

110TH CONGRESS  
1ST SESSION

# H. R. 2749

To amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2007

Mr. GORDON of Tennessee (for himself and Mr. SHADEGG) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals.

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 “Voluntary Medicare  
5 Quality Reporting Act of 2007”.

1 **SEC. 2. FINDINGS.**

2 (a) FINDINGS.—Congress makes the following find-  
3 ings:

4 (1) The health care system of the United States  
5 is the world’s most advanced health care system and  
6 delivers health care according to the highest quality  
7 standards. Physicians and other health professionals  
8 are committed to providing the highest quality of  
9 health care to beneficiaries under the Medicare pro-  
10 gram.

11 (2) Physicians have been actively engaged with  
12 the American Medical Association’s Physician Con-  
13 sortium for Performance Improvement in the devel-  
14 opment of evidence-based and clinically valid meas-  
15 ures in order to improve the quality of health care  
16 and have also worked closely with the Centers for  
17 Medicare & Medicaid Services (“CMS”) in assuring  
18 the successful implementation of the Physician Vol-  
19 untary Reporting Program (“PVRP”) developed to  
20 measure and evaluate quality of health care.

21 (3) Physicians are actively collaborating with  
22 consensus organizations in their efforts to—

23 (A) improve the quality of health care  
24 through the specification of quality measures  
25 for services; and

1 (B) develop a rational system for col-  
2 lecting, aggregating, and reporting data across  
3 numerous public and private insurance pro-  
4 grams in the least burdensome way.

5 (4) Quality measures for covered professional  
6 services (as defined in section 1848(k)(3)(A) of the  
7 Social Security Act (42 U.S.C. 1395w-4(k)(3)(A))  
8 must be—

9 (A) evidence-based and clinically valid;

10 (B) regularly updated to reflect current  
11 medical practice;

12 (C) specialty specific; and

13 (D) developed by relevant medical and  
14 other health professional specialty societies with  
15 expertise in the area of health care involved.

16 (5) All quality measures for covered profes-  
17 sional services (as so defined) should be pilot-tested  
18 in a variety of practice settings and across all rel-  
19 evant medical and other health professional special-  
20 ties before they are included in a value-based pur-  
21 chasing system for such services.

22 (6) Physicians must be actively engaged in all  
23 aspects of the development and implementation of  
24 an effective quality reporting and value-based pur-  
25 chasing system for covered professional services (as

1 so defined). The development process for such sys-  
2 tem must be transparent to all physicians and ad-  
3 here to a consistent set of rules.

4 (7) Any effective quality reporting system for  
5 covered professional services (as so defined) must  
6 recognize the actual health information technology  
7 and administrative costs physicians and other health  
8 professionals incur for participating in the system.

9 (8) Any quality reporting program for covered  
10 professional services (as so defined) should focus on  
11 meaningful improvements in patient care rather  
12 than requiring physicians to report for the sake of  
13 reporting.

14 (9) Most physicians and other health profes-  
15 sionals have not had any experience in quality re-  
16 porting and lack the necessary health information  
17 technology and administrative infrastructures to par-  
18 ticipate in a value-based purchasing system for phy-  
19 sicians' services.

20 (10) The 6-month program under section  
21 1848(k) of the Social Security Act (42 U.S.C.  
22 1395w-4(k)), as added by section 101(b) of division  
23 B of the Tax Relief and Health Care Act of 2006  
24 (Public Law 109-432; 120 Stat. 2975), the 2007  
25 Physician Quality Reporting Initiative ("PQRI"),

1 does not provide a sufficient amount of time to test  
2 and evaluate the appropriateness and effectiveness  
3 of this new reporting system. Therefore, it is pre-  
4 mature to implement a permanent Medicare quality  
5 reporting system for physicians in 2008.

6 **SEC. 3. TRANSITION TO NEW VOLUNTARY MEDICARE QUAL-**  
7 **ITY REPORTING PROGRAM.**

8 (a) **EVALUATING THE TRANSITIONAL QUALITY RE-**  
9 **PORTING SYSTEM ESTABLISHED FOR 2007.—**

10 (1) **EVALUATION.**—The Secretary of Health  
11 and Human Services shall evaluate the quality re-  
12 porting system under paragraph (1) of section  
13 1848(k) of the Social Security Act (42 U.S.C.  
14 1395w-4(k)) (as added by section 101(b) of division  
15 B of the Tax Relief and Health Care Act of 2006  
16 (Public Law 109-432)), as applied for 2007 using  
17 the quality measures described in paragraph (2)(A)  
18 of such section to determine the following:

19 (A) The extent to which such quality meas-  
20 ures were valid, clinically relevant, practicable,  
21 and not overly burdensome.

22 (B) The percentage of eligible professionals  
23 (as defined in paragraph (3)(B) of such section)  
24 in each category of eligible professionals de-

1           scribed in such paragraph that had such quality  
2           measures to report for such year.

3           (C) The rate of participation in such qual-  
4           ity reporting system of eligible professionals de-  
5           scribed in subparagraph (B) in each such cat-  
6           egory.

