

116TH CONGRESS  
1ST SESSION

# S. 296

To amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2019

Ms. COLLINS (for herself 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 ensure more timely access to home health services for Medicare beneficiaries 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 “Home Health Care  
5 Planning Improvement Act of 2019”.

6 **SEC. 2. IMPROVING CARE PLANNING FOR MEDICARE HOME**  
7 **HEALTH SERVICES.**

8 (a) PART A PROVISIONS.—Section 1814(a) of the So-  
9 cial Security Act (42 U.S.C. 1395f(a)) is amended—

1 (1) in paragraph (2)—

2 (A) in the matter preceding subparagraph  
 3 (A), by inserting “, a nurse practitioner or clin-  
 4 ical nurse specialist who is working in collabo-  
 5 ration with a physician in accordance with  
 6 State law, a certified nurse-midwife (as defined  
 7 in section 1861(gg)) as authorized by State law,  
 8 or a physician assistant (as defined in section  
 9 1861(aa)(5)) under the supervision of a physi-  
 10 cian” after “1866(j)”; and

11 (B) in subparagraph (C)—

12 (i) by inserting “, a nurse practi-  
 13 tioner, a clinical nurse specialist, a cer-  
 14 tified nurse-midwife, or a physician assist-  
 15 ant (as the case may be)” after “physi-  
 16 cian” the first 2 times it appears; and

17 (ii) by striking “, and, in the case of  
 18 a certification made by a physician” and  
 19 all that follows through “face-to-face en-  
 20 counter” and inserting “, and, in the case  
 21 of a certification made by a physician after  
 22 January 1, 2010, or by a nurse practi-  
 23 tioner, clinical nurse specialist, certified  
 24 nurse-midwife, or physician assistant (as  
 25 the case may be) after January 1, 2020,

1 prior to making such certification the phy-  
 2 sician, nurse practitioner, clinical nurse  
 3 specialist, certified nurse-midwife, or physi-  
 4 cian assistant must document that the  
 5 physician, nurse practitioner, clinical nurse  
 6 specialist, certified nurse-midwife, or physi-  
 7 cian assistant has had a face-to-face en-  
 8 counter”;

9 (2) in the second sentence, by inserting “cer-  
 10 tified nurse-midwife,” after “clinical nurse spe-  
 11 cialist,”;

12 (3) in the third sentence—

13 (A) by striking “physician certification”  
 14 and inserting “certification”;

15 (B) by inserting “(or on January 1, 2020,  
 16 in the case of regulations to implement the  
 17 amendments made by section 2 of the Home  
 18 Health Care Planning Improvement Act of  
 19 2019)” after “1981”; and

20 (C) by striking “a physician who” and in-  
 21 serting “a physician, nurse practitioner, clinical  
 22 nurse specialist, certified nurse-midwife, or phy-  
 23 sician assistant who”; and

1 (4) in the fourth sentence, by inserting “, nurse  
 2 practitioner, clinical nurse specialist, certified nurse-  
 3 midwife, or physician assistant” after “physician”.

4 (b) PART B PROVISIONS.—Section 1835(a) of the So-  
 5 cial Security Act (42 U.S.C. 1395n(a)) is amended—

6 (1) in paragraph (2)—

7 (A) in the matter preceding subparagraph  
 8 (A), by inserting “, a nurse practitioner or clin-  
 9 ical nurse specialist (as those terms are defined  
 10 in 1861(aa)(5)) who is working in collaboration  
 11 with a physician in accordance with State law,  
 12 a certified nurse-midwife (as defined in section  
 13 1861(gg)) as authorized by State law, or a phy-  
 14 sician assistant (as defined in section  
 15 1861(aa)(5)) under the supervision of a physi-  
 16 cian” after “1866(j)”; and

17 (B) in subparagraph (A)—

18 (i) in each of clauses (ii) and (iii) of  
 19 subparagraph (A) by inserting “, a nurse  
 20 practitioner, a clinical nurse specialist, a  
 21 certified nurse-midwife, or a physician as-  
 22 sistant (as the case may be)” after “physi-  
 23 cian”; and

