

118TH CONGRESS
1ST SESSION

S. 2418

To amend titles XVIII and XIX of the Social Security Act 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

JULY 20, 2023

Mr. MERKLEY (for himself and Ms. LUMMIS) 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 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) SHORT TITLE.—This Act may be cited as the
5 “Improving Care and Access to Nurses Act” or the “I
6 CAN Act”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 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 service Medicare program.
- Sec. 105. Preserving access to home infusion therapy.
- Sec. 106. Increasing access to hospice care services.
- 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.

TITLE V—MISCELLANEOUS

- Sec. 501. Effective date.

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)),”.

1 **SEC. 102. PERMITTING NURSE PRACTITIONERS TO SATISFY**
2 **MEDICARE DOCUMENTATION REQUIREMENT**
3 **FOR COVERAGE OF CERTAIN SHOES FOR IN-**
4 **DIVIDUALS WITH DIABETES.**

5 Section 1861(s)(12) of the Social Security Act (42
6 U.S.C. 1395x(s)(12)) is amended—

7 (1) in subparagraph (A), by inserting “, nurse
8 practitioner, or physician assistant” after “physi-
9 cian”; and

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

13 **SEC. 103. IMPROVEMENTS TO THE ASSIGNMENT OF BENE-**
14 **FIICIARIES UNDER THE MEDICARE SHARED**
15 **SAVINGS PROGRAM.**

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

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

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

22 (3) by adding at the end the following new sub-
23 paragraph:

24 “(C) in the case of performance years be-
25 ginning on or after January 1, 2024, primary
26 care services provided under this title by an

1 ACO professional described in subsection
2 (h)(1)(B).”.

3 **SEC. 104. EXPANDING THE AVAILABILITY OF MEDICAL NU-**
4 **TRITION THERAPY SERVICE MEDICARE PRO-**
5 **GRAM.**

6 Section 1861(vv)(1) of the Social Security Act (42
7 U.S.C. 1395x(vv)(1)) is amended by inserting “, a nurse
8 practitioner, a clinical nurse specialist, or a physician as-
9 sistant (as such terms are defined in subsection (aa)(5))”
10 before the period at the end.

11 **SEC. 105. PRESERVING ACCESS TO HOME INFUSION THER-**
12 **APY.**

13 (a) ALLOWING APPLICABLE PROVIDERS TO ESTAB-
14 LISH HOME INFUSION THERAPY PLANS.—Section
15 1861(iii)(1)(B) of the Social Security Act (42 U.S.C.
16 1395x(iii)(1)(B)) is amended—

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

20 (2) by striking “a physician (as so defined)”
21 and inserting “an applicable provider (as so de-
22 fined)”.

23 (b) CONFORMING AMENDMENT.—Section 1834(u)(6)
24 of the Social Security Act (42 U.S.C. 1395m(u)(6)) is

1 amended by striking “physician” and inserting “applicable
2 provider (as defined in section 1861(iii)(3)(A))”.

3 **SEC. 106. INCREASING ACCESS TO HOSPICE CARE SERV-**
4 **ICES.**

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

8 (1) in clause (i)—

9 (A) in subclause (I), by striking “a nurse
10 practitioner or”;

11 (B) in subclause (II), by inserting “or
12 nurse practitioner” after “physician”; and

13 (C) in the flush matter following subclause
14 (II), by inserting “, nurse practitioner’s,” after
15 “physician’s”; and

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

18 (b) **HOSPICE CARE DEFINITION.**—Section
19 1861(dd)(1)(C) of the Social Security Act (42 U.S.C.
20 1395x(dd)(1)(C)) is amended by inserting “or nurse prac-
21 titioner” after “physician”.

