

118TH CONGRESS
1ST SESSION

H. R. 2713

To amend titles XVIII and XIX of the Social Security Act to increase access to services provided by advanced practice registered nurses under the Medicare and Medicaid programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2023

Mr. JOYCE of Ohio (for himself, Ms. BONAMICI, Ms. UNDERWOOD, Mrs. KIGGANS of Virginia, Ms. SCHAKOWSKY, Mr. ARMSTRONG, Mr. BLUMENAUER, Mr. SMITH of Nebraska, Mr. GROTHMAN, Mr. PAPPAS, and Ms. KUSTER) 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

A BILL

To amend titles XVIII and XIX of the Social Security Act to increase access to services provided by advanced practice registered nurses under the Medicare and Medicaid programs, 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 “Improving Care and
5 Access to Nurses Act” or the “I CAN Act”.

1 **TITLE I—REMOVAL OF BAR-**
2 **RIERS TO PRACTICE ON**
3 **NURSE PRACTITIONERS**

4 **SEC. 101. EXPANDING ACCESS TO CARDIAC REHABILITA-**
5 **TION PROGRAMS AND PULMONARY REHA-**
6 **BILITATION PROGRAMS UNDER MEDICARE**
7 **PROGRAM.**

8 (a) **CARDIAC REHABILITATION PROGRAMS.**—Section
9 1861(eee) of the Social Security Act (42 U.S.C.
10 1395x(eee)) is amended—

11 (1) in paragraph (2)—

12 (A) in subparagraph (A)(i), by striking “a
13 physician’s office” and inserting “the office of
14 a physician (as defined in subsection (r)(1)) or
15 the office of a nurse practitioner, clinical nurse
16 specialist, or physician assistant (as those terms
17 are defined in subsection (aa)(5))”; and

18 (B) in subparagraph (C), by inserting “(as
19 defined in subsection (r)(1)), nurse practitioner,
20 clinical nurse specialist, or physician assistant
21 (as those terms are defined in subsection
22 (aa)(5))” after “physician”;

23 (2) in paragraph (3)(A), by striking “physician-
24 prescribed exercise” and inserting “exercise pre-
25 scribed by a physician (as defined in subsection

1 (r)(1)), nurse practitioner, clinical nurse specialist,
2 or physician assistant (as those terms are defined in
3 subsection (aa)(5))”; and

4 (3) in paragraph (5), by inserting “(as defined
5 in subsection (r)(1)), nurse practitioner, clinical
6 nurse specialist, or physician assistant (as those
7 terms are defined in subsection (aa)(5)),” after
8 “physician”.

9 (b) PULMONARY REHABILITATION PROGRAMS.—Sec-
10 tion 1861(fff) of the Social Security Act (42 U.S.C.
11 1395x(fff)) is amended—

12 (1) in paragraph (2)(A), by striking “physician-
13 prescribed exercise” and inserting “exercise pre-
14 scribed by a physician (as defined in subsection
15 (r)(1)), nurse practitioner, clinical nurse specialist,
16 or physician assistant (as those terms are defined in
17 subsection (aa)(5))”; and

18 (2) in paragraph (3), by inserting after “physi-
19 cian” the following: “(as defined in subsection
20 (r)(1)), nurse practitioner, clinical nurse specialist,
21 or physician assistant (as those terms are defined in
22 subsection (aa)(5)),”.

1 **SEC. 102. PERMITTING NURSE PRACTITIONERS TO SATISFY**
2 **MEDICARE DOCUMENTATION REQUIREMENT**
3 **FOR COVERAGE OF CERTAIN SHOES FOR IN-**
4 **DIVIDUALS WITH DIABETES.**

5 Section 1861(s)(12) of the Social Security Act (42
6 U.S.C. 1395x(s)(12)) is amended—

7 (1) in subparagraph (A), by inserting “, nurse
8 practitioner, or physician assistant” after “physi-
9 cian”; and

10 (2) in subparagraph (C), by inserting “, nurse
11 practitioner, or physician assistant” after each oc-
12 currence of “physician”.

