

118TH CONGRESS
1ST SESSION

H. R. 2857

To direct the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services to conduct an annual study on health care competition and consolidation at the State level.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2023

Mrs. SPARTZ introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To direct the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services to conduct an annual study on health care competition and consolidation at the State level.

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 “Measuring State
5 Healthcare Freedom Act”.

1 **SEC. 2. ANNUAL STUDY ON HEALTH CARE COMPETITION**
2 **AND CONSOLIDATION AT STATE LEVEL.**

3 (a) **IN GENERAL.**—Over each of the 10 years fol-
4 lowing the date of enactment of this Act, the Assistant
5 Secretary for Planning and Evaluation of the Department
6 of Health and Human Services (in this section referred
7 to as the “Assistant Secretary”) shall conduct a study on
8 health care competition and consolidation at the State
9 level.

10 (b) **CONSULTATION.**—In conducting the study under
11 this section, the Assistant Secretary shall consult with the
12 Chair of the Federal Trade Commission and the Assistant
13 Attorney General in charge of the Antitrust Division of
14 the Department of Justice.

15 (c) **OBTAINING DATA.**—The Assistant Secretary may
16 secure from the Federal Trade Commission information
17 necessary to enable the Assistant Secretary to carry out
18 subsection (d)(2). Upon request of the Assistant Sec-
19 retary, the Chair of the Federal Trade Commission shall
20 furnish that information to the Assistant Secretary.

21 (d) **METRICS.**—The study under this section shall in-
22 clude data collection on each of the following:

23 (1) Licensing requirements for doctors, nurses,
24 and other health care practitioners, including re-
25 quirements with respect to—

26 (A) initial licensure;

- 1 (B) ongoing maintenance of licensure;
- 2 (C) specific training and postgraduate and
- 3 continuing medical education;
- 4 (D) residency supervisory requirements;
- 5 and
- 6 (E) board certification.

7 (2) Mergers and acquisitions (both vertical and
8 horizontal), involving—

- 9 (A) hospitals;
- 10 (B) ambulatory or outpatient practices;
- 11 (C) ambulatory surgical centers;
- 12 (D) health insurance providers;
- 13 (E) habilitative service providers (such as
- 14 providers of physical therapy or occupational
- 15 therapy); and
- 16 (F) telehealth.

17 (3) The number of—

- 18 (A) State laws establishing a legal mecha-
- 19 nism by which a State approves mergers be-
- 20 tween or among two or more hospitals (com-
- 21 monly referred to as “certificates of public ad-
- 22 vantage”); and
- 23 (B) State laws establishing a legal mecha-
- 24 nism for regulating the growth of construction

1 of new health care facilities (commonly referred
2 to as “certificates of need”).

3 (4) The availability of alternative forms of
4 health insurance coverage, including—

5 (A) short-term limited duration insurance
6 (as defined for purposes of section 2791(b)(5)
7 of the Public Health Service Act (42 U.S.C.
8 300gg-91(b)(5))); and

9 (B) association health plans (including
10 plans offered through the American Farm Bu-
11 reau Federation).

12 (5) The number of each of the following in op-
13 eration at the start and the end of each year covered
14 by the 10-year study period:

15 (A) Hospitals.

16 (B) Medical practices.

17 (C) Ambulatory or outpatient practices.

18 (D) Ambulatory surgical centers.

19 (E) Health insurance providers.

20 (F) Habilitative service providers.

21 (6) The Herfindahl-Hirschman Index, within
22 geographic areas defined by the Assistant Secretary
23 in consultation with the Bureau of Competition of
24 the Federal Trade Commission, for the following
25 health care services:

1 (A) General acute care hospital services.

2 (B) Ambulatory or outpatient medical
3 services, disaggregated by medical specialty.

4 (C) Habilitative services.

5 (e) ANNUAL REPORTS.—

6 (1) IN GENERAL.—Not later than the end of
7 each of the 10 years referred to in subsection (a),
8 the Assistant Secretary shall submit to the Com-
9 mittee on Energy and Commerce and the Committee
10 on Ways and Means of the House of Representatives
11 and the Committee on Finance and the Committee
12 on Health, Education, Labor, and Pensions of the
13 Senate a report on the status and results of the
14 study under this section.

15 (2) PUBLICATION; PUBLICLY ACCESSIBLE
16 DATASETS.—Not later than the end of each of the
17 10 years referred to in subsection (a), the Assistant
18 Secretary shall—

19 (A) publish on the website of the Office of
20 the Assistant Secretary the report submitted
21 under paragraph (1) for the respective year;
22 and

23 (B) make the data collected through the
24 study under this section available to the public

1 on such website in a manner that is publicly ac-
2 cessible and interactive.

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