

116TH CONGRESS
1ST SESSION

H. R. 4468

To amend titles XVIII and XIX of the Social Security Act with respect to nursing facility requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2019

Mr. EVANS (for himself and Mr. ESTES) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 with respect to nursing facility requirements, 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 “Nursing Home Work-
5 force Quality Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Nursing facilities are an integral component
 2 of the continuum of care for Medicare and Medicaid
 3 patients.

4 (2) Many nursing facilities have in-house edu-
 5 cational programs approved by the Centers for Medi-
 6 care & Medicaid Services to train individuals as cer-
 7 tified nursing aides to provide extensive, direct care.

8 (3) The ability to provide this training is crit-
 9 ical for nursing facilities to ensure that—

10 (A) residents receive the highest quality
 11 care;

12 (B) caregivers are trained on the most
 13 timely best practices and clinical standards; and

14 (C) facilities can—

15 (i) sustain appropriate staffing levels;

16 and

17 (ii) recruit and retain qualified staff.

18 **SEC. 3. TRAINING AND COMPETENCY EVALUATION PRO-**
 19 **GRAMS.**

20 (a) **MEDICARE.**—Section 1819 of the Social Security
 21 Act (42 U.S.C. 1395i–3) is amended—

22 (1) in subsection (f)(2)—

23 (A) in subparagraph (A)(iv)(I), by striking
 24 “(unless the facility is described in subpara-
 25 graph (B)(iii)(I))”;

1 (B) in subparagraph (B)—

2 (i) in clause (i)—

3 (I) by striking “(subject to clause
4 (iii))”; and

5 (II) by inserting “and” after the
6 semicolon;

7 (ii) in clause (ii), by striking “; and”
8 and inserting a period;

9 (iii) by striking clause (iii); and

10 (iv) by striking “A State may not del-
11 egate (through subcontract or otherwise)
12 its responsibility under clause (iii)(II) to
13 the skilled nursing facility.”;

14 (C) by striking subparagraphs (C) and
15 (D); and

16 (D) by adding at the end the following:

17 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
18 ING AND COMPETENCY EVALUATION PROGRAMS
19 AND NURSE AIDE COMPETENCY EVALUATION
20 PROGRAMS.—

21 “(i) IN GENERAL.—With respect to a
22 State, the Secretary shall, in consultation
23 with such State, disapprove, for a period
24 not to exceed two years, a nurse aide train-
25 ing and competency evaluation program or

1 a nurse aide competency evaluation pro-
2 gram offered by or in a skilled nursing fa-
3 cility if such facility—

4 “(I) has been assessed a civil
5 monetary penalty under subsection
6 (h)(2)(B)(ii) or section
7 1919(h)(2)(A)(ii) of not less than
8 \$10,697 for providing substandard
9 quality of care; and

10 “(II) has not, in the determina-
11 tion of the Secretary, corrected the
12 deficiencies in quality of care for
13 which such civil monetary penalty was
14 assessed.

15 “(ii) RESCISSION OF DISAPPROVAL.—
16 The Secretary shall rescind a disapproval
17 under clause (i) upon demonstration by a
18 skilled nursing facility that all deficiencies
19 for which the civil monetary penalty de-
20 scribed in clause (i)(I) was assessed have
21 been remedied. For purposes of rescinding
22 disapproval under the previous sentence,
23 the Secretary may require additional over-
24 sight of the skilled nursing facility for a
25 period not to exceed the period of dis-

1 approval imposed under clause (i) with re-
2 spect to such facility.”; and

3 (2) in subsection (h)(2)(B)(ii)(I), by striking
4 “\$10,000” and inserting “\$21,393”.

