

117TH CONGRESS
2D SESSION

S. 5212

To amend titles XVIII and XIX of the Social Security Act and the Bipartisan Budget Act of 2018 to increase access to services provided by advanced practice registered nurses under the Medicare and Medicaid programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2022

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

A BILL

To amend titles XVIII and XIX of the Social Security Act and the Bipartisan Budget Act of 2018 to increase access to services provided by advanced practice registered nurses under the Medicare and Medicaid programs, 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; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the “Im-
5 proving Care and Access to Nurses Act” or the “I CAN
6 Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REMOVAL OF BARRIERS TO PRACTICE ON NURSE PRACTITIONERS

- Sec. 101. Expanding access to cardiac rehabilitation programs and pulmonary rehabilitation programs under Medicare program.
- Sec. 102. Permitting nurse practitioners to satisfy Medicare documentation requirement for coverage of certain shoes for individuals with diabetes.
- Sec. 103. Improvements to the assignment of beneficiaries under the Medicare shared savings program.
- Sec. 104. Expanding the availability of medical nutrition therapy services under the Medicare program.
- Sec. 105. Preserving access to home infusion therapy under the Medicare program.
- Sec. 106. Increasing access to hospice care services under the Medicare program.
- Sec. 107. Streamlining care delivery in skilled nursing facilities and nursing facilities; authorizing medicare and medicaid inpatient hospital patients to be under the care of a nurse practitioner.
- Sec. 108. Improving access to Medicaid clinic services.

TITLE II—REMOVAL OF BARRIERS TO PRACTICE ON CERTIFIED REGISTERED NURSE ANESTHETISTS

- Sec. 201. Clarifying that certified registered nurse anesthetists can be reimbursed by Medicare for evaluation and management services.
- Sec. 202. Revision of conditions of payment relating to services ordered and referred by certified registered nurse anesthetists.
- Sec. 203. Special payment rule for teaching student registered nurse anesthetists.
- Sec. 204. Removing unnecessary and costly supervision of certified registered nurse anesthetists.
- Sec. 205. CRNA services as a Medicaid-required benefit.

TITLE III—REMOVAL OF BARRIERS TO PRACTICE ON CERTIFIED NURSE-MIDWIVES

- Sec. 301. Improving access to training in maternity care.
- Sec. 302. Improving Medicare patient access to home health services provided by certified nurse-midwives.
- Sec. 303. Improving access to DMEPOS for Medicare beneficiaries.
- Sec. 304. Technical changes to qualifications and conditions with respect to the services of certified nurse-midwives.

TITLE IV—IMPROVING FEDERAL HEALTH PROGRAMS FOR ALL ADVANCED PRACTICE REGISTERED NURSES

- Sec. 401. Revising the local coverage determination process under the Medicare program.
- Sec. 402. Locum tenens.

1 **TITLE I—REMOVAL OF BAR-**
 2 **RIERS TO PRACTICE ON**
 3 **NURSE PRACTITIONERS**

4 **SEC. 101. EXPANDING ACCESS TO CARDIAC REHABILITA-**
 5 **TION PROGRAMS AND PULMONARY REHA-**
 6 **BILITATION PROGRAMS UNDER MEDICARE**
 7 **PROGRAM.**

8 (a) CARDIAC REHABILITATION PROGRAMS.—Section
 9 1861(eee) of the Social Security Act (42 U.S.C.
 10 1395x(eee)) is amended—

11 (1) in paragraph (2)—

12 (A) in subparagraph (A)(i), by striking “a
 13 physician’s office” and inserting “the office of
 14 a physician (as defined in subsection (r)(1)) or
 15 the office of a nurse practitioner, clinical nurse
 16 specialist, or physician assistant (as those terms
 17 are defined in subsection (aa)(5))”; and

18 (B) in subparagraph (C), by inserting “(as
 19 defined in subsection (r)(1)), nurse practitioner,
 20 clinical nurse specialist, or physician assistant
 21 (as those terms are defined in subsection
 22 (aa)(5))” after “physician”;

23 (2) in paragraph (3)(A), by striking “physician-
 24 prescribed exercise” and inserting “exercise pre-
 25 scribed by a physician (as defined in subsection

1 (r)(1)), nurse practitioner, clinical nurse specialist,
 2 or physician assistant (as those terms are defined in
 3 subsection (aa)(5))”; and

4 (3) in paragraph (5), in the matter preceding
 5 subparagraph (A), by inserting “(as defined in sub-
 6 section (r)(1)), nurse practitioner, clinical nurse spe-
 7 cialist, or physician assistant (as those terms are de-
 8 fined in subsection (aa)(5)),” after “physician”.

