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

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. Flores (for himself, Mr. Marshall, and Mr. Babin) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Health Care Safety Net Enhancement Act of 2019”.

SEC. 2. CONSTITUTIONAL AUTHORITY.

The constitutional authority upon which this Act rests is the power of the Congress to provide for the general welfare, to regulate commerce, and to make all laws which shall be necessary and proper for carrying into exe-
dition Federal powers, as enumerated in section 8 of article I of the Constitution of the United States.

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

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

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

(2) by adding at the end the following:

“(6)(A) For purposes of this section—

“(i) an entity described in subparagraph (B) shall be considered to be an entity described in paragraph (4); and

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

“(I) notwithstanding paragraph (1)(B), the deeming of any entity described in subparagraph (B), or of an officer, governing board member, employee, contractor, or on-call provider of such an entity, to be an employee of the Public Health Service for purposes of this
section shall apply only with respect to items and services that are furnished to an individual pursuant to section 1867 of the Social Security Act and to post stabilization services (as defined in subparagraph (D)) furnished to such an individual;

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

“(III) notwithstanding paragraph (3), this paragraph shall apply only with respect to causes of action arising from acts or omissions that occur on or after the date that is 6 months after the date of enactment of this paragraph;

“(IV) paragraph (5) shall not apply to a physician or physician group described in sub-

paragraph (B)(ii);
“(V) the Attorney General, in consultation with the Secretary, shall make separate estimates under subsection (k)(1) with respect to entities described in subparagraph (B) and entities described in paragraph (4) (other than those described in subparagraph (B)), and the Secretary shall establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for entities described in subparagraph (B) shall be separate from the amounts authorized by subsection (k)(2);

“(VI) notwithstanding subsection (k)(2), the amount of the fund established by the Secretary under such subsection with respect to entities described in subparagraph (B) may exceed a total of $10,000,000 for a fiscal year; and

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

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

“(i) a hospital or an emergency department to which section 1867 of the Social Security Act applies; and
“(ii) a physician or physician group that is employed by, is under contract with, or is an on-call provider of such hospital or emergency department, to furnish items and services to individuals under such section.

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

“(i) has full, temporary, or locum tenens staff privileges at a hospital or emergency department to which section 1867 of the Social Security Act applies; and

“(ii) is not employed by or under contract with such hospital or emergency department, but agrees to be ready and available to provide services pursuant to section 1867 of the Social Security Act or post stabilization services to individuals being treated in the hospital or emergency department with or without compensation from the hospital or emergency department.

“(D) For purposes of this paragraph, the term ‘post stabilization services’ means, with respect to an individual who has been treated by an entity described in subparagraph (B) for purposes of complying with section 1867 of the Social Security Act, services that are—
“(i) related to the condition that was so treated;

and

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

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

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