

107TH CONGRESS
1ST SESSION

H. R. 3363

To amend title XVIII of the Social Security Act to authorize physical therapists to diagnose, evaluate, and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 28, 2001

Mr. CRANE (for himself and Mr. POMEROY) 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 title XVIII of the Social Security Act to authorize physical therapists to diagnose, evaluate, and treat Medicare beneficiaries without a requirement for a physician referral, 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 “Medicare Patient Ac-
5 cess to Physical Therapists Act of 2001”.

1 **SEC. 2. ACCESS TO OUTPATIENT PHYSICAL THERAPY SERV-**
2 **ICES FOR MEDICARE BENEFICIARIES.**

3 (a) IN GENERAL.—

4 (1) ELIMINATION OF REQUIRED PHYSICIAN RE-
5 FERRAL.—

6 (A) DEFINITION OF OUTPATIENT PHYS-
7 ICAL THERAPY SERVICES.—Section 1861(p) of
8 the Social Security Act (42 U.S.C. 1395x(p)) is
9 amended—

10 (i) in the matter preceding paragraph
11 (1), by striking “as an outpatient”;

12 (ii) by amending paragraph (1) to
13 read as follows:

14 “(1) who is an outpatient, and”;

15 (iii) in paragraph (2)—

16 (I) by inserting “(as defined in
17 section 1861(w))” after “qualified
18 physical therapist”; and

19 (II) by inserting “or a qualified
20 physical therapist” after “physician”
21 the second place it appears;

22 (iv) in paragraph (4)(A)(ii), by strik-
23 ing “including one or more” and all that
24 follows through “agency) and” and insert-
25 ing “including”; and

1 (v) in the fifth sentence, by striking
2 “with respect to outpatients who are not
3 entitled to benefits under this title” and
4 inserting “or as authorizing the Secretary
5 to require”.

6 (B) CONFORMING AMENDMENTS.—Section
7 1835(a)(2) of such Act (42 U.S.C.
8 1395n(a)(2)) is amended—

9 (i) in the matter preceding subpara-
10 graph (A), by inserting “, or in the case of
11 outpatient physical therapy services (as de-
12 scribed in subparagraph (C)) and physical
13 therapy services furnished as comprehen-
14 sive outpatient rehabilitation facility serv-
15 ices (described in subparagraph (E)), a
16 qualified physical therapist,” after “a phy-
17 sician”;

18 (ii) in subparagraph (C)—

19 (I) in the matter preceding clause
20 (i), by striking “or outpatient occupa-
21 tional therapy services”;

22 (II) in clause (i), by striking “or
23 occupational therapy services, respec-
24 tively,” and inserting “, and”;

1 (III) in clause (ii), by striking
2 “or qualified occupational therapist,
3 respectively,”; and

4 (IV) beginning in clause (ii), by
5 striking “by a physician, and (iii)”
6 and all that follows and inserting “by
7 a physician or a qualified physical
8 therapist;”;

9 (iii) in subparagraph (D)—

10 (I) in the matter preceding clause
11 (i), by striking “outpatient speech pa-
12 thology services” and inserting “out-
13 patient occupational therapy services
14 or outpatient speech-language pathol-
15 ogy services”;

16 (II) in clause (i), by striking
17 “needed speech pathology services”
18 and inserting “needed occupational
19 therapy services or speech-language
20 pathology services, respectively”; and

21 (III) in clause (ii), by striking
22 “speech pathologist” and inserting
23 “occupational therapist or speech-lan-
24 guage pathologist, respectively,”; and
25 (iv) in subparagraph (E)—

1 (I) in clause (ii), by inserting
2 “(or, in the case of outpatient com-
3 prehensive rehabilitation facility serv-
4 ices consisting of physical therapy
5 services, by a qualified physical thera-
6 pist)” after “physician”; and

7 (II) in clause (iii), by inserting
8 “in the case of outpatient comprehen-
9 sive rehabilitation facility services not
10 consisting of physical therapy serv-
11 ices,” before “such services”.

