

109TH CONGRESS
2^D SESSION

H. R. 6199

To improve the quality of, and access to, long-term care.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2006

Ms. GINNY BROWN-WAITE of Florida (for herself and Mr. CAMP) 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 improve the quality of, and access to, long-term care.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Long-term Care Quality and Modernization Act of
6 2006”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE AND MEDICAID MODERNIZATION

- Sec. 101. Joint training of surveyors and providers.
 Sec. 102. Facility-based training for new surveyors.
 Sec. 103. Resumption of nurse aide training program after correction of deficiencies.
 Sec. 104. Clarifying and eliminating the distinction between physician supervision requirements for skilled nursing facilities and nursing facilities.
 Sec. 105. Permitting split or shared billing by physicians and nurse practitioners in skilled nursing facilities.
 Sec. 106. Permitting nurse practitioners employed by skilled nursing facilities to certify skilled care.
 Sec. 107. Modernization of therapy caps.
 Sec. 108. Establishment of a Medicare skilled nursing facility specific wage index.
 Sec. 109. Authority to exclude high cost and low probability drugs used in the treatment of cancer from the Medicare prospective payment system for skilled nursing facilities.
 Sec. 110. Exclusion of all ambulance services from the Medicare prospective payment system for skilled nursing facilities.
 Sec. 111. Authority to exclude additional items and services from the Medicare prospective payment system for skilled nursing facilities.
 Sec. 112. Elimination of Medicare 3-day post-hospital stay requirement for coverage of skilled nursing facility services.

TITLE II—WORKFORCE SUPPORT

- Sec. 201. Nursing loan repayment program.
 Sec. 202. National nursing database.
 Sec. 203. Reports on nursing levels.

TITLE III—TAX INCENTIVES

- Sec. 301. 10-year recovery period for qualified long-term care improvement property.

1 **TITLE I—MEDICARE AND** 2 **MEDICAID MODERNIZATION**

3 **SEC. 101. JOINT TRAINING OF SURVEYORS AND PRO-** 4 **VIDERS.**

5 (a) **MEDICARE PROGRAM.**—Section 1819(e) of the
 6 Social Security Act (42 U.S.C. 1395i–3(e)) is amended by
 7 adding at the end the following new paragraph:

8 “(6) **JOINT SURVEYOR/PROVIDER TRAINING.**—
 9 The Secretary shall require the State to establish a
 10 process for joint training and education of surveyors

1 and providers at least annually and periodically as
2 changes to regulations, guidelines, and policy gov-
3 erning nursing facility operations are implemented
4 and used in surveys of participating facilities.”.

5 (b) MEDICAID PROGRAM.—Section 1919(e) of the
6 Social Security Act (42 U.S.C. 1396r(e)) is amended by
7 adding at the end the following new paragraph:

8 “(8) JOINT SURVEYOR/PROVIDER TRAINING.—
9 The State shall establish a process for joint training
10 and education to surveyors and providers at least
11 annually and periodically as changes to regulations,
12 guidelines, and policy governing nursing facility op-
13 erations are implemented and used in surveys of
14 participating facilities.”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on January 1, 2007.

17 **SEC. 102. FACILITY-BASED TRAINING FOR NEW SUR-**
18 **VEYORS.**

19 (a) MEDICARE PROGRAM.—Section 1819(e) of the
20 Social Security Act (42 U.S.C. 1395i–3(e)), as amended
21 by section 101(a), is amended by adding at the end the
22 following new paragraph:

23 “(7) FACILITY-BASED TRAINING FOR NEW SUR-
24 VEYORS.—The Secretary shall require the State to
25 establish a process for assuring that—

1 “(A) each individual newly hired as a nurs-
2 ing home surveyor, as part of the individual’s
3 basic training, is assigned full-time to a partici-
4 pating nursing facility for at least 5 days within
5 a 7-day period to observe actual operations out-
6 side of the survey process before the individual
7 begins oversight responsibilities;

8 “(B) such individual shall not assume
9 oversight responsibility during this training pe-
10 riod and such observations may not be the sole
11 basis of a deficiency citation against the facility;
12 and

13 “(C) such individual shall not be assigned
14 as a member of a survey team for the facility
15 in which the individual received training for two
16 standard surveys following the training period
17 in the facility.”.