9 (b) PULMONARY REHABILITATION PROGRAMS.—Sec-
 10 tion 1861(fff) of the Social Security Act (42 U.S.C.
 11 1395x(fff)) is amended—

12 (1) in paragraph (2)(A), by striking “physician-
 13 prescribed exercise” and inserting “exercise pre-
 14 scribed by a physician (as defined in subsection
 15 (r)(1)), nurse practitioner, clinical nurse specialist,
 16 or physician assistant (as those terms are defined in
 17 subsection (aa)(5))”; and

18 (2) in paragraph (3), in the matter preceding
 19 subparagraph (A), by inserting after “physician” the
 20 following: “(as defined in subsection (r)(1)), nurse
 21 practitioner, clinical nurse specialist, or physician as-
 22 sistant (as those terms are defined in subsection
 23 (aa)(5)),”.

24 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
 2 subsections (a) and (b) shall apply to items and
 3 services furnished on or after the date that is 3
 4 months after the date of enactment of this Act.

5 (2) EXPEDITING IMPLEMENTATION OF SUPER-
 6 VISION AUTHORITY.—Section 51008(c) of the Bipar-
 7 tisan Budget Act of 2018 (Public Law 115–123; 42
 8 U.S.C. 1395x note) is amended by striking “Janu-
 9 ary 1, 2024” and inserting “January 1, 2023”.

10 **SEC. 102. PERMITTING NURSE PRACTITIONERS TO SATISFY**
 11 **MEDICARE DOCUMENTATION REQUIREMENT**
 12 **FOR COVERAGE OF CERTAIN SHOES FOR IN-**
 13 **DIVIDUALS WITH DIABETES.**

14 (a) IN GENERAL.—Section 1861(s)(12) of the Social
 15 Security Act (42 U.S.C. 1395x(s)(12)) is amended—

16 (1) in subparagraph (A), by inserting “, nurse
 17 practitioner, or physician assistant” after “physi-
 18 cian”; and

19 (2) in subparagraph (C), by inserting “, nurse
 20 practitioner, or physician assistant” after “physi-
 21 cian” each place it appears.

22 (b) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to items and services furnished on
 24 or after January 1, 2023.

1 **SEC. 103. IMPROVEMENTS TO THE ASSIGNMENT OF BENE-**
 2 **FICIARIES UNDER THE MEDICARE SHARED**
 3 **SAVINGS PROGRAM.**

4 Section 1899(c)(1) of the Social Security Act (42
 5 U.S.C. 1395jjj(c)(1)) is amended—

6 (1) in subparagraph (A), by striking “and” at
 7 the end;

8 (2) in subparagraph (B), by striking the period
 9 at the end and inserting “; and”; and

10 (3) by adding at the end the following new sub-
 11 paragraph:

12 “(C) in the case of performance years be-
 13 ginning on or after January 1, 2023, primary
 14 care services provided under this title by an
 15 ACO professional described in subsection
 16 (h)(1)(B).”.

17 **SEC. 104. EXPANDING THE AVAILABILITY OF MEDICAL NU-**
 18 **TRITION THERAPY SERVICES UNDER THE**
 19 **MEDICARE PROGRAM.**

20 Section 1861(vv)(1) of the Social Security Act (42
 21 U.S.C. 1395x(vv)(1)) is amended by inserting “, a nurse
 22 practitioner, or a clinical nurse specialist (as such terms
 23 are defined in subsection (aa)(5))” before the period at
 24 the end.

1 **SEC. 105. PRESERVING ACCESS TO HOME INFUSION THER-**
 2 **APY UNDER THE MEDICARE PROGRAM.**

3 (a) ALLOWING APPLICABLE PROVIDERS TO ESTAB-
 4 LISH HOME INFUSION THERAPY PLANS.—Section
 5 1861(iii)(1)(B) of the Social Security Act (42 U.S.C.
 6 1395x(iii)(1)(B)) is amended—

7 (1) by striking “a physician (as defined in sub-
 8 section (r)(1))” and inserting “an applicable pro-
 9 vider (as defined in paragraph (3)(A))”; and

10 (2) by striking “a physician (as so defined)”
 11 and inserting “an applicable provider (as so de-
 12 fined)”.