24 (ii) in clause (iv), by striking “after  
 25 January 1, 2010” and all that follows

1 through “face-to-face encounter” and in-  
 2 serting “made by a physician after Janu-  
 3 ary 1, 2010, or by a nurse practitioner,  
 4 clinical nurse specialist, certified nurse-  
 5 midwife, or physician assistant (as the case  
 6 may be) after January 1, 2020, prior to  
 7 making such certification the physician,  
 8 nurse practitioner, clinical nurse specialist,  
 9 certified nurse-midwife, or physician assist-  
 10 ant must document that the physician,  
 11 nurse practitioner, clinical nurse specialist,  
 12 certified nurse-midwife, or physician assist-  
 13 ant has had a face-to-face encounter”;

14 (2) in the third sentence, by inserting “, nurse  
 15 practitioner, clinical nurse specialist, certified nurse-  
 16 midwife, or physician assistant (as the case may  
 17 be)” after physician;

18 (3) in the fourth sentence—

19 (A) by striking “physician certification”  
 20 and inserting “certification”;

21 (B) by inserting “(or on January 1, 2020,  
 22 in the case of regulations to implement the  
 23 amendments made by section 2 of the Home  
 24 Health Care Planning Improvement Act of  
 25 2019)” after “1981”; and

(C) by striking “a physician who” and inserting “a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who”; and

(4) in the fifth sentence, by inserting “, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant” after “physician”.

(c) DEFINITION PROVISIONS.—

(1) HOME HEALTH SERVICES.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting “, a nurse practitioner or a clinical nurse specialist (as those terms are defined in subsection (aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in subsection (aa)(5))” after “physician” the first place it appears; and

(ii) by inserting “, a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant” after “physician” the second place it appears; and

1 (B) in paragraph (3), by inserting “, a  
 2 nurse practitioner, a clinical nurse specialist, a  
 3 certified nurse-midwife, or a physician assist-  
 4 ant” after “physician”.

5 (2) HOME HEALTH AGENCY.—Section  
 6 1861(o)(2) of the Social Security Act (42 U.S.C.  
 7 1395x(o)(2)) is amended—

8 (A) by inserting “, nurse practitioners or  
 9 clinical nurse specialists (as those terms are de-  
 10 fined in subsection (aa)(5)), certified nurse-mid-  
 11 wives (as defined in section 1861(gg)), or physi-  
 12 cian assistants (as defined in subsection  
 13 (aa)(5))” after “physicians”; and

14 (B) by inserting “, nurse practitioner, clin-  
 15 ical nurse specialist, certified nurse-midwife,  
 16 physician assistant,” after “physician”.

17 (d) HOME HEALTH PROSPECTIVE PAYMENT SYSTEM  
 18 PROVISIONS.—Section 1895 of the Social Security Act (42  
 19 U.S.C. 1395fff) is amended—

20 (1) in subsection (c)(1), by inserting “, the  
 21 nurse practitioner or clinical nurse specialist (as  
 22 those terms are defined in section 1861(aa)(5)), the  
 23 certified nurse-midwife (as defined in section  
 24 1861(gg)), or the physician assistant (as defined in  
 25 section 1861(aa)(5)),” after “physician”; and

1 (2) in subsection (e)—

2 (A) in paragraph (1)(A), by inserting “, a  
3 nurse practitioner or clinical nurse specialist (as  
4 those terms are defined in section 1861(aa)(5)),  
5 a certified nurse-midwife (as defined in section  
6 1861(gg)), or a physician assistant (as defined  
7 in section 1861(aa)(5))” after “physician”; and

8 (B) in paragraph (2)—

9 (i) in the heading, by striking “PHY-  
10 SICIAN CERTIFICATION” and inserting  
11 “RULE OF CONSTRUCTION REGARDING RE-  
12 QUIREMENT FOR CERTIFICATION”; and

13 (ii) by striking “physician”.

14 (e) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to items and services furnished on  
16 or after January 1, 2020.

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