22 (c) **NURSE PRACTITIONER BILLING.**—Not later than
23 90 days after the date of the enactment of this Act, the
24 Secretary of Health and Human Services shall revise sec-
25 tion 418.304 of title 42, Code of Federal Regulations, to

1 allow nurse practitioners to bill for services not described
2 in paragraph (a) of such section in the same manner as
3 physicians may bill for such services in accordance with
4 paragraph (b) of such section. Such revision shall provide
5 that such services furnished by a nurse practitioner shall
6 be payable at the percent of the physician fee schedule
7 specified in section 1833(a)(1)(O) of the Social Security
8 Act (42 U.S.C. 1395l(a)(1)(O)).

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

15 (a) MEDICARE.—

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

23 (2) CERTIFICATION AUTHORITY FOR NURSE
24 PRACTITIONERS.—Section 1814(a)(3) of the Social

1 Security Act (42 U.S.C. 1395f(a)(3)) is amended by
2 inserting “or nurse practitioner” after “physician”.

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

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

10 (B) in subparagraph (A), by inserting “or
11 a nurse practitioner, in accordance with State
12 law” after “physician”.

13 (4) ADMINISTRATION OF PART B.—Section
14 1842(b)(2)(C) of the Social Security Act (42 U.S.C.
15 1395u(b)(2)(C)) is amended, in the second sen-
16 tence—

17 (A) by inserting “or a nurse practitioner”
18 after “a physician”; and

19 (B) by striking “or a nurse practitioner
20 working in collaboration with that physician, or
21 both”.

22 (5) PROVISION OF MEDICAL AND OTHER
23 HEALTH SERVICES.—Section 1861(s)(2)(K)(ii) of
24 the Social Security Act (42 U.S.C.
25 1395x(s)(2)(K)(ii)) is amended by striking “or clin-

1 ical nurse specialist (as defined in subsection
 2 (aa)(5)) working in collaboration (as defined in sub-
 3 section (aa)(6)) with a physician (as defined in sub-
 4 section (r)(1))” and inserting “(as defined in sub-
 5 section (aa)(5)(A)), or by a clinical nurse specialist
 6 (as defined in subsection (aa)(5)(B)) working in col-
 7 laboration with a physician (as defined in subsection
 8 (r)(1)),”.

9 (6) PRIVILEGES FOR NURSE PRACTITIONERS.—

10 Section 1861 of the Social Security Act (42 U.S.C.
 11 1395x) is amended—

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

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

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

20 (b) MEDICAID.—

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

1 “(44) in each case for which payment for inpa-
2 tient hospital services, skilled nursing facility serv-
3 ices, services in an intermediate care facility de-
4 scribed in section 1905(d), or inpatient mental hos-
5 pital services is made under the State plan—

6 “(A) a physician or nurse practitioner (or,
7 in the case of skilled nursing facility services or
8 intermediate care facility services, a physician
9 or nurse practitioner, or a clinical nurse spe-
10 cialist who is not an employee of the facility but
11 is working in collaboration with a physician)
12 certifies at the time of admission, or, if later,
13 the time the individual applies for medical as-
14 sistance under the State plan (and a physician
15 or nurse practitioner, or a physician assistant
16 under the supervision of a physician, or, in the
17 case of skilled nursing facility services or inter-
18 mediate care facility services, a physician or
19 nurse practitioner, or a clinical nurse specialist
20 who is not an employee of the facility but is
21 working in collaboration with a physician, recer-
22 tifies, where such services are furnished over a
23 period of time, in such cases, at least as often
24 as required under section 1903(g)(6) (or, in the
25 case of services that are services provided in an

1 intermediate care facility, every year), and ac-
2 companied by such supporting material, appro-
3 priate to the case involved, as may be provided
4 in regulations of the Secretary), that such serv-
5 ices are or were required to be given on an in-
6 patient basis because the individual needs or
7 needed such services, and

8 “(B) such services were furnished under a
9 plan established and periodically reviewed and
10 evaluated by a physician or nurse practitioner,
11 or, in the case of skilled nursing facility services
12 or intermediate care facility services, by a phy-
13 sician or nurse practitioner, or a clinical nurse
14 specialist who is not an employee of the facility
15 but is working in collaboration with a physi-
16 cian;”.