12 (2) DEFINITION OF QUALIFIED PHYSICAL
13 THERAPIST.—Section 1861 of such Act (42 U.S.C.
14 1395x) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(ww) The term ‘qualified physical therapist’ means
17 an individual who is licensed as a physical therapist by
18 the State in which such individual is practicing and who
19 meets the applicable education and training requirements
20 under paragraph (1) or (2):

21 “(1) With respect to years beginning with 2003,
22 except as provided in paragraph (2), the individual
23 has received a master’s or doctoral degree from a
24 professional physical therapy education program

1 that has been accredited by a national accreditation
2 agency recognized by the Secretary of Education.

3 “(2) The requirement of paragraph (1) shall
4 not apply to an individual who, before 2003, meets
5 one of the following requirements:

6 “(A) The individual has graduated from a
7 physical therapy curriculum approved by the
8 American Physical Therapy Association or the
9 Council on Medical Education and Hospitals of
10 the American Medical Association, or both.

11 “(B) Before 1966, the individual—

12 “(i) was admitted to membership by
13 the American Physical Therapy Associa-
14 tion;

15 “(ii) was admitted to registration by
16 the American Registry of Physical Thera-
17 pist; or

18 “(iii) graduated from a physical ther-
19 apy curriculum in a 4-year college or uni-
20 versity approved by a State department of
21 education.

22 “(C) The individual has 2 years of appro-
23 priate experience as determined by the Sec-
24 retary as a physical therapist and, in the case
25 of such an individual who was initially licensed

1 by a State as a physical therapist before De-
2 cember 31, 1977, or seeking qualification as a
3 physical therapist before such date, has
4 achieved a satisfactory grade on a proficiency
5 examination approved by the Secretary.

6 “(D) The individual—

7 “(i) was licensed or registered as a
8 physical therapist before January 1, 1966;
9 and

10 “(ii) had 15 years of full-time experi-
11 ence in the treatment of illness or injury
12 through the practice of physical therapy in
13 which services were rendered under the
14 order and direction of an attending or re-
15 ferring physician (as defined in subsection
16 (r)(1)) before January 1, 1970.

17 “(E) In the case of an individual trained
18 outside of the United States, the individual—

19 “(i) has graduated before January 1,
20 2003, from a physical therapy curriculum
21 approved by the country in which the cur-
22 riculum was located and in which there is
23 a member organization of the World Con-
24 ference for Physical Therapy;

1 “(ii) meets the requirements for mem-
2 bership in a member organization of the
3 World Conference for Physical Therapy;

4 “(iii) has 1 year of experience under
5 the supervision of an active member of the
6 American Physical Therapy Association;
7 and

8 “(iv) has successfully completed an
9 examination prescribed by the American
10 Physical Therapy Association.”.

11 (b) PRESERVING EXISTING LAW FOR OUTPATIENT
12 OCCUPATIONAL THERAPY SERVICES.—

13 (1) DEFINITION.—Section 1861(g) of the Social
14 Security Act (42 U.S.C. 1395x(g)) is amended to
15 read as follows:

16 “(g) The term ‘outpatient occupational therapy serv-
17 ices’ means occupational therapy services furnished by a
18 provider of services, a clinic, a rehabilitation agency, or
19 a public health agency, or by others under an arrangement
20 with, and under the supervision of, such provider, clinic,
21 rehabilitation agency, or public health agency to an indi-
22 vidual as an outpatient—

23 “(1) who is under the care of a physician (as
24 defined in paragraph (1), (3), or (4) of subsection
25 (r));

1 “(2) with respect to whom a plan prescribing
2 the type, amount, and duration of occupational ther-
3 apy services that are furnished to such individual
4 has been established by a physician (as so defined)
5 or by an occupational therapist and is periodically
6 reviewed by a physician (as so defined);

7 excluding, however—

8 “(3) any item or service if it would not be in-
9 cluded under subsection (b) if furnished to an inpa-
10 tient of a hospital; and

11 “(4) any such service—

12 “(A) if furnished by a clinic, rehabilitation
13 agency, or by others under arrangements with
14 such clinic or agency, unless such clinic or reha-
15 bilitation agency—

16 “(i) provides an adequate program of
17 occupational therapy services for out-
18 patients and has the facilities and per-
19 sonnel required for such program or re-
20 quired for the supervision of such a pro-
21 gram, in accordance with such require-
22 ments as the Secretary may specify;