7           (D) The average administrative costs of  
8           medical practices of such eligible professionals  
9           for reporting such quality measures, as it re-  
10          lates to the size of such practices.

11          (2) REPORT.—Not later than June 1, 2008, the  
12          Secretary of Health and Human Services shall sub-  
13          mit to Congress a report containing the findings of  
14          the evaluation under paragraph (1).

15          (b) TRANSITIONAL QUALITY REPORTING AFTER DE-  
16          CEMBER 31, 2007, AND BEFORE IMPLEMENTATION OF  
17          NEW VOLUNTARY MEDICARE QUALITY REPORTING PRO-  
18          GRAM.—

19          (1) IN GENERAL.—Section 1848(k)(2)(B) of  
20          the Social Security Act (42 U.S.C. 1395w-  
21          4(k)(3)(B)) is amended to read as follows:

22                  “(B) FOR 2008 AND 2009.—Eligible profes-  
23                  sionals may continue to report to the Secretary  
24                  quality measures specified under subparagraph  
25                  (A) after December 31, 2007, and before De-

1            cember 31, 2009, in order for the Secretary to  
2            refine systems for reporting quality measures.”.

3            (2) PROHIBITING USE OF PHYSICIAN ASSIST-  
4            ANCE AND QUALITY INITIATIVE FUND FOR QUALITY  
5            REPORTING BONUS PAYMENTS IN 2008.—Section  
6            1848(l)(2)(B) of the Social Security Act (42 U.S.C.  
7            1395w-4(l)(2)(B)), as added by section 101(d) of di-  
8            vision B of the Tax Relief and Health Care Act of  
9            2006 (Public Law 109-432), is amended by adding  
10           at the end the following new sentence: “The Sec-  
11           retary shall not expend from the Fund any amounts  
12           for bonus incentive payments for quality reporting of  
13           data on quality measures with respect to services  
14           furnished during 2008.”.

15 **SEC. 4. THE VOLUNTARY MEDICARE QUALITY REPORTING**  
16 **PROGRAM.**

17           (a) IN GENERAL.—Section 1848(k)(2) of the Social  
18           Security Act (42 U.S.C. 1395w-4(k)(2)) as added by sec-  
19           tion 101(b) of Division B of the Tax Relief and Health  
20           Care Act of 2006 (Public Law 109-432; 120 Stat. 2975),  
21           is amended by adding at the end the following new sub-  
22           paragraph:

23                            “(C) FOR 2010 AND SUCCEEDING YEARS.—

24                            “(i) IN GENERAL.—For purposes of  
25                            reporting data on quality measures for cov-

1           ered professional services furnished during  
2           2010 and during succeeding years, the  
3           quality measures specified under this para-  
4           graph for covered professional services are  
5           quality measures the Secretary has se-  
6           lected in accordance with this subpara-  
7           graph as part of the rulemaking process  
8           for payments under this section for 2010  
9           and succeeding years, respectively.

10           “(ii) CHARACTERISTICS OF MEAS-  
11           URES.—The quality measures selected  
12           under clause (i) shall—

13                   “(I) include a mixture of struc-  
14                   tural measures, process measures, and  
15                   outcomes measures (as such terms are  
16                   defined in clause (v));

17                   “(II) be evidence-based and clini-  
18                   cally valid;

19                   “(III) be relevant to physicians,  
20                   other eligible professionals, and indi-  
21                   viduals entitled to benefits under part  
22                   A or enrolled under this part; and

23                   “(IV) include measures that cap-  
24                   ture patients’ assessments of clinical  
25                   care provided.

1           “(iii) FAIRNESS.—The selection of  
2           quality measures under this subparagraph  
3           shall be conducted (and such quality meas-  
4           ures shall be applied) in a manner that—

5                   “(I) takes into account dif-  
6                   ferences in individual health status;

7                   “(II) takes into account an indi-  
8                   vidual’s compliance with health care  
9                   orders;

10                  “(III) does not directly or indi-  
11                  rectly encourage patient selection or  
12                  deselection;

13                  “(IV) does not penalize eligible  
14                  professionals who furnish services to  
15                  individuals entitled to benefits under  
16                  part A or enrolled under this part who  
17                  are frail, low-income, of racial or eth-  
18                  nic minority groups, or of limited  
19                  English language proficiency;

20                  “(V) reduces health disparities  
21                  across groups and areas;

22                  “(VI) uses appropriate statistical  
23                  techniques to ensure valid results; and

24                  “(VII) assures that the Secretary  
25                  is able to process data for the quality

1           measures as written by the individual  
2           or organization that developed the  
3           measure.

