

116TH CONGRESS
1ST SESSION

S. 1993

To restrict Federal funding for health care entities that do not respect
all human life and patient rights.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2019

Mr. CRAMER (for himself, Mr. DAINES, and Mrs. BLACKBURN) introduced the
following bill; which was read twice and referred to the Committee on
Health, Education, Labor, and Pensions

A BILL

To restrict Federal funding for health care entities that
do not respect all human life and patient rights.

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 “Patient Rights Act”.

5 **SEC. 2. RESTRICTION ON FEDERAL FUNDING FOR HEALTH**

6 **CARE ENTITIES THAT DO NOT RESPECT ALL**

7 **HUMAN LIFE AND PATIENT RIGHTS.**

8 (a) IN GENERAL.—Subject to section 4, no funds ap-
9 propriated by Congress for the purpose of paying (directly
10 or indirectly, in whole or in part) for the provision of

1 health care services shall be paid to any entity, unless the
 2 entity certifies to the Secretary of Health and Human
 3 Services (referred to in this Act as the “Secretary”) that
 4 the entity respects all human life and patient rights by
 5 ensuring that any health care practitioner employed by,
 6 or utilizing the facilities or resources of, such entity—

7 (1) exercises the same degree of professional
 8 skill, care, and diligence to preserve the life and
 9 health of any patient as a reasonably diligent and
 10 conscientious health care practitioner would render
 11 to a patient in a different state of functionality, de-
 12 velopment, or degree of dependence, including a pa-
 13 tient who is—

- 14 (A) unborn;
- 15 (B) newly born;
- 16 (C) born prematurely;
- 17 (D) pregnant;
- 18 (E) elderly;
- 19 (F) mentally or physically disabled;
- 20 (G) terminally ill;
- 21 (H) in a persistent vegetative state;
- 22 (I) unresponsive or comatose; or
- 23 (J) otherwise incapable of self-advocacy;

24 (2) does not intentionally end the life of, or oth-
 25 erwise harm, any patient, including any patient de-

1 scribed in paragraph (1), by any means or for any
2 reason, including by the use or prescription of any
3 instrument, medicine, drug, or any other substance
4 or device; and

5 (3) does not institute a do-not-resuscitate order
6 or a similar order with respect to any patient for
7 any reason without obtaining the prior consent of an
8 applicable individual described in section 4(1)(A).

9 (b) RULE OF CONSTRUCTION.—Subsection (a) de-
10 scribes the minimum standard of care required of entities
11 described in such paragraph. Nothing in this subsection
12 shall be construed as a reason for a practitioner to not
13 help a patient who is in a worse or different condition than
14 the cases described in paragraph (1).

15 **SEC. 3. VIOLATIONS.**

16 (a) REVIEW BY THE SECRETARY.—Beginning not
17 later than 1 year after the date of enactment of this Act,
18 the Secretary, not less frequently than once every 5 years,
19 shall conduct a review of each entity that receives funds
20 described in section 2 to determine whether such entities
21 are in compliance with such section.

22 (b) SUSPECTED VIOLATION REPORTS.—The Sec-
23 retary shall establish a process by which—

24 (1) suspected violations of section 2 may be
25 confidentially reported to the Director of the Office

1 for Civil Rights of the Department of Health and
2 Human Services; and

3 (2) the Secretary fully investigates each report
4 received under paragraph (1).

5 (c) PUBLIC DATABASE.—The Secretary shall estab-
6 lish and maintain a public, online, searchable database of
7 the entities subject to this section, indicating whether each
8 such entity is in compliance with the requirements of sec-
9 tion 2.

10 (d) ENFORCEMENT.—Any entity found to violate the
11 requirements of section 2 shall be ineligible for funding
12 described in such subsections for a period of at least 1
13 year. After such 1-year period, such funding shall be rein-
14 stated upon a review conducted by the Secretary that con-
15 firms that the entity is in compliance with such require-
16 ments.

17 (e) CIVIL ACTION FOR CERTAIN VIOLATIONS.—

18 (1) IN GENERAL.—The Attorney General or
19 any person adversely affected by an actual or threat-
20 ened violation of section 2, including the parents,
21 children, spouse, or legal guardian of a patient, may,
22 in a civil action, obtain appropriate relief with re-
23 gard to such violation.

24 (2) ADMINISTRATIVE REMEDIES NOT RE-
25 QUIRED.—An action under this subsection may be

1 commenced, and relief may be granted, without re-
 2 gard to whether the party commencing the action
 3 has sought or exhausted available administrative
 4 remedies.

5 (3) DEFENDANTS IN ACTIONS UNDER THIS
 6 SECTION MAY INCLUDE GOVERNMENTAL ENTITIES
 7 OR OTHERS.—An action under this subsection may
 8 be maintained against, among others, a party that
 9 is a Federal, State, or local governmental entity. Re-
 10 lief in an action under this paragraph may include
 11 money damages even if the defendant is such a gov-
 12 ernmental entity. An action under this paragraph
 13 may not be maintained against a woman upon whom
 14 an abortion is performed or attempted to be per-
 15 formed in violation of section 2.