18 (b) MEDICAID PROGRAM.—Section 1919(e) of the
19 Social Security Act (42 U.S.C. 1396r(e)), as amended by
20 section 101(b), is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(9) FACILITY-BASED TRAINING FOR NEW SUR-
23 VEYORS.—The State shall establish a process for as-
24 suring that—

1 1819(f)(2) of the Social Security Act (42 U.S.C. 1395i-
2 3(f)(2)) is amended—

3 (1) in paragraph (B)(iii), in the matter pre-
4 ceding subclause (I), by striking “(C) and (D)” and
5 inserting “(C), (D), and (E)”; and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(E) RESUMPTION OF NURSE AIDE TRAIN-
9 ING PROGRAM AFTER CORRECTION OF DEFICI-
10 ENCIENCIES.—Clause (iii)(I) of subparagraph (B)
11 shall not apply to a program offered by or in
12 a skilled nursing facility if the facility has—

13 “(i) corrected any deficiencies that re-
14 sulted in the prohibition of approval of
15 such program; and

16 “(ii) demonstrated compliance with
17 the requirements of subsections (b), (c),
18 and (d) of this section.”.

19 (b) RESUMPTION OF NURSE AIDE TRAINING PRO-
20 GRAM FOR NURSING FACILITIES.—Section 1919(f)(2) of
21 the Social Security Act (42 U.S.C. 1396r(f)(2)) is amend-
22 ed—

23 (1) in paragraph (B)(iii), in the matter pre-
24 ceding subclause (I), by striking “(C) and (D)” and
25 inserting “(C), (D), and (E)”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(E) RESUMPTION OF NURSE AIDE TRAIN-
4 ING PROGRAM AFTER CORRECTION OF DEFICI-
5 CIENCIES.—Clause (iii)(I) of subparagraph (B)
6 shall not apply to a program offered by or in
7 a nursing facility if the facility has—

8 “(i) corrected any deficiencies that re-
9 sulted in the prohibition of approval of
10 such program; and

11 “(ii) been determined to be in compli-
12 ance with the requirements of subsections
13 (b), (c), and (d) of this section.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on January 1, 2007.

16 **SEC. 104. CLARIFYING AND ELIMINATING THE DISTINC-**
17 **TION BETWEEN PHYSICIAN SUPERVISION RE-**
18 **QUIREMENTS FOR SKILLED NURSING FACILI-**
19 **TIES AND NURSING FACILITIES.**

20 (a) PHYSICIAN SUPERVISION REQUIREMENTS FOR
21 SKILLED NURSING FACILITIES.—Section 1819(b)(6)(A)
22 of the Social Security Act (42 U.S.C. 1395i–3(b)(6)(A))
23 is amended by inserting “(or, at the option of a State,
24 under the supervision of a nurse practitioner, clinical
25 nurse specialist, or physician assistant who is working in

1 collaboration with a physician)” before the semicolon at
2 the end.

3 (b) CLARIFYING PHYSICIAN SUPERVISION REQUIRE-
4 MENTS FOR NURSING FACILITIES.—Section
5 1919(b)(6)(A) of the Social Security Act (42 U.S.C.
6 1396r(b)(6)(A)) is amended by striking “who is not an
7 employee of the facility but”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on January 1, 2007.

10 **SEC. 105. PERMITTING SPLIT OR SHARED BILLING BY PHY-**
11 **SICIANS AND NURSE PRACTITIONERS IN**
12 **SKILLED NURSING FACILITIES.**

13 (a) IN GENERAL.—Section 1888(e) of the Social Se-
14 curity Act (42 U.S.C. 1395yy(e)) is amended by adding
15 at the end the following new paragraph:

16 “(13) PERMITTING SPLIT OR SHARED BILLING
17 BY PHYSICIANS AND NURSE PRACTITIONERS IN
18 SKILLED NURSING FACILITIES.—Notwithstanding
19 section 1861(s)(2)(K)(ii), a physician and a nurse
20 practitioner may each submit a claim for payment
21 for their portion of a service provided to a resident
22 of a skilled nursing facility, except that, in no case
23 may the total amount paid under this title be great-
24 er than it would have been if only one person had
25 submitted a claim for such service.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to services furnished on or after
3 January 1, 2007.

4 **SEC. 106. PERMITTING NURSE PRACTITIONERS EMPLOYED**
5 **BY SKILLED NURSING FACILITIES TO CER-**
6 **TIFY SKILLED CARE.**

7 (a) IN GENERAL.—Section 1814(a)(2) of the Social
8 Security Act (42 U.S.C. 1395f(a)(2)) is amended by strik-
9 ing “or a nurse practitioner or” and inserting “a nurse
10 practitioner, or a”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect on January 1, 2007.