4           “(iv) SELECTION PROCESS FOR MEAS-  
5           URES TO BE REPORTED.—The measures  
6           selected under clause (i) for 2010 (and  
7           each succeeding year) shall be measures  
8           that have been published by the Secretary  
9           in the Federal Register not later than No-  
10          vember 1 before the year as endorsed qual-  
11          ity measures that are applicable to covered  
12          professional services during the year. For  
13          purposes of this subparagraph, the Sec-  
14          retary may publish quality measures for  
15          2010 (or a succeeding year) in the Federal  
16          Register only if such measures are selected  
17          and endorsed as follows:

18                   “(I) RECOMMENDATIONS FOR  
19                   CLINICAL AREAS.—Not later than Oc-  
20                   tober 1, 2008 (and each succeeding  
21                   October 1), the Secretary shall re-  
22                   quest, through notice in the Federal  
23                   Register (without comment period),  
24                   each physician specialty organization,  
25                   each other eligible professional organi-

1 zation, and each quality improvement  
2 organization to submit to the Physi-  
3 cian Consortium for Performance Im-  
4 provement of the American Medical  
5 Association (referred to in this sub-  
6 paragraph as the ‘Consortium’) by not  
7 later than December 31, 2008 (and  
8 each succeeding December 31), rec-  
9 ommendations of clinical areas for the  
10 development of quality measures for  
11 purposes of this subparagraph. Not  
12 later than December 31, 2008 (and  
13 each succeeding December 31), the  
14 Secretary shall also submit to the  
15 Consortium recommendations of clin-  
16 ical areas for the development of such  
17 quality measures.

18 “(II) SELECTION OF CLINICAL  
19 AREAS.—Not later than March 31,  
20 2009 (and each subsequent March  
21 31), the Consortium is requested to  
22 submit to the Secretary the rec-  
23 ommendations described in subclause  
24 (I).

1                   “(III) DEVELOPMENT OF PRO-  
2                   POSED QUALITY MEASURES.—Not  
3                   later than June 1 of each year (begin-  
4                   ning with 2009), the Consortium, in  
5                   collaboration with physician specialty  
6                   organizations and other eligible pro-  
7                   fessional organizations, is requested to  
8                   develop proposed quality measures for  
9                   each clinical area identified under  
10                  subclause (I). Such measures shall  
11                  meet the requirements of clauses (ii)  
12                  and (iii).

13                  “(IV) ENDORSEMENT OF QUAL-  
14                  ITY MEASURES.—Not later than June  
15                  15 of each year (beginning with  
16                  2009), the Consortium is requested to  
17                  submit the proposed quality measures  
18                  developed under subclause (III) to a  
19                  consensus organization for endorse-  
20                  ment. Not later than September 30 of  
21                  each year (beginning with 2009), the  
22                  consensus organization is requested to  
23                  submit to the Secretary the quality  
24                  measures that have been endorsed by  
25                  the consensus organization.

1                   “(v) DEFINITIONS FOR TYPES OF  
2 MEASURES.—In this subparagraph:

3                   “(I) STRUCTURAL MEASURE.—

4                   The term ‘structural measure’ means  
5 a measure that reflects the organiza-  
6 tional, technological, and human re-  
7 sources infrastructure of a system  
8 necessary for the delivery of quality  
9 health care (such as the use of health  
10 information technology for submission  
11 of measures).

12                   “(II) PROCESS MEASURE.—The

13 term ‘process measure’ means a meas-  
14 ure associated with the practice of  
15 health care or the furnishing of a  
16 service that is known to be effective.

17                   “(III) OUTCOME MEASURE.—The

18 term ‘outcome measure’ means a  
19 measure that provides information on  
20 how health care affects patients.

21                   “(vi) CONSENSUS ORGANIZATION DE-

22 FINED.—In this subparagraph, the term  
23 ‘consensus organization’ means an organi-  
24 zation, such as the National Quality  
25 Forum, that the Secretary identifies as—

1           “(I) having experience in using a  
2           process for reaching a group con-  
3           sensus with respect to quality meas-  
4           ures relating to the performance of  
5           those providing health care services;  
6           and

7           “(II) including in such process  
8           practicing physicians, practitioners  
9           with experience in the care of the frail  
10          elderly and individuals with multiple  
11          complex chronic conditions, organiza-  
12          tions and individuals representative of  
13          the specialty involved, individuals enti-  
14          tled to benefits under part A or en-  
15          rolled under this part, experts in  
16          health care quality, individuals with  
17          experience in the delivery of health  
18          care in urban, rural, and frontier  
19          areas and to underserved populations,  
20          and representatives of the Secretary.”.

21          (b) USE OF REGISTRY-BASED REPORTING.—Section  
22          1848(k) of the Social Security Act (42 U.S.C. 1395w-  
23          4(k)) as added by section 101(b) of Division B of the Tax  
24          Relief and Health Care Act of 2006 (Public Law 109-  
25          432; 120 Stat. 2975) is amended to read as follows:

1           “(4) USE OF REGISTRY-BASED REPORTING.—  
2           As part of the process for reporting quality meas-  
3           ures under subparagraphs (B) and (C) of paragraph  
4           (2), the Secretary shall address a mechanism where-  
5           by an eligible professional may provide data on qual-  
6           ity measures through an appropriate medical reg-  
7           istry, as identified by the Secretary. The Secretary  
8           shall require that any such mechanism be for pur-  
9           poses of reporting data only to the Secretary. The  
10          Secretary shall treat such data as confidential and  
11          shall not make such data available to any other  
12          party or person. Any data obtained by the Secretary  
13          under this paragraph shall not be subject to dis-  
14          covery or admitted into evidence in any Federal or  
15          State civil judicial or administrative proceeding.”.

○