16 (4) NATURE OF RELIEF.—In an action under
 17 this subsection, the court shall grant—

18 (A) all necessary equitable and legal relief,
 19 including, where appropriate, declaratory relief,
 20 injunctive relief, civil penalties, and compen-
 21 satory damages, to prevent the occurrence, con-
 22 tinuance, or repetition of the actual or threat-
 23 ened violation of section 2 and to compensate
 24 for losses resulting from such violation; and

1 (B) to a prevailing plaintiff, reasonable at-
2 torneys' fees and litigation expenses as part of
3 the costs.

4 **SEC. 4. CONSTRUCTION AND TREATMENT OF CERTAIN**
5 **SERVICES.**

6 Nothing in this Act shall be construed to apply to
7 or to affect any limitation relating to—

8 (1) the withholding or withdrawing of life-sav-
9 ing or life-sustaining medical treatment or medical
10 care if—

11 (A)(i) such withholding or withdrawing is
12 after informed consent has been provided by—

13 (I) the patient;

14 (II) in the case where the patient is
15 incapable of decision making, an individual
16 authorized to make health care decisions
17 on behalf of, and in the best interests of,
18 the patient; or

19 (III) in the case where the patient is
20 a minor, the patient and the patient's par-
21 ent or legal guardian, or another individual
22 authorized to make health care decisions
23 on behalf of, and in the best interests of,
24 the patient; or

(ii) in the case where an individual described in clause (i) is not available to provide informed consent, as described in such clause, the entity provides sufficient opportunity for an individual described in clause (i)(II) to present and provide informed consent for such withholding or withdrawing; and

(B) any individual providing informed consent as described in subparagraph (A) is afforded sufficient opportunity to arrange for the patient's transfer to another health care provider willing to provide life-saving or life-sustaining medical treatment or medical care that is not available in the entity;

(2) the withholding or withdrawing of nutrition or hydration if—

(A) such withholding or withdrawing is not for the purpose of causing, or the purpose of assisting in causing, death, for any reason; and

(B) the conditions of paragraph (1) are met;

(3) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service

1 is not also furnished for the purpose of causing, or
 2 the purpose of assisting in causing, death, for any
 3 reason; or

4 (4) any medical procedure required to prevent
 5 the death of a pregnant woman or her unborn child,
 6 so long as every reasonable effort is made to pre-
 7 serve the life of all patients.

8 **SEC. 5. LIST OF PROGRAMS TO WHICH RESTRICTIONS**
 9 **APPLY.**

10 (a) FEDERAL HEALTH CARE FUNDING PRO-
 11 GRAMS.—Section 2 applies to funds appropriated under
 12 or to carry out the following:

13 (1) The Medicare program under title XVIII of
 14 the Social Security Act (42 U.S.C. 1395 et seq.).

15 (2) The Medicaid program under title XIX of
 16 the Social Security Act (42 U.S.C. 1396 et seq.).

17 (3) Title XX of the Social Security Act (42
 18 U.S.C. 1397 et seq.).

19 (4) Title V of the Social Security Act (42
 20 U.S.C. 701 et seq.).

21 (5) The Public Health Service Act (42 U.S.C.
 22 201 et seq.).

23 (6) The Indian Health Care Improvement Act
 24 (25 U.S.C. 1601 et seq.).

1 (7) The Federal Employees Health Benefits
2 program under chapter 89 of title 5, United States
3 Code.

4 (8) The Military health care system (including
5 TRICARE and CHAMPUS programs) under chap-
6 ter 55 of title 10, United States Code.

7 (9) Veterans medical care under chapter 17 of
8 title 38, United States Code.

9 (10) Health services for Peace Corps volunteers
10 under section 5(e) of the Peace Corps Act (22
11 U.S.C. 2504(e)).

12 (11) Medical services for Federal prisoners
13 under section 4005(a) of title 18, United States
14 Code.

15 (12) The Patient Protection and Affordable
16 Care Act (Public Law 111–148).

17 (b) FEDERAL FACILITIES AND PERSONNEL.—The
18 provisions of section 2 apply to facilities and personnel of
19 the following:

20 (1) The Department of Defense operating
21 under chapter 55 of title 10, United States Code.

22 (2) The Veterans Health Administration of the
23 Department of Veterans Affairs.

24 (3) The Public Health Service.

1 (c) NONEXCLUSIVE LIST.—Nothing in this section
2 shall be construed as limiting the application of section
3 2 to the programs specified in subsection (a) or the facili-
4 ties and personnel specified in subsection (b).

5 **SEC. 6. RELATION TO OTHER LAWS.**

6 The provisions of this Act supersede other Federal
7 laws (including laws enacted after the date of the enact-
8 ment of this Act) except to the extent such laws specifi-
9 cally supersede the provisions of this Act.

10 **SEC. 7. EFFECTIVE DATE.**

11 (a) IN GENERAL.—The provisions of this Act take
12 effect on the dates of enactment of this Act and apply
13 to Federal payments made pursuant to obligations in-
14 curred after the date of the enactment of this Act.

15 (b) APPLICATION TO CONTRACTS.—Such provisions
16 shall apply with respect to contracts entered into, renewed,
17 or extended after the date of the enactment of this Act
18 and shall also apply to a contract entered into before such
19 date to the extent permitted under such contract.

○