

109TH CONGRESS  
1ST SESSION

# S. 1827

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital services and drugs.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. DEMINT (for himself, Mr. DURBIN, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital services and drugs.

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 “Hospital Price Report-  
5 ing and Disclosure Act of 2005”.

6 **SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.**

7 Part B of title II of the Public Health Service Act  
8 (42 U.S.C. 238 et seq.) is amended by adding at the end  
9 the following new section:

1 “DATA REPORTING BY HOSPITALS AND PUBLIC POSTING

2 “SEC. 249. (a) SEMIANNUAL REPORTING REQUIRE-

3 MENT.—Not later than 80 days after the end of each semi-

4 annual period beginning January 1 or July 1 (beginning

5 more than one year after the date of the enactment of

6 this section), a hospital shall report to the Secretary the

7 following data:

8 “(1) The frequency with which the hospital per-

9 formed each service selected under subparagraph (A)

10 or (B) of subsection (c)(1) in an inpatient or out-

11 patient setting, respectively, during such period.

12 “(2) The frequency with which the hospital ad-

13 ministered a drug selected under subparagraph (C)

14 of such subsection in an inpatient setting during

15 such period.

16 “(3) If the service was so performed or the

17 drug was so administered during such period, the

18 average charge and the medium charge by the hos-

19 pital for such service or drug during such period.

20 “(b) PUBLIC AVAILABILITY OF DATA.—

21 “(1) PUBLIC POSTING OF DATA.—The Sec-

22 retary shall promptly post, on the official public

23 Internet site of the Department of Health and

24 Human Services, the data reported under subsection

1 (a). Such data shall be set forth in a manner that  
2 promotes charge comparison among hospitals.

3 “(2) NOTICE OF AVAILABILITY.—A hospital  
4 shall prominently post at each admission site of the  
5 hospital a notice of the availability of the data re-  
6 ported under subsection (a) on the official public  
7 Internet site under paragraph (1).

8 “(c) SELECTION OF SERVICES AND DRUGS.—For  
9 purposes of this section:

10 “(1) INITIAL SELECTION.—Based on national  
11 data, the Secretary shall select the following:

12 “(A) The 25 most frequently performed  
13 services in a hospital inpatient setting.

14 “(B) The 25 most frequently performed  
15 services in a hospital outpatient setting.

16 “(C) The 50 most frequently administered  
17 drugs in a hospital inpatient setting.

18 “(2) UPDATING SELECTION.—The Secretary  
19 shall periodically update the services and drugs se-  
20 lected under paragraph (1).

21 “(d) CIVIL MONEY PENALTY.—The Secretary may  
22 impose a civil money penalty of not more than \$10,000  
23 for each knowing violation of subsection (a) or (b)(2) by  
24 a hospital. The provisions of subsection (i)(2) of section  
25 351A shall apply with respect to civil money penalties

1 under this subsection in the same manner as such provi-  
2 sions apply to civil money penalties under subsection (i)(1)  
3 of such section.

4 “(e) ADMINISTRATIVE PROVISIONS.—

5 “(1) IN GENERAL.—The Secretary shall pre-  
6 scribe such regulations and issue such guidelines as  
7 may be required to carry out this section.

8 “(2) CLASSIFICATION OF SERVICES.—The regu-  
9 lations and guidelines under paragraph (1) shall in-  
10 clude rules on the classification of different services  
11 and the assignment of items and procedures to those  
12 services (including inpatient diagnostic related  
13 groups (DRGs), outpatient procedures, and tests)  
14 and classification of drugs. For purposes of the pre-  
15 ceding sentence, classification of drugs may include  
16 unit, strength, and dosage information.

17 “(3) COMPUTATION OF AVERAGE AND MEDIAN  
18 CHARGES.—

19 “(A) IN GENERAL.—The regulations and  
20 guidelines under paragraph (1) shall include a  
21 methodology for computing an average charge  
22 and a median charge for a service or drug, in  
23 accordance with subparagraph (B).

24 “(B) METHODOLOGY.—The methodology  
25 prescribed by the Secretary under subparagraph

1 (A) shall ensure that the average charge and  
 2 the median charge for a service or drug reflect  
 3 the amount charged before any adjustment  
 4 based on a rate negotiated with a third party.

5 “(4) FORM OF REPORT AND NOTICE.—The reg-  
 6 ulations and guidelines under paragraph (1) shall  
 7 specify the electronic form and manner by which a  
 8 hospital shall report data under subsection (a) and  
 9 the form for posting of notices under subsection  
 10 (b)(2).

11 “(f) RULES OF CONSTRUCTION.—

12 “(1) NON-PREEMPTION OF STATE LAWS.—  
 13 Nothing in this section shall be construed as pre-  
 14 empting or otherwise affecting any provision of  
 15 State law relating to the disclosure of charges or  
 16 other information for a hospital.

17 “(2) CHARGES.—Nothing in this section shall  
 18 be construed to regulate or set hospital charges.

19 “(g) DEFINITIONS.—For purposes of this section:

20 “(1) HOSPITAL.—The term ‘hospital’ has the  
 21 meaning given such term by the Secretary.

22 “(2) DRUG.—The term ‘drug’ includes a bio-  
 23 logical and a non-prescription drug, such as an oint-  
 24 ment.”.

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