13 **SEC. 107. MODERNIZATION OF THERAPY CAPS.**

14 Section 1833(g) of the Social Security Act (42 U.S.C.
15 1395l(g)) is amended—

16 (1) in paragraph (4)—

17 (A) by striking “This subsection” and in-
18 serting “Except as provided in paragraph (6),
19 this subsection”; and

20 (B) by inserting “and with respect to serv-
21 ices furnished on or after January 1, 2009” be-
22 fore the period at the end; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(6) In the case of services described in para-
2 graph (1), with respect to such services furnished on
3 or after January 1, 2009, the Secretary shall estab-
4 lish and implement a condition-based system based
5 on medical necessity for necessary and clinically ap-
6 propriate services. Such system shall utilize a stand-
7 ardized patient assessment tool to evaluate the level
8 of such services that are needed by an individual and
9 impose a limitation on coverage of such services
10 under this part based on such tool.”.

11 **SEC. 108. ESTABLISHMENT OF A MEDICARE SKILLED NURS-**
12 **ING FACILITY SPECIFIC WAGE INDEX.**

13 Section 1888(e)(4)(G)(ii) of the Social Security Act
14 (42 U.S.C. 1395yy(e)(4)(G)(ii)) is amended by inserting
15 after the first sentence the following new sentence: “For
16 services furnished on or after October 1, 2008, in making
17 the adjustment under the preceding sentence, the Sec-
18 retary shall utilize an area wage index for skilled nursing
19 facilities based on wage data from such facilities and not
20 from hospitals.”

1 **SEC. 109. AUTHORITY TO EXCLUDE HIGH COST AND LOW**
2 **PROBABILITY DRUGS USED IN THE TREAT-**
3 **MENT OF CANCER FROM THE MEDICARE**
4 **PROSPECTIVE PAYMENT SYSTEM FOR**
5 **SKILLED NURSING FACILITIES.**

6 (a) IN GENERAL.—Section 1888(e)(2)(A)(iii) of the
7 Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(iii)) is
8 amended—

9 (1) by redesignating subclauses (IV) and (V) as
10 subclauses (V) and (VI), respectively; and

11 (2) by inserting after subclause (III) the fol-
12 lowing new subclause:

13 “(IV) Any drugs (not otherwise
14 described in subclause (II)) used in
15 the treatment of cancer, including
16 antineoplastic drugs, antiemetics, and
17 supportive medications, that the Sec-
18 retary determines to be appropriate.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 subsection (a) shall apply to drugs furnished on or after
21 October 1, 2007.

22 **SEC. 110. EXCLUSION OF ALL AMBULANCE SERVICES FROM**
23 **THE MEDICARE PROSPECTIVE PAYMENT SYS-**
24 **TEM FOR SKILLED NURSING FACILITIES.**

25 (a) IN GENERAL.—Section 1888(e)(2)(A)(iii)(I) of
26 the Social Security Act (42 U.S.C.

1 1395yy(e)(2)(A)(iii)(I) is amended by striking “furnished
2 to” and all that follows before the period.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to services furnished on or after
5 October 1, 2007.

6 **SEC. 111. AUTHORITY TO EXCLUDE ADDITIONAL ITEMS**
7 **AND SERVICES FROM THE MEDICARE PRO-**
8 **SPECTIVE PAYMENT SYSTEM FOR SKILLED**
9 **NURSING FACILITIES.**

10 (a) AUTHORITY.—Section 1888(e)(2)(A) of the So-
11 cial Security Act (42 U.S.C. 1395yy(e)(2)(A)) is amend-
12 ed—

13 (1) in clause (i)(II), by striking “and (iv)” and
14 inserting “(iv), and (v)(I)”; and

15 (2) by adding at the end the following new
16 clause:

17 “(v) EXCLUSION OF ADDITIONAL
18 ITEMS AND SERVICES DETERMINED APPRO-
19 PRIATE BY THE SECRETARY.—

20 “(I) IN GENERAL.—Items and
21 services described in this clause are
22 any items and services not otherwise
23 described in clauses (ii), (iii), or (iv),
24 that the Secretary determines to be
25 appropriate.

1 “(II) ANNUAL UPDATE.—The
2 Secretary shall annually update the
3 items and services described in sub-
4 clause (I) to take into account
5 changes in the practice of medicine.”.

6 (b) CLARIFICATION.—Items and services described in
7 section 1888(e)(2)(A)(v)(I) of the Social Security Act (42
8 U.S.C. 1395yy(e)(2)(A)(v)(I)), as added by subsection (a),
9 may include items and services furnished in a freestanding
10 clinic to an individual who is a resident of a skilled nursing
11 facility.

12 (c) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect on October 1, 2007.