13 **SEC. 103. IMPROVEMENTS TO THE ASSIGNMENT OF BENE-**
14 **FIICIARIES UNDER THE MEDICARE SHARED**
15 **SAVINGS PROGRAM.**

16 Section 1899(c)(1) of the Social Security Act (42
17 U.S.C. 1395jjj(c)(1)) is amended—

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

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

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(C) in the case of performance years be-
25 ginning on or after January 1, 2024, primary
26 care services provided under this title by an

1 ACO professional described in subsection
2 (h)(1)(B).”.

3 **SEC. 104. EXPANDING THE AVAILABILITY OF MEDICAL NU-**
4 **TRITION THERAPY SERVICE MEDICARE PRO-**
5 **GRAM.**

6 Section 1861(vv)(1) of the Social Security Act (42
7 U.S.C. 1395x(vv)(1)) is amended by inserting “, a nurse
8 practitioner, a clinical nurse specialist, or a physician as-
9 sistant (as such terms are defined in subsection (aa)(5))”
10 before the period at the end.

11 **SEC. 105. PRESERVING ACCESS TO HOME INFUSION THER-**
12 **APY.**

13 (a) ALLOWING APPLICABLE PROVIDERS TO ESTAB-
14 LISH HOME INFUSION THERAPY PLANS.—Section
15 1861(iii)(1)(B) of the Social Security Act (42 U.S.C.
16 1395x(iii)(1)(B)) is amended—

17 (1) by striking “a physician (as defined in sub-
18 section (r)(1))” and inserting “an applicable pro-
19 vider (as defined in paragraph (3)(A))”; and

20 (2) by striking “a physician (as so defined)”
21 and inserting “an applicable provider (as so de-
22 fined)”.

23 (b) CONFORMING AMENDMENT.—Section 1834(u)(6)
24 of the Social Security Act (42 U.S.C. 1395m(u)(6)) is

1 amended by striking “physician” and inserting “applicable
2 provider (as defined in section 1861(iii)(3)(A))”.

3 **SEC. 106. INCREASING ACCESS TO HOSPICE CARE SERV-**
4 **ICES.**

5 (a) **IN GENERAL.**—Section 1814(a)(7)(A) of the So-
6 cial Security Act (42 U.S.C. 1395f(a)(7)(A)) is amend-
7 ed—

8 (1) in clause (i)(I), by striking “a nurse practi-
9 tioner or”;

10 (2) in clause (i), in the matter following sub-
11 clause (II), by inserting “or nurse practitioner” after
12 “physician” and inserting “, nurse practitioner’s”
13 after “physician’s”; and

14 (3) in clause (ii), by striking “or physician” and
15 inserting “, physician, or nurse practitioner”.

16 (b) **HOSPICE CARE DEFINITION.**—Section
17 1861(dd)(1)(C) of the Social Security Act (42 U.S.C.
18 1395x(dd)(1)(C)) is amended by adding “or nurse practi-
19 tioner” after “physician”.

20 (c) **NURSE PRACTITIONER BILLING.**—Not later than
21 90 days after the date of the enactment of this Act, the
22 Secretary of Health and Human Services shall revise sec-
23 tion 418.304 of title 42, Code of Federal Regulations, to
24 allow nurse practitioners to bill for services not described
25 in paragraph (a) of such section in the same manner as

1 physicians may bill for such services in accordance with
2 paragraph (b) of such section. Such revision shall provide
3 that such services furnished by a nurse practitioner shall
4 be payable at the percent of the physician fee schedule
5 specified in section 1833(a)(1)(O) of the Social Security
6 Act (42 U.S.C. 1395l(a)(1)(O)).

