

Bill no.:	HR 3200
Amendment no.:	1 I
Date offered:	07/20/2009
Disposition:	Adopted v v

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3200  
OFFERED BY MR. PALLONE OF NEW JERSEY**

Page 879, line 7, strike clause (ii) and insert the following:

1                   “(ii) high needs for health services, in-  
2                   cluding services to address health dispari-  
3                   ties.

Page 880, line 20, strike “(d)” and all that follows through “the term ‘primary health services’ has the meaning” and insert the following:

4           “(d) DEFINITIONS.—In this subpart:  
5           “(1) The term ‘health disparities’ has the  
6           meaning given to the term in section 3171.  
7           “(2) The term ‘primary health services’ has the  
8           meaning

Page 943, line 16, redesignate paragraph (5) as paragraph (6) and insert the following:

9           (5) Review of prevention payment incentives,  
10          the prevention workforce, and prevention delivery  
11          system capacity.

Page 943, line 17, strike "4" and insert "5".

Page 944, after line 9, insert the following:

- 1 (5) The Task Force on Community Preventive
- 2 Services and the Task Force on Clinical Preventive
- 3 Services.

Page 945, line 13, strike "as appropriate,".

Page 952, line 7, strike "as appropriate,".

~~In section 3121(c)(1) of the Public Health Service Act, as added by section 2301(a) of the bill, strike "and the Office on Women's Health" and insert "the Office on Women's Health, and the Substance Abuse and Mental Health Services Administration".~~

*Pallone  
UC  
to strike  
(no obj)*

On page 968, beginning at line 19, strike "or other population or subpopulation determined appropriate by the Secretary" and insert "and other populations or subpopulations determined by the Secretary to experience significant gaps in disease, health outcomes, or access to health care".

At the end of title V of division C, add the following:

1 **Subtitle F—Health Centers Under**  
2 **Public Health Service Act; Li-**  
3 **ability Protections for Volun-**  
4 **teer Practitioners**

5 **SEC. 2551. HEALTH CENTERS UNDER PUBLIC HEALTH**  
6 **SERVICE ACT; LIABILITY PROTECTIONS FOR**  
7 **VOLUNTEER PRACTITIONERS.**

8 (a) IN GENERAL.—Section 224 (42 U.S.C. 233) is  
9 amended—

10 (1) in subsection (g)(1)(A)—

11 (A) in the first sentence, by striking “or  
12 employee” and inserting “employee, or (subject  
13 to subsection (k)(4)) volunteer practitioner”;  
14 and

15 (B) in the second sentence, by inserting  
16 “and subsection (k)(4)” after “subject to para-  
17 graph (5)”; and

18 (2) in each of subsections (g), (i), (j), (k), (l),  
19 and (m)—

20 (A) by striking the term “employee, or  
21 contractor” each place such term appears and  
22 inserting “employee, volunteer practitioner, or  
23 contractor”;

24 (B) by striking the term “employee, and  
25 contractor” each place such term appears and

1 inserting “employee, volunteer practitioner, and  
2 contractor”;

3 (C) by striking the term “employee, or any  
4 contractor” each place such term appears and  
5 inserting “employee, volunteer practitioner, or  
6 contractor”; and

7 (D) by striking the term “employees, or  
8 contractors” each place such term appears and  
9 inserting “employees, volunteer practitioners, or  
10 contractors”.

11 (b) **APPLICABILITY; DEFINITION.**—Section 224(k)  
12 (42 U.S.C. 233(k)) is amended by adding at the end the  
13 following paragraph:

14 “(4)(A) Subsections (g) through (m) apply with re-  
15 spect to volunteer practitioners beginning with the first  
16 fiscal year for which an appropriations Act provides that  
17 amounts in the fund under paragraph (2) are available  
18 with respect to such practitioners.

19 “(B) For purposes of subsections (g) through (m),  
20 the term ‘volunteer practitioner’ means a practitioner who,  
21 with respect to an entity described in subsection (g)(4),  
22 meets the following conditions:

23 “(i) The practitioner is a licensed physician, a  
24 licensed clinical psychologist, or other licensed or  
25 certified health care practitioner.



1       “(b) GRANT.—The Secretary shall award grants to  
2 entities—

3           “(1) to plan and develop a nurse-managed  
4 health center; or

5           “(2) to operate a nurse-managed health center.

6       “(c) USE OF FUNDS.—Amounts received as a grant  
7 under subsection (b) may be used for activities including  
8 the following:

9           “(1) Purchasing or leasing equipment.

10          “(2) Training and technical assistance related  
11 to the provision of comprehensive primary care serv-  
12 ices and wellness services.

13          “(3) Other activities for planning, developing,  
14 or operating, as applicable, a nurse-managed health  
15 center.

16       “(d) ASSURANCES APPLICABLE TO BOTH PLANNING  
17 AND OPERATION GRANTS.—

18          “(1) IN GENERAL.—The Secretary may award  
19 a grant under this section to an entity only if the  
20 entity demonstrates to the Secretary’s satisfaction  
21 that—

22           “(A) nurses, in addition to managing the  
23 center, will be adequately represented as pro-  
24 viders at the center; and

1           “(B) not later than 90 days after receiving  
2           the grant, the entity will establish a community  
3           advisory committee composed of individuals, a  
4           majority of whom are being served by the cen-  
5           ter, to provide input into the nurse-managed  
6           health center’s operations.

7           “(2) MATCHING REQUIREMENT.—The Sec-  
8           retary may award a grant under this section to an  
9           entity only if the entity agrees to provide, from non-  
10          Federal sources, an amount equal to 20 percent of  
11          the amount of the grant (which may be provided in  
12          cash or in kind) to carry out the activities supported  
13          by the grant.

14          “(3) PAYOR OF LAST RESORT.—The Secretary  
15          may award a grant under this section to an entity  
16          only if the entity demonstrates to the satisfaction of  
17          the Secretary that funds received through the grant  
18          will not be expended for any activity to the extent  
19          that payment has been made, or can reasonably be  
20          expected to be made—

21                   “(A) under any insurance policy;

22                   “(B) under any Federal or State health  
23                   benefits program (including titles XIX and XXI  
24                   of the Social Security Act); or

1           “(C) by an entity which provides health  
2           services on a prepaid basis.