13 (b) CONFORMING AMENDMENT.—Section 1834(u)(6)
 14 of the Social Security Act (42 U.S.C. 1395m(u)(6)) is
 15 amended by striking “physician” and inserting “applicable
 16 provider (as defined in section 1861(iii)(3)(A))”.

17 **SEC. 106. INCREASING ACCESS TO HOSPICE CARE SERV-**
 18 **ICES UNDER THE MEDICARE PROGRAM.**

19 (a) IN GENERAL.—Section 1814(a)(7)(A) of the So-
 20 cial Security Act (42 U.S.C. 1395f(a)(7)(A)) is amend-
 21 ed—

22 (1) in clause (i)(I), by striking “a nurse practi-
 23 tioner or”;

24 (2) in clause (i)(II), by inserting “or nurse
 25 practitioner” after “physician”; and

1 (3) in clause (ii), by striking “or physician” and
 2 inserting “, physician, or nurse practitioner”.

3 (b) HOSPICE CARE DEFINITION.—Section
 4 1861(dd)(1)(C) of the Social Security Act (42 U.S.C.
 5 1395x(dd)(1)(C)) is amended by inserting “or nurse prac-
 6 titioner” after “physician”.

7 **SEC. 107. STREAMLINING CARE DELIVERY IN SKILLED**
 8 **NURSING FACILITIES AND NURSING FACILI-**
 9 **TIES; AUTHORIZING MEDICARE AND MED-**
 10 **ICAID INPATIENT HOSPITAL PATIENTS TO BE**
 11 **UNDER THE CARE OF A NURSE PRACTI-**
 12 **TIONER.**

13 (a) MEDICARE.—

14 (1) CERTIFICATION OF POST-HOSPITAL EX-
 15 TENDED CARE SERVICES.—Section 1814(a)(2) of the
 16 Social Security Act (42 U.S.C. 1395f(a)(2)) is
 17 amended, in the matter preceding subparagraph (A),
 18 by striking “, or a nurse practitioner,” and inserting
 19 “or a nurse practitioner (in accordance with State
 20 law), or”.

21 (2) CERTIFICATION AUTHORITY FOR NURSE
 22 PRACTITIONERS.—Section 1814(a)(3) of the Social
 23 Security Act (42 U.S.C. 1395f(a)(3)) is amended by
 24 inserting “or nurse practitioner” after “physician”.

1 (3) SUPERVISION REQUIREMENT IN SKILLED
 2 NURSING FACILITY SERVICES.—Section
 3 1819(b)(6)(A) of the Social Security Act (42 U.S.C.
 4 1395i–3(b)(6)(A)) is amended—

5 (A) in the heading, by striking “PHYSI-
 6 CIAN SUPERVISION” and inserting “SUPER-
 7 VISION”; and

8 (B) by inserting “or a nurse practitioner,
 9 in accordance with State law” after “physi-
 10 cian”.

11 (4) ADMINISTRATION OF PART B.—Section
 12 1842(b)(2)(C) of the Social Security Act (42 U.S.C.
 13 1395u(b)(2)(C)) is amended, in the second sentence,
 14 by striking “working in collaboration with that phy-
 15 sician”.

16 (5) PROVISION OF MEDICAL AND OTHER
 17 HEALTH SERVICES.—Section 1861(s)(2)(K)(ii) of
 18 the Social Security Act (42 U.S.C.
 19 1395x(s)(2)(K)(ii)) is amended by striking “or clin-
 20 ical nurse specialist (as defined in subsection
 21 (aa)(5)) working in collaboration (as defined in sub-
 22 section (aa)(6)) with a physician (as defined in sub-
 23 section (r)(1))” and inserting “(as defined in sub-
 24 section (aa)(5)(A)), or by a clinical nurse specialist
 25 (as defined in subsection (aa)(5)(B)) working in col-

laboration with a physician (as defined in subsection (r)(1)),”.