7 **SEC. 107. STREAMLINING CARE DELIVERY IN SKILLED**
8 **NURSING FACILITIES AND NURSING FACILI-**
9 **TIES; AUTHORIZING MEDICARE AND MED-**
10 **ICAID INPATIENT HOSPITAL PATIENTS TO BE**
11 **UNDER THE CARE OF A NURSE PRACTI-**
12 **TIONER.**

13 (a) MEDICARE.—

14 (1) CERTIFICATION OF POST-HOSPITAL EX-
15 TENDED CARE SERVICES.—Section 1814(a)(2) of the
16 Social Security Act (42 U.S.C. 1395f(a)(2)) is
17 amended by striking “, or a nurse practitioner,” and
18 inserting “or a nurse practitioner (in accordance
19 with State law), or”.

20 (2) CERTIFICATION AUTHORITY FOR NURSE
21 PRACTITIONERS.—Section 1814(a)(3) of the Social
22 Security Act (42 U.S.C. 1395f(a)(3)) is amended by
23 inserting “or nurse practitioner” after “physician”
24 the first place that it appears.

1 (3) SUPERVISION REQUIREMENT IN SKILLED
2 NURSING FACILITY SERVICES.—Section
3 1819(b)(6)(A) of the Social Security Act (42 U.S.C.
4 1395i–3(b)(6)(A)) is amended—

5 (A) in the header, by striking “Physician
6 supervision” and inserting “Supervision”; and

7 (B) by inserting “or a nurse practitioner,
8 in accordance with State law” after “physi-
9 cian”.

10 (4) ADMINISTRATION OF PART B.—Section
11 1842(b)(2)(C) of the Social Security Act (42 U.S.C.
12 1395u(b)(2)(C)) is amended—

13 (A) by inserting “or a nurse practitioner”
14 after “a physician”; and

15 (B) by striking “or a nurse practitioner
16 working in collaboration with that physician, or
17 both”.

18 (5) PROVISION OF MEDICAL AND OTHER
19 HEALTH SERVICES.—Section 1861(s)(2)(K)(ii) of
20 the Social Security Act (42 U.S.C.
21 1395x(s)(2)(K)(ii)) is amended by striking “or clin-
22 ical nurse specialist (as defined in subsection
23 (aa)(5)) working in collaboration (as defined in sub-
24 section (aa)(6)) with a physician (as defined in sub-
25 section (r)(1))” and inserting “(as defined in sub-

1 section (aa)(5)(A)), or by a clinical nurse specialist
2 (as defined in subsection (aa)(5)(B)) working in col-
3 laboration with a physician (as defined in subsection
4 (r)(1)),”.

5 (6) PRIVILEGES FOR NURSE PRACTITIONERS.—

6 Section 1861 of the Social Security Act (42 U.S.C.
7 1395x) is amended—

8 (A) in subsection (e)(4), by inserting “(or
9 nurse practitioner, in accordance with State
10 law)” after “physician”;

11 (B) in subsection (f)(1), by inserting “or
12 nurse practitioner,” after “physician”; and

13 (C) in subsection (ee)(2), by inserting “or
14 nurse practitioner,” after “physician” each
15 place that it appears.

16 (b) MEDICAID.—

17 (1) CERTIFICATION AUTHORITY FOR NURSE
18 PRACTITIONERS.—Section 1902(a)(44) of the Social
19 Security Act (42 U.S.C. 1396a(a)(44)) is amended
20 to read as follows:

21 “(44) in each case for which payment for inpa-
22 tient hospital services, skilled nursing facility serv-
23 ices, services in an intermediate care facility de-
24 scribed in section 1905(d), or inpatient mental hos-
25 pital services is made under the State plan—

