGS.—If a  
23                  qualified group practice (and any qualified skilled  
24                  nursing facility participating in the Program that  
25                  has an agreement with the group practice for the

1       furnishing of items and services identified under  
2       subsection (b)(3) to residents of the facility) meets  
3       the requirements under paragraph (1), the Secretary  
4       shall—

5               “(A) pay to such qualified group practice  
6               an amount equal to 37.5 percent of the dif-  
7               ference between such estimated average per  
8               capita Medicare expenditures in a year, ad-  
9               justed for beneficiary characteristics, for items  
10              and services furnished under the Program by  
11              the group practice (and any such facility) and  
12              such benchmark for the qualified group practice  
13              (and any such facility); and

14             “(B) in the case of each such facility—

15               “(i) if the qualified skilled nursing fa-  
16               cility has at least a three-star rating under  
17               the Five Star Quality Rating System (or a  
18               successor system), pay to the facility an  
19               amount that bears the same ratio to 12.5  
20               percent of the estimated amount of such  
21               difference as the amount of expenditures  
22               under the Program for such items and  
23               services furnished with respect to individ-  
24               uals at such facility by such qualified  
25               group practice during such year bears to

1 the total amount of expenditures under the  
2 Program for such items and services fur-  
3 nished with respect to all individuals by  
4 such qualified group practice during such  
5 year; and

6 “(ii) in the case of a qualified skilled  
7 nursing facility that is not described in  
8 clause (i), retain in the Federal Hospital  
9 Insurance Trust Fund under section 1817  
10 the amount that the facility would have  
11 been paid pursuant to clause (i) if the fa-  
12 cility were described in such clause until  
13 such time as the facility has at least a  
14 three-star rating under the Five Star Qual-  
15 ity Rating System (or a successor system),  
16 at which point the Secretary shall pay such  
17 amount to the facility.

18 “(3) ADVANCED ALTERNATIVE PAYMENT MOD-  
19 ELS.—Paragraph (2) shall not apply to items and  
20 services furnished to an individual entitled to bene-  
21 fits under part A and enrolled under Part B for  
22 whom shared savings would otherwise be attributed  
23 through an advanced alternative payment model as  
24 authorized under section 1115A or section 1899.

25 “(e) EVALUATION.—

1           “(1) IN GENERAL.—With respect to a qualified  
2           group practice and a qualified skilled nursing facil-  
3           ity, not later than 6 months after such group prac-  
4           tice begins furnishing items and services under the  
5           Program (or, in the case of a qualified skilled nurs-  
6           ing facility, not less than 6 months after a qualified  
7           group practice first furnishes such items and serv-  
8           ices at such facility), and not less than once every  
9           2 years thereafter, the Secretary shall evaluate such  
10          qualified group practice and such qualified facility  
11          using information received under paragraph (2) on  
12          such criteria as determined appropriate by the Sec-  
13          retary.

14           “(2) REPORTING OF PERFORMANCE AND QUAL-  
15          ITY IMPROVEMENTS.—In a time and manner speci-  
16          fied by the Secretary, a qualified group practice and  
17          a qualified skilled nursing facility shall submit to the  
18          Secretary a report containing the following informa-  
19          tion with respect to items and services furnished  
20          under the Program during a reporting period (as  
21          specified by the Secretary):

22           “(A) The items and services most fre-  
23          quently furnished under the Program in such  
24          period.

1           “(B) The number of individuals with re-  
2           spect to whom such group practice furnished  
3           such items and services in such period (or, in  
4           the case of a qualified skilled nursing facility,  
5           the number of individuals with respect to whom  
6           such a group practice furnished such items and  
7           services at such facility in such period).

8           “(C) The number of hospitalizations pre-  
9           vented under the Program in such period.

10          “(D) The number of such individuals who  
11          were admitted to a hospital or treated in the  
12          emergency department of a hospital within 24  
13          hours of being furnished such items and serv-  
14          ices.

15          “(E) Other information determined appro-  
16          priate by the Secretary.

17          “(3) LOSS OF QUALIFIED CERTIFICATION.—

18                 “(A) IN GENERAL.—Not later than 3  
19                 months after a determination described in this  
20                 sentence is made, the Secretary may revoke the  
21                 certification of a qualified skilled nursing facil-  
22                 ity or a qualified group practice made under  
23                 subsection (c) if—

24                         “(i) the Chief Actuary of the Centers  
25                         for Medicare & Medicaid Services deter-

1 mines that the participation of such skilled  
2 nursing facility or such group practice in  
3 the Program during a year resulted in  
4 total expenditures under this title for such  
5 period being greater than total expendi-  
6 tures under such title would have been  
7 during such period without such participa-  
8 tion; or

9 “(ii) a facility is selected for the Spe-  
10 cial Focus Facility program or, if the facil-  
11 ity is a candidate for the Special Focus  
12 Facility program, the Secretary determines  
13 that the participation of such facility in the  
14 Program should be terminated.

15 “(B) EXCLUSION FROM CERTIFICATION.—

16 “(i) IN GENERAL.—In the case that  
17 the Secretary revokes the certification of a  
18 qualified skilled nursing facility or a quali-  
19 fied group practice under subparagraph  
20 (A), such skilled nursing facility or such  
21 group practice shall be ineligible for certifi-  
22 cation as a qualified skilled nursing facility  
23 or a qualified group practice (as applica-  
24 ble) under subsection (c) for the applicable  
25 period (as defined under clause (ii)).



1                   “(ii) APPLICABLE PERIOD DE-  
 2                   FINED.—In this subparagraph, the term  
 3                   ‘applicable period’ means—

4                   “(I) if the revocation of a facility  
 5                   or group practice under subparagraph  
 6                   (A) is due to the application of clause  
 7                   (i) of such subparagraph, a 1-year pe-  
 8                   riod beginning on the date of such  
 9                   revocation; and

10                   “(II) in the revocation of a facil-  
 11                   ity under subparagraph (A) is due to  
 12                   the application of clause (ii) of such  
 13                   subparagraph, the period beginning  
 14                   on the date of such revocation and  
 15                   ending on the date on which the facil-  
 16                   ity graduates from the Special Focus  
 17                   Facility program (or, in the case of a  
 18                   facility that is a candidate for such  
 19                   program, the date on which the facil-  
 20                   ity is no longer such a candidate, as  
 21                   determined by the Secretary).

22                   “(f) DETERMINATION OF BUDGET NEUTRALITY;  
 23                   TERMINATION OF PROGRAM.—

24                   “(1) DETERMINATION.—Not later than July 1,  
 25                   2027, the Chief Actuary of the Centers for Medicare

1 & Medicaid Services shall determine whether the  
2 Program has resulted in an increase in total expend-  
3 itures under this title with respect to the period be-  
4 ginning on January 1, 2022, and ending on Decem-  
5 ber 31, 2026, compared to what such expenditures  
6 would have been during such period had the Pro-  
7 gram not been in operation.

8 “(2) TERMINATION.—If the Chief Actuary  
9 makes a determination under paragraph (1) that the  
10 Program has resulted in an increase in total expend-  
11 itures under this title, the Secretary shall terminate  
12 the Program as of January 1 of the first year begin-  
13 ning after such determination.”.

○