3           “(4) MAINTENANCE OF EFFORT.—The Sec-  
4           retary may award a grant under this section to an  
5           entity only if the entity demonstrates to the satisfac-  
6           tion of the Secretary that—

7           “(A) funds received through the grant will  
8           be expended only to supplement, and not sup-  
9           plant, non-Federal and Federal funds otherwise  
10          available to the entity for the activities to be  
11          funded through the grant; and

12          “(B) with respect to such activities, the en-  
13          tity will maintain expenditures of non-Federal  
14          amounts for such activities at a level not less  
15          than the lesser of such expenditures maintained  
16          by the entity for the fiscal year preceding the  
17          fiscal year for which the entity receives the  
18          grant.

19          “(e) ADDITIONAL ASSURANCE FOR PLANNING  
20          GRANTS.—The Secretary may award a grant under sub-  
21          section (b)(1) to an entity only if the entity agrees—

22          “(1) to assess the needs of the medically under-  
23          served populations proposed to be served by the  
24          nurse-managed health center; and

1           “(2) to design services and operations of the  
2 nurse-managed health center for such populations  
3 based on such assessment.

4           “(f) ADDITIONAL ASSURANCES FOR OPERATION  
5 GRANTS.—The Secretary may award a grant under sub-  
6 section (b)(2) to an entity only if the entity assures that  
7 the nurse-managed health center will provide—

8           “(1) comprehensive primary care services,  
9 wellness services, and other health care services  
10 deemed appropriate by the Secretary;

11           “(2) care without respect to insurance status or  
12 income of the patient; and

13           “(3) direct access to client-centered services of-  
14 fered by advanced practice nurses, other nurses,  
15 physicians, physician assistants, or other qualified  
16 health care professionals.

17           “(g) TECHNICAL ASSISTANCE.—The Secretary shall  
18 provide (either directly or by grant or contract) technical  
19 and other assistance to nurse-managed health centers to  
20 assist such centers in meeting the requirements of this  
21 section. Such assistance may include fiscal and program  
22 management assistance, training in fiscal and program  
23 management, operational and administrative support, and  
24 the provision of information to nurse-managed health cen-  
25 ters regarding the various resources available under this

1 section and how those resources can best be used to meet  
2 the health needs of the communities served by nurse-man-  
3 aged health centers.

4 “(h) REPORT.—The Secretary shall submit to the  
5 Congress an annual report on the program under this sec-  
6 tion.

7 “(i) DEFINITIONS.—

8 “(1) COMPREHENSIVE PRIMARY CARE SERV-  
9 ICES.—The term ‘comprehensive primary care serv-  
10 ices’ has the meaning given to the term ‘required  
11 primary health services’ in section 330(b)(1).

12 “(2) MEDICALLY UNDERSERVED POPU-  
13 LATION.—The term ‘medically underserved popu-  
14 lation’ has the meaning given to such term in section  
15 330(b)(3).

16 “(3) NURSE-MANAGED HEALTH CENTER.—The  
17 term ‘nurse-managed health center’ has the meaning  
18 given to such term in section 801.

19 “(4) WELLNESS SERVICES.—The term ‘wellness  
20 services’ means any health-related service or inter-  
21 vention, not including primary care, which is de-  
22 signed to reduce identifiable health risks and in-  
23 crease healthy behaviors intended to prevent the  
24 onset of disease or lessen the impact of existing  
25 chronic conditions by teaching more effective man-

1       agement techniques that focus on individual self-care  
2       and patient-driven decisionmaking.”.

3       **Subtitle H—Federally Qualified**  
4       **Behavioral Health Centers**

5       **SEC. 2571. FEDERALLY QUALIFIED BEHAVIORAL HEALTH**  
6       **CENTERS.**

7       (a) BLOCK GRANTS REGARDING MENTAL HEALTH  
8       AND SUBSTANCE ABUSE.—Section 1913 (42 U.S.C.  
9       300x-3) is amended—

10       (1) in subsection (a)(2)(A), by striking “com-  
11       munity mental health services” and inserting “be-  
12       havioral health services”;

13       (2) in subsection (b)—

14       (A) by striking paragraph (1) and insert-  
15       ing the following:

16       “(1) services under the plan will be provided  
17       only through appropriate, qualified community pro-  
18       grams (which may include federally qualified behav-  
19       ioral health centers, child mental health programs,  
20       psychosocial rehabilitation programs, mental health  
21       peer-support programs, and mental health primary  
22       consumer-directed programs); and”;

23       (B) in paragraph (2), by striking “commu-  
24       nity mental health centers” and inserting “fed-  
25       erally qualified behavioral health centers”; and

1           (3) by striking subsection (c) and inserting the  
2 following:

3           “(e) CRITERIA FOR FEDERALLY QUALIFIED BEHAV-  
4 IORAL HEALTH CENTERS.—

5           “(1) IN GENERAL.—The Administrator shall  
6 certify, and recertify at least every 5 years, federally  
7 qualified behavioral health centers as meeting the  
8 criteria specified in this subsection.

9           “(2) REGULATIONS.—Not later than 18 months  
10 after the date of the enactment of the America’s Af-  
11 fordable Health Choices Act of 2009, the Adminis-  
12 trator shall issue final regulations for certifying cen-  
13 ters under paragraph (1).

14           “(3) CRITERIA.—The criteria referred to in  
15 subsection (b)(2) are that the center performs each  
16 of the following:

17           “(A) Provide services in locations that en-  
18 sure services will be available and accessible  
19 promptly and in a manner which preserves  
20 human dignity and assures continuity of care.

21           “(B) Provide services in a mode of service  
22 delivery appropriate for the target population.

23           “(C) Provide individuals with a choice of  
24 service options where there is more than one ef-  
25 ficacious treatment.

1           “(D) Employ a core staff of clinical staff  
2           that is multi-disciplinary and culturally and lin-  
3           guistically competent.

4           “(E) Provide services, within the limits of  
5           the capacities of the center, to any individual  
6           residing or employed in the service area of the  
7           center.

8           “(F) Provide, directly or through contract,  
9           to the extent covered for adults in the State  
10          Medicaid plan and for children in accordance  
11          with section 1905(r) of the Social Security Act  
12          regarding early and periodic screening, diag-  
13          nosis, and treatment, each of the following serv-  
14          ices:

15                 “(i) Screening, assessment, and diag-  
16                 nosis, including risk assessment.