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

21 “(A) require that the health care of every
22 resident be provided under the supervision of a
23 physician or nurse practitioner (or, at the op-
24 tion of a State, under the supervision of a clin-
25 ical nurse specialist or physician assistant who

1 is not an employee of the facility but who is
2 working in collaboration with a physician);”.

3 **SEC. 108. IMPROVING ACCESS TO MEDICAID CLINIC SERV-**
4 **ICES.**

5 Section 1905(a)(9) of the Social Security Act (42
6 U.S.C. 1396d(a)(9)) is amended by adding “or nurse
7 practitioner” after “physician” in both places that it ap-
8 pears.

9 **TITLE II—REMOVAL OF BAR-**
10 **RIERS TO PRACTICE ON CER-**
11 **TIFIED REGISTERED NURSE**
12 **ANESTHETISTS**

13 **SEC. 201. CLARIFYING THAT CERTIFIED REGISTERED**
14 **NURSE ANESTHETISTS CAN BE REIMBURSED**
15 **BY MEDICARE FOR EVALUATION AND MAN-**
16 **AGEMENT SERVICES.**

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

1 **SEC. 202. REVISION OF CONDITIONS OF PAYMENT RELAT-**
2 **ING TO SERVICES ORDERED AND REFERRED**
3 **BY CERTIFIED REGISTERED NURSE ANES-**
4 **THETISTS.**

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

10 (1) certified registered nurse anesthetists are
11 authorized to order, certify, and refer services to the
12 extent allowed under the law of the State in which
13 the services are furnished; and

14 (2) payment shall be made under such part for
15 such services so ordered, certified, or referred by
16 certified registered nurse anesthetists.

17 **SEC. 203. SPECIAL PAYMENT RULE FOR TEACHING STU-**
18 **DENT REGISTERED NURSE ANESTHETISTS.**

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

1 **SEC. 204. REMOVING UNNECESSARY AND COSTLY SUPER-**
2 **VISION OF CERTIFIED REGISTERED NURSE**
3 **ANESTHETISTS.**

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

6 (1) in the second sentence, by inserting “, but
7 may not require that certified registered nurse anes-
8 thetists provide services under the supervision of a
9 physician” after “certification of nurse anes-
10 thetists”; and

11 (2) in the third sentence, by inserting “under
12 the supervision of an anesthesiologist” after “an an-
13 esthesiologist assistant”.

14 **SEC. 205. CRNA SERVICES AS A MEDICAID-REQUIRED BEN-**
15 **EFIT.**

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

18 (1) by striking “and (B)” and inserting “(B)”;
19 and

20 (2) by inserting before the semicolon at the end
21 the following: “, and (C) services furnished by a cer-
22 tified registered nurse anesthetist (as defined in sec-
23 tion 1861(bb)(2)), which such certified registered
24 nurse anesthetist is authorized to perform under
25 State law (or the State regulatory mechanism as
26 provided by State law)”.

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

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

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

7 (3) by inserting after paragraph (87) the fol-
8 lowing new paragraph:

9 “(88) provide for payment for the services of a
10 certified registered nurse anesthetist (as defined in
11 section 1861(bb)(1)) in amounts no lower than the
12 amounts, using the same methodology, used for pay-
13 ment for amounts under section 1833(a)(1)(H).”.

14 **TITLE III—REMOVAL OF BAR-**
15 **RIERS TO PRACTICE ON CER-**
16 **TIFIED NURSE-MIDWIVES**

17 **SEC. 301. IMPROVING ACCESS TO TRAINING IN MATERNITY**
18 **CARE.**

19 (a) MEDICARE PAYMENTS FOR SUPERVISION BY
20 CERTIFIED NURSE-MIDWIVES.—Paragraph (1) of section
21 1861(gg) of the Social Security Act (42 U.S.C. 1395x(gg))
22 is amended to read as follows:

