

114TH CONGRESS  
1ST SESSION

# S. 1347

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 SENATE OF THE UNITED STATES

MAY 14, 2015

Mr. ISAKSON (for himself and Mr. BENNET) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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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”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

7           (2) The Centers for Medicare & Medicaid Serv-  
8           ices (CMS) defines a meaningful EHR user as an el-  
9           igible professional having 50 percent or more of the  
10          professional's outpatient encounters at practices or  
11          locations equipped with certified EHR technology.

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

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