23 “(ii) has policies, established by a
24 group of professional personnel, including
25 one or more occupational therapists, to

1 govern the services (referred to in clause
2 (i)) it provides;

3 “(iii) maintains clinical records on all
4 patients;

5 “(iv) if such clinic or agency is situ-
6 ated in a State in which State or applica-
7 ble local law provides for the licensing of
8 institutions of this nature—

9 “(I) is licensed pursuant to such
10 law, or

11 “(II) is approved by the agency
12 of such State or locality responsible
13 for licensing institutions of this na-
14 ture, as meeting the standards estab-
15 lished for such licensing; and

16 “(v) meets such other conditions relat-
17 ing to the health and safety of individuals
18 who are furnished services by such clinic or
19 agency on an outpatient basis, as the Sec-
20 retary may find necessary, and provides
21 the Secretary on a continuing basis with a
22 surety bond that is not less than \$50,000;
23 or

24 “(B) if furnished by a public health agen-
25 cy, unless such agency meets such other condi-

1 tions relating to the safety of individuals who
2 are furnished services by such agency on an
3 outpatient basis, as the Secretary may find nec-
4 essary.

5 The term ‘outpatient occupational therapy services’ also
6 includes occupational therapy services furnished an indi-
7 vidual by an occupational therapist (in the office of the
8 occupational therapist or in such individual’s home) who
9 meets licensing and other standards prescribed by the Sec-
10 retary in regulations, otherwise than under an arrange-
11 ment with and under the supervision of a provider of serv-
12 ices, clinic, rehabilitation agency, or public health agency,
13 if the furnishing of such services meets such conditions
14 relating to health and safety as the Secretary may find
15 necessary. In addition, such term includes occupational
16 therapy services that meet the requirements of the first
17 sentence of this subsection except that they are furnished
18 to an inpatient of a hospital or extended care facility.
19 Nothing in this subsection shall be construed as requiring,
20 with respect to outpatients who are not entitled to benefits
21 under this title, an occupational therapist to provide out-
22 patient occupational therapy services only to outpatients
23 who are under the care of a physician or pursuant to a
24 plan of care established by a physician. The Secretary may
25 waive the requirement of a surety bond under paragraph

1 (4)(A)(v) in the case of a clinic or agency that provides
2 a comparable surety bond under State law.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) SCOPE OF BENEFITS.—Section
5 1832(a)(2)(C) of such Act (42 U.S.C.
6 1395k(a)(2)(C)) is amended by striking “such
7 sentence applies through the operation of sec-
8 tion 1861(g)” and inserting “the second sen-
9 tence of section 1861(g) applies”.

10 (B) PAYMENT OF BENEFITS.—Section
11 1833(g)(3) of such Act (42 U.S.C. 1395l(g)(3))
12 is amended by striking “section 1861(p)” and
13 all that follows through “section 1861(g)” and
14 inserting “section 1861(g) (but not described in
15 subsection (a)(8)(B))”.

16 (C) PROVIDER CLAIMS PROCEDURES.—The
17 second sentence of section 1835(a) of such Act
18 (42 U.S.C. 1395n(a)) is amended—

19 (i) by striking “section 1861(p)(4)(A)
20 (or meets the requirements of such section
21 through the operation of section 1861(g))”
22 and inserting “section 1861(p)(4)(A) or
23 section 1861(g)(4)(A)”;

24 (ii) by striking “section 1861(p)(4)(B)
25 (or meets the requirements of such section

1 through the operation of section 1861(g))”
2 and inserting “section 1861(p)(4)(B) or
3 section 1861(g)(4)(B)”;

4 (iii) by striking “(as defined therein)
5 or (through the operation of section
6 1861(g)) with respect to the furnishing of
7 outpatient occupational therapy services”
8 and inserting “(as defined in section
9 1861(p)) or outpatient occupational ther-
10 apy services (as defined in section
11 1861(g)), respectively”.