1 “(A) a physician or nurse practitioner (or,
2 in the case of skilled nursing facility services or
3 intermediate care facility services, a physician
4 or nurse practitioner, or a clinical nurse spe-
5 cialist who is not an employee of the facility but
6 is working in collaboration with a physician)
7 certifies at the time of admission, or, if later,
8 the time the individual applies for medical as-
9 sistance under the State plan (and a physician
10 or nurse practitioner, or a physician assistant
11 under the supervision of a physician, or, in the
12 case of skilled nursing facility services or inter-
13 mediate care facility services, a physician or
14 nurse practitioner, or a clinical nurse specialist
15 who is not an employee of the facility but is
16 working in collaboration with a physician, recer-
17 tifies, where such services are furnished over a
18 period of time, in such cases, at least as often
19 as required under section 1903(g)(6) (or, in the
20 case of services that are services provided in an
21 intermediate care facility, every year), and ac-
22 companied by such supporting material, appro-
23 priate to the case involved, as may be provided
24 in regulations of the Secretary), that such serv-
25 ices are or were required to be given on an in-

1 patient basis because the individual needs or
2 needed such services, and

3 “(B) such services were furnished under a
4 plan established and periodically reviewed and
5 evaluated by a physician or nurse practitioner,
6 or, in the case of skilled nursing facility services
7 or intermediate care facility services, by a phy-
8 sician or nurse practitioner, or a clinical nurse
9 specialist who is not an employee of the facility
10 but is working in collaboration with a physi-
11 cian;”.

12 (2) NURSING FACILITY SERVICES SUPERVISION
13 AND CLINICAL RECORDS.—Section 1919(b)(6)(A) of
14 the Social Security Act (42 U.S.C. 1396r(b)(6)(A))
15 is amended to read as follows:

16 “(A) require that the health care of every
17 resident be provided under the supervision of a
18 physician or nurse practitioner (or, at the op-
19 tion of a State, under the supervision of a clin-
20 ical nurse specialist or physician assistant who
21 is not an employee of the facility but who is
22 working in collaboration with a physician);”.

1 **SEC. 108. IMPROVING ACCESS TO MEDICAID CLINIC SERV-**
2 **ICES.**

3 Section 1905(a)(9) of the Social Security Act (42
4 U.S.C. 1396d(a)(9)) is amended by adding “or nurse
5 practitioner” after “physician” in both places that it ap-
6 pears.

7 **TITLE II—REMOVAL OF BAR-**
8 **RIERS TO PRACTICE ON CER-**
9 **TIFIED REGISTERED NURSE**
10 **ANESTHETISTS**

11 **SEC. 201. CLARIFYING THAT CERTIFIED REGISTERED**
12 **NURSE ANESTHETISTS CAN BE REIMBURSED**
13 **BY MEDICARE FOR EVALUATION AND MAN-**
14 **AGEMENT SERVICES.**

15 Section 1861(bb)(1) of the Social Security Act (42
16 U.S.C. 1395x(bb)(1)) is amended by inserting “, including
17 pre-anesthesia evaluation and management services,”
18 after “and related care”.

19 **SEC. 202. REVISION OF CONDITIONS OF PAYMENT RELAT-**
20 **ING TO SERVICES ORDERED AND REFERRED**
21 **BY CERTIFIED REGISTERED NURSE ANES-**
22 **THETISTS.**

23 Not later than 3 months after the date of enactment
24 of this Act, the Secretary of Health and Human Services
25 shall revise section 410.69 of title 42, Code of Federal

1 Regulations, to clarify that, for purposes of payment
2 under part B of title XVIII of the Social Security Act—

3 (1) certified registered nurse anesthetists are
4 authorized to order, certify, and refer services to the
5 extent allowed under the law of the State in which
6 the services are furnished; and

7 (2) payment shall be made under such part for
8 such services so ordered, certified, or referred by
9 certified registered nurse anesthetists.

10 **SEC. 203. SPECIAL PAYMENT RULE FOR TEACHING STU-**
11 **DENT REGISTERED NURSE ANESTHETISTS.**

12 Section 1848(a)(6) of the Social Security Act (42
13 U.S.C. 1395w-4(a)(6)) is amended in the matter pre-
14 ceding subparagraph (A), by inserting “or student reg-
15 istered nurse anesthetists” after “physician residents”.

