

115TH CONGRESS
1ST SESSION

H. R. 4169

To amend title XVIII of the Social Security Act to remove the enrollment restriction on certain physicians and practitioners prescribing covered outpatient drugs under the Medicare prescription drug program.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

Mr. MARCHANT (for himself, Mr. SMITH of Missouri, Mr. SIMPSON, and Mr. FERGUSON) 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 amend title XVIII of the Social Security Act to remove the enrollment restriction on certain physicians and practitioners prescribing covered outpatient drugs under the Medicare prescription drug program.

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 “Protecting Seniors Ac-
5 cess to Proper Care Act of 2017”.

1 **SEC. 2. PERMITTING CERTAIN NON-ENROLLED PHYSICIANS**
 2 **OR PRACTITIONERS TO PRESCRIBE COVERED**
 3 **OUTPATIENT DRUGS UNDER MEDICARE PART**
 4 **D.**

5 (a) IN GENERAL.—Section 1860D–4 of the Social
 6 Security Act (42 U.S.C. 1395w–103) is amended by add-
 7 ing at the end the following new subsection:

8 “(m) REMOVAL OF ENROLLMENT RESTRICTION.—

9 “(1) IN GENERAL.—Nothing in this title or sec-
 10 tion 6405(c) of the Patient Protection and Afford-
 11 able Care Act shall be construed as authorizing the
 12 Secretary to require, as a condition of payment by
 13 a PDP sponsor for a covered part D drug that is
 14 prescribed by an applicable physician or practitioner
 15 who is authorized under State law to prescribe such
 16 drug, that such applicable physician or practitioner
 17 be enrolled under section 1866(j).

18 “(2) APPLICABLE PHYSICIAN OR PRACTITIONER
 19 DEFINED.—For purposes of paragraph (1), the term
 20 ‘applicable physician or practitioner’ means an eligi-
 21 ble professional described in section 1848(k)(3)(B)
 22 (other than a physician described in section
 23 1861(r)(1))—

24 “(A) who—

25 “(i) is not excluded under this title or
 26 title XI;

1 “(ii) is not barred from participating
2 in the program under this title for a period
3 of time following a revocation under sec-
4 tion 424.535(c) of title 42, Code of Fed-
5 eral Regulations (or any successor regula-
6 tion); or

7 “(iii) meets other criteria similar to
8 clauses (i) and (ii) that may be specified
9 by the Secretary; and

10 “(B) who prescribes a low volume (as de-
11 termined by the Secretary) of such drugs to in-
12 dividuals enrolled in plans under this part.

13 In determining low volume under subparagraph (B),
14 the Secretary may determine low volume differently
15 based on the specialty of the applicable physician or
16 practitioner.”.

17 (b) EFFECTIVE DATE AND ENFORCEMENT DELAY.—

18 (1) EFFECTIVE DATE.—The amendment made
19 by subsection (a) shall apply to covered part D
20 drugs prescribed on or after January 1, 2019.

21 (2) DELAY IN ENFORCEMENT OF ENROLLMENT
22 REQUIREMENT UNTIL LOW VOLUME EXEMPTION IS
23 IMPLEMENTED.—The Secretary shall continue not to
24 enforce the enrollment requirement under clauses
25 (ii) through (v) of section 423.120(c)(6) of title 42,

- 1 Code of Federal Regulations, until section 1860D–
- 2 4(m), as added by subsection (a), takes effect.

