

111TH CONGRESS
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H. R. 5187

To require the Secretary of Health and Human Services to establish a commission that is designed to construct a comprehensive national strategy on how to increase the affordability, accessibility, and effectiveness of long-term care and community services.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2010

Mr. HASTINGS of Florida (for himself, Mr. MCGOVERN, Mrs. CHRISTENSEN, Ms. CORRINE BROWN of Florida, Mr. CLEAVER, Mr. CONYERS, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. FILNER, Ms. LEE of California, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Ms. RICHARDSON, Mr. RUSH, and Mr. THOMPSON of Mississippi) 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 require the Secretary of Health and Human Services to establish a commission that is designed to construct a comprehensive national strategy on how to increase the affordability, accessibility, and effectiveness of long-term care and community services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Commission on Im-
3 proving Long-Term Care and Community Services Act of
4 2010”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) Long-term care refers to a broad range and
8 network of health and social services that are used
9 by persons who cannot care for themselves independ-
10 ently because of a physical, cognitive, or mental dis-
11 ability, or a combination thereof.

12 (2) Well over 9,400,000 adults receive long-
13 term care in the United States, and over 1,000,000
14 children living in the community have long-term care
15 limitations.

16 (3) The number of people who are in need of
17 long-term care is expected to grow due to the Na-
18 tion’s large aging population, longer life spans
19 among the chronically ill and persons living with dis-
20 abilities, and the higher incidence of acquired dis-
21 abilities from unmanaged conditions such as heart
22 and respiratory disease, obesity, stroke, and diabe-
23 tes.

24 (4) Most people with long-term care needs pre-
25 fer to live at home and remain in their communities.
26 These individuals receive assistance primarily

1 through informal caregivers, families, and friends
2 who provide care without compensation.

3 (5) Family caregivers can endure emotional and
4 physical stress, and often make significant financial
5 and career sacrifices to provide long-term care.

6 (6) Formal providers range from institutional
7 settings and other residential care facilities to a vari-
8 ety of agencies and organizations that provide a
9 wide array of home and community-based services
10 such as personal care, home-delivered meals pro-
11 grams, transportation, and adult day care programs.

12 (7) Direct care workers provide the majority of
13 paid long-term care services to individuals with long-
14 term care limitations. Health care providers have ex-
15 pressed difficulty in attracting and retaining direct
16 care workers and the demand for these workers is
17 expected to increase.

18 (8) Planning for long-term care expenses is an
19 essential part of financial planning, however, most
20 individuals and families do not plan for such ex-
21 penses.

22 (9) Identifying and arranging for long-term
23 care services can be a complex task for individuals
24 and their families. Uneven distribution of services in
25 communities and across States and United States

1 territories often leads to difficulties in accessing
2 services.

3 (10) A significant portion of formal long-term
4 care costs are financed with personal funds and this
5 method of payment potentially poses economic bur-
6 dens to individuals and their families that can result
7 in financial ruin, including medical bankruptcy.

8 (11) The largest public payer for long-term care
9 is Medicaid, which allows States to enforce strict re-
10 quirements for eligibility, and discourages some
11 Medicaid recipients from acquiring a higher income
12 for fear of losing Medicaid benefits.

13 (12) Decisions pertaining to long-term care are
14 often emotionally charged and culturally contentious,
15 and present emotional and financial challenges for
16 patients, families, and their providers.

17 (13) Although the financing and delivery of
18 long-term care plays a strong role in the way that
19 such care is provided and received, there has never
20 been a comprehensive national plan for the long-
21 term care, particularly regarding home and commu-
22 nity-based services.

23 (14) The last time that Congress comprehen-
24 sively reviewed policy options for long-term care re-
25 form was nearly two decades ago, under a U.S. Bi-

1 partisan Commission on Comprehensive Health Care
2 referred to as the Pepper Commission.

3 (15) Limited data on the use and need for long-
4 term care exists thereby hindering the development
5 of a targeted national strategy to address the dis-
6 parities in routine access to these services.

7 (16) Personal choice, access, cost (including re-
8 imbursement policy), effectiveness, and quality
9 standards must be adequately addressed when com-
10 posing a national strategy for long-term care.

11 **SEC. 3. ESTABLISHMENT; POLICY RECOMMENDATIONS AND**
12 **COMPREHENSIVE NATIONAL STRATEGY.**

13 (a) ESTABLISHMENT.—Not later than 90 days after
14 the date of the enactment of this Act, the Secretary of
15 Health and Human Services (in this Act referred to as
16 the “Secretary”) shall establish a commission (in this Act
17 referred to as the “Commission”) that is designed to con-
18 struct a comprehensive national strategy (described in
19 subsection (b)(2)) on how to increase the affordability, ac-
20 cessibility, and effectiveness of long-term care and commu-
21 nity services in the United States and United States Terri-
22 tories.