16 **SEC. 204. REMOVING UNNECESSARY AND COSTLY SUPER-**
17 **VISION OF CERTIFIED REGISTERED NURSE**
18 **ANESTHETISTS.**

19 Section 1861(bb)(2) of the Social Security Act (42
20 U.S.C. 1395x(bb)(2)) is amended—

21 (1) in the second sentence, by inserting “, but
22 may not require that certified registered nurse anes-
23 thetists provide services under the supervision of a
24 physician” after “certification of nurse anes-
25 thetists”; and

1 (2) in the third sentence, by inserting “under
2 the supervision of an anesthesiologist” after “an an-
3 esthesiologist assistant”.

4 **SEC. 205. CRNA SERVICES AS A MEDICAID-REQUIRED BEN-**
5 **EFIT.**

6 (a) IN GENERAL.—Section 1905(a)(5) of the Social
7 Security Act (42 U.S.C. 1396d(a)(5)) is amended—

8 (1) by striking “and (B)” and inserting “(B)”;
9 and

10 (2) by inserting before the semicolon at the end
11 the following: “, and (C) services furnished by a cer-
12 tified registered nurse anesthetist (as defined in sec-
13 tion 1861(bb)(2)), which such certified registered
14 nurse anesthetist is authorized to perform under
15 State law (or the State regulatory mechanism as
16 provided by State law)”.

17 (b) PAYMENT.—Section 1902(a) of the Social Secu-
18 rity Act (42 U.S.C. 1396d(a)) is amended—

19 (1) in paragraph (86), by striking “and” at the
20 end;

21 (2) in paragraph (87), by striking the period
22 and inserting “; and”; and

23 (3) by inserting after paragraph (87) the fol-
24 lowing new paragraph:

1 “(88) provide for payment for the services of a
2 certified registered nurse anesthetist (as defined in
3 section 1861(bb)(1)) in amounts no lower than the
4 amounts, using the same methodology, used for pay-
5 ment for amounts under section 1833(a)(1)(H).”.

6 **TITLE III—REMOVAL OF BAR-**
7 **RIERS TO PRACTICE ON CER-**
8 **TIFIED NURSE-MIDWIVES**

9 **SEC. 301. IMPROVING ACCESS TO TRAINING IN MATERNITY**
10 **CARE.**

11 (a) **MEDICARE PAYMENTS FOR SUPERVISION BY**
12 **CERTIFIED NURSE-MIDWIVES.**—Paragraph (1) of section
13 1861(gg) of the Social Security Act (42 U.S.C. 1395x(gg))
14 is amended to read as follows:

15 “(1) The term ‘certified nurse-midwife services’
16 means—

17 “(A) such services furnished by a certified
18 nurse-midwife (as defined in paragraph (2));

19 and

20 “(B) such services (and such supplies and
21 services furnished as an incident to the nurse-
22 midwife’s service) which—

23 “(i) the certified nurse-midwife is le-
24 gally authorized to perform under State
25 law (or the State regulatory mechanism

1 provided by State law) as would otherwise
2 be covered if furnished by a physician;

3 “(ii) are furnished under the super-
4 vision of a certified-nurse midwife by an
5 intern or resident-in-training (as described
6 in subsection (b)(6));

7 “(iii) would otherwise be described in
8 subparagraph (A) if furnished by a cer-
9 tified nurse-midwife; and

10 “(iv) would otherwise be covered if
11 furnished under the supervision of a physi-
12 cian.”.

13 (b) CLARIFYING PERMISSIBILITY OF USING CERTAIN
14 GRANTS FOR CLINICAL TRAINING BY CERTIFIED NURSE-
15 MIDWIVES.—Section 811(a)(1) of the Public Health Serv-
16 ice Act (42 U.S.C. 296j(a)(1)) is amended by inserting
17 “, including clinical training,” after “projects”.

