

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5040

To amend the Public Health Service 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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2010

Mr. KENNEDY (for himself, Mr. TIM MURPHY of Pennsylvania, Mr. MURPHY of Connecticut, Mr. GENE GREEN of Texas, and Mr. HASTINGS of Florida) 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 the Public Health Service 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Information  
3 Technology Extension for Behavioral Health Services Act  
4 of 2010”.

5 **SEC. 2. EXTENSION OF HEALTH INFORMATION TECH-**  
6 **NOLOGY ASSISTANCE FOR BEHAVIORAL AND**  
7 **MENTAL HEALTH AND SUBSTANCE ABUSE.**

8 Section 3000(3) of the Public Health Service Act (42  
9 U.S.C. 300jj(3)) is amended by inserting before “and any  
10 other category” the following: “behavioral and mental  
11 health professionals (as defined in section  
12 331(a)(3)(E)(i)), a substance abuse professional, a psy-  
13 chiatric hospital (as defined in section 1861(f) of the So-  
14 cial Security Act (42 U.S.C. 1395x(f))), a behavioral and  
15 mental health clinic, a substance abuse treatment facil-  
16 ity,”.

17 **SEC. 3. BEHAVIORAL HEALTH INFORMATION TECHNOLOGY**  
18 **GRANT PROGRAM.**

19 Title XXX of the Public Health Service Act (42  
20 U.S.C. 300jj et seq.) is amended by adding at the end  
21 the following new section:

22 **“SEC. 3019. BEHAVIORAL HEALTH INFORMATION TECH-**  
23 **NOLOGY GRANT PROGRAM.**

24 “(a) IN GENERAL.—The Secretary, acting through  
25 the National Coordinator, shall award grants to eligible

1 entities for the purpose of conducting activities described  
2 in subsection (b).

3 “(b) USE OF FUNDS.—A grant awarded under sub-  
4 section (a) may be used by an eligible entity to—

5 “(1) facilitate the purchase of health informa-  
6 tion technology;

7 “(2) enhance the use of health information  
8 technology, including covering costs associated with  
9 upgrading health information technology in order to  
10 meet the criteria required to become a certified  
11 EHR technology;

12 “(3) train personnel in the use of health infor-  
13 mation technology;

14 “(4) improve the secure electronic exchange of  
15 health information among behavioral and mental  
16 health professionals, substance abuse professionals,  
17 and other health care providers, including those pro-  
18 viding primary care services;

19 “(5) improve health information technology for  
20 adaptation to community-based behavioral health set-  
21 tings;

22 “(6) assist with the implementation of telemedi-  
23 cine, including facilitation of distance clinical con-  
24 sultations in rural and underserved areas; and

1           “(7) collaborate and integrate with health infor-  
2           mation technology regional extension centers (as de-  
3           scribed in section 3012(c)).

4           “(c) ELIGIBLE ENTITY.—For the purposes of this  
5           section, the term ‘eligible entity’ means a mental health  
6           treatment facility, substance abuse treatment facility, or  
7           psychiatric hospital (as defined in section 1861(f) of the  
8           Social Security Act (42 U.S.C. 1395x(f))—

9           “(1) that is not otherwise receiving payment  
10          under section 1886(n) of the Social Security Act (42  
11          U.S.C. 1395ww(n)) or section 1903(t) of the Social  
12          Security Act (42 U.S.C. 1396b(t));

13          “(2) at which no services are furnished by an  
14          eligible professional who is receiving payment under  
15          section 1848(o) of the Social Security Act (42  
16          U.S.C. 1395w-4(o)); and

17          “(3) that provides assurances to the satisfaction  
18          of the Secretary that such facility will use such  
19          funds to satisfy the requirements to be treated as a  
20          meaningful EHR user, as defined in section  
21          1886(n)(3) of the Social Security Act (42 U.S.C.  
22          1395ww(n)(3)), or to become eligible for a payment  
23          under section 1903(t) of the Social Security Act (42  
24          U.S.C. 1396b(t)).

1           “(d) STANDARDS FOR ACQUISITION OF HEALTH IN-  
2 FORMATION TECHNOLOGY.—To the greatest extent prac-  
3 ticable, the Secretary shall ensure that where funds are  
4 expended under this section for the acquisition of health  
5 information technology, such funds shall be used to ac-  
6 quire health information technology that meets applicable  
7 standards adopted under section 3004. Where it is not  
8 practicable to expend funds on health information tech-  
9 nology that meets such applicable standards, the Secretary  
10 shall ensure that such health information technology  
11 meets applicable standards otherwise adopted by the Sec-  
12 retary.

13           “(e) REPORT.—Not later than 2 years after the date  
14 of the enactment of this section, the National Coordinator  
15 shall submit to Congress a report containing such infor-  
16 mation as the Secretary may require.

