

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DENT OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

AMENDMENT TO RULES COMMITTEE PRINT 112-
18
OFFERED BY MR. DENT OF PENNSYLVANIA AND
MR. SESSIONS OF TEXAS

At the end of the bill, insert the following:

1 **TITLE III—HEALTH CARE**
2 **SAFETY NET ENHANCEMENT**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Health Care Safety
5 Net Enhancement Act of 2012”.

6 **SEC. 302. PROTECTION FOR EMERGENCY AND RELATED**
7 **SERVICES FURNISHED PURSUANT TO**
8 **EMTALA.**

9 Section 224(g) of the Public Health Service Act (42
10 U.S.C. 233(g)) is amended—

11 (1) in paragraph (4), by striking “An entity”
12 and inserting “Subject to paragraph (6), an entity”;
13 and

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

15 “(6)(A) For purposes of this section—

16 “(i) an entity described in subparagraph
17 (B) shall be considered to be an entity de-
18 scribed in paragraph (4); and

1 “(ii) the provisions of this section shall
2 apply to an entity described in subparagraph
3 (B) in the same manner as such provisions
4 apply to an entity described in paragraph (4),
5 except that—

6 “(I) notwithstanding paragraph
7 (1)(B), the deeming of any entity described
8 in subparagraph (B), or of an officer, gov-
9 erning board member, employee, con-
10 tractor, or on-call provider of such an enti-
11 ty, to be an employee of the Public Health
12 Service for purposes of this section shall
13 apply only with respect to items and serv-
14 ices that are furnished to an individual
15 pursuant to section 1867 of the Social Se-
16 curity Act and to post stabilization services
17 (as defined in subparagraph (D)) furnished
18 to such an individual;

19 “(II) nothing in paragraph (1)(D)
20 shall be construed as preventing a physi-
21 cian or physician group described in sub-
22 paragraph (B)(ii) from making the appli-
23 cation referred to in such paragraph or as
24 conditioning the deeming of a physician or
25 physician group that makes such an appli-

1 cation upon receipt by the Secretary of an
2 application from the hospital or emergency
3 department that employs or contracts with
4 the physician or group, or enlists the phy-
5 sician or physician group as an on-call pro-
6 vider;

7 “(III) notwithstanding paragraph (3),
8 this paragraph shall apply only with re-
9 spect to causes of action arising from acts
10 or omissions that occur on or after Janu-
11 ary 1, 2012;

12 “(IV) paragraph (5) shall not apply to
13 a physician or physician group described in
14 subparagraph (B)(ii);

15 “(V) the Attorney General, in con-
16 sultation with the Secretary, shall make
17 separate estimates under subsection (k)(1)
18 with respect to entities described in sub-
19 paragraph (B) and entities described in
20 paragraph (4) (other than those described
21 in subparagraph (B)), and the Secretary
22 shall establish separate funds under sub-
23 section (k)(2) with respect to such groups
24 of entities, and any appropriations under
25 this subsection for entities described in

1 subparagraph (B) shall be separate from
2 the amounts authorized by subsection
3 (k)(2);

4 “(VI) notwithstanding subsection
5 (k)(2), the amount of the fund established
6 by the Secretary under such subsection
7 with respect to entities described in sub-
8 paragraph (B) may exceed a total of
9 \$10,000,000 for a fiscal year; and

10 “(VII) subsection (m) shall not apply
11 to entities described in subparagraph (B).

12 “(B) An entity described in this subparagraph
13 is—

14 “(i) a hospital or an emergency depart-
15 ment to which section 1867 of the Social Secu-
16 rity Act applies; and

17 “(ii) a physician or physician group that is
18 employed by, is under contract with, or is an
19 on-call provider of such hospital or emergency
20 department, to furnish items and services to in-
21 dividuals under such section.

22 “(C) For purposes of this paragraph, the term
23 ‘on-call provider’ means a physician or physician
24 group that—

1 “(i) has full, temporary, or locum tenens
2 staff privileges at a hospital or emergency de-
3 partment to which section 1867 of the Social
4 Security Act applies; and

5 “(ii) is not employed by or under contract
6 with such hospital or emergency department,
7 but agrees to be ready and available to provide
8 services pursuant to section 1867 of the Social
9 Security Act or post-stabilization services to in-
10 dividuals being treated in the hospital or emer-
11 gency department with or without compensation
12 from the hospital or emergency department.

13 “(D) For purposes of this paragraph, the term
14 ‘post stabilization services’ means, with respect to an
15 individual who has been treated by an entity de-
16 scribed in subparagraph (B) for purposes of com-
17 plying with section 1867 of the Social Security Act,
18 services that are—

19 “(i) related to the condition that was so
20 treated; and

21 “(ii) provided after the individual is sta-
22 bilized in order to maintain the stabilized condi-
23 tion or to improve or resolve the condition of
24 the individual.

1 “(E)(i) Nothing in this paragraph (or in any
2 other provision of this section as such provision ap-
3 plies to entities described in subparagraph (B) by
4 operation of subparagraph (A)) shall be construed as
5 authorizing or requiring the Secretary to make pay-
6 ments to such entities, the budget authority for
7 which is not provided in advance by appropriation
8 Acts.

9 “(ii) The Secretary shall limit the total amount
10 of payments under this paragraph for a fiscal year
11 to the total amount appropriated in advance by ap-
12 propriation Acts for such purpose for such fiscal
13 year. If the total amount of payments that would
14 otherwise be made under this paragraph for a fiscal
15 year exceeds such total amount appropriated, the
16 Secretary shall take such steps as may be necessary
17 to ensure that the total amount of payments under
18 this paragraph for such fiscal year does not exceed
19 such total amount appropriated.”.

20 **SEC. 303. CONSTITUTIONAL AUTHORITY.**

21 The constitutional authority upon which this title
22 rests is the power of the Congress to provide for the gen-
23 eral welfare, to regulate commerce, and to make all laws
24 which shall be necessary and proper for carrying into exe-

1 cution Federal powers, as enumerated in section 8 of arti-
2 cle I of the Constitution of the United States.

