

105TH CONGRESS
1ST SESSION

H. R. 2784

To amend title XVIII of the Social Security Act to limit the ability of physicians to demand more money through private contracts during periods in which the patient is in an exposed condition.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 1997

Mr. STARK introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on 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 limit the ability of physicians to demand more money through private contracts during periods in which the patient is in an exposed condition.

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 “No Private Contracts
5 To Be Negotiated When the Patient Is Buck Naked Act
6 of 1997”.

1 **SEC. 2. FINDINGS.**

2 Whereas the Kyl amendment on private contracting
3 gives the patient and the doctor freedom to negotiate pay-
4 ment rates higher than Medicare's payment rates;

5 Whereas most normal patients do not particularly
6 want to pay more for a service and therefore the Kyl
7 amendment is really an amendment to let doctors charge
8 more;

9 Whereas ability of doctors to pick when and where
10 to force patients to give up their Medicare benefits will
11 create such uncertainty as to destroy Medicare as an in-
12 surance program that citizens can rely on;

13 Whereas, in light of a recent Wall Street Journal ar-
14 ticle detailing how a doctor whose income declined from
15 \$400,000 a year to \$300,000 a year resorted to selling
16 Amway products to his patients to increase his income (de-
17 spite ethical questions about the practice raised by the
18 American Medical Association), it is likely that some doc-
19 tors will do anything to make more money and will want
20 to charge more than the Medicare fee schedule;

21 Whereas the negotiation of a private contract—to be
22 fair—should be between two reasonably equal parties; and

23 Whereas there are moments in a doctor's office when
24 it is difficult for the average patient to feel reasonably
25 equal;

1 Therefore it is appropriate to limit the situations in
2 which a negotiated private contract may be discussed in
3 order to avoid turning the negotiation into an extortion.

4 **SEC. 3 CERTAIN SITUATIONS WHERE IT IS NOT APPRO-**
5 **PRIATE TO NEGOTIATE A PRIVATE CON-**
6 **TRACT**

7 To promote equality in the negotiation of private con-
8 tracts, the Secretary of the Department of Health and
9 Human Services shall issue regulations prohibiting the
10 discussion or signing of private contracts at any time—

11 (a) the patient is buck naked and the doctor is
12 fully clothed (and conversely, to protect the rights of
13 doctors, when the patient is fully clothed and the
14 doctor is naked);

15 (b) the patient is wearing one of those short,
16 flimsy little hospital gowns that don't close in the
17 back;

18 (c) during any sigmoidoscopic or proctoscopic
19 examination of the gastrointestinal tract or a digital
20 rectal examination of the prostate;

21 (d) during any testicular examination;

22 (e) at any time the patient's legs are in a stir-
23 rup device;

1 (f) at any time the patient is using a bedpan
2 or in the middle of the administration of an enema
3 (or awaiting the outcome of such administration);

4 (g) at any time one has been asked to give a
5 urine or stool sample; and

6 (h) at any other time that the Secretary deter-
7 mines that a normal human being would find it awk-
8 ward to negotiate a contract with his or her physi-
9 cian.

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