

115TH CONGRESS  
2D SESSION

# S. 3770

To amend title XI of the Social Security Act to expand the scope of transparency reporting requirements related to the ownership or investment interests of health care providers and others, and to increase the penalties associated with violating such requirements.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2018

Mr. BOOKER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XI of the Social Security Act to expand the scope of transparency reporting requirements related to the ownership or investment interests of health care providers and others, and to increase the penalties associated with violating such requirements.

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 “Medicaid Drug Deci-  
5 sions Transparency Act”.

1 **SEC. 2. OWNERSHIP OR INVESTMENT INTEREST TRANS-**  
2 **PARENCY FOR HEALTH CARE PROVIDERS**  
3 **AND OTHERS.**

4 (a) IN GENERAL.—Section 1128G of the Social Secu-  
5 rity Act (42 U.S.C. 1320a–7h) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1)(A), by striking  
8 “\$10,000” and inserting “\$20,000”;

9 (B) in paragraph (1)(B), by striking  
10 “\$150,000” and inserting “\$300,000”;

11 (C) in paragraph (2)(A), by striking  
12 “\$100,000” and inserting “\$200,000”; and

13 (D) in paragraph (2)(B), by striking  
14 “\$1,000,000” and inserting “\$2,000,000”;

15 (2) in subsection (d)(2), by adding at the end  
16 the following sentence: “Beginning with calendar  
17 year 2021, such report shall include a separate sum-  
18 mary of the information submitted under subsection  
19 (a) during the preceding year with respect to the  
20 covered recipients described in clause (vii) of sub-  
21 section (e)(6)(A).”; and

22 (3) in subsection (e)(6)(A), by adding at the  
23 end the following:

24 “(vi) A pharmacist (as defined in sec-  
25 tion 804(a)(2) of the Federal Food, Drug,  
26 and Cosmetic Act (21 U.S.C. 384(a)(2)).

1           “(vii) An individual or entity with de-  
 2           cision-making authority over the formulary  
 3           or preferred drug list of a State plan (or  
 4           a waiver of a plan) under title XIX, includ-  
 5           ing an individual or entity that participates  
 6           in the establishment of such a drug for-  
 7           mulary or preferred drug list or in the  
 8           drug utilization review process for such a  
 9           plan or waiver, such as a member of a  
 10          State drug use review board described in  
 11          section 1927.”.

12          (b) **EFFECTIVE DATE.**—The amendments made by  
 13 this section shall take effect on January 1, 2020, and shall  
 14 apply to information required to be submitted under sec-  
 15 tion 1128G of the Social Security Act (42 U.S.C. 1320a-  
 16 7h) on or after such date.

17 **SEC. 3. STATE DRUG USE REVIEW BOARD MEMBERSHIP**  
 18 **TRANSPARENCY.**

19          Section 1927(g)(3)(B) of the Social Security Act (42  
 20 U.S.C. 1396r-8(g)(3)(B)) is amended—

21           (1) by redesignating clauses (i) through (iv) as  
 22           subclauses (I) through (IV) and moving such sub-  
 23           clauses (as so redesignated) 2 ems to the right;

1           (2) in the matter preceding subclause (I) (as so  
2 redesignated), by striking “The membership” and  
3 inserting the following:

4                           “(i) IN GENERAL.—The membership”;

5           (3) in the last sentence, by striking “The mem-  
6 bership” and inserting the following:

7                           “(ii) REQUIREMENT.—The member-  
8 ship”; and

9           (4) by adding at the end the following:

10                           “(iii) PUBLICATION OF MEMBER-  
11 SHIP.—Each State shall publish a list of  
12 the DUR Board members on an Internet  
13 web site in a format that is clear and un-  
14 derstandable and regularly shall update the  
15 list with any changes to such member-  
16 ship.”.

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