17                 “(ii) Person-centered treatment plan-  
18                 ning or similar processes, including risk as-  
19                 sessment and crisis planning.

20                 “(iii) Outpatient clinic mental health  
21                 services, including screening, assessment,  
22                 diagnosis, psychotherapy, substance abuse  
23                 counseling, medication management, and  
24                 integrated treatment for mental illness and  
25                 substance abuse which shall be evidence-

1 based (including cognitive behavioral ther-  
2 apy, dialectical behavioral therapy, motiva-  
3 tional interviewing, and other such thera-  
4 pies which are evidence-based).

5 “(iv) Outpatient clinic primary care  
6 services, including screening and moni-  
7 toring of key health indicators and health  
8 risk (including screening for diabetes, hy-  
9 pertension, and cardiovascular disease and  
10 monitoring of weight, height, body mass  
11 index (BMI), blood pressure, blood glucose  
12 or HbA1C, and lipid profile).

13 “(v) Crisis mental health services, in-  
14 cluding 24-hour mobile crisis teams, emer-  
15 gency crisis intervention services, and cri-  
16 sis stabilization.

17 “(vi) Targeted case management  
18 (services to assist individuals gaining ac-  
19 cess to needed medical, social, educational,  
20 and other services and applying for income  
21 security and other benefits to which they  
22 may be entitled).

23 “(vii) Psychiatric rehabilitation serv-  
24 ices including skills training, assertive com-  
25 munity treatment, family psychoeducation,

1 disability self-management, supported em-  
2 ployment, supported housing services,  
3 therapeutic foster care services, multi-sys-  
4 temic therapy, and such other evidence-  
5 based practices as the Secretary may re-  
6 quire.

7 “(viii) Peer support and counselor  
8 services and family supports.

9 “(G) Maintain linkages, and where possible  
10 enter into formal contracts with, inpatient psy-  
11 chiatric facilities and substance abuse detoxi-  
12 fication and residential programs.

13 “(H) Make available to individuals served  
14 by the center, directly, through contract, or  
15 though linkages with other programs, each of  
16 the following:

17 “(i) Adult and youth peer support and  
18 counselor services.

19 “(ii) Family support services for fami-  
20 lies of children with serious mental dis-  
21 orders.

22 “(iii) Other community or regional  
23 services, supports, and providers, including  
24 schools, child welfare agencies, juvenile and  
25 criminal justice agencies and facilities,

1 housing agencies and programs, employers,  
2 and other social services.

3 “(iv) On- or off-site access to primary  
4 care services.

5 “(v) Enabling services, including out-  
6 reach, transportation, and translation.

7 “(vi) Health and wellness services, in-  
8 cluding services for tobacco cessation.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) BLOCK GRANTS FOR BEHAVIORAL HEALTH  
11 SERVICES.—Subpart I of part B of title XIX (42  
12 U.S.C. 300x–1 et seq.) is amended—

13 (A) in the subpart heading, by striking  
14 “**Community Mental Health Services**”  
15 and inserting “**Behavioral Mental Health**  
16 **Services**”;

17 (B) in the heading of section 1912, by  
18 striking “**COMMUNITY MENTAL HEALTH**  
19 **SERVICES**” and inserting “**BEHAVIORAL**  
20 **MENTAL HEALTH SERVICES**”; and

21 (C) in sections 1912(a)(1),  
22 1912(b),1915(b)(1), and 1918(a)(8), by strik-  
23 ing the term “community mental health serv-  
24 ices” each place it appears and inserting “be-  
25 havioral mental health services”.

1 (2) CENTER FOR MENTAL HEALTH SERVICES.—  
2 Paragraph (13) of section 520(b) (42U.S.C. 290bb–  
3 31) is amended by striking “community mental  
4 health centers” and inserting “federally qualified be-  
5 havioral health centers”.

6 (3) GRANTS FOR EMERGENCY MENTAL HEALTH  
7 CENTERS.—Subsection (b) of section 520F (42  
8 U.S.C. 290bb–37) is amended by striking “commu-  
9 nity mental health centers” and inserting “federally  
10 qualified behavioral health centers”.

11 **Subtitle I—Reauthorization of**  
12 **Telehealth and Telemedicine**  
13 **Grant Programs**

14 **SEC. 2581. TELEHEALTH NETWORK AND TELEHEALTH RE-**  
15 **SOURCE CENTERS GRANT PROGRAMS.**

16 Section 330I (42 U.S.C. 254c–14) is amended—

17 (1) in subsection (a)—

18 (A) by striking paragraph (3) (relating to  
19 frontier communities); and

20 (B) by inserting after paragraph (2) the  
21 following:

22 “(3) HEALTH DISPARITIES.—The term ‘health  
23 disparities’ has the meaning given such term in sec-  
24 tion 3171.”;

25 (2) in subsection (d)(1)—

1 (A) in subparagraph (B), by striking  
2 “and” at the end;

3 (B) in subparagraph (C), by striking the  
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(D) reduce health disparities.”;

7 (3) in subsection (f)(1)(B)(iii)—

8 (A) in subclause (VII), by inserting “, in-  
9 cluding skilled nursing facilities” before the pe-  
10 riod at the end;

11 (B) in subclause (IX), by inserting “, in-  
12 cluding county mental health and public mental  
13 facilities” before the period at the end; and

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

15 “(XIII) Renal dialysis facilities.”;

16 (4) by amending subsection (i) to read as fol-  
17 lows:

18 “(i) PREFERENCES.—

19 “(1) TELEHEALTH NETWORKS.—In awarding  
20 grants under subsection (d)(1) for projects involving  
21 telehealth networks, the Secretary shall give pref-  
22 erence to eligible entities meeting the following:

23 “(A) NETWORK.—The eligible entity is a  
24 health care provider in, or proposing to form, a  
25 health care network that furnishes services in a

1 medically underserved area or a health profes-  
2 sional shortage area.

3 “(B) BROAD GEOGRAPHIC COVERAGE.—  
4 The eligible entity demonstrates broad geo-  
5 graphic coverage in the rural or medically un-  
6 derserved areas of the State or States in which  
7 the entity is located.

