To amend title XVIII of the Social Security Act to establish a program to allow qualified group practices to furnish certain items and services at qualified skilled nursing facilities to individuals entitled to benefits under part A and enrolled under part B of the Medicare program to reduce unnecessary hospitalizations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2018

Mr. Smith of Nebraska (for himself, Mrs. Black, Mr. Crowley, Mr. Griffith, and Mr. Ben Ray Luján of New Mexico) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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 establish a program to allow qualified group practices to furnish certain items and services at qualified skilled nursing facilities to individuals entitled to benefits under part A and enrolled under part B of the Medicare program to reduce unnecessary hospitalizations, and for other purposes.

Be it enacted by the Senate and House of Representa-
SECTION 1. SHORT TITLE.

This Act may be cited as the “Reducing Unnecessary Senior Hospitalizations Act of 2018” or the “RUSH Act of 2018”.

SEC. 2. SNF-BASED PROVISION OF PREVENTIVE ACUTE CARE AND HOSPITALIZATION REDUCTION PROGRAM.

Title XVIII of the Social Security Act is amended by adding at the end the following new section:

“SEC. 1899C. SNF-BASED PROVISION OF PREVENTIVE ACUTE CARE AND HOSPITALIZATION REDUCTION PROGRAM.

“(a) Establishment.—There is established a program to be known as the ‘SNF-based Provision of Preventive Acute Care and Hospitalization Reduction Program’ (in this section referred to as the ‘Program’), to be administered by the Secretary, for purposes of reducing unnecessary hospitalizations and emergency department visits by allowing qualified group practices (as defined in section 1877(h)(4)) on or after January 1, 2019, to furnish items and services identified under subsection (b)(3) to individuals entitled to benefits under part A and enrolled under part B residing in qualified skilled nursing facilities.

“(b) Operation of Program.—Under the Program, the Secretary shall provide for the following:
“(1) Certification of skilled nursing facilities as qualified skilled nursing facilities under subsection (c)(1).

“(2) Certification of group practices as qualified group practices under subsection (c)(2).

“(3) Identification of minimum required non-surgical items and services furnished at a hospital emergency department that may be safely furnished by a qualified group practice at a qualified skilled nursing facility under the Program and that such qualified group practice shall offer to furnish under the Program.

“(4) Annual identification of additional items and services furnished at a hospital emergency department that may be safely furnished by a qualified group practice at a qualified skilled nursing facility under the Program during a year and that such qualified group practice may offer to furnish under the Program during such year.

“(5) Establishment of qualifications for non-physician employees of such qualified group practices who may furnish such items and services at a qualified skilled nursing facility. Such qualifications shall include the requirement that such an employee—
“(A) be certified in advanced cardiovascular life support by a nationally recognized specialty board of certification or equivalent certification board; and

“(B) have at least one year of clinical experience furnishing medical care—

“(i) in a hospital emergency department setting; or

“(ii) as an employee of a provider or supplier of ambulance services.

“(6) Payment under this title for items and services identified under paragraph (3) or (4) furnished by such qualified group practices at such a facility in amounts determined under subsection (d).

“(c) CERTIFICATIONS.—

“(1) QUALIFIED SKILLED NURSING FACILITIES.—For purposes of this section, the Secretary shall certify a skilled nursing facility as a qualified skilled nursing facility if the facility submits an application in a time and manner specified by the Secretary and meets the following requirements:

“(A) The facility has on-site diagnostic equipment necessary for a qualified group practice to furnish on-site items and services under
the Program and real-time audio and visual capabilities.

“(B) The facility ensures that residents of such facility, upon entering such facility, are allowed to specify in an advanced care directive whether the resident wishes to receive items and services furnished at the facility under the Program in a case where communication with the resident is not possible.

“(C) The facility ensures that individuals to be furnished such items and services under the Program at such facility have the opportunity, at their request, to instead be transported to a hospital emergency department.

“(2) QUALIFIED GROUP PRACTICES.—For purposes of this section, the Secretary shall certify a group practice as a qualified group practice for a period of 3 years if the group practice submits an application in a time and manner specified by the Secretary and meets the following requirements:

“(A) The group practice offers to furnish all minimum required items and services identified under subsection (b)(3) under the Program.
“(B) The group practice submits a notification to the Secretary annually specifying which (if any) additional items and services identified under subsection (b)(4) for a year the group practice will offer to furnish for such year under the Program.

“(C) The group practice ensures that only individuals who meet the qualifications established under subsection (b)(4) or a physician who is part of such group practice may furnish such minimum required items and services and such additional items and services.

“(D) The group practice ensures that at least 1 such individual or such physician is present at all times at each qualified skilled nursing facility where the group practice may furnish such minimum required items and services and such additional items and services.

