

112TH CONGRESS
1ST SESSION

H. R. 222

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2011

Ms. JACKSON LEE of Texas introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary and Energy and Commerce, 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

A BILL

To amend title XVIII of the Social Security Act to require hospitals reimbursed under the Medicare system to establish and implement security procedures to reduce the likelihood of infant patient abduction and baby switching, including procedures for identifying all infant patients in the hospital in a manner that ensures that it will be evident if infants are missing from the hospital.

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 “Infant Protection and
3 Baby Switching Prevention Act of 2011”.

4 **SEC. 2. MEDICARE PAYMENTS TO HOSPITALS CONTINGENT**
5 **ON IMPLEMENTATION OF SECURITY PROCE-**
6 **DURES REGARDING INFANT PATIENT PRO-**
7 **TECTION AND BABY SWITCHING.**

8 (a) **AGREEMENTS WITH HOSPITALS.**—Section
9 1866(a)(1) of the Social Security Act (42 U.S.C.
10 1395cc(a)(1)) is amended—

11 (1) in subparagraph (V), by striking “and” at
12 the end;

13 (2) in the subparagraph (W) added by section
14 3005(1)(C) of Public Law 111–148, by moving its
15 margin 2 ems to the left and by striking the period
16 at the end and inserting a comma;

17 (3) in the subparagraph (W) added by section
18 6406(b)(3) of such Act, by redesignating such sub-
19 paragraph as subparagraph (X), by moving its mar-
20 gin 2 ems to the left, and by striking the period at
21 the end and inserting “, and”; and

22 (4) by inserting after subparagraph (X), as so
23 redesignated, the following new subparagraph:

24 “(Y) in the case of hospitals and critical access
25 hospitals that provide neonatal or infant care, to
26 have in effect security procedures that meet stand-

1 ards established by the Secretary (in consultation
2 with appropriate organizations) to reduce the likeli-
3 hood of infant patient abduction and baby switching,
4 including standards for identifying all infant pa-
5 tients in the hospital in a manner that ensures that
6 it will be evident if infants are missing from the hos-
7 pital.”.

8 (b) REGULATIONS.—

9 (1) IN GENERAL.—In promulgating regulations
10 under subparagraph (Y) of section 1866(a)(1) of the
11 Social Security Act (42 U.S.C. 1395cc(a)(1)), as
12 added by subsection (a), the Secretary of Health and
13 Human Services shall—

14 (A) consult with various organizations rep-
15 resenting consumers, appropriate State and
16 local regulatory agencies, hospitals, and critical
17 access hospitals;

18 (B) take into account variations in size
19 and location of hospitals and critical access hos-
20 pitals, and the percentage of overall services
21 furnished by such hospitals and critical access
22 hospitals that neonatal care and infant care
23 represent; and

24 (C) promulgate specific regulations that
25 address each size and type of hospital covered.

1 (2) DEADLINE FOR PUBLICATION.—Not later
2 than 12 months after the date of the enactment of
3 this Act, the Secretary shall publish the regulations
4 required under paragraph (1). In order to carry out
5 this requirement in a timely manner, the Secretary
6 may promulgate regulations that take effect on an
7 interim basis, after notice and pending opportunity
8 for public comment.

9 (c) PENALTIES.—

10 (1) AMOUNT OF PENALTY.—A hospital that
11 participates in the Medicare program under title
12 XVIII of the Social Security Act under an agree-
13 ment pursuant to section 1866 of such Act (42
14 U.S.C. 1395cc) that commits a violation described in
15 paragraph (2) is subject to a civil money penalty of
16 not more than \$50,000 (or not more than \$25,000
17 in the case of a hospital with fewer than 100 beds)
18 for each such violation.

19 (2) VIOLATION DESCRIBED.—A hospital de-
20 scribed in paragraph (1) commits a violation for
21 purposes of this subsection if the hospital fails to
22 have in effect security procedures that meet stand-
23 ards established by the Secretary of Health and
24 Human Services under section 1866(a)(1)(Y) of
25 such Act, as added by subsection (a), to reduce the

1 likelihood of infant patient abduction and baby
2 switching, including standards for identifying all in-
3 fant patients in the hospital in a manner that en-
4 sures that it will be evident if infants are missing
5 from the hospital.

6 (3) ADMINISTRATIVE PROVISIONS.—The provi-
7 sions of section 1128A of such Act (42 U.S.C.
8 1320a–7a), other than subsections (a) and (b), shall
9 apply to a civil money penalty under this subsection
10 in the same manner as such provisions apply with
11 respect to a penalty or proceeding under section
12 1128A(a) of such Act.

13 (d) EFFECTIVE DATE.—This section, and the amend-
14 ments made by this section, shall take effect on the date
15 that is 18 months after the date of the enactment of this
16 Act, and shall apply to contracts entered into or renewed
17 under section 1866 of the Social Security Act (42 U.S.C.
18 1395cc) on or after such date.

19 **SEC. 3. BABY SWITCHING PROHIBITED.**

20 (a) IN GENERAL.—Chapter 55 of title 18, United
21 States Code, is amended by adding at the end the fol-
22 lowing:

23 **“SEC. 1205. BABY SWITCHING.**

24 “(a) Whoever being in interstate commerce knowingly
25 alters or destroys an identification record of a newborn

1 patient with the intention that the newborn patient be
2 misidentified by any person shall be fined not more than
3 \$250,000 in the case of an individual and not more than
4 \$500,000 in the case of an organization, or imprisoned
5 not more than ten years, or both.

6 “(b) As used in this section, the term ‘identification
7 record’ means a record maintained by a hospital to aid
8 in the identification of newborn patients of the hospital,
9 including any of the following:

10 “(1) The footprint, fingerprint, or photograph
11 of the newborn patient.

12 “(2) A written description of the infant.

13 “(3) An identification bracelet or anklet put on
14 the newborn patient, or the mother of the newborn
15 patient, by a staff member of the hospital.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 55 of title 18, United States
18 Code, is amended by adding at the end the following new
19 item:

“1205. Baby switching.”.

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