8 “(C) HEALTH DISPARITIES.—The eligible  
9 entity demonstrates how the project to be fund-  
10 ed through the grant will address health dis-  
11 parities.

12 “(D) LINKAGES.—The eligible entity  
13 agrees to use the grant to establish or develop  
14 plans for telehealth systems that will link rural  
15 hospitals and rural health care providers to  
16 other hospitals, health care providers, and pa-  
17 tients.

18 “(E) EFFICIENCY.—The eligible entity  
19 agrees to use the grant to promote greater effi-  
20 ciency in the use of health care resources.

21 “(F) VIABILITY.—The eligible entity dem-  
22 onstrates the long-term viability of projects  
23 through—

24 “(i) availability of non-Federal fund-  
25 ing sources; or

1                   “(ii) institutional and community sup-  
2                   port for the telehealth network.

3                   “(G) SERVICES.—The eligible entity pro-  
4                   vides a plan for coordinating system use by eli-  
5                   gible entities and prioritizes use of grant funds  
6                   for health care services over non-clinical uses.

7                   “(2) TELEHEALTH RESOURCE CENTERS.—In  
8                   awarding grants under subsection (d)(2) for projects  
9                   involving telehealth resource centers, the Secretary  
10                  shall give preference to eligible entities meeting the  
11                  following:

12                  “(A) PROVISION OF A BROAD RANGE OF  
13                  SERVICES.—The eligible entity has a record of  
14                  success in the provision of a broad range of  
15                  telehealth services to medically underserved  
16                  areas or populations.

17                  “(B) PROVISION OF TELEHEALTH TECH-  
18                  NICAL ASSISTANCE.—The eligible entity has a  
19                  record of success in the provision of technical  
20                  assistance to providers serving medically under-  
21                  served communities or populations in the estab-  
22                  lishment and implementation of telehealth serv-  
23                  ices.

24                  “(C) COLLABORATION AND SHARING OF  
25                  EXPERTISE.—The eligible entity has a dem-

1           onstrated record of collaborating and sharing  
2           expertise with providers of telehealth services at  
3           the national, regional, State, and local levels.”;

4           (5) in subsection (j)(2)(B), by striking “such  
5           projects for fiscal year 2001” and all that follows  
6           through the period and inserting “such project for  
7           fiscal year 2009.”;

8           (6) in subsection (k)(1)—

9                 (A) in subparagraph (E)(i), by striking  
10                “transmission of medical data” and inserting  
11                “transmission and electronic archival of medical  
12                data”; and

13               (B) by amending subparagraph (F) to read  
14                as follows:

15                         “(F) developing projects to use telehealth  
16                        technology—

17                                 “(i) to facilitate collaboration between  
18                                health care providers;

19                                 “(ii) to promote telenursing services;  
20                                or

21                                 “(iii) to promote patient under-  
22                                standing and adherence to national guide-  
23                                lines for chronic disease and self-manage-  
24                                ment of such conditions;”;

1           (7) in subsection (q), by striking “Not later  
2 than September 30, 2005” and inserting “Not later  
3 than 1 year after the date of the enactment of the  
4 America’s Affordable Health Choices Act of 2009,  
5 and annually thereafter”;

6           (8) by striking subsection (r);

7           (9) by redesignating subsection (s) as sub-  
8 section (r); and

9           (10) in subsection (r) (as so redesignated)—

10           (A) in paragraph (1)—

11               (i) by striking “and” before “such  
12 sums”; and

13               (ii) by inserting “\$10,000,000 for fis-  
14 cal year 2010, and such sums as may be  
15 necessary for each of fiscal years 2011  
16 through 2014” before the semicolon; and

17           (B) in paragraph (2)—

18               (i) by striking “and” before “such  
19 sums”; and

20               (ii) by inserting “\$10,000,000 for fis-  
21 cal year 2010, and such sums as may be  
22 necessary for each of fiscal years 2011  
23 through 2014” before the semicolon.

1 **SEC. 2582. TELEMEDICINE; INCENTIVE GRANTS REGARD-**  
2 **ING COORDINATION AMONG STATES.**

3 Subsection (b) of section 330L (42 U.S.C. 254c-18)  
4 is amended by inserting “, \$10,000,000 for fiscal year  
5 2010, and such sums as may be necessary for each of fis-  
6 cal years 2011 through 2014” before the period at the  
7 end.

8 **Subtitle J—Trauma Care Centers**

9 **SEC. 2591. TRAUMA CARE CENTERS.**

10 (a) GRANTS FOR TRAUMA CARE CENTERS.—Section  
11 1241 (42 U.S.C. 300d-41) is amended to read as follows:

12 **“SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.**

13 “(a) IN GENERAL.—The Secretary shall establish a  
14 trauma center program consisting of awarding grants  
15 under section (b).

16 “(b) GRANTS.—The Secretary shall award grants as  
17 follows:

18 “(1) EXISTING CENTERS.—Grants to public,  
19 private nonprofit, Indian Health Service, Indian  
20 tribal, and urban Indian trauma centers—

21 “(A) to further the core missions of such  
22 centers; or

23 “(B) to provide emergency relief to ensure  
24 the continued and future availability of trauma  
25 services by trauma centers—

1                   “(i) at risk of closing or operating in  
2                   an area where a closing has occurred with-  
3                   in their primary service area; or

4                   “(ii) in need of financial assistance  
5                   following a natural disaster or other cata-  
6                   strophic event, such as a terrorist attack.

7                   “(2) NEW CENTERS.—Grants to local govern-  
8                   ments and public or private nonprofit entities to es-  
9                   tablish new trauma centers in urban areas with a  
10                  substantial degree of trauma resulting from violent  
11                  crimes.

12                  “(c) MINIMUM QUALIFICATIONS OF TRAUMA CEN-  
13                  TERS.—

14                  “(1) PARTICIPATION IN TRAUMA CARE SYSTEM  
15                  OPERATING UNDER CERTAIN PROFESSIONAL GUIDE-  
16                  LINES.—

17                  “(A) LIMITATION.—Subject to subpara-  
18                  graph (B), the Secretary may not award a  
19                  grant to an existing trauma center under this  
20                  section unless the center is a participant in a  
21                  trauma care system that substantially complies  
22                  with section 1213.