“(E) The group practice ensures that, in the case where such minimum required items and services or such additional items and services are furnished by such an individual, such individual furnishes such minimum required items and services or additional items and services under the supervision, either in-person or
through the use of telehealth (not including store-and-forward technologies), of—

“(i) a physician—

“(I) who is board certified or board eligible in emergency medicine, family medicine, or internal medicine; or

“(II) who has been certified by a nationally recognized specialty board of certification or equivalent certification board in advanced cardiac life support and advanced trauma life support;

“(ii) a nurse practitioner who has been certified by a nationally recognized specialty board of certification or equivalent certification board in advanced cardiac life support and advanced trauma life support; or

“(iii) a physician assistant who has been certified by a nationally recognized specialty board of certification or equivalent certification board in advanced cardiac life support and advanced trauma life support.
“(F) With respect to any year in which the qualified group practice would participate in the Program, the Chief Actuary for the Centers for Medicare & Medicaid Services determines that such participation during such year will not result in total estimated expenditures under this title for such year being greater than total estimated expenditures under such title for such year without such participation.

“(d) Payments.—

“(1) In general.—For 2019 and each subsequent year, the Secretary shall develop a schedule of payments to apply for items and services identified under paragraph (3) or paragraph (4) of subsection (b) furnished during such year by a qualified group practice under the Program. Such payments shall be in lieu of any other payments that may be made under this title for such items and services furnished under the Program.

“(2) Shared savings.—In the case of a year for which the Secretary determines that a qualified group practice’s participation in the Program resulted in a reduction in expenditures under this title compared to what such expenditures would have
been without such participation, the Secretary shall—

“(A) pay to such qualified group practice an amount equal to 37.5 percent of the estimated amount of such reduction; and

“(B) pay to each qualified skilled nursing facility where such qualified group practice furnished items and services under the Program during such year an amount that bears the same ratio to 12.5 percent of the estimated amount of such reduction as the amount of expenditures under the Program for such items and services furnished with respect to individuals at such facility by such qualified group practice during such year bears to the total amount of expenditures under the Program for such items and services furnished with respect to all individuals by such qualified group practice during such year.

“(e) Evaluation.—

“(1) IN GENERAL.—With respect to a qualified group practice and a qualified skilled nursing facility, not later than 6 months after such group practice begins furnishing items and services under the Program (or, in the case of a qualified skilled nurs-
ing facility, not less than 6 months after a qualified
group practice first furnishes such items and serv-
ices at such facility), and not less than once every
2 years thereafter, the Secretary shall evaluate such
qualified group practice and such qualified facility
using information received under paragraph (2) on
such criteria as determined appropriate by the Sec-
retary.

“(2) Reporting of Information.—In a time
and manner specified by the Secretary, a qualified
group practice and a qualified skilled nursing facility
shall submit to the Secretary a report containing the
following information with respect to items and serv-
ices furnished under the Program during a reporting
period (as specified by the Secretary):

“(A) The number of individuals with re-
spect to whom such group practice furnished
such items and services in such period (or, in
the case of a qualified skilled nursing facility,
the number of individuals with respect to whom
such a group practice furnished such items and
services at such facility in such period).

“(B) The number of such individuals who
were admitted to a hospital or treated in the
emergency department of a hospital within 24
hours of being furnished such items and services.

“(C) Other information determined appropriate by the Secretary.

“(3) LOSS OF QUALIFIED CERTIFICATION.—

“(A) IN GENERAL.—Not later than 3 months after a determination described in this sentence is made, the Secretary may revoke the certification of a qualified skilled nursing facility or a qualified group practice made under subsection (e) if—

“(i) the Chief Actuary of the Centers for Medicare & Medicaid Services determines that such skilled nursing facility’s or such group practice’s participation in the Program during a year resulted in total expenditures under this title for such period being greater than total expenditures under such title would have been during such period without such participation; or

“(ii) the Secretary determines that such skilled nursing facility or such group practice has failed to comply with a requirement specified in paragraph (1) or (2) of subsection (e), as applicable.
“(B) EXCLUSION FROM CERTIFICATION FOR 3-YEAR PERIOD.—In the case that the Secretary revokes the certification of a qualified skilled nursing facility or a qualified group practice under subparagraph (A), such skilled nursing facility or such group practice shall be ineligible for certification as a qualified skilled nursing facility or a qualified group practice (as applicable) under subsection (c) for a period of 3 years beginning on the date of such revocation.

“(f) DETERMINATION OF BUDGET NEUTRALITY; TERMINATION OF PROGRAM.—

“(1) DETERMINATION.—Not later than July 1, 2024, the Chief Actuary of the Centers for Medicare & Medicaid Services shall determine whether the Program has resulted in an increase in total expenditures under this title with respect to the period beginning on January 1, 2019, and ending on December 31, 2023, compared to what such expenditures would have been during such period had the Program not been in operation.

“(2) TERMINATION.—If the Chief Actuary makes a determination under paragraph (1) that the Program has resulted in an increase in total expend-
itutes under this title, the Secretary shall terminate
the Program as of January 1 of the first year begin-
ning after such determination.”.

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