12 (D) AGREEMENTS WITH PROVIDERS.—Sec-
13 tion 1866(e)(1) of such Act (42 U.S.C.
14 1395cc(e)(1)) is amended—

15 (i) by striking “section 1861(p)(4)(A)
16 (or meets the requirements of such section
17 through the operation of section 1861(g))”
18 and inserting “section 1861(p)(4)(A) or
19 section 1861(g)(4)(A)”;

20 (ii) by striking “section 1861(p)(4)(B)
21 (or meets the requirements of such section
22 through the operation of section 1861(g))”
23 and inserting “section 1861(p)(4)(B) or
24 section 1861(g)(4)(B)”;

1 (iii) by striking “(as defined therein)
2 or (through the operation of section
3 1861(g)) with respect to the furnishing of
4 outpatient occupational therapy services”
5 and inserting “(as defined in section
6 1861(p)) or outpatient occupational ther-
7 apy services (as defined in section
8 1861(g)), respectively”.

9 (c) SEPARATE STATUTORY TREATMENT FOR OUT-
10 PATIENT PHYSICAL THERAPY SERVICES AND OUT-
11 PATIENT SPEECH-LANGUAGE PATHOLOGY SERVICES.—

12 (1) SCOPE OF BENEFITS.—Section
13 1832(a)(2)(C) of the Social Security Act (42 U.S.C.
14 1395k(a)(2)(C)), as amended by subsection
15 (b)(2)(A), is further amended—

16 (A) by striking “and outpatient” and in-
17 serting “, outpatient”; and

18 (B) by inserting before the semicolon the
19 following: “, and outpatient speech-language pa-
20 thology services”.

21 (2) PAYMENT OF BENEFITS.—Section 1833 of
22 such Act (42 U.S.C. 1395l) is amended—

23 (A) in subparagraphs (A) and (B) of sub-
24 section (a)(8), by striking “services, (which in-
25 cludes outpatient speech-language pathology

1 services) and outpatient occupational therapy
2 services” each place it appears and inserting
3 “services, outpatient occupational therapy serv-
4 ices, and outpatient speech-language pathology
5 services”; and

6 (B) in subsection (g)—

7 (i) in paragraphs (1) and (3), by
8 striking “paragraph (4)” each place it ap-
9 pears and inserting “paragraph (5)”; and

10 (ii) by redesignating paragraph (4) as
11 paragraph (5) and inserting after para-
12 graph (3) the following:

13 “(4) Subject to paragraph (5), in the case of
14 speech-language pathology services (of the type de-
15 scribed in section 1861(ll)(4) (but not described in
16 subsection (a)(8)(B)) and speech-language pathology
17 services of such type that are furnished by a physi-
18 cian or as incident to physicians’ services), with re-
19 spect to expenses incurred in any calendar year, no
20 more than the amount specified in paragraph (2) for
21 the year shall be considered as incurred expenses for
22 purposes of subsections (a) and (b).”.

23 (3) PROVIDER CLAIMS PROCEDURES.—The sec-
24 ond sentence of section 1835(a) of such Act (42

1 U.S.C. 1395n(a)), as amended by subsection
2 (b)(2)(C), is further amended—

3 (A) by striking “or section 1861(g)(4)(A)”
4 and inserting “, section 1861(g)(4)(A), or sec-
5 tion 1861(ll)(5)(A)”;

6 (B) by striking “or section 1861(g)(4)(B)”
7 and inserting “, section 1861(g)(4)(B), or sec-
8 tion 1861(ll)(4)(B)(ii)(II)”;

9 (C) by striking “or outpatient occupational
10 services (as defined in section 1861(g))” and
11 inserting “, outpatient occupational services (as
12 defined in section 1861(g)), or outpatient
13 speech-language pathology services (as defined
14 in section 1861(ll)(4)(A))”.

15 (4) AGREEMENTS WITH PROVIDERS.—Section
16 1866(e)(1) of such Act (42 U.S.C. 1395cc(e)(1)), as
17 amended by subsection (b)(2)(D), is further
18 amended—

19 (A) by striking “or section 1861(g)(4)(A)”
20 and inserting “1861(g)(4)(A), or section
21 1861(ll)(5)(A)”;

22 (B) by striking “or section 1861(g)(4)(B)”
23 and inserting “, section 1861(g)(4)(B), or sec-
24 tion 1861(ll)(4)(B)(ii)(II)”;

1 (C) by striking “or outpatient occupational
2 services (as defined in section 1861(g))” and
3 inserting “, outpatient occupational services (as
4 defined in section 1861(g)), or outpatient
5 speech-language pathology services (as defined
6 in section 1861(ll)(4)(A))”.