23                  “(B) EXEMPTION.—Subparagraph (A)  
24                  shall not apply to trauma centers that are lo-

1 cated in States with no existing trauma care  
2 system.

3 “(2) DESIGNATION.—The Secretary may not  
4 award a grant under this section to an existing trau-  
5 ma center unless the center is—

6 “(A) verified as a trauma center by the  
7 American College of Surgeons; or

8 “(B) designated as a trauma center by the  
9 applicable State health or emergency medical  
10 services authority.”.

11 (b) CONSIDERATIONS IN MAKING GRANTS.—Section  
12 1242 (42 U.S.C. 300d-42) is amended to read as follows:

13 **“SEC. 1242. CONSIDERATIONS IN MAKING GRANTS.**

14 “(a) CORE MISSION AWARDS.—

15 “(1) IN GENERAL.—In awarding grants under  
16 section 1241(a)(1)(A), the Secretary shall—

17 “(A) reserve a minimum of 25 percent of  
18 the amount allocated for such grants for level  
19 III and level IV trauma centers in rural or un-  
20 derserved areas;

21 “(B) reserve a minimum of 25 percent of  
22 the amount allocated for such grants for level  
23 I and level II trauma centers in urban areas;  
24 and

1           “(C) give preference to any application  
2           made by a trauma center—

3                   “(i) in a geographic area where  
4                   growth in demand for trauma services ex-  
5                   ceeds capacity;

6                   “(ii) that demonstrates the financial  
7                   support of the State or political subdivision  
8                   involved;

9                   “(iii) that has at least 1 graduate  
10                  medical education fellowship in trauma or  
11                  trauma related specialties, including neuro-  
12                  logical surgery, surgical critical care, vas-  
13                  cular surgery, and spinal cord injury, for  
14                  which demand is exceeding supply; or

15                  “(iv) that demonstrates a substantial  
16                  commitment to serving vulnerable popu-  
17                  lations.

18           “(2) FINANCIAL SUPPORT.—For purposes of  
19           paragraph (1)(C)(ii), financial support may be dem-  
20           onstrated by State or political subdivision funding  
21           for the trauma center’s capital or operating expenses  
22           (including through State trauma regional advisory  
23           coordination activities, Medicaid funding designated  
24           for trauma services, or other governmental funding).  
25           State funding derived from Federal support shall

1 not constitute State or local financial support for  
2 purposes of preferential treatment under this sub-  
3 section.

4 “(3) USE OF FUNDS.—The recipient of a grant  
5 under section 1241(a)(1)(A) shall carry out, con-  
6 sistent with furthering the core missions of the cen-  
7 ter, one or more of the following activities:

8 “(A) Providing 24-hour-a-day, 7-day-a-  
9 week trauma care availability.

10 “(B) Reducing overcrowding related to  
11 throughput of trauma patients.

12 “(C) Enhancing trauma surge capacity.

13 “(D) Ensuring physician and essential per-  
14 sonnel availability.

15 “(E) Trauma education and outreach.

16 “(F) Coordination with local and regional  
17 trauma care systems.

18 “(G) Such other activities as the Secretary  
19 may deem appropriate.

20 “(b) EMERGENCY AWARDS; NEW CENTERS.—In  
21 awarding grants under paragraphs (1)(B) and (2) of sec-  
22 tion 1241(a), the Secretary shall—

23 “(1) give preference to any application sub-  
24 mitted by an applicant that demonstrates the finan-  
25 cial support (in accordance with subsection (a)(2))

1 of the State or political subdivision involved for the  
2 activities to be funded through the grant for each  
3 fiscal year during which payments are made to the  
4 center under the grant; and

5 “(2) give preference to any application sub-  
6 mitted for a trauma center that—

7 “(A) is providing or will provide trauma  
8 care in a geographic area in which the avail-  
9 ability of trauma care has either significantly  
10 decreased as a result of a trauma center in the  
11 area permanently ceasing participation in a sys-  
12 tem described in section 1241(c)(1) as of a date  
13 occurring during the 2-year period preceding  
14 the fiscal year for which the trauma center is  
15 applying to receive a grant, or in geographic  
16 areas where growth in demand for trauma serv-  
17 ices exceeds capacity;

18 “(B) will, in providing trauma care during  
19 the 1-year period beginning on the date on  
20 which the application for the grant is sub-  
21 mitted, incur substantial uncompensated care  
22 costs in an amount that renders the center un-  
23 able to continue participation in such system  
24 and results in a significant decrease in the

1 availability of trauma care in the geographic  
2 area; or

3 “(C) operates or will operate in rural areas  
4 where trauma care availability will significantly  
5 decrease if the center is forced to close or down-  
6 grade service and substantial costs are contrib-  
7 uting to a likelihood of such closure or  
8 downgradation;

9 “(D) is in a geographic location substan-  
10 tially affected by a natural disaster or other  
11 catastrophic event such as a terrorist attack; or

12 “(E) will establish a new trauma service in  
13 an urban area with a substantial degree of  
14 trauma resulting from violent crimes.

15 “(c) DESIGNATIONS OF LEVELS OF TRAUMA CEN-  
16 TERS IN CERTAIN STATES.—In the case of a State which  
17 has not designated 4 levels of trauma centers, any ref-  
18 erence in this section to—

19 “(1) a level I or level II trauma center is  
20 deemed to be a reference to a trauma center within  
21 the highest 2 levels of trauma centers designated  
22 under State guidelines; and

23 “(2) a level III or IV trauma center is deemed  
24 to be a reference to a trauma center not within such  
25 highest 2 levels.”.

1           (c) CERTAIN AGREEMENTS.—Section 1243 (42  
2 U.S.C. 300d–43) is amended to read as follows:

3 **“SEC. 1243. CERTAIN AGREEMENTS.**

4           “(a) COMMITMENT REGARDING CONTINUED PAR-  
5 TICIPATION IN TRAUMA CARE SYSTEM.—The Secretary  
6 may not award a grant to an applicant under section  
7 1241(a) unless the applicant agrees that—

8                   “(1) the trauma center involved will continue  
9 participation, or in the case of a new center will partici-  
10 pation, in the system described in section  
11 1241(c)(1), except as provided in section  
12 1241(c)(1)(B), throughout the grant period begin-  
13 ning on the date that the center first receives pay-  
14 ments under the grant; and

15                   “(2) if the agreement made pursuant to para-  
16 graph (1) is violated by the center, the center will  
17 be liable to the United States for an amount equal  
18 to the sum of—

19                           “(A) the amount of assistance provided to  
20 the center under section 1241; and

21                           “(B) an amount representing interest on  
22 the amount specified in subparagraph (A).