14 **SEC. 112. ELIMINATION OF MEDICARE 3-DAY POST-HOS-**
15 **PITAL STAY REQUIREMENT FOR COVERAGE**
16 **OF SKILLED NURSING FACILITY SERVICES.**

17 (a) IN GENERAL.—Section 1812(a)(2) of the Social
18 Security Act (42 U.S.C. 1395d(a)(2)) is amended—

19 (1) by striking “(A) post-hospital” and
20 (2) by striking “, and (B)” and all that follows
21 up to the period at the end.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Title XVIII of the Social Security Act are
24 each amended by striking “post-hospital” before
25 “extended care services” each place it appears.

1 (2) Section 1812(f) of such Act is repealed.

2 (3) Section 1861(i) of such Act is repealed.

3 (4) Section 1888(e)(2)(A)(i)(I) of such Act is
4 amended by striking “section 1861(i)” and inserting
5 “section 1861(h)”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to extended care services furnished
8 in periods of stay beginning on or after January 1, 2007.

9 **TITLE II—WORKFORCE SUPPORT**

10 **SEC. 201. NURSING LOAN REPAYMENT PROGRAM.**

11 Section 846(a) of the Public Health Service Act (42
12 U.S.C. 297n(a)) is amended by striking the last sentence.

13 **SEC. 202. NATIONAL NURSING DATABASE.**

14 (a) IN GENERAL.—The Secretary of Health and
15 Human Services shall provide for the establishment of a
16 national nursing database to be used to predict future
17 nursing shortages.

18 (b) INFORMATION IN DATABASE.—The database es-
19 tablished under subsection (a) shall be designed to include
20 nursing workforce data across all healthcare provider set-
21 tings, including nursing educators, as determined by the
22 Secretary of Health and Human Services to be appro-
23 priate for use in the analysis of trends in the supply and
24 demand of nurses and to create an educational model to
25 predict future nursing workforce needs.

1 (c) FUNDING.—The Secretary of Health and Human
2 Services may transfer, from amounts appropriated for the
3 National Center for Health Workforce Analysis, such
4 sums as may be necessary to carry out this section.

5 **SEC. 203. REPORTS ON NURSING LEVELS.**

6 Section 806 of the Public Health Service Act (42
7 U.S.C. 296e), as amended by section 202, is further
8 amended by adding at the end the following:

9 “(j) REPORTS CONCERNING NURSING LEVELS.—

10 “(1) IN GENERAL.—The entities described in
11 paragraph (2) shall annually submit to the Secretary
12 a report concerning how assistance under this title
13 is being used by such entities to increase the number
14 of nurses, nursing educators, and nurse education
15 enrollment slots.

16 “(2) ENTITIES DESCRIBED.—An entity is de-
17 scribed in this paragraph if such entity is—

18 “(A) an entity that receives a grant or con-
19 tract under this title;

20 “(B) a school of nursing that receives stu-
21 dent loan funds under this title;

22 “(C) a school of nursing that receives
23 nurse faculty student loan funds under this
24 title; and

1 “(D) any other entity that receives assist-
2 ance under this title.”.

3 **TITLE III—TAX INCENTIVES**

4 **SEC. 301. 10-YEAR RECOVERY PERIOD FOR QUALIFIED** 5 **LONG-TERM CARE IMPROVEMENT PROP-** 6 **ERTY.**

7 (a) IN GENERAL.—Subparagraph (D) of section
8 168(e)(3) of the Internal Revenue Code of 1986 (relating
9 to 10-year property) is amended by striking “and” at the
10 end of clause (i), by striking the period at the end of
11 clause (ii) and inserting “, and”, and by adding at the
12 end the following new clause:

13 “(iii) any qualified long-term care im-
14 provement property.”.

15 (b) QUALIFIED LONG-TERM CARE IMPROVEMENT
16 PROPERTY.—Section 168(e) of the Internal Revenue Code
17 of 1986 (relating to classification of property) is amended
18 by adding at the end the following new paragraph:

19 “(8) QUALIFIED LONG-TERM CARE IMPROVE-
20 MENT PROPERTY.—The term ‘qualified long-term
21 care improvement property’ means any section 1250
22 property which is an improvement to a building if—

23 “(A) such improvement is placed in service
24 more than 3 years after the date such building
25 was first placed in service, and

1 “(B) such building is, or is a part of, a
 2 nursing facility, assisted living facility, residen-
 3 tial care facility, intermediate care facility for
 4 the mentally retarded, or similar facility de-
 5 signed to provide housing and healthcare for
 6 the elderly and disabled.”.

7 (c) ALTERNATIVE SYSTEM.—The table contained in
 8 section 168(g)(3)(B) of the Internal Revenue Code of
 9 1986 (relating to special rule for certain property assigned
 10 to classes) is amended by inserting after the item relating
 11 to subparagraph (D)(ii) the following:

 “(D)(iii) 10”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to property placed in service after
 14 the date of the enactment of this Act.

○