23 (b) POLICY RECOMMENDATIONS AND COMPREHEN-
24 SIVE NATIONAL STRATEGY.—

1 (1) POLICY RECOMMENDATIONS.—The Commis-
2 sion’s policy recommendations under this Act must
3 address economic, geographic, cultural, social, trans-
4 portation, workforce, and other factors that limit ac-
5 cess to quality home, community, and institutional
6 services that can result in the need for more costly
7 and less effective care, compromise the financial,
8 mental, and physical well-being of caregivers, com-
9 promise the independence, mental health, physical
10 health and dignity of individuals, or result in the
11 foregoing of needed services.

12 (2) COMPREHENSIVE NATIONAL STRATEGY.—
13 The comprehensive national strategy described in
14 this paragraph shall be developed not later than 2
15 years after the date of the enactment of this Act and
16 shall provide recommendations on how to—

17 (A) facilitate and maintain necessary
18 changes in business practices, public policy,
19 care processes, and administrative systems to
20 support a consumer-oriented long-term care
21 system that delivers efficient, cost-effective, and
22 consumer-centered care and services;

23 (B) address issues of waste, fraud, and
24 abuse by providers, agencies, facilities, profes-
25 sional and paraprofessional staff, and others in-

1 involved in institutional, home, and community
2 health settings by targeting chronically poor
3 performing providers, decertifying persistently
4 substandard providers, and monitoring institu-
5 tional, home, and community entities to ensure
6 compliance with State and Federal quality
7 standards and criteria;

8 (C) make priorities of preventive health
9 and the effective management of chronic dis-
10 eases such as heart and respiratory disease, di-
11 abetes, HIV/AIDS, stroke, and obesity, in order
12 to prevent them from becoming permanently de-
13 bilitating or disabling and help decrease future
14 dependence on long-term care;

15 (D) establish and support existing and fu-
16 ture evidence-based research efforts among
17 States, government entities, organizations, and
18 stakeholders that are designed to address gaps
19 in data and knowledge about long-term care
20 and the populations in need of these services,
21 and provide information on the effectiveness
22 and consequences of long-term care programs
23 and policies;

24 (E) facilitate partnership and coordination
25 among State and Federal health care entities to

1 improve working conditions, training, manage-
2 ment, requirements, and competencies for long-
3 term care workers (particularly home health
4 aides and other paraprofessionals) to prevent
5 turnover rates, staff shortages, patient abuse,
6 and improve job skills, job satisfaction, and de-
7 livery of care;

8 (F) identify and address flaws in reim-
9 bursement policies for long-term care services
10 through Medicare under title XVIII of the So-
11 cial Security Act and Medicaid under title XIX
12 of such Act, and decrease the reliance on out-
13 of-pocket-spending for long-term care;

14 (G) improve access to affordable and safe
15 housing and transportation options for persons
16 requiring long-term care and community serv-
17 ices;

18 (H) increase access to home and commu-
19 nity-based services through Medicaid to meet
20 consumer demands and preferences and empha-
21 size cost-effective non-institutional care alter-
22 natives that provide satisfaction and high qual-
23 ity care to all those requiring long-term care
24 services;

1 (I) assist agencies and the private sector
2 on effectively disseminating information to con-
3 sumers about the various types of long-term
4 care networks and options available to con-
5 sumers, educate consumers about the potential
6 benefits and risks of certain long-care options,
7 and inform consumers about State-specific in-
8 formation regarding long-term care services;

9 (J) increase the use and affordability of
10 long-term care insurance and other fiscally re-
11 sponsible measures to finance long-term care
12 services;

13 (K) sufficiently fund and support pro-
14 grams, facilities, and initiatives that have prov-
15 en to ameliorate the financial, physical, and
16 mental stress on informal caregivers, and im-
17 prove their ability to deliver services to individ-
18 uals requiring long-term care; and

19 (L) sufficiently fund and support pro-
20 grams, entities, and initiatives that have proven
21 to help individuals achieve and maintain their
22 highest possible level of independence, health,
23 and function.

24 The comprehensive national strategy would include
25 as available, pursuant to request by the Committee

1 to the Congressional Budget Office, an analysis of
2 the costs and savings that would result from exe-
3 cuting this comprehensive strategy on long-term care
4 to the extent possible.

5 **SEC. 4. MEMBERSHIP.**

6 (a) **IN GENERAL.**—The Commission shall be com-
7 posed of 15 members who are appointed by the President
8 and who are from Federal agencies such as the Social Se-
9 curity Administration, Institute of Medicine, Administra-
10 tion on Aging, Centers for Disease Control, Centers for
11 Medicare and Medicaid Services, Health Resources Serv-
12 ices Administration, and other national stakeholders.

13 (b) **TERMS.**—Each member shall be appointed for the
14 life of the Commission.

15 (c) **VACANCIES.**—A vacancy in the Commission shall
16 be filled in the manner in which the original appointment
17 was made.

18 (d) **BASIC PAY.**—Members of the Commission shall
19 serve without pay.

20 (e) **TRAVEL EXPENSES.**—Each member shall receive
21 travel expenses, including per diem in lieu of subsistence,
22 in accordance with sections 5702 and 5703 of title 5,
23 United States Code.

