

116TH CONGRESS  
1ST SESSION

# S. 2807

To amend title XVIII of the Social Security Act to improve the quality of care furnished by hospice programs under the Medicare program.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 2019

Mr. PORTMAN (for himself and Mr. CARDIN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to improve the quality of care furnished by hospice programs under the Medicare 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 “Hospice Care Improve-  
5 ment Act of 2019”.

6 **SEC. 2. IMPROVING QUALITY REPORTING AND TRANS-**  
7 **PARENCY FOR HOSPICE CARE.**

8 (a) INCREASING REPORTED HOSPICE DATA.—

9 (1) AVAILABILITY OF HOSPICE ACCREDITATION  
10 SURVEYS.—

1 (A) IN GENERAL.—Section 1865(b) of the  
2 Social Security Act (42 U.S.C. 1395bb(b)) is  
3 amended by inserting “or a hospice program”  
4 after “home health agency”.

5 (B) EFFECTIVE DATE.—The amendment  
6 made by subparagraph (A) shall apply to sur-  
7 veys conducted on or after the date of the en-  
8 actment of this Act.

9 (2) INCLUSION OF REPORTS BY STATE AND  
10 LOCAL SURVEY AGENCIES AND APPROVED ACCREDI-  
11 TATION AGENCIES ON HOSPICE COMPARE.—Section  
12 1861(dd)(4) of the Social Security Act (42 U.S.C.  
13 1395x(dd)(4)) is amended by adding at the end the  
14 following new subparagraph:

15 “(D)(i) Not later than 6 months after the date of  
16 the enactment of this subparagraph, the Secretary, subject  
17 to clauses (ii) and (iii), shall include on what is commonly  
18 referred to as the Hospice Compare internet website (or  
19 any successor website) information from reports by State  
20 and local survey agencies and approved accreditation  
21 agencies described in subparagraph (C)(i).

22 “(ii) The information required to be included under  
23 clause (i) shall be presented in a manner that is promi-  
24 nent, updated and removed on a timely basis, targeted to  
25 deficiencies related to quality of care, easily accessible,

1 readily understandable to consumers of hospice services,  
2 and searchable. Such information shall also include a link  
3 to the reports.

4 “(iii) In determining the information required to be  
5 included under clause (i) and the format of such informa-  
6 tion under (ii), the Secretary shall consult with—

7 “(I) employees of hospice programs and their  
8 representatives;

9 “(II) provider stakeholder groups;

10 “(III) accreditation organizations;

11 “(IV) State and local survey agencies;

12 “(V) caregivers of current or former hospice pa-  
13 tients; and

14 “(VI) any other representatives of programs or  
15 groups the Secretary determines appropriate.”.

16 (3) INCREASED DEFICIENCY DATA REPORTING  
17 BY APPROVED HOSPICE ACCREDITATION AGEN-  
18 CIES.—Not later than 6 months after the date of the  
19 enactment of this Act, the Secretary of Health and  
20 Human Services shall expand the information that  
21 approved accreditation agencies (as described in sec-  
22 tion 1861(dd)(4)(C)(i) of the Social Security Act (42  
23 U.S.C. 1395x(dd)(4)(C)(i))), as amended by sub-  
24 section (b), are required to report with respect to de-  
25 ficiencies by a hospice program to be comparable to

1 the information that State and local survey agencies  
2 (as described in such section) report with respect to  
3 such deficiencies.

4 (b) IMPROVING THE HOSPICE SURVEY PROCESS.—  
5 Section 1861(dd)(4)(C) of the Social Security Act (42  
6 U.S.C. 1395x(dd)(4)(C)) is amended to read as follows:

7 “(C)(i) Subject to the succeeding provisions of this  
8 subparagraph, beginning 6 months after the date of enact-  
9 ment of the Improving Medicare Post-Acute Care Trans-  
10 formation Act of 2014, any entity that is certified as a  
11 hospice program shall be subject to a standard survey by  
12 an appropriate State or local survey agency, or an ap-  
13 proved accreditation agency, as determined by the Sec-  
14 retary, not less frequently than once every 36 months.

15 “(ii) Any entity that is first certified as a hospice pro-  
16 gram after the date of enactment of the Hospice Care Im-  
17 provement Act of 2019 shall be subject to a standard sur-  
18 vey described in clause (i) within 12 months of such cer-  
19 tification. After such standard survey, such entity shall be  
20 subject to standard surveys in accordance with clause (i).

