

114TH CONGRESS  
1ST SESSION

# H. R. 887

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2015

Mrs. BLACK (for herself, Mr. DAVID SCOTT of Georgia, Ms. LINDA T. SÁNCHEZ of California, and Mr. BUCHANAN) 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

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## A BILL

To amend title XVIII of the Social Security Act with respect to the treatment of patient encounters in ambulatory surgical centers in determining meaningful EHR use, 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 “Electronic Health  
5 Fairness Act of 2015”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Ambulatory surgery centers were not cov-  
4 ered under the provisions of the HITECH Act of  
5 2009, which created certification standards and in-  
6 centives for adopting electronic health record (EHR)  
7 technology in the physician office and hospital set-  
8 tings.

9 (2) CMS defines a meaningful EHR user as an  
10 eligible professional having 50 percent or more of  
11 the professional's outpatient encounters at practices  
12 or locations equipped with certified EHR technology.

13 (3) Physicians with patient encounters in an  
14 ambulatory surgical center are at a disadvantage  
15 when attempting to meet meaningful use require-  
16 ments because there currently is not certified EHR  
17 technology for such centers.

18 (4) Until such time as EHR technology is cer-  
19 tified specifically for use in the ambulatory surgical  
20 centers, patient encounters that occur in such a cen-  
21 ter should not be used when calculating whether an  
22 eligible professional meets meaningful use require-  
23 ments, unless an eligible professional elects to in-  
24 clude those encounters.

1 **SEC. 3. TREATMENT OF PATIENT ENCOUNTERS IN AMBULA-**  
2 **TORY SURGICAL CENTERS IN DETERMINING**  
3 **MEANINGFUL EHR USE.**

4 Section 1848(o)(2) of the Social Security Act (42  
5 U.S.C. 1395w-4(o)(2)) is amended by adding at the end  
6 of the following new subparagraph:

7 “(D) TREATMENT OF PATIENT ENCOUN-  
8 TERS AT AMBULATORY SURGICAL CENTERS.—

9 “(i) IN GENERAL.—Subject to clause  
10 (ii), any patient encounter of an eligible  
11 professional occurring at an ambulatory  
12 surgical center (described in section  
13 1832(i)(1)(A)) shall not be treated as a  
14 patient encounter in determining whether  
15 an eligible professional qualifies as a mean-  
16 ingful EHR user.

17 “(ii) SUNSET.—Clause (i) shall no  
18 longer apply as of the first year that be-  
19 gins more than 3 years after the date the  
20 Secretary certifies EHR technology for the  
21 ambulatory surgical center setting.”.

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