

111TH CONGRESS  
1ST SESSION

# H. R. 2566

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

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. LIPINSKI (for himself and Mr. INGLIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital and ambulatory surgical center 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 Trans-  
5 parency and Disclosure Act of 2009”.

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 AMBULATORY  
2 SURGICAL CENTERS AND PUBLIC POSTING

3 “SEC. 249. (a) SEMIANNUAL REPORTING REQUIRE-  
4 MENT.—Not later than 80 days after the end of each semi-  
5 annual period beginning January 1 or July 1 (beginning  
6 more than one year after the date of the enactment of  
7 this section), a hospital and an ambulatory surgical center  
8 shall report to the Secretary the following data:

9 “(1) In the case of a hospital—

10 “(A) the frequency with which the hospital  
11 performed each service selected under subpara-  
12 graph (A) or (B) of subsection (c)(1) in an in-  
13 patient or outpatient setting, respectively, dur-  
14 ing such period;

15 “(B) the frequency with which the hospital  
16 administered a drug selected under subpara-  
17 graph (D) of such subsection in an inpatient  
18 setting during such period; and

19 “(C) if the service was so performed or the  
20 drug was so administered during such period—

21 “(i) the total number of times the  
22 service was so performed or the drug was  
23 so administered during such period; and

1                   “(ii) the average and the median  
2                   charge by the hospital for such service or  
3                   drug during such period; and

4                   “(2) In the case of an ambulatory surgical cen-  
5                   ter—

6                   “(A) the frequency with which the center  
7                   performed each service selected under subpara-  
8                   graph (C) of subsection (c)(1) during such pe-  
9                   riod; and

10                   “(B) if the service was so performed dur-  
11                   ing such period—

12                   “(i) the total number of times the  
13                   service was so performed during such pe-  
14                   riod; and

15                   “(ii) the average and the median  
16                   charge by the center for such service dur-  
17                   ing such period.

18                   “(b) PUBLIC AVAILABILITY OF DATA.—

19                   “(1) PUBLIC POSTING OF DATA.—The Sec-  
20                   retary shall promptly post, on the official public  
21                   Internet site of the Department of Health and  
22                   Human Services, the data reported under subsection  
23                   (a). Such data shall be set forth in a manner that  
24                   promotes charge comparison among hospitals and  
25                   ambulatory surgical centers.

1           “(2) NOTICE OF AVAILABILITY.—A hospital  
2           and an ambulatory surgical center shall prominently  
3           post at each admission site of the hospital or center  
4           a notice of the availability of the data reported  
5           under subsection (a) on the official public Internet  
6           site under paragraph (1).

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

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

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

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

15                  “(C) The 25 most frequently performed  
16                  services in an ambulatory surgical center set-  
17                  ting.

18                  “(D) The 50 most frequently administered  
19                  drugs in a hospital inpatient setting.

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

23          “(d) CIVIL MONEY PENALTY.—The Secretary may  
24          impose a civil money penalty of not more than \$10,000  
25          for each knowing violation of subsection (a) or (b)(2) by

1 a hospital or an ambulatory surgical center. The provi-  
2 sions of subsection (i)(2) of section 351A shall apply with  
3 respect to civil money penalties under this subsection in  
4 the same manner as such provisions apply to civil money  
5 penalties under subsection (i)(1) of such section.

6 “(e) ADMINISTRATIVE PROVISIONS.—

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

10 “(2) CLASSIFICATION OF SERVICES.—The regu-  
11 lations and guidelines under paragraph (1) shall in-  
12 clude rules on the classification of different services  
13 and the assignment of items and procedures to those  
14 services.

15 “(3) RULES.—The regulations and guidelines  
16 under paragraph (1) shall include rules regarding  
17 reporting of inpatient diagnostic related groups  
18 (DRGs), outpatient procedures and tests and classi-  
19 fication of drugs. Classification of drugs may include  
20 unit, strength, and dosage information for reporting.

21 “(4) COMPUTATION OF AVERAGE AND MEDIAN  
22 CHARGES.—

23 “(A) IN GENERAL.—The regulations and  
24 guidelines under paragraph (1) shall include a  
25 methodology for computing an average and me-

1           dian charge for a service or drug, in accordance  
2           with subparagraph (B).

3           “(B) METHODOLOGY.—The methodology  
4           prescribed by the Secretary under subparagraph  
5           (A) shall ensure that an average and median  
6           charge for a service reflects the amount charged  
7           before any adjustment based on a negotiated  
8           rate with a third party.

9           “(5) FORM OF REPORT AND NOTICE.—The reg-  
10          ulations and guidelines under paragraph (1) shall  
11          specify the electronic form and manner by which a  
12          hospital or an ambulatory surgical center shall re-  
13          port data under subsection (a) and the form for  
14          posting of notices under subsection (b)(2).

15          “(f) RULES OF CONSTRUCTION.—

16          “(1) NON-PREEMPTION OF STATE LAWS.—  
17          Nothing in this section shall be construed as pre-  
18          empting or otherwise affecting any provision of  
19          State law relating to the disclosure of charges or  
20          other information for a hospital or an ambulatory  
21          surgical center.

22          “(2) CHARGES.—Nothing in this section shall  
23          be construed to regulate or set hospital or ambula-  
24          tory surgical center charges.

25          “(g) DEFINITIONS.—In this section:

1           “(1) HOSPITAL AND AMBULATORY SURGICAL  
2           CENTER.—The terms ‘hospital’ and ‘ambulatory sur-  
3           gical center’ have the meaning given such terms by  
4           the Secretary.

5           “(2) DRUG.—For purposes of this section, the  
6           term ‘drug’ includes a biological and a non-prescrip-  
7           tion drug, such as an ointment.”.

○