18 **SEC. 302. IMPROVING MEDICARE PATIENT ACCESS TO**
19 **HOME HEALTH SERVICES PROVIDED BY CER-**
20 **TIFIED NURSE-MIDWIVES.**

21 (a) IN GENERAL.—Section 1835(a) of the Social Se-
22 curity Act (42 U.S.C. 1395n(a)) is amended—

23 (1) in paragraph (2)—

24 (A) by inserting “or a certified nurse-mid-
25 wife (as defined in section 1861(gg)),” after “or

1 a physician assistant (as defined in section
2 1861(aa)(5)) who is working in accordance with
3 State law,”; and

4 (B) in subparagraph (A)—

5 (i) in each of clauses (ii) and (iii), by
6 striking “or a physician assistant (as the
7 case may be)” and inserting “a physician
8 assistant, or a certified nurse-midwife (as
9 the case may be)”;

10 (ii) in clause (iv), by—

11 (I) inserting “or by a certified
12 nurse-midwife (as defined in section
13 1861(gg))” after “(but in no case
14 later than the date that is 6 months
15 after the date of the enactment of the
16 CARES Act)”;

17 (II) by striking “(as defined in
18 section 1861(gg))”;

19 (2) in the matter following paragraph (2), by
20 striking “or physician assistant (as the case may
21 be)” and inserting “physician assistant, or certified
22 nurse-midwife (as the case may be)” each place it
23 appears.

1 (b) CONFORMING AMENDMENTS.—Section 1895 of
2 the Social Security Act (42 U.S.C. 1395(fff)) is amend-
3 ed—

4 (1) in subsection (c)(1), by inserting “a cer-
5 tified nurse-midwife (as defined in section
6 1861(gg)),” after “clinical nurse specialist (as those
7 terms are defined in section 1861(aa)(5)),”; and

8 (2) in subsection (e)(1)(A), by striking “a phy-
9 sician a nurse practitioner or clinical nurse spe-
10 cialist,” and inserting “a physician, a nurse practi-
11 tioner, a clinical nurse specialist, a certified nurse-
12 midwife,”.

13 **SEC. 303. IMPROVING ACCESS TO DMEPOS FOR MEDICARE**
14 **BENEFICIARIES.**

15 Section 1834(a) of the Social Security Act (42 U.S.C.
16 1395m(a)) is amended—

17 (1) in paragraph (1)(E)(ii) by striking “or a
18 clinical nurse specialist (as those terms are defined
19 in section 1861(aa)(5))” and inserting “, a clinical
20 nurse specialist (as those terms are defined in sec-
21 tion 1861(aa)(5)), or a certified nurse-midwife (as
22 defined in section 1861(gg))”; and

23 (2) in paragraph (11)(B)(ii)—

24 (A) by striking “or a clinical nurse spe-
25 cialist (as those terms are defined in section

1 1861(aa)(5))” and inserting “a clinical nurse
2 specialist (as those terms are defined in section
3 1861 (aa)(5)), or a certified nurse-midwife (as
4 defined in 1861(gg))”; and

5 (B) by striking “or specialist” and insert-
6 ing “specialist, or nurse-midwife”.

7 **SEC. 304. TECHNICAL CHANGES TO QUALIFICATIONS AND**
8 **CONDITIONS WITH RESPECT TO THE SERV-**
9 **ICES OF CERTIFIED NURSE-MIDWIVES.**

10 Section 1861(gg)(2) of the Social Security Act (42
11 U.S.C. 1395x(gg)(2)) is amended by striking “, or has
12 been certified by an organization recognized by the Sec-
13 retary” and inserting “and has been certified by the Amer-
14 ican Midwifery Certification Board (or a successor organi-
15 zation)”.

16 **TITLE IV—IMPROVING FEDERAL**
17 **HEALTH PROGRAMS FOR ALL**
18 **ADVANCED PRACTICE REG-**
19 **ISTERED NURSES**

20 **SEC. 401. REVISING THE LOCAL COVERAGE DETERMINA-**
21 **TION PROCESS UNDER THE MEDICARE PRO-**
22 **GRAM.**

23 (a) IN GENERAL.—Section 1862(l)(5) of the Social
24 Security Act (42 U.S.C. 1395y(l)(5)) is amended—

1 (1) in subparagraph (D), by adding at the end
2 the following new clauses:

3 “(vi) Identification of any medical or
4 scientific experts whose advice was ob-
5 tained by such contractor during the devel-
6 opment of such determination, whether or
7 not such contractor relied on such advice
8 in developing such determination.

