

116TH CONGRESS
2D SESSION

H. R. 5582

To amend titles XIX and XXI of the Social Security Act to require hospitals and certain other participating providers under Medicaid or the Children's Health Insurance Program to disclose the provider's policy on parental consent for the provision, withdrawal, or denial of life-sustaining treatment for minors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2020

Mr. MURPHY of North Carolina (for himself, Mr. BANKS, Mr. LAMBORN, Mr. LATTA, Mr. MEADOWS, Mr. GAETZ, Mr. MOONEY of West Virginia, Mr. GOSAR, Mr. BABIN, Mr. NORMAN, Mr. RUTHERFORD, and Mr. HARRIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend titles XIX and XXI of the Social Security Act to require hospitals and certain other participating providers under Medicaid or the Children's Health Insurance Program to disclose the provider's policy on parental consent for the provision, withdrawal, or denial of life-sustaining treatment for minors, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Parental Accessibility
3 Rights for Emergency and Negligent Treatment Act”.

4 **SEC. 2. LIFE-SUSTAINING TREATMENT PARENTAL CON-**
5 **SENT POLICY UNDER MEDICAID AND CHIP.**

6 (a) MEDICAID.—Section 1902(w) of the Social Secu-
7 rity Act (42 U.S.C. 1396a(w)) is amended—

8 (1) by striking “the implementation of such
9 rights;” and all that precedes it through “(w)(1)”
10 and inserting the following:

11 “(w)(1) For purposes of subsection (a)(57) and sec-
12 tions 1903(m)(1)(A) and 1919(c)(2)(E), the requirements
13 of this subsection are that a provider or organization (as
14 the case may be) maintain written policies and procedures
15 with respect to all individuals, and in the case of any
16 minor individuals (as defined in paragraph (4)(B)) with
17 respect to the parents and legal guardians of such individ-
18 uals, receiving medical care by or through the provider or
19 organization—

20 “(A) to provide, on an Internet website of the
21 provider or organization, and upon request of an in-
22 dividual or, in the case of a minor individual, at
23 least 1 parent or legal guardian of the minor indi-
24 vidual, written information to each such individual,
25 parent, or legal guardian concerning—

1 “(i) an individual’s rights under State law
2 (whether statutory or as recognized by the
3 courts of the State) to make decisions con-
4 cerning such medical care, including the right
5 to accept, withdraw, or refuse, a medical or sur-
6 gical treatment or life-sustaining procedures, in-
7 cluding hydration and sustenance, and the right
8 to formulate advance directives (as defined in
9 paragraph (4)(A));

10 “(ii) the provider’s or organization’s writ-
11 ten policies respecting the implementation of
12 such rights;

13 “(iii) in the case of a minor individual—

14 “(I) the disclosure of whether or not
15 the consent of at least 1 parent or legal
16 guardian of the minor individual is re-
17 quired for the provision, withdrawal, or de-
18 nial of life-sustaining procedures, including
19 hydration and sustenance, or prior to a do-
20 not-resuscitate order or similar physician’s
21 order being instituted;

22 “(II) notice that the requirement to
23 provide such disclosure must be noted in
24 the minor individual’s medical records; and

1 “(III) if any such consent is required,
2 the procedures for how the consent is ob-
3 tained and recorded;”;

4 (2) in paragraph (2), by striking “adult indi-
5 vidual” and inserting “individual, and in the case of
6 a minor individual, to at least 1 parent or legal
7 guardian of the minor individual”;

8 (3) in paragraph (3), by striking “section” and
9 inserting “subsection”; and

10 (4) in paragraph (4)—

11 (A) by striking “subsection, the term” and
12 inserting “subsection—

13 “(A) the term”; and

14 (B) by adding at the end the following:

15 “(B) the term ‘minor individual’ means an indi-
16 vidual who is an unemancipated individual who has
17 not attained 18 years of age.”.

18 (b) APPLICATION TO CHIP.—Section 2107(e)(1) of
19 the Social Security Act (42 U.S.C. 1397gg(e)(1)) is
20 amended—

21 (1) by redesignating subparagraphs (D)
22 through (S) as subparagraphs (E) through (T), re-
23 spectively; and

24 (2) by inserting after subparagraph (C) the fol-
25 lowing:

1 “(D) Subsections (a)(57) and (w) of sec-
2 tion 1902 (relating to maintenance of written
3 policies and procedures respecting advance di-
4 rectives and parental consent for the denial of
5 life-sustaining procedures for minor individ-
6 uals).”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Subject to paragraph (2),
9 the amendments made by this section shall apply to
10 provider agreements entered into or renewed on or
11 after January 1, 2020.

12 (2) EXCEPTION FOR STATE LEGISLATION.—In
13 the case of a State plan under title XIX or XXI of
14 the Social Security Act which the Secretary of
15 Health and Human Services determines requires
16 State legislation (other than legislation appro-
17 priating funds) in order for the plan to meet the ad-
18 ditional requirements imposed by the amendments
19 made by this section, the State plan shall not be re-
20 garded as failing to comply with the requirements of
21 such title solely on the basis of its failure to meet
22 these additional requirements before the first day of
23 the first calendar quarter beginning after the close
24 of the first regular session of the State legislature

1 that begins after the date of the enactment of this
2 Act.

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