23           “(b) MAINTENANCE OF FINANCIAL SUPPORT.—With  
24 respect to activities for which funds awarded through a  
25 grant under section 1241 are authorized to be expended,

1 the Secretary may not award such a grant unless the ap-  
2 plicant agrees that, during the period in which the trauma  
3 center involved is receiving payments under the grant, the  
4 center will maintain access to trauma services at levels not  
5 less than the levels for the prior year, taking into ac-  
6 count—

7 “(1) reasonable volume fluctuation that is not  
8 caused by intentional trauma boundary reduction;

9 “(2) downgrading of the level of services; and

10 “(3) whether such center diverts its incoming  
11 patients away from such center 5 percent or more  
12 of the time during which the center is in operation  
13 over the course of the year.

14 “(c) TRAUMA CARE REGISTRY.—The Secretary may  
15 not award a grant to a trauma center under section  
16 1241(a)(1) unless the center agrees that—

17 “(1) not later than 6 months after the date on  
18 which the center submits a grant application to the  
19 Secretary, the center will establish and operate a  
20 registry of trauma cases in accordance with guide-  
21 lines developed by the American College of Surgeons;  
22 and

23 “(2) in carrying out paragraph (1), the center  
24 will maintain information on the number of trauma  
25 cases treated by the center and, for each such case,

1 the extent to which the center incurs uncompensated  
2 costs in providing trauma care.”.

3 (d) GENERAL PROVISIONS.—Section 1244 (42  
4 U.S.C. 300d–44) is amended to read as follows:

5 **“SEC. 1244. GENERAL PROVISIONS.**

6 “(a) LIMITATION ON DURATION OF SUPPORT.—The  
7 period during which a trauma center receives payments  
8 under a grant under section 1241(a)(1) shall be for 3 fis-  
9 cal years, except that the Secretary may waive such re-  
10 quirement for the center and authorize the center to re-  
11 ceive such payments for 1 additional fiscal year.

12 “(b) ELIGIBILITY.—The acquisition of, or eligibility  
13 for, a grant under section 1241(a) shall not preclude a  
14 trauma center’s eligibility for another grant described in  
15 such section.

16 “(c) FUNDING DISTRIBUTION.—Of the total amount  
17 appropriated for a fiscal year under section 1245—

18 “(1) 90 percent shall be used for grants under  
19 paragraph (1)(A) of section 1241(a); and

20 “(2) 10 percent shall be used for grants under  
21 paragraphs (1)(B) and (2) of section 1241(a).

22 “(d) REPORT.—Beginning 2 years after the date of  
23 enactment of the America’s Affordable Health Choices Act  
24 of 2009, and every 2 years thereafter, the Secretary shall  
25 biennially—

1 “(1) report to Congress on the status of the  
2 grants made pursuant to section 1241;

3 “(2) evaluate and report to Congress on the  
4 overall financial stability of trauma centers in the  
5 United States;

6 “(3) report on the populations using trauma  
7 care centers and include aggregate patient data on  
8 income, race, ethnicity, and geography; and

9 “(4) evaluate the effectiveness and efficiency of  
10 trauma care center activities using standard public  
11 health measures and evaluation methodologies.”.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
13 1245 (42 U.S.C. 300d–45) is amended to read as follows:

14 **“SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.**

15 “(a) IN GENERAL.—For the purpose of carrying out  
16 this part, there are authorized to be appropriated  
17 \$100,000,000 for fiscal year 2010, and such sums as may  
18 be necessary for each of fiscal years 2011 through 2015.  
19 Such authorization of appropriations is in addition to any  
20 other authorization of appropriations or amounts that are  
21 available for such purpose.

22 “(b) REALLOCATION.—The Secretary shall reallocate  
23 for grants under section 1241(a)(1)(A) any funds appro-  
24 priated for grants under paragraph (1)(B) or (2) of sec-

1 tion 1241, but not obligated due to insufficient applica-  
2 tions eligible for funding.”.

### 3 **Subtitle K—Emergency Care**

#### 4 **SEC. 2601. EMERGENCY CARE COORDINATION.**

5 (a) IN GENERAL.—Subtitle B of title XXVIII (42  
6 U.S.C. 300hh–10 et seq.) is amended by adding at the  
7 end the following:

#### 8 **“SEC. 2816. EMERGENCY CARE COORDINATION.**

9 “(a) EMERGENCY CARE COORDINATION CENTER.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-  
11 tablish, within the Office of the Assistant Secretary  
12 for Preparedness and Response, an Emergency Care  
13 Coordination Center (in this section referred to as  
14 the ‘Center’), to be headed by a director.

15 “(2) DUTIES.—The Secretary, acting through  
16 the Director of the Center, in coordination with the  
17 Federal Interagency Committee on Emergency Med-  
18 ical Services, shall—

19 “(C) promote and fund research in emer-  
20 gency medicine and trauma health care;

21 “(D) promote regional partnerships and  
22 more effective emergency medical systems in  
23 order to enhance appropriate triage, distribu-  
24 tion, and care of routine community patients;  
25 and

1           “(E) promote local, regional, and State  
2           emergency medical systems’ preparedness for  
3           and response to public health events.

4           “(b) COUNCIL OF EMERGENCY CARE.—

5           “(1) ESTABLISHMENT.—The Secretary, acting  
6           through the Director of the Center, shall establish a  
7           Council of Emergency Care to provide advice and  
8           recommendations to the Director on carrying out  
9           this section.

10           “(2) COMPOSITION.—The Council shall be com-  
11           prised of employees of the departments and agencies  
12           of the Federal Government who are experts in emer-  
13           gency care and management.

14           “(c) REPORT.—

15           “(1) SUBMISSION.—Not later than 12 months  
16           after the date of the enactment of the America’s Af-  
17           fordable Health Choices Act of 2009, the Secretary  
18           shall submit to the Congress an annual report on  
19           the activities carried out under this section.