7 (5) DEFINITIONS.—Section 1861 of such Act
8 (42 U.S.C. 1395x) is amended—

9 (A) in subsection (p), by striking the
10 fourth sentence;

11 (B) in subsection (s)(2)(D), by striking
12 “services and outpatient occupational therapy
13 services” and inserting “services, outpatient oc-
14 cupational therapy services, and outpatient
15 speech-language pathology services”; and

16 (C) in subsection (ll), by adding at the end
17 the following:

18 “(4)(A) Subject to subparagraph (B), the term
19 ‘outpatient speech-language pathology services’
20 means speech-language pathology services that are
21 furnished by a provider of services, a clinic, a reha-
22 bilitation agency, or a public health agency, or by
23 others under an arrangement with, and under the
24 supervision of, such provider, clinic, rehabilitation

1 agency, or public health agency to an individual as
2 an outpatient—

3 “(i) who is under the care of a physician
4 (as defined in paragraph (1), (3), or (4) of sub-
5 section (r)); and

6 “(ii) with respect to whom a plan pre-
7 scribing the type, amount, and duration of
8 speech-language pathology services that are fur-
9 nished to such individual has been established
10 by a physician (as so defined) or by a qualified
11 speech-language pathologist and is periodically
12 reviewed by a physician (as so defined).

13 “(B) Such term does not include—

14 “(i) any item or service if it would not be
15 included under subsection (b) if furnished to an
16 inpatient of a hospital; or

17 “(ii) any item or service—

18 “(I) if furnished by a clinic, rehabili-
19 tation agency, or by others under arrange-
20 ments with such clinic or agency, unless
21 such clinic or rehabilitation agency meets
22 the requirements of paragraph (5); and

23 “(II) if furnished by a public health
24 agency, unless such agency meets such
25 other conditions relating to the safety of

1 individuals who are furnished services by
2 such agency on an outpatient basis, as the
3 Secretary may find necessary.

4 “(C) Such term also includes speech-language
5 pathology services that meet the requirements of the
6 preceding sentence except that they are furnished to
7 an inpatient of a hospital or extended care facility.
8 Nothing in this subsection shall be construed as re-
9 quiring, with respect to outpatients who are not enti-
10 tled to benefits under this title, a speech-language
11 pathologist to provide outpatient speech-language
12 pathology services only to outpatients who are under
13 the care of a physician or pursuant to a plan of care
14 established by a physician. The Secretary may waive
15 the requirement of a surety bond under paragraph
16 (5)(E) in the case of a clinic or agency that provides
17 a comparable surety bond under State law.

18 “(5) A clinic or rehabilitation agency meets the
19 requirements of this paragraph if it—

20 “(A) provides an adequate program of
21 speech-language pathology services for out-
22 patients and has the facilities and personnel re-
23 quired for such program or required for the su-
24 pervision of such a program, in accordance with
25 such requirements as the Secretary may specify;

1 “(B) has policies, established by a group of
2 professional personnel, including one or more
3 speech-language pathologists, to govern the
4 services (referred to in subparagraph (A)) it
5 provides;

6 “(C) maintains clinical records on all pa-
7 tients;

8 “(D) in the case of a clinic or agency that
9 is situated in a State in which State or applica-
10 ble local law provides for the licensing of insti-
11 tutions of this nature—

12 “(i) is licensed pursuant to such law,

13 or

14 “(ii) is approved by the agency of
15 such State or locality responsible for li-
16 censing institutions of this nature, as
17 meeting the standards established for such
18 licensing; and

19 “(E) meets such other conditions relating
20 to the health and safety of individuals who are
21 furnished services by such clinic or agency on
22 an outpatient basis, as the Secretary may find
23 necessary, and provides the Secretary on a con-
24 tinuing basis with a surety bond that is not less
25 than \$50,000.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to items and services furnished on
3 or after January 1, 2002.

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