## 112TH CONGRESS 1ST SESSION S.539

To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, and for other purposes.

### IN THE SENATE OF THE UNITED STATES

March 10, 2011

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

# A BILL

- To amend the Public Health Services Act and the Social Security Act to extend health information technology assistance eligibility to behavioral health, mental health, and substance abuse professionals and facilities, 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 "Behavioral Health In-
- 5 formation Technology Act of 2011".

5 Section 3000(3) of the Public Health Services Act (42 U.S.C. 300jj(3)) is amended by inserting "a behav-6 7 ioral or mental health professional (as defined in section 8 331(a)(3)(E)(i)), a substance abuse professional, a psy-9 chiatric hospital (as defined in section 1861(f) of the So-10 cial Security Act), a community mental health center (as 11 described in section 1913(b)(2) (including community 12 mental health centers that are operated by county behav-13 ioral health agencies), a residential mental health treatment facility, an outpatient mental health treatment facil-14 ity, a substance abuse treatment facility," before "and any 15 other category". 16

# 17SEC. 3. EXTENSION OF HEALTH INFORMATION TECH-18NOLOGY REGIONAL EXTENSION CENTERS.

19 Section 3012(c)(4) of the Public Health Service Act
20 (42 U.S.C. 300jj-32(c)(4)) is amended by adding at the
21 end the following:

"(E) Community mental health centers (as
described in section 1913(b)(2)), psychiatric
hospitals (as defined in section 1861(f) of the
Social Security Act), behavioral and mental
health professionals (as defined in section

1	$(\mathbf{D} \mathbf{D} \mathbf{D} \mathbf{D} \mathbf{D} \mathbf{D} \mathbf{D} \mathbf{D} $
1	331(a)(3)(E)(i)), substance abuse professionals,
2	residential mental health treatment facilities,
3	outpatient mental health treatment facilities,
4	and substance abuse treatment facilities, includ-
5	ing such facilities operated, managed, or con-
6	tracted for by a county behavioral health agen-
7	су.".
8	SEC. 4. EXTENSION OF ELIGIBILITY FOR MEDICARE AND
9	MEDICAID HEALTH INFORMATION TECH-
10	NOLOGY ASSISTANCE.
11	(a) PAYMENT INCENTIVES FOR ELIGIBLE PROFES-
12	SIONALS UNDER THE MEDICARE PROGRAM.—Section
10	1949 of the Social Scoupity Act (49 USC 1905m 4) is
13	1848 of the Social Security Act (42 U.S.C. 1395w–4) is
13 14	amended—
14	amended—
14 15	amended— (1) in subsection (a)(7)(E), by amending clause
14 15 16	amended— (1) in subsection (a)(7)(E), by amending clause (iii) to read as follows:
14 15 16 17	amended— (1) in subsection (a)(7)(E), by amending clause (iii) to read as follows: "(iii) ELIGIBLE PROFESSIONAL.—The
14 15 16 17 18	amended— (1) in subsection (a)(7)(E), by amending clause (iii) to read as follows:
14 15 16 17 18 19	amended— (1) in subsection (a)(7)(E), by amending clause (iii) to read as follows:
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	amended— (1) in subsection (a)(7)(E), by amending clause (iii) to read as follows:         "(iii) ELIGIBLE PROFESSIONAL.—The         term 'eligible professional' means any of         the following:         "(I) A physician (as defined sec-
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	amended— <ul> <li>(1) in subsection (a)(7)(E), by amending clause</li> <li>(iii) to read as follows:</li> <li>"(iii) ELIGIBLE PROFESSIONAL.—The</li> <li>term 'eligible professional' means any of</li> <li>the following:</li> <li>"(I) A physician (as defined section 1861(r)).</li> </ul>

1	"(III) A clinical social worker (as						
2							
3	(2) in subsection $(0)(5)$ , by amending subpara-						
4	graph (C) to read as follows:						
5	"(C) ELIGIBLE PROFESSIONAL.—The term						
6	'eligible professional' means any of the fol-						
7	lowing:						
8	"(i) A physician (as defined section						
9	1861(r)).						
10	"(ii) A clinical psychologist providing						
11	qualified psychologist services (as defined						
12	in section 1861(ii)).						
13	"(iii) A clinical social worker (as de-						
14	fined in section $1861(hh)(1)$ ).".						
15	(b) ELIGIBLE HOSPITALS.—Section 1886(s) of the						
16	Social Security Act (42 U.S.C. 1395ww(s)) is amended—						
17	(1) in paragraph $(4)(A)(i)$ , by inserting "(or,						
18	beginning with fiscal year 2015, by one-quarter of						
19	such annual update (determined without regard to						
20	clause (i) or (ii) of paragraph (2)(A) or paragraph						
21	(5))" after "2 percentage points"; and						
22	(2) by adding at the end the following new						
23	paragraph:						
24	"(5) Application of incentives and incen-						
25	TIVE MARKET BASKET ADJUSTMENT FOR ADOPTION						