(6) PRIVILEGES FOR NURSE PRACTITIONERS.—
Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (e)(4), by inserting “(or nurse practitioner, in accordance with State law)” after “physician”;

(B) in subsection (f)(1), by inserting “or nurse practitioner” after “physician”; and

(C) in each of subparagraphs (B) and (F) of subsection (ee)(2), by inserting “or nurse practitioner” after “physician”.

(b) MEDICAID.—

(1) CERTIFICATION AUTHORITY FOR NURSE PRACTITIONERS.—Section 1902(a)(44) of the Social Security Act (42 U.S.C. 1396a(a)(44)) is amended to read as follows:

“(44) in each case for which payment for inpatient hospital services, skilled nursing facility services, services in an intermediate care facility described in section 1905(d), or inpatient mental hospital services is made under the State plan—

“(A) a physician or nurse practitioner (or, in the case of skilled nursing facility services or

1 intermediate care facility services, a physician
2 or nurse practitioner, or a clinical nurse spe-
3 cialist who is not an employee of the facility but
4 is working in collaboration with a physician)
5 certifies at the time of admission, or, if later,
6 the time the individual applies for medical as-
7 sistance under the State plan (and a physician
8 or nurse practitioner, or a physician assistant
9 under the supervision of a physician, or, in the
10 case of skilled nursing facility services or inter-
11 mediate care facility services, a physician or
12 nurse practitioner, or a clinical nurse specialist
13 who is not an employee of the facility but is
14 working in collaboration with a physician, recer-
15 tifies, where such services are furnished over a
16 period of time, in such cases, at least as often
17 as required under section 1903(g)(6) (or, in the
18 case of services that are services provided in an
19 intermediate care facility, every year), and ac-
20 companied by such supporting material, appro-
21 priate to the case involved, as may be provided
22 in regulations of the Secretary), that such serv-
23 ices are or were required to be given on an in-
24 patient basis because the individual needs or
25 needed such services, and

“(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician or nurse practitioner, or, in the case of skilled nursing facility services or intermediate care facility services, by a physician or nurse practitioner, or a clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician;”.

(2) NURSING FACILITY SERVICES SUPERVISION AND CLINICAL RECORDS.—Section 1919(b)(6)(A) of the Social Security Act (42 U.S.C. 1396r(b)(6)(A)) is amended to read as follows:

“(A) require that the health care of every resident be provided under the supervision of a physician or nurse practitioner (or, at the option of a State, under the supervision of a clinical nurse specialist or physician assistant who is not an employee of the facility but who is working in collaboration with a physician);”.

SEC. 108. IMPROVING ACCESS TO MEDICAID CLINIC SERVICES.

Section 1905(a)(9) of the Social Security Act (42 U.S.C. 1396d(a)(9)) is amended by adding “or nurse

1 practitioner” after “physician” in both places that it ap-
 2 pears.

3 **TITLE II—REMOVAL OF BAR-**
 4 **RIERS TO PRACTICE ON CER-**
 5 **TIFIED REGISTERED NURSE**
 6 **ANESTHETISTS**

7 **SEC. 201. CLARIFYING THAT CERTIFIED REGISTERED**
 8 **NURSE ANESTHETISTS CAN BE REIMBURSED**
 9 **BY MEDICARE FOR EVALUATION AND MAN-**
 10 **AGEMENT SERVICES.**

11 Section 1861(bb)(1) of the Social Security Act (42
 12 U.S.C. 1395x(bb)(1)) is amended by inserting “, including
 13 pre-anesthesia evaluation and management services,”
 14 after “and related care”.

15 **SEC. 202. REVISION OF CONDITIONS OF PAYMENT RELAT-**
 16 **ING TO SERVICES ORDERED AND REFERRED**
 17 **BY CERTIFIED REGISTERED NURSE ANES-**
 18 **THETISTS.**

19 Not later than 3 months after the date of enactment
 20 of this Act, the Secretary of Health and Human Services
 21 shall revise section 410.69 of title 42, Code of Federal
 22 Regulations, to clarify that, for purposes of payment
 23 under part B of title XVIII of the Social Security Act—

24 (1) certified registered nurse anesthetists are
 25 authorized to order, certify, and refer services to the

1 extent allowed under the law of the State in which
 2 the services are furnished; and

3 (2) payment shall be made under such part for
 4 such services so ordered, certified, or referred by
 5 certified registered nurse anesthetists.

