

117TH CONGRESS  
1ST SESSION

# S. 828

To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. BARRASSO (for himself and Ms. STABENOW) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, 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 “Mental Health Access  
5 Improvement Act of 2021”.

1 **SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**  
 2 **SERVICES AND MENTAL HEALTH COUNSELOR**  
 3 **SERVICES UNDER PART B OF THE MEDICARE**  
 4 **PROGRAM.**

5 (a) COVERAGE OF SERVICES.—

6 (1) IN GENERAL.—Section 1861(s)(2) of the  
 7 Social Security Act (42 U.S.C. 1395x(s)(2)) is  
 8 amended—

9 (A) in subparagraph (GG), by striking  
 10 “and” after the semicolon at the end;

11 (B) in subparagraph (HH), by inserting  
 12 “and” after the semicolon at the end; and

13 (C) by adding at the end the following new  
 14 subparagraph:

15 “(II) marriage and family therapist services (as  
 16 defined in subsection (III)(1)) and mental health  
 17 counselor services (as defined in subsection  
 18 (III)(3));”.

19 (2) DEFINITIONS.—Section 1861 of the Social  
 20 Security Act (42 U.S.C. 1395x) is amended by add-  
 21 ing at the end the following new subsection:

22 “Marriage and Family Therapist Services; Marriage and  
 23 Family Therapist; Mental Health Counselor Serv-  
 24 ices; Mental Health Counselor

25 “(III)(1) The term ‘marriage and family therapist  
 26 services’ means services performed by a marriage and

1 family therapist (as defined in paragraph (2)) for the diag-  
2 nosis and treatment of mental illnesses, which the mar-  
3 riage and family therapist is legally authorized to perform  
4 under State law (or the State regulatory mechanism pro-  
5 vided by State law) of the State in which such services  
6 are performed, as would otherwise be covered if furnished  
7 by a physician or as an incident to a physician’s profes-  
8 sional service, but only if no facility or other provider  
9 charges or is paid any amounts with respect to the fur-  
10 nishing of such services.

11 “(2) The term ‘marriage and family therapist’ means  
12 an individual who—

13 “(A) possesses a master’s or doctoral degree  
14 which qualifies for licensure or certification as a  
15 marriage and family therapist pursuant to State  
16 law;

17 “(B) after obtaining such degree has performed  
18 at least 2 years of clinical supervised experience in  
19 marriage and family therapy; and

20 “(C) in the case of an individual performing  
21 services in a State that provides for licensure or cer-  
22 tification of marriage and family therapists, is li-  
23 censed or certified as a marriage and family thera-  
24 pist in such State.

1       “(3) The term ‘mental health counselor services’  
2 means services performed by a mental health counselor (as  
3 defined in paragraph (4)) for the diagnosis and treatment  
4 of mental illnesses which the mental health counselor is  
5 legally authorized to perform under State law (or the  
6 State regulatory mechanism provided by the State law) of  
7 the State in which such services are performed, as would  
8 otherwise be covered if furnished by a physician or as inci-  
9 dent to a physician’s professional service, but only if no  
10 facility or other provider charges or is paid any amounts  
11 with respect to the furnishing of such services.

12       “(4) The term ‘mental health counselor’ means an  
13 individual who—

14               “(A) possesses a master’s or doctor’s degree in  
15       mental health counseling or a related field;

16               “(B) after obtaining such a degree has per-  
17       formed at least 2 years of supervised mental health  
18       counselor practice; and

19               “(C) in the case of an individual performing  
20       services in a State that provides for licensure or cer-  
21       tification of mental health counselors or professional  
22       counselors, is licensed or certified as a mental health  
23       counselor or professional counselor in such State.”.

24               (3) PROVISION FOR PAYMENT UNDER PART  
25       B.—Section 1832(a)(2)(B) of the Social Security

1 Act (42 U.S.C. 1395k(a)(2)(B)) is amended by add-  
2 ing at the end the following new clause:

3 “(v) marriage and family therapist  
4 services (as defined in section 1861(III)(1))  
5 and mental health counselor services (as  
6 defined in section 1861(III)(3));”.

7 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)  
8 of the Social Security Act (42 U.S.C. 1395l(a)(1))  
9 is amended—

10 (A) by striking “and (CC)” and inserting  
11 “(CC)”; and

12 (B) by inserting before the semicolon at  
13 the end the following: “, and (DD) with respect  
14 to marriage and family therapist services and  
15 mental health counselor services under section  
16 1861(s)(2)(II), the amounts paid shall be 80  
17 percent of the lesser of the actual charge for  
18 the services or 75 percent of the amount deter-  
19 mined for payment of a psychologist under sub-  
20 paragraph (L)”.

21 (5) EXCLUSION OF MARRIAGE AND FAMILY  
22 THERAPIST SERVICES AND MENTAL HEALTH COUN-  
23 SELOR SERVICES FROM SKILLED NURSING FACILITY  
24 PROSPECTIVE PAYMENT SYSTEM.—Section  
25 1888(e)(2)(A)(ii) of the Social Security Act (42

1 U.S.C. 1395yy(e)(2)(A)(ii) is amended by inserting  
2 “marriage and family therapist services (as defined  
3 in section 1861(lll)(1)), mental health counselor  
4 services (as defined in section 1861(lll)(3)),” after  
5 “qualified psychologist services.”

6 (6) INCLUSION OF MARRIAGE AND FAMILY  
7 THERAPISTS AND MENTAL HEALTH COUNSELORS AS  
8 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-  
9 tion 1842(b)(18)(C) of the Social Security Act (42  
10 U.S.C. 1395u(b)(18)(C)) is amended by adding at  
11 the end the following new clauses:

12 “(vii) A marriage and family therapist (as de-  
13 fined in section 1861(lll)(2)).

14 “(viii) A mental health counselor (as defined in  
15 section 1861(lll)(4)).”

16 (b) COVERAGE OF CERTAIN MENTAL HEALTH SERV-  
17 ICES PROVIDED IN CERTAIN SETTINGS.—

18 (1) RURAL HEALTH CLINICS AND FEDERALLY  
19 QUALIFIED HEALTH CENTERS.—Section  
20 1861(aa)(1)(B) of the Social Security Act (42  
21 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or  
22 by a clinical social worker (as defined in subsection  
23 (hh)(1))” and inserting “, by a clinical social worker  
24 (as defined in subsection (hh)(1)), by a marriage  
25 and family therapist (as defined in subsection

1 (lll)(2)), or by a mental health counselor (as defined  
2 in subsection (lll)(4))”.

3 (2) HOSPICE PROGRAMS.—Section  
4 1861(dd)(2)(B)(i)(III) of the Social Security Act (42  
5 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by in-  
6 serting “, marriage and family therapist, or mental  
7 health counselor” after “social worker”.

8 (c) AUTHORIZATION OF MARRIAGE AND FAMILY  
9 THERAPISTS AND MENTAL HEALTH COUNSELORS TO  
10 DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERV-  
11 ICES.—Section 1861(ee)(2)(G) of the Social Security Act  
12 (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting “,  
13 including a marriage and family therapist and a mental  
14 health counselor who meets qualification standards estab-  
15 lished by the Secretary” before the period at the end.

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply with respect to services furnished  
18 on or after January 1, 2022.

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