20           “(2) CONSIDERATIONS.—In preparing a report  
21           under paragraph (1), the Secretary shall consider  
22           factors including—

23                   “(A) emergency department crowding and  
24                   boarding; and

25                   “(B) delays in care following presentation.

1       “(d) AUTHORIZATION OF APPROPRIATIONS.—To  
2 carry out this section, there are authorized to be appro-  
3 priated such sums as may be necessary for fiscal years  
4 2010 through 2014.”.

5       (b) FUNCTIONS, PERSONNEL, ASSETS, LIABILITIES,  
6 AND ADMINISTRATIVE ACTIONS.—All functions, per-  
7 sonnel, assets, and liabilities of, and administrative actions  
8 applicable to, the Emergency Care Coordination Center,  
9 as in existence on the day before the date of the enactment  
10 of this Act, shall be transferred to the Emergency Care  
11 Coordination Center established under section 2816(a) of  
12 the Public Health Service Act, as added by subsection (a).

13 **SEC. 2602. PILOT PROGRAMS TO IMPROVE EMERGENCY**  
14 **MEDICAL CARE.**

15       Part B of title III (42 U.S.C. 243 et seq.) is amended  
16 by inserting after section 314 the following:

17 **“SEC. 315. REGIONALIZED COMMUNICATION SYSTEMS FOR**  
18 **EMERGENCY CARE RESPONSE.**

19       “(a) IN GENERAL.—The Secretary, acting through  
20 the Assistant Secretary for Preparedness and Response,  
21 shall award not fewer than 4 multiyear contracts or com-  
22 petitive grants to eligible entities to support demonstration  
23 programs that design, implement, and evaluate innovative  
24 models of regionalized, comprehensive, and accountable  
25 emergency care systems.

1       “(b) ELIGIBLE ENTITY; REGION.—

2               “(1) ELIGIBLE ENTITY.—In this section, the  
3 term ‘eligible entity’ means a State or a partnership  
4 of 1 or more States and 1 or more local govern-  
5 ments.

6               “(2) REGION.—In this section, the term ‘re-  
7 gion’ means an area within a State, an area that lies  
8 within multiple States, or a similar area (such as a  
9 multicounty area), as determined by the Secretary.

10       “(c) DEMONSTRATION PROGRAM.—The Secretary  
11 shall award a contract or grant under subsection (a) to  
12 an eligible entity that proposes a demonstration program  
13 to design, implement, and evaluate an emergency medical  
14 system that—

15               “(1) coordinates with public safety services,  
16 public health services, emergency medical services,  
17 medical facilities, and other entities within a region;

18               “(2) coordinates an approach to emergency  
19 medical system access throughout the region, includ-  
20 ing 9-1-1 public safety answering points and emer-  
21 gency medical dispatch;

22               “(3) includes a mechanism, such as a regional  
23 medical direction or transport communications sys-  
24 tem, that operates throughout the region to ensure  
25 that the correct patient is taken to the medically ap-

1       appropriate facility (whether an initial facility or a  
2       higher-level facility) in a timely fashion;

3           “(4) allows for the tracking of prehospital and  
4       hospital resources, including inpatient bed capacity,  
5       emergency department capacity, on-call specialist  
6       coverage, ambulance diversion status, and the co-  
7       ordination of such tracking with regional commu-  
8       nications and hospital destination decisions; and

9           “(5) includes a consistent region-wide  
10       prehospital, hospital, and interfacility data manage-  
11       ment system that—

12           “(A) complies with the National EMS In-  
13       formation System, the National Trauma Data  
14       Bank, and others;

15           “(B) reports data to appropriate Federal  
16       and State databanks and registries; and

17           “(C) contains information sufficient to  
18       evaluate key elements of prehospital care, hos-  
19       pital destination decisions, including initial hos-  
20       pital and interfacility decisions, and relevant  
21       outcomes of hospital care.

22       “(d) APPLICATION.—

23           “(1) IN GENERAL.—An eligible entity that  
24       seeks a contract or grant described in subsection (a)  
25       shall submit to the Secretary an application at such

1 time and in such manner as the Secretary may re-  
2 quire.

3 “(2) APPLICATION INFORMATION.—Each appli-  
4 cation shall include—

5 “(A) an assurance from the eligible entity  
6 that the proposed system—

7 “(i) has been coordinated with the ap-  
8 plicable State Office of Emergency Medical  
9 Services (or equivalent State office);

10 “(ii) is compatible with the applicable  
11 State emergency medical services system;

12 “(iii) includes consistent indirect and  
13 direct medical oversight of prehospital,  
14 hospital, and interfacility transport  
15 throughout the region;

16 “(iv) coordinates prehospital treat-  
17 ment and triage, hospital destination, and  
18 interfacility transport throughout the re-  
19 gion;

20 “(v) includes a categorization or des-  
21 ignation system for special medical facili-  
22 ties throughout the region that is—

23 “(I) consistent with State laws  
24 and regulations; and

1 “(II) integrated with the proto-  
2 cols for transport and destination  
3 throughout the region; and

4 “(vi) includes a regional medical di-  
5 rection system, a patient tracking system,  
6 and a resource allocation system that—

7 “(I) support day-to-day emer-  
8 gency care system operation;

9 “(II) can manage surge capacity  
10 during a major event or disaster; and

11 “(III) are integrated with other  
12 components of the national and State  
13 emergency preparedness system;

14 “(B) an agreement to make available non-  
15 Federal contributions in accordance with sub-  
16 section (f); and

17 “(C) such other information as the Sec-  
18 retary may require.

19 “(e) MATCHING FUNDS.—

20 “(1) IN GENERAL.—With respect to the costs of  
21 the activities to be carried out each year with a con-  
22 tract or grant under subsection (a), a condition for  
23 the receipt of the contract or grant is that the eligi-  
24 ble entity involved agrees to make available (directly  
25 or through donations from public or private entities)

1 non-Federal contributions toward such costs in an  
2 amount that is not less than 25 percent of such  
3 costs.