6 **SEC. 203. SPECIAL PAYMENT RULE FOR TEACHING STU-**
 7 **DENT REGISTERED NURSE ANESTHETISTS.**

8 Section 1848(a)(6) of the Social Security Act (42
 9 U.S.C. 1395w-4(a)(6)) is amended, in the matter pre-
 10 ceding subparagraph (A), by inserting “or student reg-
 11 istered nurse anesthetists” after “physician residents”.

12 **SEC. 204. REMOVING UNNECESSARY AND COSTLY SUPER-**
 13 **VISION OF CERTIFIED REGISTERED NURSE**
 14 **ANESTHETISTS.**

15 Section 1861(bb)(2) of the Social Security Act (42
 16 U.S.C. 1395x(bb)(2)) is amended—

17 (1) in the second sentence, by inserting “, but
 18 may not require that certified registered nurse anes-
 19 thetists provide services under the supervision of a
 20 physician” after “certification of nurse anes-
 21 thetists”; and

22 (2) in the third sentence, by inserting “under
 23 the supervision of an anesthesiologist” after “an an-
 24 esthesiologist assistant”.

1 **SEC. 205. CRNA SERVICES AS A MEDICAID-REQUIRED BEN-**
 2 **EFIT.**

3 (a) IN GENERAL.—Section 1905(a)(5) of the Social
 4 Security Act (42 U.S.C. 1396d(a)(5)) is amended—

5 (1) by striking “and (B)” and inserting “(B)”;
 6 and

7 (2) by inserting before the semicolon at the end
 8 the following: “, and (C) services furnished by a cer-
 9 tified registered nurse anesthetist (as defined in sec-
 10 tion 1861(bb)(2)), which such certified registered
 11 nurse anesthetist is authorized to perform under
 12 State law (or the State regulatory mechanism as
 13 provided by State law)”.

14 (b) PAYMENT.—Section 1902(a) of the Social Secu-
 15 rity Act (42 U.S.C. 1396d(a)) is amended—

16 (1) in paragraph (86), by striking “and” at the
 17 end;

18 (2) in paragraph (87), by striking the period
 19 and inserting “; and”; and

20 (3) by inserting after paragraph (87) the fol-
 21 lowing new paragraph:

22 “(88) provide for payment for the services of a
 23 certified registered nurse anesthetist (as defined in
 24 section 1861(bb)(1)) in amounts no lower than the
 25 amounts, using the same methodology, used for pay-
 26 ment for amounts under section 1833(a)(1)(H).”.

1 **TITLE III—REMOVAL OF BAR-**
 2 **RIERS TO PRACTICE ON CER-**
 3 **TIFIED NURSE-MIDWIVES**

4 **SEC. 301. IMPROVING ACCESS TO TRAINING IN MATERNITY**
 5 **CARE.**

6 (a) MEDICARE PAYMENTS FOR SUPERVISION BY
 7 CERTIFIED NURSE-MIDWIVES.—Paragraph (1) of section
 8 1861(gg) of the Social Security Act (42 U.S.C. 1395x(gg))
 9 is amended to read as follows:

10 “(1) The term ‘certified nurse-midwife services’
 11 means—

12 “(A) such services furnished by a certified
 13 nurse-midwife (as defined in paragraph (2));
 14 and

15 “(B) such services (and such supplies and
 16 services furnished as an incident to the nurse-
 17 midwife’s service) which—

18 “(i) the certified nurse-midwife is le-
 19 gally authorized to perform under State
 20 law (or the State regulatory mechanism
 21 provided by State law) as would otherwise
 22 be covered if furnished by a physician;

23 “(ii) are furnished under the super-
 24 vision of a certified-nurse midwife by an

1 intern or resident-in-training (as described
2 in subsection (b)(6));

3 “(iii) would otherwise be described in
4 subparagraph (A) if furnished by a cer-
5 tified nurse-midwife; and

6 “(iv) would otherwise be covered if
7 furnished under the supervision of a physi-
8 cian.”.