5 (b) MEDICAID.—Section 1919 of the Social Security
6 Act (42 U.S.C. 1396r) is amended—

7 (1) in subsection (f)(2)—

8 (A) in subparagraph (A)(iv)(I), by striking
9 “(unless the facility is described in subpara-
10 graph (B)(iii)(I))”;

11 (B) in subparagraph (B)—

12 (i) in clause (i), by inserting “and”
13 after the semicolon;

14 (ii) in clause (ii), by striking “; and”
15 and inserting a period;

16 (iii) by striking clause (iii); and

17 (iv) by striking “A State may not del-
18 egate (through subcontract or otherwise)
19 its responsibility under clause (iii)(II) to
20 the nursing facility.”;

21 (C) by striking subparagraphs (C) and
22 (D); and

23 (D) by adding at the end the following:

24 “(C) DISAPPROVAL OF NURSE AIDE TRAIN-
25 ING AND COMPETENCY EVALUATION PROGRAMS

1 AND NURSE AIDE COMPETENCY EVALUATION
2 PROGRAMS.—

3 “(i) IN GENERAL.—With respect to a
4 State, the Secretary shall, in consultation
5 with such State, disapprove, for a period
6 not to exceed two years, a nurse aide train-
7 ing and competency evaluation program or
8 a nurse aide competency evaluation pro-
9 gram offered by or in a nursing facility if
10 such facility—

11 “(I) has been assessed a civil
12 monetary penalty under section
13 1819(h)(2)(B)(ii) or subsection
14 (h)(2)(A)(ii) of not less than \$10,697
15 for providing substandard quality of
16 care; and

17 “(II) has not, in the determina-
18 tion of the Secretary, corrected the
19 deficiencies in quality of care for
20 which such civil monetary penalty was
21 assessed.

22 “(ii) RESCISSION OF DISAPPROVAL.—
23 The Secretary shall rescind a disapproval
24 under clause (i) upon demonstration by a
25 nursing facility that all deficiencies for

1 which the civil monetary penalty described
 2 in clause (i)(I) was assessed have been
 3 remedied. For purposes of rescinding dis-
 4 approval under the previous sentence, the
 5 Secretary may require additional oversight
 6 of the nursing facility for a period not to
 7 exceed the period of disapproval imposed
 8 under clause (i) with respect to such facil-
 9 ity.”; and

10 (2) in subsection (h)(3)(C)(ii)(I), by striking
 11 “\$10,000” and inserting “\$21,393”.

12 (c) REGULATIONS.—Not later than 180 days after
 13 the date of enactment of this Act, the Secretary of Health
 14 and Human Services shall promulgate regulations as nec-
 15 essary to implement the amendments made by this section.

16 (d) APPLICABILITY.—

17 (1) IN GENERAL.—

18 (A) TIMING OF DETERMINATIONS.—The
 19 amendments made by subsections (a)(1)(D) and
 20 (b)(1)(D) of this section shall apply only to a
 21 civil monetary penalty if the relevant covered
 22 determination was made on or after the date of
 23 enactment of this Act.

24 (B) COVERED DETERMINATION DE-
 25 FINED.—The term “covered determination”

1 means, with respect to a skilled nursing facility
2 or a nursing facility in a State, a determination
3 by the State or the Secretary of Health and
4 Human Services that the facility has provided
5 a substandard quality of care for which a civil
6 monetary penalty described in section
7 1819(f)(2)(C)(i)(I) or 1919(f)(2)(C)(i)(I) of the
8 Social Security Act (as such sections have been
9 amended by this Act) may be assessed.

10 (2) PREVIOUSLY PROHIBITED PROGRAMS.—

11 (A) WAIVER.—With respect to a skilled
12 nursing facility or a nursing facility subject, on
13 the day before the date of enactment of this
14 Act, to a prohibition under item (a) of either
15 section 1819(f)(2)(B)(iii)(I) or section
16 1919(f)(2)(B)(iii)(I) of the Social Security Act
17 (as in effect on the day before such date of en-
18 actment), such prohibition shall no longer apply
19 to the facility on or after such date of enact-
20 ment.

21 (B) SURVEY OR CIVIL MONETARY PEN-
22 ALTY.—With respect to a skilled nursing facil-
23 ity or a nursing facility subject, on the day be-
24 fore the date of enactment of this Act, to a pro-
25 hibition under item (b) or (c) of either section

1 1819(f)(2)(B)(iii)(I) or section
2 1919(f)(2)(B)(iii)(I) of the Social Security Act
3 (as in effect on the day before such date of en-
4 actment), such prohibition shall no longer apply
5 to the facility on or after such date of enact-
6 ment upon a determination by the Secretary of
7 Health and Human Services that the facility
8 has corrected the issue that resulted in such
9 prohibition.

○