1 (f) QUORUM.—8 members of the Commission shall
2 constitute a quorum but a lesser number may hold hear-
3 ings.

4 **SEC. 5. CHAIRPERSON.**

5 (a) IN GENERAL.—The Chairperson of the Commis-
6 sion shall be elected by the members not later than 30
7 days after the date on which all of the original members
8 of the Commission have been appointed.

9 (b) PRESIDENTIAL APPOINTMENT.—If the members
10 of the Commission are unable to elect the Chairperson in
11 accordance with subsection (a), the President shall ap-
12 point a member of the Commission to be the Chairperson.

13 **SEC. 6. MEETINGS.**

14 The Commission shall meet at the call of the Chair-
15 person.

16 **SEC. 7. STAFF.**

17 (a) IN GENERAL.—

18 (1) APPOINTMENT AND COMPENSATION.—The
19 Chairperson, in accordance with rules agreed upon
20 by the Commission, may appoint and fix the com-
21 pensation of a staff director and such other per-
22 sonnel as may be necessary to enable the Commis-
23 sion to carry out its duties, without regard to the
24 provisions of title 5, United States Code, governing
25 appointments in the competitive service, and without

1 regard to the provisions of chapter 51 and sub-
2 chapter III of chapter 53 of such title relating to
3 classification and General Schedule pay rates, except
4 that no rate of pay fixed under this subsection may
5 exceed the equivalent of that payable for a position
6 at level IV of the Executive Schedule under section
7 5316 of title 5, United States Code.

8 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

9 (A) IN GENERAL.—The staff director and
10 any personnel of the Commission who are em-
11 ployees shall be employees under section 2105
12 of title 5, United States Code, for purposes of
13 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of
14 that title.

15 (B) MEMBERS OF THE COMMISSION.—

16 Subparagraph (A) shall not apply to members
17 of the Commission.

18 (b) DETAILEES.—Any Federal Government employee
19 may be detailed to the Commission with reimbursement
20 from the Commission, and such detailee shall retain the
21 rights, status, and privileges of his or her regular employ-
22 ment without interruption.

23 (c) EXPERT AND CONSULTANT SERVICES.—The

24 Commission is authorized to procure the services of ex-
25 perts and consultants in accordance with section 3109 of

1 title 5, United States Code, but at rates not to exceed the
2 daily rate paid to a person occupying a position at level
3 IV of the Executive Schedule under section 5315 of title
4 5, United States Code.

5 (d) VOLUNTEER SERVICES.—Notwithstanding sec-
6 tion 1342 of title 31, United States Code, the Commission
7 may accept and use voluntary and uncompensated services
8 as the Commission determines necessary.

9 **SEC. 8. POWERS.**

10 (a) HEARINGS AND SESSIONS.—The Commission
11 may, for the purpose of carrying out this Act, hold hear-
12 ings, sit and act at times and places, take testimony, and
13 receive evidence as the Commission considers appropriate.
14 The Commission may administer oaths or affirmations to
15 witnesses appearing before it.

16 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
17 ber or agent of the Commission may, if authorized by the
18 Commission, take any action which the Commission is au-
19 thorized to take by this section.

20 (c) OBTAINING OFFICIAL DATA.—The Commission
21 may secure directly from any Federal department or agen-
22 cy information necessary to enable it to carry out this Act.
23 Upon request of the Chairperson of the Commission, the
24 head of that department or agency shall provide that in-
25 formation to the Commission.

1 (d) MAIL.—The Commission may use the United
2 States mail in the same manner and under the same con-
3 ditions as other Federal departments and agencies.

4 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
5 the request of the Commission, the Administrator of Gen-
6 eral Services shall provide to the Commission, on a reim-
7 bursable basis, the administrative support services nec-
8 essary for the Commission to carry out its responsibilities
9 under this Act.

10 **SEC. 9. REPORT.**

11 Not later than 2 years after the date on which all
12 original members have been appointed to the Commission,
13 the Commission shall transmit to the President, Congress,
14 and the general public a report that contains a detailed
15 statement of the findings and policy recommendations of
16 the Commission, including the comprehensive national
17 strategy described in section 3(b)(2).

18 **SEC. 10. APPLICATION OF FEDERAL ADVISORY COMMITTEE**

19 **ACT.**

20 The Federal Advisory Committee Act (5 U.S.C. App.)
21 (other than section 14(a)(2)(B), relating to the termi-
22 nation of advisory committees) shall apply to the Commis-
23 sion.

1 **SEC. 11. TERMINATION.**

2 (a) IN GENERAL.—The Commission shall terminate
3 60 days after the date of submission of the report under
4 section 9.

5 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-
6 NATION.—The Commission may use the 60-day period re-
7 ferred to in subsection (a) for the purpose of concluding
8 its activities, including providing testimony to committees
9 of Congress concerning the report under section 9.

10 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums
12 as are necessary for use in the development and implemen-
13 tation of plans under this Act.

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