9 (b) CLARIFYING PERMISSIBILITY OF USING CERTAIN
10 GRANTS FOR CLINICAL TRAINING BY CERTIFIED NURSE-
11 MIDWIVES.—Section 811(a)(1) of the Public Health Serv-
12 ice Act (42 U.S.C. 296j(a)(1)) is amended by inserting
13 “, including clinical training,” after “projects”.

14 **SEC. 302. IMPROVING MEDICARE PATIENT ACCESS TO**
15 **HOME HEALTH SERVICES PROVIDED BY CER-**
16 **TIFIED NURSE-MIDWIVES.**

17 (a) IN GENERAL.—Section 1835(a) of the Social Se-
18 curity Act (42 U.S.C. 1395n(a)) is amended—

19 (1) in paragraph (2)—

20 (A) by inserting “or a certified nurse-mid-
21 wife (as defined in section 1861(gg)),” after “or
22 a physician assistant (as defined in section
23 1861(aa)(5)) who is working in accordance with
24 State law,”; and

25 (B) in subparagraph (A)—

1 (i) in each of clauses (ii) and (iii), by
 2 striking “or a physician assistant (as the
 3 case may be)” and inserting “a physician
 4 assistant, or a certified nurse-midwife (as
 5 the case may be)”; and

6 (ii) in clause (iv), by—

7 (I) inserting “or by a certified
 8 nurse-midwife (as defined in section
 9 1861(gg))” after “(but in no case
 10 later than the date that is 6 months
 11 after the date of the enactment of the
 12 CARES Act)”; and

13 (II) by striking “(as defined in
 14 section 1861(gg))”; and

15 (2) in the matter following paragraph (2), by
 16 striking “or physician assistant (as the case may
 17 be)” and inserting “physician assistant, or certified
 18 nurse-midwife (as the case may be)” each place it
 19 appears.

20 (b) CONFORMING AMENDMENTS.—Section 1895 of
 21 the Social Security Act (42 U.S.C. 1395fff) is amended—

22 (1) in subsection (c)(1), by inserting “a cer-
 23 tified nurse-midwife (as defined in section
 24 1861(gg)),” after “clinical nurse specialist (as those
 25 terms are defined in section 1861(aa)(5)),”; and

1 (2) in subsection (e)(1)(A), by striking “a phy-
 2 sician a nurse practitioner or clinical nurse spe-
 3 cialist,” and inserting “a physician, a nurse practi-
 4 tioner, a clinical nurse specialist, a certified nurse-
 5 midwife,”.

6 **SEC. 303. IMPROVING ACCESS TO DMEPOS FOR MEDICARE**
 7 **BENEFICIARIES.**

8 Section 1834(a) of the Social Security Act (42 U.S.C.
 9 1395m(a)) is amended—

10 (1) in paragraph (1)(E)(ii) by striking “or a
 11 clinical nurse specialist (as those terms are defined
 12 in section 1861(aa)(5))” and inserting “, a clinical
 13 nurse specialist (as those terms are defined in sec-
 14 tion 1861(aa)(5)), or a certified nurse-midwife (as
 15 defined in section 1861(gg))”; and

16 (2) in paragraph (11)(B)(ii)—

17 (A) by striking “or a clinical nurse spe-
 18 cialist (as those terms are defined in section
 19 1861(aa)(5))” and inserting “a clinical nurse
 20 specialist (as those terms are defined in section
 21 1861(aa)(5)), or a certified nurse-midwife (as
 22 defined in section 1861(gg))”; and

23 (B) by striking “or specialist” and insert-
 24 ing “specialist, or nurse-midwife”.

1 **SEC. 304. TECHNICAL CHANGES TO QUALIFICATIONS AND**
 2 **CONDITIONS WITH RESPECT TO THE SERV-**
 3 **ICES OF CERTIFIED NURSE-MIDWIVES.**

4 Section 1861(gg)(2) of the Social Security Act (42
 5 U.S.C. 1395x(gg)(2)) is amended by striking “, or has
 6 been certified by an organization recognized by the Sec-
 7 retary” and inserting “and has been certified by the Amer-
 8 ican Midwifery Certification Board (or a successor organi-
 9 zation)”.

