

112TH CONGRESS  
2D SESSION

# S. 3539

To encourage the adoption and use of certified electronic health record technology by safety net providers and clinics.

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2012

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

---

## A BILL

To encourage the adoption and use of certified electronic health record technology by safety net providers and clinics.

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 “Medicaid Information  
5 Technology to Enhance Community Health Act of 2012”  
6 or the “MITECH Act”.

1 **SEC. 2. INCENTIVES FOR ADOPTION AND USE OF EHR**  
2 **TECHNOLOGY BY SAFETY NET CLINICS AND**  
3 **PROVIDERS.**

4 Section 1903(t) of the Social Security Act (42 U.S.C.  
5 1396b(t)) is amended—

6 (1) in paragraph (2)—

7 (A) in subparagraph (A)—

8 (i) in clause (i), by inserting “or  
9 QSNC-based” after “hospital-based”;

10 (ii) in clause (ii)—

11 (I) by inserting “or QSNC-  
12 based” after “hospital-based”; and

13 (II) by striking “and” at the end  
14 and inserting “or”; and

15 (iii) in clause (iii), by striking “who  
16 practices predominantly in a Federally  
17 qualified health center or rural health clin-  
18 ic” and inserting “subject to paragraph  
19 (11)(C), who practices predominantly in a  
20 Federally qualified health center, rural  
21 health clinic, or qualified safety net clinic”;  
22 and

23 (B) in subparagraph (B)—

24 (i) in clause (i), by striking “or”;

25 (ii) in clause (ii), by striking the pe-  
26 riod at the end and inserting “, or”; and

1 (iii) by adding at the end the fol-  
2 lowing new clause:

3 “(iii) subject to paragraph (11), a qualified  
4 safety net clinic (as defined in paragraph (3)(G)).”;  
5 (2) in paragraph (3)—

6 (A) in subparagraph (B)(v), by striking  
7 “rural health clinic” and all that follows  
8 through the period and inserting “rural health  
9 clinic, Federally qualified health center, or  
10 qualified safety net clinic that is led by a physi-  
11 cian assistant.”; and

12 (B) by adding at the end the following new  
13 subparagraphs:

14 “(G) The term ‘qualified safety net clinic’  
15 means a clinic or network of clinics that is operated  
16 by a private non-profit or public entity and that has  
17 at least 30 percent of its patient volume (as esti-  
18 mated in accordance with a methodology established  
19 by the Secretary) attributable to needy individuals  
20 (as defined in subparagraph (F)).

21 “(H) The term ‘QSNC-based’ means, with re-  
22 spect to an eligible professional, an individual who  
23 furnishes substantially all of their professional serv-  
24 ices in a qualified safety net clinic and through the  
25 use of the facilities and equipment, including quali-

1       fied electronic health records, of the clinic. The de-  
2       termination of whether an eligible professional is a  
3       QSNC-based eligible professional shall be made on  
4       the basis of the site of service (as defined by the  
5       Secretary) and without regard to any employment or  
6       billing arrangement between the eligible professional  
7       and any other provider.”;

8               (3) in paragraph (5)—

9                       (A) in subparagraph (A), by inserting  
10                      “clause (i) or (ii) of” before “paragraph  
11                      (2)(B)”;

12                     (B) by adding at the end the following new  
13                     subparagraph:

14                    “(E) For purposes of payments described in  
15                    paragraph (1)(B) to a Medicaid provider described  
16                    in paragraph (2)(B)(iii), the Secretary shall estab-  
17                    lish a methodology for determining the maximum  
18                    amount of payment permitted for each such pro-  
19                    vider.”;

20                    (4) by adding at the end the following new  
21                    paragraph:

22                    “(11)(A) Not later than January 1, 2015, the Sec-  
23                    retary, in consultation with States and other relevant  
24                    stakeholders, shall promulgate regulations to establish a  
25                    procedure through which a qualified safety net clinic may

1 demonstrate meaningful use of certified EHR technology  
2 by such clinic for purposes of satisfying the requirement  
3 described in paragraph (6)(C)(i)(II).

4 “(B) A qualified safety net clinic shall not be eligible  
5 to receive payments described in paragraph (1)(B) before  
6 the date on which the Secretary establishes the procedure  
7 described in subparagraph (A). On and after that date,  
8 a qualified safety net clinic may receive such payments  
9 if the qualified safety net clinic notifies the Secretary that  
10 the qualified safety net clinic elects to receive such pay-  
11 ments in lieu of the Secretary making payments described  
12 in paragraph (1)(A) to the eligible professionals who prac-  
13 tice predominately in the qualified safety net clinic.

14 “(C) On or after the date that the Secretary estab-  
15 lishes the procedure described in subparagraph (A), an eli-  
16 gible professional who practices predominately in a quali-  
17 fied safety net clinic, as described in paragraph (2)(A)(iii),  
18 shall not be eligible to receive payments described in para-  
19 graph (1)(A) if the qualified safety net clinic receives pay-  
20 ments described in paragraph (1)(B).”.

○