1	AND MEANINGFUL USE OF CERTIFIED EHR TECH-
2	NOLOGY.—The provisions of subsections (n) and
3	(b)(3)(B)(ix) shall apply to a psychiatric hospital (as
4	defined in section 1861(f)) that furnishes inpatient
5	hospital services with respect to a rate year begin-
6	ning in a fiscal year in the same manner as such
7	subsections apply to an eligible hospital (as defined
8	in subsection $(n)(6)(B)$ with respect to such fiscal
9	year (in accordance with rules prescribed by the Sec-
10	retary).".
11	(c) Medicaid Providers.—Section 1903(t) of the
12	Social Security Act (42 U.S.C. 1396b(t)) is amended—
13	(1) in paragraph $(2)$ —
13 14	<ul><li>(1) in paragraph (2)—</li><li>(A) in subparagraph (B)—</li></ul>
14	(A) in subparagraph (B)—
14 15	<ul><li>(A) in subparagraph (B)—</li><li>(i) in clause (i), by striking ", or" and</li></ul>
14 15 16	<ul><li>(A) in subparagraph (B)—</li><li>(i) in clause (i), by striking ", or" and inserting a semicolon;</li></ul>
14 15 16 17	<ul> <li>(A) in subparagraph (B)—</li> <li>(i) in clause (i), by striking ", or" and inserting a semicolon;</li> <li>(ii) in clause (ii), by striking the pe-</li> </ul>
14 15 16 17 18	<ul> <li>(A) in subparagraph (B)—</li> <li>(i) in clause (i), by striking ", or" and inserting a semicolon;</li> <li>(ii) in clause (ii), by striking the period at the end and inserting a semicolon;</li> </ul>
14 15 16 17 18 19	<ul> <li>(A) in subparagraph (B)—</li> <li>(i) in clause (i), by striking ", or" and inserting a semicolon;</li> <li>(ii) in clause (ii), by striking the period at the end and inserting a semicolon; and</li> </ul>
14 15 16 17 18 19 20	<ul> <li>(A) in subparagraph (B)—</li> <li>(i) in clause (i), by striking ", or" and inserting a semicolon;</li> <li>(ii) in clause (ii), by striking the period at the end and inserting a semicolon; and</li> <li>(iii) by adding after clause (ii) the fol-</li> </ul>
14 15 16 17 18 19 20 21	<ul> <li>(A) in subparagraph (B)— <ul> <li>(i) in clause (i), by striking ", or" and</li> <li>inserting a semicolon;</li> <li>(ii) in clause (ii), by striking the period at the end and inserting a semicolon;</li> </ul> </li> <li>and <ul> <li>(iii) by adding after clause (ii) the following:</li> </ul> </li> </ul>

1	"(iv) a private hospital that is prin-
2	cipally a psychiatric hospital (as defined in
3	section $1861(f)$ ) and that has at least $10$
4	percent of its patient volume (as estimated
5	in accordance with a methodology estab-
6	lished by the Secretary) attributable to in-
7	dividuals who are receiving medical assist-
8	ance under this title;
9	"(v) a community mental health cen-
10	ter (as described in section $1913(b)(2)$ of
11	the Public Health Service Act);
12	"(vi) a residential or outpatient men-
13	tal health treatment facility that—
14	"(I) is accredited by the Joint
15	Commission on Accreditation of
16	Healthcare Organizations, the Com-
17	mission on Accreditation of Rehabili-
18	tation Facilities, the Council on Ac-
19	creditation, or any other national ac-
20	crediting agency recognized by the
21	Secretary; and
22	((II) has at least 10 percent of
23	its patient volume (as estimated in ac-
24	cordance with a methodology estab-
25	lished by the Secretary) attributable

1	to individuals who are receiving med-
2	ical assistance under this title; or
3	"(vii) a substance abuse treatment fa-
4	cility that—
5	"(I) is accredited by the Joint
6	Commission on Accreditation of
7	Healthcare Organizations, the Com-
8	mission on Accreditation of Rehabili-
9	tation Facilities, the Council on Ac-
10	creditation, or any other national ac-
11	crediting agency recognized by the
12	Secretary; and
13	"(II) has at least 10 percent of
14	its patient volume (as estimated in ac-
15	cordance with a methodology estab-
16	lished by the Secretary) attributable
17	to individuals who are receiving med-
18	ical assistance under this title."; and
19	(B) in the flush matter at the end, by add-
20	ing the following: "For purposes of subpara-
21	graph (B), a hospital, facility, or mental health
22	center described under such subparagraph shall
23	include those operated or managed, directly or
24	under contract, by a county behavioral health
25	center."; and

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1	(2) in paragraph $(3)(B)$ —
2	(A) in clause (iv), by striking "; and" and
3	inserting a semicolon;
4	(B) in clause (v), by striking the period
5	and inserting a semicolon; and
6	(C) by adding at the end the following:
7	"(vi) clinical psychologist providing
8	qualified psychologist services (as defined
9	in section 1861(ii)), if such clinical psy-
10	chologist is practicing in an outpatient set-
11	ting that—
12	"(I) is led by a clinical psycholo-
13	gist; and
14	"(II) is not otherwise receiving
15	payment under paragraph $(1)$ as a
16	Medicaid provider described in para-
17	graph $(2)(B)$ ; and
18	"(vii) a clinical social worker (as de-
19	fined in section $1861(hh)(1)$ ), if such clin-
20	ical social worker is practicing in an out-
21	patient clinic that—
22	"(I) is led by a clinical social
23	worker; and
24	"(II) is not otherwise receiving
25	payment under paragraph $(1)$ as a

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1	Medicaid	provider	described	in	para-
2	graph (2)	(B).".			

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