

115TH CONGRESS  
1ST SESSION

# S. 527

To improve access to emergency medical services, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

Mr. BLUNT introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To improve access to emergency medical services, 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 “Health Care Safety  
5 Net Enhancement Act of 2017”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7 The constitutional authority upon which this Act  
8 rests is the power of the Congress to provide for the gen-  
9 eral welfare, to regulate commerce, and to make all laws  
10 which shall be necessary and proper for carrying into exe-

1 cution Federal powers, as enumerated in section 8 of arti-  
2 cle I of the Constitution of the United States.

3 **SEC. 3. PROTECTION FOR EMERGENCY AND RELATED**  
4 **SERVICES FURNISHED PURSUANT TO**  
5 **EMTALA.**

6 Section 224(g) of the Public Health Service Act (42  
7 U.S.C. 233(g)) is amended—

8 (1) in paragraph (4), by striking “An entity”  
9 and inserting “Subject to paragraph (6), an entity”;  
10 and

11 (2) by adding at the end the following:

12 “(6)(A) For purposes of this section—

13 “(i) an entity described in subparagraph (B)  
14 shall be considered to be an entity described in para-  
15 graph (4); and

16 “(ii) the provisions of this section shall apply to  
17 an entity described in subparagraph (B) in the same  
18 manner as such provisions apply to an entity de-  
19 scribed in paragraph (4), except that—

20 “(I) notwithstanding paragraph (1)(B), the  
21 deeming of any entity described in subpara-  
22 graph (B), or of an officer, governing board  
23 member, employee, contractor, or on-call pro-  
24 vider of such an entity, to be an employee of  
25 the Public Health Service for purposes of this

1 section shall apply only with respect to items  
2 and services that are furnished to an individual  
3 pursuant to section 1867 of the Social Security  
4 Act and to post stabilization services (as de-  
5 fined in subparagraph (D)) furnished to such  
6 an individual;

7 “(II) nothing in paragraph (1)(D) shall be  
8 construed as preventing a physician or physi-  
9 cian group described in subparagraph (B)(ii)  
10 from making the application referred to in such  
11 paragraph or as conditioning the deeming of a  
12 physician or physician group that makes such  
13 an application upon receipt by the Secretary of  
14 an application from the hospital or emergency  
15 department that employs or contracts with the  
16 physician or group, or enlists the physician or  
17 physician group as an on-call provider;

18 “(III) notwithstanding paragraph (3), this  
19 paragraph shall apply only with respect to  
20 causes of action arising from acts or omissions  
21 that occur on or after January 1, 2018;

22 “(IV) paragraph (5) shall not apply to a  
23 physician or physician group described in sub-  
24 paragraph (B)(ii);

1           “(V) the Attorney General, in consultation  
2 with the Secretary, shall make separate esti-  
3 mates under subsection (k)(1) with respect to  
4 entities described in subparagraph (B) and enti-  
5 ties described in paragraph (4) (other than  
6 those described in subparagraph (B)), and the  
7 Secretary shall establish separate funds under  
8 subsection (k)(2) with respect to such groups of  
9 entities, and any appropriations under this sub-  
10 section for entities described in subparagraph  
11 (B) shall be separate from the amounts author-  
12 ized by subsection (k)(2);

13           “(VI) notwithstanding subsection (k)(2),  
14 the amount of the fund established by the Sec-  
15 retary under such subsection with respect to en-  
16 tities described in subparagraph (B) may ex-  
17 ceed a total of \$10,000,000 for a fiscal year;  
18 and

19           “(VII) subsection (m) shall not apply to  
20 entities described in subparagraph (B).

21           “(B) An entity described in this subparagraph is—

22           “(i) a hospital or an emergency department to  
23 which section 1867 of the Social Security Act ap-  
24 plies; and

1           “(ii) a physician or physician group that is em-  
2           ployed by, is under contract with, or is an on-call  
3           provider of such hospital or emergency department,  
4           to furnish items and services to individuals under  
5           such section.

6           “(C) For purposes of this paragraph, the term ‘on-  
7           call provider’ means a physician or physician group that—

8                   “(i) has full, temporary, or locum tenens staff  
9                   privileges at a hospital or emergency department to  
10                  which section 1867 of the Social Security Act ap-  
11                  plies; and

12                   “(ii) is not employed by or under contract with  
13                   such hospital or emergency department, but agrees  
14                   to be ready and available to provide services pursu-  
15                   ant to section 1867 of the Social Security Act or  
16                   post stabilization services to individuals being treat-  
17                   ed in the hospital or emergency department with or  
18                   without compensation from the hospital or emer-  
19                   gency department.

20           “(D) For purposes of this paragraph, the term ‘post  
21           stabilization services’ means, with respect to an individual  
22           who has been treated by an entity described in subpara-  
23           graph (B) for purposes of complying with section 1867  
24           of the Social Security Act, services that are—

1           “(i) related to the condition that was so treated;  
2           and

3           “(ii) provided after the individual is stabilized  
4           in order to maintain the stabilized condition or to  
5           improve or resolve the condition of the individual.

6           “(E)(i) Nothing in this paragraph (or in any other  
7           provision of this section as such provision applies to enti-  
8           ties described in subparagraph (B) by operation of sub-  
9           paragraph (A)) shall be construed as authorizing or re-  
10          quiring the Secretary to make payments to such entities,  
11          the budget authority for which is not provided in advance  
12          by appropriation Acts.

13          “(ii) The Secretary shall limit the total amount of  
14          payments under this paragraph for a fiscal year to the  
15          total amount appropriated in advance by appropriation  
16          Acts for such purpose for such fiscal year. If the total  
17          amount of payments that would otherwise be made under  
18          this paragraph for a fiscal year exceeds such total amount  
19          appropriated, the Secretary shall take such steps as may  
20          be necessary to ensure that the total amount of payments  
21          under this paragraph for such fiscal year does not exceed  
22          such total amount appropriated.”.

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