23 “(1) The term ‘certified nurse-midwife services’
24 means—

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

4 “(B) such services (and such supplies and
5 services furnished as an incident to the nurse-
6 midwife’s service) which—

7 “(i) the certified nurse-midwife is le-
8 gally authorized to perform under State
9 law (or the State regulatory mechanism
10 provided by State law) as would otherwise
11 be covered if furnished by a physician;

12 “(ii) are furnished under the super-
13 vision of a certified-nurse midwife by an
14 intern or resident-in-training (as described
15 in subsection (b)(6));

16 “(iii) would otherwise be described in
17 subparagraph (A) if furnished by a cer-
18 tified nurse-midwife; and

19 “(iv) would otherwise be covered if
20 furnished under the supervision of a physi-
21 cian.”.

22 (b) CLARIFYING PERMISSIBILITY OF USING CERTAIN
23 GRANTS FOR CLINICAL TRAINING BY CERTIFIED NURSE-
24 MIDWIVES.—Section 811(a)(1) of the Public Health Serv-

1 ice Act (42 U.S.C. 296j(a)(1)) is amended by inserting
2 “, including clinical training,” after “projects”.

3 **SEC. 302. IMPROVING MEDICARE PATIENT ACCESS TO**
4 **HOME HEALTH SERVICES PROVIDED BY CER-**
5 **TIFIED NURSE-MIDWIVES.**

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

8 (1) in paragraph (2)—

9 (A) by inserting “or a certified nurse-mid-
10 wife (as defined in section 1861(gg)),” after “or
11 a physician assistant (as defined in section
12 1861(aa)(5)) who is working in accordance with
13 State law,”; and

14 (B) in subparagraph (A)—

15 (i) in each of clauses (ii) and (iii), by
16 striking “or a physician assistant (as the
17 case may be)” and inserting “a physician
18 assistant, or a certified nurse-midwife (as
19 the case may be)”;

20 (ii) in clause (iv), by—

21 (I) inserting “or by a certified
22 nurse-midwife (as defined in section
23 1861(gg))” after “(but in no case
24 later than the date that is 6 months

1 after the date of the enactment of the
2 CARES Act”); and

3 (II) by striking “(as defined in
4 section 1861(gg))”; and

5 (2) in the matter following paragraph (2), by
6 striking “or physician assistant (as the case may
7 be)” and inserting “physician assistant, or certified
8 nurse-midwife (as the case may be)” each place it
9 appears.

10 (b) CONFORMING AMENDMENTS.—Section 1895 of
11 the Social Security Act (42 U.S.C. 1395(fff)) is amend-
12 ed—

13 (1) in subsection (c)(1), by inserting “a cer-
14 tified nurse-midwife (as defined in section
15 1861(gg)),” after “clinical nurse specialist (as those
16 terms are defined in section 1861(aa)(5)),”; and

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

22 **SEC. 303. IMPROVING ACCESS TO DMEPOS FOR MEDICARE**
23 **BENEFICIARIES.**

24 Section 1834(a) of the Social Security Act (42 U.S.C.
25 1395m(a)) is amended—

1 (1) in paragraph (1)(E)(ii) by striking “or a
2 clinical nurse specialist (as those terms are defined
3 in section 1861(aa)(5))” and inserting “, a clinical
4 nurse specialist (as those terms are defined in sec-
5 tion 1861(aa)(5)), or a certified nurse-midwife (as
6 defined in section 1861(gg))”; and

7 (2) in paragraph (11)(B)(ii)—

8 (A) by striking “or a clinical nurse spe-
9 cialist (as those terms are defined in section
10 1861(aa)(5))” and inserting “a clinical nurse
11 specialist (as those terms are defined in section
12 1861(aa)(5)), or a certified nurse-midwife (as
13 defined in section 1861(gg))”; and

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

16 **SEC. 304. TECHNICAL CHANGES TO QUALIFICATIONS AND**
17 **CONDITIONS WITH RESPECT TO THE SERV-**
18 **ICES OF CERTIFIED NURSE-MIDWIVES.**

19 Section 1861(gg)(2) of the Social Security Act (42
20 U.S.C. 1395x(gg)(2)) is amended by striking “, or has
21 been certified by an organization recognized by the Sec-
22 retary” and inserting “and has been certified by the Amer-
23 ican Midwifery Certification Board (or a successor organi-
24 zation)”.