10 **TITLE IV—IMPROVING FEDERAL**
 11 **HEALTH PROGRAMS FOR ALL**
 12 **ADVANCED PRACTICE REG-**
 13 **ISTERED NURSES**

14 **SEC. 401. REVISING THE LOCAL COVERAGE DETERMINA-**
 15 **TION PROCESS UNDER THE MEDICARE PRO-**
 16 **GRAM.**

17 (a) IN GENERAL.—Section 1862(l)(5) of the Social
 18 Security Act (42 U.S.C. 1395y(l)(5)) is amended—

19 (1) in subparagraph (D), by adding at the end
 20 the following new clauses:

21 “(vi) Identification of any medical or
 22 scientific experts whose advice was ob-
 23 tained by such contractor during the devel-
 24 opment of such determination, whether or
 25 not such contractor relied on such advice
 26 in developing such determination.

1 “(vii) A hyperlink to any written com-
 2 munication between such contractor and
 3 another entity that such contractor relied
 4 on when developing such determination.

5 “(viii) A hyperlink to any rule, guide-
 6 line, protocol, or other criterion that such
 7 contractor relied on when developing such
 8 determination.”; and

9 (2) by adding at the end the following new sub-
 10 paragraphs:

11 “(E) PROHIBITION ON IMPOSITION OF
 12 PRACTITIONER QUALIFICATIONS.—The Sec-
 13 retary shall prohibit a Medicare administrative
 14 contractor that develops a local coverage deter-
 15 mination from imposing such determination on
 16 any coverage limitation with respect to the
 17 qualifications of a physician (as defined in sec-
 18 tion 1861(r)) or a practitioner described in sec-
 19 tion 1842(b)(18)(C) who may furnish the item
 20 or service that is the subject of such determina-
 21 tion.

22 “(F) CIVIL MONETARY PENALTY.—A
 23 Medicare administrative contractor that devel-
 24 ops a local coverage determination that fails to
 25 make information described in subparagraph

1 (D) available as required by the Secretary
 2 under such subparagraph or comply with the
 3 prohibition under subparagraph (E) is subject
 4 to a civil monetary penalty of not more than
 5 \$10,000 for each such failure. The provisions of
 6 section 1128A (other than subsections (a) and
 7 (b)) shall apply to a civil money penalty under
 8 the previous sentence in the same manner as
 9 such provisions apply to a penalty or proceeding
 10 under section 1128A(a).”.

11 (b) TIMING OF REVIEW.—Section 1869(f)(2) of the
 12 Social Security Act (42 U.S.C. 1395ff(f)(2)) is amended
 13 by adding at the end the following new subparagraph:

14 “(D) TIMING OF REVIEW.—An aggrieved
 15 party may file a complaint described in sub-
 16 paragraph (A) with respect to a local coverage
 17 determination on or after the date that such de-
 18 termination is posted, in accordance with sec-
 19 tion 1862(l)(5)(D), on the Internet website of
 20 the Medicare administrative contractor making
 21 such determination, whether or not such deter-
 22 mination has taken effect.”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to local coverage determinations
 25 made available on the Internet website of a Medicare ad-

1 ministrative contractor and on the Medicare Internet
 2 website on or after the date of the enactment of this Act.

3 **SEC. 402. LOCUM TENENS.**

4 (a) IN GENERAL.—Section 1842(b)(6) of the Social
 5 Security Act (42 U.S.C. 1395u(b)(6)) is amended—

6 (1) by striking “and (J)” and inserting “, (J)”;

7 and

8 (2) by inserting before the period at the end the
 9 following “, and (K) in the case of services furnished
 10 by a certified registered nurse anesthetist (as de-
 11 fined in section 1861(bb)(2)), nurse practitioner, or
 12 clinical nurse specialist (as defined in section
 13 1861(aa)(5)), or a certified nurse-midwife (as de-
 14 fined in section 1861(gg)(2)), subparagraph (D) of
 15 this sentence shall apply to such services and such
 16 anesthetist, practitioner, specialist, or nurse-midwife
 17 in the same manner as such subparagraph applies to
 18 physicians’ services furnished by physicians”.

19 (b) IMPLEMENTATION.—Not later than 90 days after
 20 the date of the enactment of this Act, the Secretary of
 21 Health and Human Services shall update all applicable
 22 regulations and subregulatory guidance necessary to carry
 23 out this section.

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