9 “(vii) A hyperlink to any written com-
10 munication between such contractor and
11 another entity that such contractor relied
12 on when developing such determination.

13 “(viii) A hyperlink to any rule, guide-
14 line, protocol, or other criterion that such
15 contractor relied on when developing such
16 determination.”; and

17 (2) by adding at the end the following new sub-
18 paragraphs:

19 “(E) PROHIBITION ON IMPOSITION OF
20 PRACTITIONER QUALIFICATIONS.—The Sec-
21 retary shall prohibit a Medicare administrative
22 contractor that develops a local coverage deter-
23 mination from imposing such determination on
24 any coverage limitation with respect to the
25 qualifications of a physician (as defined in sec-

1 tion 1861(r)) or a practitioner described in sec-
2 tion 1842(b)(18)(C) who may furnish the item
3 or service that is the subject of such determina-
4 tion.

5 “(F) CIVIL MONETARY PENALTY.—A
6 Medicare administrative contractor that devel-
7 ops a local coverage determination that fails to
8 make information described in subparagraph
9 (D) available as required by the Secretary
10 under such subparagraph or comply with the
11 prohibition under subparagraph (E) is subject
12 to a civil monetary penalty of not more than
13 \$10,000 for each such failure. The provisions of
14 section 1128A (other than subsections (a) and
15 (b)) shall apply to a civil money penalty under
16 the previous sentence in the same manner as
17 such provisions apply to a penalty or proceeding
18 under section 1128A(a).”.

19 (b) TIMING OF REVIEW.—Section 1869(f)(2) of the
20 Social Security Act (42 U.S.C. 1395ff(f)(2)) is amended
21 by adding at the end the following new subparagraph:

22 “(D) TIMING OF REVIEW.—An aggrieved
23 party may file a complaint described in sub-
24 paragraph (A) with respect to a local coverage
25 determination on or after the date that such de-

1 termination is posted, in accordance with sec-
2 tion 1862(l)(5)(D), on the Internet website of
3 the Medicare administrative contractor making
4 such determination, whether or not such deter-
5 mination has taken effect.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to local coverage determinations
8 made available on the internet website of a Medicare ad-
9 ministrative contractor and on the Medicare internet
10 website on or after the date of the enactment of this Act.

11 **SEC. 402. LOCUM TENENS.**

12 Section 1842(b)(6) of the Social Security Act (42
13 U.S.C. 1395u(b)(6)) is amended—

14 (1) by striking “and (J)” and inserting “, (J)”;
15 and

16 (2) by adding “, and (K) in the case of services
17 furnished by a certified registered nurse anesthetist
18 (as defined in section 1861(bb)(2)), nurse practi-
19 tioner, or clinical nurse specialist (as defined in sec-
20 tion 1861(aa)(5)), or a certified nurse midwife (as
21 defined in section 1861(gg)(2))” after “(as defined
22 in section 1886(d)(2)(D))”.

1 **TITLE V—MISCELLANEOUS**

2 **SEC. 501. EFFECTIVE DATE.**

3 The provisions of, including amendments made by,
4 this Act (other than sections 103 and 401) shall apply
5 with respect to items and services furnished on or after
6 the date that is 90 days after the date of the enactment
7 of this Act. Notwithstanding any other provision of law,
8 the Secretary of Health and Human Services shall imple-
9 ment such provisions, including such amendments,
10 through interim final rule or subregulatory guidance if the
11 Secretary determines such implementation to be necessary
12 for purposes of complying with the preceding sentence or
13 with any other effective date provided in this Act.

○