17           “(f) AUTHORIZATION OF APPROPRIATIONS.—For the  
18 purposes of carrying out subsection (a), there is author-  
19 ized to be appropriated \$15,000,000 for fiscal year  
20 2011.”.

1 **SEC. 4. EXTENSION OF ELIGIBILITY FOR MEDICARE AND**  
2 **MEDICAID HEALTH INFORMATION TECH-**  
3 **NOLOGY IMPLEMENTATION ASSISTANCE.**

4 (a) PAYMENT INCENTIVES FOR ELIGIBLE PROFES-  
5 SIONALS UNDER MEDICARE.—Section 1848 of the Social  
6 Security Act (42 U.S.C. 1395w–4) is amended—

7 (1) by amending clause (iii) of subsection  
8 (a)(7)(E) to read as follows:

9 “(iii) ELIGIBLE PROFESSIONAL.—The  
10 term ‘eligible professional’ means any of  
11 the following:

12 “(I) A physician (as defined in  
13 section 1861(r)).

14 “(II) A clinical psychologist pro-  
15 viding qualified psychologist services  
16 (as defined in section 1861(ii)).

17 “(III) A clinical social worker (as  
18 defined in section 1861(hh)(1)).”; and

19 (2) by amending subparagraph (C) of sub-  
20 section (o)(5) to read as follows:

21 “(C) ELIGIBLE PROFESSIONAL.—The term  
22 ‘eligible professional’ means any of the fol-  
23 lowing:

24 “(i) A physician (as defined in section  
25 1861(r)).

1                   “(ii) A clinical psychologist providing  
2                   qualified psychologist services (as defined  
3                   in section 1861(ii)).

4                   “(iii) A clinical social worker (as de-  
5                   fined in section 1861(hh)(1)).”.

6           (b) ELIGIBLE HOSPITALS.—Section 1886(n)(6)(B)  
7 of the Social Security Act (42 U.S.C. 1395ww(n)(6)(B))  
8 is amended by inserting before the period the following:  
9 “or an inpatient hospital that is a psychiatric hospital (as  
10 defined in section 1861(f))”.

11           (c) MEDICAID PROVIDERS.—Section 1903(t) of the  
12 Social Security Act (42 U.S.C. 1396b(t)) is amended as  
13 follows:

14           (1) Paragraph (2)(B) is amended—

15                   (A) in clause (i), by striking “, or” and in-  
16                   serting a semicolon;

17                   (B) in clause (ii), by striking the period  
18                   and inserting a semicolon; and

19                   (C) by adding after clause (ii) the following  
20                   new clauses:

21                           “(iii) a public hospital that is prin-  
22                           cipally a psychiatric hospital (as defined in  
23                           section 1861(f));

24                           “(iv) a private hospital that is prin-  
25                           cipally a psychiatric hospital (as defined in

1 section 1861(f)) and that has at least 10  
2 percent of its patient volume (as estimated  
3 in accordance with a methodology estab-  
4 lished by the Secretary) attributable to in-  
5 dividuals receiving medical assistance  
6 under this title;

7 “(v) a mental health treatment facility  
8 that has at least 10 percent of its patient  
9 volume (as estimated in accordance with a  
10 methodology established by the Secretary)  
11 attributable to individuals receiving med-  
12 ical assistance under this title; or

13 “(vi) a substance abuse treatment fa-  
14 cility that has at least 10 percent of its pa-  
15 tient volume (as estimated in accordance  
16 with a methodology established by the Sec-  
17 retary) attributable to individuals receiving  
18 medical assistance under this title.”.

19 (2) Paragraph (3)(B) is amended—

20 (A) in clause (iv), by striking “and” after  
21 the semicolon;

22 (B) in clause (v), by striking the period  
23 and inserting a semicolon; and

24 (C) by adding at the end the following new  
25 clauses:

1           “(vi) clinical psychologist providing  
2 qualified psychologist services (as defined  
3 in section 1861(ii)), if such clinical psy-  
4 chologist is practicing in an outpatient  
5 clinic that—

6                   “(I) is led by a clinical psycholo-  
7 gist; and

8                   “(II) is not otherwise receiving  
9 payment under paragraph (1) as a  
10 Medicaid provider described in para-  
11 graph (2)(B); and

12           “(vii) clinical social worker (as defined  
13 in section 1861(hh)(1)), if such clinical so-  
14 cial worker is practicing in an outpatient  
15 clinic that—

16                   “(I) is led by a clinical social  
17 worker; and

18                   “(II) is not otherwise receiving  
19 payment under paragraph (1) as a  
20 Medicaid provider described in para-  
21 graph (2)(B).”.

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