21 “(iii) Any entity that is subject to an intermediate  
22 sanction under paragraph (6) shall be subject to a stand-  
23 ard survey described in clause (i) not less than once every  
24 12 months until such time that the entity is found by the  
25 State or local survey agency or approved accreditation

1 agency to be in compliance with the requirements under  
2 this title for a period of 24 months.

3       “(iv) If a State and local survey agency or an ap-  
4 proved accreditation agency identifies a deficiency of an  
5 entity as part of a standard survey conducted pursuant  
6 to this subparagraph, the agency shall notify the entity  
7 of the finding and provide the entity with (or provide ac-  
8 cess to) educational information on how to address the de-  
9 ficiency and prevent future deficiencies. Such educational  
10 information (or access to such information) shall be pro-  
11 vided to the entity upon the completion of the site visit  
12 performed as part of the survey. Such educational infor-  
13 mation shall be standardized for purposes of both edu-  
14 cating hospice programs and surveyors from local survey  
15 agencies and approved accreditation agencies.

16       “(v) The Secretary shall establish a process for joint  
17 training and education of State and local survey agencies,  
18 approved accreditation agencies, and hospice programs on  
19 a regular basis as changes to regulations, guidelines, and  
20 policies governing hospice program operations are imple-  
21 mented and used in standard surveys of participating hos-  
22 pice programs.”.

23       (c) ANNUAL REPORT OF DEFICIENCIES.—

24           (1) STUDY.—The Secretary of Health and  
25       Human Services (in this section referred to as the

1 “Secretary”) shall conduct an annual study on defi-  
2 ciencies by a hospice programs under the Medicare  
3 program. Such study shall include an analysis of  
4 ways to address such deficiencies.

5 (2) REPORT.—Not later than January 1, 2021,  
6 the Secretary shall submit to Congress a report on  
7 the study conducted under paragraph (1), together  
8 with recommendations for such legislation and ad-  
9 ministrative action as the Secretary determines ap-  
10 propriate.

11 **SEC. 3. INCREASING COMPLIANCE OF QUALITY STANDARDS**  
12 **FOR HOSPICE CARE.**

13 (a) INCREASING PAYMENT REDUCTIONS FOR FAIL-  
14 ING TO REPORT QUALITY MEASURES.—Section  
15 1814(i)(5)(A)(i) of the Social Security Act (42 U.S.C.  
16 1395f(i)(5)(A)(i)) is amended by inserting “or, for fiscal  
17 year 2021 and subsequent fiscal years, 4 percentage  
18 points” before the period at the end.

19 (b) AUTHORITY TO IMPOSE INTERMEDIATE SANC-  
20 TIONS.—Section 1861(dd) of the Social Security Act (42  
21 U.S.C. 1395x(dd)) is amended by adding at the end the  
22 following paragraph:

23 “(6) Beginning 1 year after the date of enactment  
24 of the Hospice Care Improvement Act of 2019, if the Sec-  
25 retary determines based on the results of a survey that

1 a hospice program no longer meets the applicable require-  
2 ments of this Act, the Secretary—

3 “(A) shall issue guidance on ways to determine  
4 the mechanisms for imposing a range of inter-  
5 mediate sanctions on hospice programs; and

6 “(B) may impose an intermediate sanction on  
7 the hospice program, including but not limited to,  
8 the following:

9 “(i) Suspension of all or part of the pay-  
10 ments to which a hospice program would other-  
11 wise be entitled under this title for all new ad-  
12 missions on or after the date on which the Sec-  
13 retary determines that intermediate sanctions  
14 should be imposed.

15 “(ii) The appointment of temporary man-  
16 agement to oversee the operation of the hospice  
17 program and to protect and assure the health  
18 and safety of individuals under the care of the  
19 hospice program while improvements are made  
20 in order to bring the hospice program into com-  
21 pliance with all the requirements specified in  
22 this section.

23 “(iii) Implementation of a directed plan of  
24 correction under which the Secretary or the  
25 temporary manager may direct the hospice pro-

1           gram to take specific corrective action to  
2           achieve specific outcomes within specific time-  
3           frames.

4                   “(iv) If the Secretary determines that edu-  
5           cation is likely to correct the deficiencies, im-  
6           position of a requirement that all hospice program  
7           staff attend in-service training programs  
8           deemed acceptable by the Secretary.”.

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