1 **TITLE IV—IMPROVING FEDERAL**
2 **HEALTH PROGRAMS FOR ALL**
3 **ADVANCED PRACTICE REG-**
4 **ISTERED NURSES**

5 **SEC. 401. REVISING THE LOCAL COVERAGE DETERMINA-**
6 **TION PROCESS UNDER THE MEDICARE PRO-**
7 **GRAM.**

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

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

12 “(vi) Identification of any medical or
13 scientific experts whose advice was ob-
14 tained by such contractor during the devel-
15 opment of such determination, whether or
16 not such contractor relied on such advice
17 in developing such determination.

18 “(vii) A hyperlink to any written com-
19 munication between such contractor and
20 another entity that such contractor relied
21 on when developing such determination.

22 “(viii) A hyperlink to any rule, guide-
23 line, protocol, or other criterion that such
24 contractor relied on when developing such
25 determination.”; and

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

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

14 “(F) CIVIL MONETARY PENALTY.—A
15 Medicare administrative contractor that devel-
16 ops a local coverage determination that fails to
17 make information described in subparagraph
18 (D) available as required by the Secretary
19 under such subparagraph or comply with the
20 prohibition under subparagraph (E) is subject
21 to a civil monetary penalty of not more than
22 \$10,000 for each such failure. The provisions of
23 section 1128A (other than subsections (a) and
24 (b)) shall apply to a civil money penalty under
25 the previous sentence in the same manner as

1 such provisions apply to a penalty or proceeding
2 under section 1128A(a).”.

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

6 “(D) **TIMING OF REVIEW.**—An aggrieved
7 party may file a complaint described in sub-
8 paragraph (A) with respect to a local coverage
9 determination on or after the date that such de-
10 termination is posted, in accordance with sec-
11 tion 1862(l)(5)(D), on the Internet website of
12 the Medicare administrative contractor making
13 such determination, whether or not such deter-
14 mination has taken effect.”.

15 (c) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to local coverage determinations
17 made available on the internet website of a Medicare ad-
18 ministrative contractor and on the Medicare internet
19 website on or after the date of the enactment of this Act.

20 **SEC. 402. LOCUM TENENS.**

21 Section 1842(b)(6) of the Social Security Act (42
22 U.S.C. 1395u(b)(6)) is amended, in the first sentence—

23 (1) by striking “and (J)” and inserting “(J)”;
24 and

1 (2) by inserting before the period at the end the
2 following: “, and (K) in the case of services fur-
3 nished by a certified registered nurse anesthetist (as
4 defined in section 1861(bb)(2)), nurse practitioner,
5 or clinical nurse specialist (as defined in section
6 1861(aa)(5)), or a certified nurse midwife (as de-
7 fined in section 1861(gg)(2)), subparagraph (D) of
8 this sentence shall apply to such services and such
9 anesthetist, practitioner, specialist, or nurse-midwife
10 in the same manner as such subparagraph applies to
11 physicians’ services furnished by physicians”.

12 **TITLE V—MISCELLANEOUS**

13 **SEC. 501. EFFECTIVE DATE.**

14 The provisions of, including the amendments made
15 by, this Act (other than sections 103 and 401) shall apply
16 with respect to items and services furnished on or after
17 the date that is 90 days after the date of the enactment
18 of this Act. Notwithstanding any other provision of law,
19 the Secretary of Health and Human Services shall imple-
20 ment such provisions, including such amendments,
21 through interim final rule or subregulatory guidance if the
22 Secretary determines such implementation to be necessary
23 for purposes of complying with the preceding sentence or
24 with any other effective date provided in this Act.

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