

115TH CONGRESS
1ST SESSION

S. 527

To improve access to emergency medical services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

Mr. BLUNT introduced the following bill; which was read twice and referred
to the Committee on Health, Education, Labor, and Pensions

A BILL

To improve access to emergency medical services, 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.**

4 This Act may be cited as the “Health Care Safety
5 Net Enhancement Act of 2017”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY.**

7 The constitutional authority upon which this Act
8 rests is the power of the Congress to provide for the gen-
9 eral welfare, to regulate commerce, and to make all laws
10 which shall be necessary and proper for carrying into exe-

1 cution Federal powers, as enumerated in section 8 of arti-
 2 cle I of the Constitution of the United States.

3 **SEC. 3. PROTECTION FOR EMERGENCY AND RELATED**
 4 **SERVICES FURNISHED PURSUANT TO**
 5 **EMTALA.**

6 Section 224(g) of the Public Health Service Act (42
 7 U.S.C. 233(g)) is amended—

8 (1) in paragraph (4), by striking “An entity”
 9 and inserting “Subject to paragraph (6), an entity”;
 10 and

11 (2) by adding at the end the following:

12 “(6)(A) For purposes of this section—

13 “(i) an entity described in subparagraph (B)
 14 shall be considered to be an entity described in para-
 15 graph (4); and

16 “(ii) the provisions of this section shall apply to
 17 an entity described in subparagraph (B) in the same
 18 manner as such provisions apply to an entity de-
 19 scribed in paragraph (4), except that—

20 “(I) notwithstanding paragraph (1)(B), the
 21 deeming of any entity described in subpara-
 22 graph (B), or of an officer, governing board
 23 member, employee, contractor, or on-call pro-
 24 vider of such an entity, to be an employee of
 25 the Public Health Service for purposes of this

1 section shall apply only with respect to items
2 and services that are furnished to an individual
3 pursuant to section 1867 of the Social Security
4 Act and to post stabilization services (as de-
5 fined in subparagraph (D)) furnished to such
6 an individual;

7 “(II) nothing in paragraph (1)(D) shall be
8 construed as preventing a physician or physi-
9 cian group described in subparagraph (B)(ii)
10 from making the application referred to in such
11 paragraph or as conditioning the deeming of a
12 physician or physician group that makes such
13 an application upon receipt by the Secretary of
14 an application from the hospital or emergency
15 department that employs or contracts with the
16 physician or group, or enlists the physician or
17 physician group as an on-call provider;

18 “(III) notwithstanding paragraph (3), this
19 paragraph shall apply only with respect to
20 causes of action arising from acts or omissions
21 that occur on or after January 1, 2018;

22 “(IV) paragraph (5) shall not apply to a
23 physician or physician group described in sub-
24 paragraph (B)(ii);

“(V) the Attorney General, in consultation with the Secretary, shall make separate estimates under subsection (k)(1) with respect to entities described in subparagraph (B) and entities described in paragraph (4) (other than those described in subparagraph (B)), and the Secretary shall establish separate funds under subsection (k)(2) with respect to such groups of entities, and any appropriations under this subsection for entities described in subparagraph (B) shall be separate from the amounts authorized by subsection (k)(2);

“(VI) notwithstanding subsection (k)(2), the amount of the fund established by the Secretary under such subsection with respect to entities described in subparagraph (B) may exceed a total of \$10,000,000 for a fiscal year; and

“(VII) subsection (m) shall not apply to entities described in subparagraph (B).

“(B) An entity described in this subparagraph is—

“(i) a hospital or an emergency department to which section 1867 of the Social Security Act applies; and

1 “(ii) a physician or physician group that is em-
2 ployed by, is under contract with, or is an on-call
3 provider of such hospital or emergency department,
4 to furnish items and services to individuals under
5 such section.

6 “(C) For purposes of this paragraph, the term ‘on-
7 call provider’ means a physician or physician group that—

8 “(i) has full, temporary, or locum tenens staff
9 privileges at a hospital or emergency department to
10 which section 1867 of the Social Security Act ap-
11 plies; and

12 “(ii) is not employed by or under contract with
13 such hospital or emergency department, but agrees
14 to be ready and available to provide services pursu-
15 ant to section 1867 of the Social Security Act or
16 post stabilization services to individuals being treat-
17 ed in the hospital or emergency department with or
18 without compensation from the hospital or emer-
19 gency department.

20 “(D) For purposes of this paragraph, the term ‘post
21 stabilization services’ means, with respect to an individual
22 who has been treated by an entity described in subpara-
23 graph (B) for purposes of complying with section 1867
24 of the Social Security Act, services that are—

1 “(i) related to the condition that was so treated;
2 and

3 “(ii) provided after the individual is stabilized
4 in order to maintain the stabilized condition or to
5 improve or resolve the condition of the individual.

6 “(E)(i) Nothing in this paragraph (or in any other
7 provision of this section as such provision applies to enti-
8 ties described in subparagraph (B) by operation of sub-
9 paragraph (A)) shall be construed as authorizing or re-
10 quiring the Secretary to make payments to such entities,
11 the budget authority for which is not provided in advance
12 by appropriation Acts.

13 “(ii) The Secretary shall limit the total amount of
14 payments under this paragraph for a fiscal year to the
15 total amount appropriated in advance by appropriation
16 Acts for such purpose for such fiscal year. If the total
17 amount of payments that would otherwise be made under
18 this paragraph for a fiscal year exceeds such total amount
19 appropriated, the Secretary shall take such steps as may
20 be necessary to ensure that the total amount of payments
21 under this paragraph for such fiscal year does not exceed
22 such total amount appropriated.”.

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