4 “(2) DETERMINATION OF AMOUNT CONTRIB-  
5 UTED.—Non-Federal contributions required in para-  
6 graph (1) may be in cash or in kind, fairly evalu-  
7 ated, including plant, equipment, or services.  
8 Amounts provided by the Federal Government, or  
9 services assisted or subsidized to any significant ex-  
10 tent by the Federal Government, may not be in-  
11 cluded in determining the amount of such non-Fed-  
12 eral contributions.

13 “(f) PRIORITY.—The Secretary shall give priority for  
14 the award of the contracts or grants described subsection  
15 (a) to any eligible entity that serves a medically under-  
16 served population (as defined in section 330(b)(3)).

17 “(g) REPORT.—Not later than 90 days after the com-  
18 pletion of a demonstration program under subsection (a),  
19 the recipient of such contract or grant described in such  
20 subsection shall submit to the Secretary a report con-  
21 taining the results of an evaluation of the program, includ-  
22 ing an identification of—

23 “(1) the impact of the regional, accountable  
24 emergency care system on patient outcomes for var-

1       ious critical care categories, such as trauma, stroke,  
2       cardiac emergencies, and pediatric emergencies;

3           “(2) the system characteristics that contribute  
4       to the effectiveness and efficiency of the program (or  
5       lack thereof);

6           “(3) methods of assuring the long-term finan-  
7       cial sustainability of the emergency care system;

8           “(4) the State and local legislation necessary to  
9       implement and to maintain the system; and

10          “(5) the barriers to developing regionalized, ac-  
11       countable emergency care systems, as well as the  
12       methods to overcome such barriers.

13       “(h) EVALUATION.—The Secretary, acting through  
14       the Assistant Secretary for Preparedness and Response,  
15       shall enter into a contract with an academic institution  
16       or other entity to conduct an independent evaluation of  
17       the demonstration programs funded under subsection (a),  
18       including an evaluation of—

19           “(1) the performance of the eligible entities re-  
20       ceiving the funds; and

21           “(2) the impact of the demonstration programs.

22       “(i) DISSEMINATION OF FINDINGS.—The Secretary  
23       shall, as appropriate, disseminate to the public and to the  
24       appropriate Committees of the Congress, the information  
25       contained in a report made under subsection (h).

1 “(j) AUTHORIZATION OF APPROPRIATIONS.—

2 “(1) IN GENERAL.—There is authorized to be  
3 appropriated to carry out this section \$12,000,000  
4 for each of fiscal years 2010 through 2015.

5 “(2) RESERVATION.—Of the amount appro-  
6 priated to carry out this section for a fiscal year, the  
7 Secretary shall reserve 3 percent of such amount to  
8 carry out subsection (h) (relating to an independent  
9 evaluation).”.

10 **Subtitle L—Dental Emergency**  
11 **Responder**

12 **SEC. 2611. PUBLIC HEALTH AND MEDICAL RESPONSE.**

13 (a) NATIONAL HEALTH SECURITY STRATEGY.—Sec-  
14 tion 2802(b)(3) (42 U.S.C. 300hh-1(b)(3)) is amended—

15 (1) in the matter preceding subparagraph (A),  
16 by inserting “dental and” before “mental health fa-  
17 cilities”; and

18 (2) in subparagraph (D), by inserting “and  
19 dental” after “medical”.

20 (b) ALL-HAZARDS PUBLIC HEALTH AND MEDICAL  
21 RESPONSE CURRICULA AND TRAINING.—Section  
22 319F(a)(5)(B) (42 U.S.C. 247d-6(a)(5)(B)) is amended  
23 by striking “public health or medical” and inserting “pub-  
24 lic health, medical, or dental”.

1 **SEC. 2612. HOMELAND SECURITY.**

2 (a) NATIONAL RESPONSE FRAMEWORK.—Paragraph  
3 (6) of section 2 of the Homeland Security Act of 2002  
4 (6 U.S.C. 101) is amended by inserting “and dental” after  
5 “emergency medical”.

6 (b) NATIONAL PREPAREDNESS SYSTEM.—Subpara-  
7 graph (B) of section 653(b)(4) of the Post-Katrina Emer-  
8 gency Management Reform Act of 2006 (6 U.S.C.  
9 753(b)(4)) is amended by striking “public health and med-  
10 ical” and inserting “public health, medical, and dental”.

11 (c) CHIEF MEDICAL OFFICER.—Paragraph (5) of  
12 section 516(c) of the Homeland Security Act of 2002 (6  
13 U.S.C. 321e(c)) is amended by striking “medical commu-  
14 nity” and inserting “medical and dental communities”.

15 **Subtitle M—Pain Care and**  
16 **Management**

17 **SEC. 2621. INSTITUTE OF MEDICINE CONFERENCE ON PAIN.**

18 (a) CONVENING.—Not later than June 30, 2010, the  
19 Secretary of Health and Human Services shall seek to  
20 enter into an agreement with the Institute of Medicine of  
21 the National Academies to convene a Conference on Pain  
22 (in this section referred to as “the Conference”).

23 (b) PURPOSES.—The purposes of the Conference  
24 shall be to—

25 (1) increase the recognition of pain as a signifi-  
26 cant public health problem in the United States;

1           (2) evaluate the adequacy of assessment, diag-  
2           nosis, treatment, and management of acute and  
3           chronic pain in the general population, and in identi-  
4           fied racial, ethnic, gender, age, and other demo-  
5           graphic groups that may be disproportionately af-  
6           fected by inadequacies in the assessment, diagnosis,  
7           treatment, and management of pain;

8           (3) identify barriers to appropriate pain care,  
9           including—

10           (A) lack of understanding and education  
11           among employers, patients, health care pro-  
12           viders, regulators, and third-party payors;

13           (B) barriers to access to care at the pri-  
14           mary, specialty, and tertiary care levels, includ-  
15           ing barriers—

16           (i) specific to those populations that  
17           are disproportionately undertreated for  
18           pain;

19           (ii) related to physician concerns over  
20           regulatory and law enforcement policies  
21           applicable to some pain therapies; and

22           (iii) attributable to benefit, coverage,  
23           and payment policies in both the public  
24           and private sectors; and

1 (C) gaps in basic and clinical research on  
2 the symptoms and causes of pain, and potential  
3 assessment methods and new treatments to im-  
4 prove pain care; and

5 (4) establish an agenda for action in both the  
6 public and private sectors that will reduce such bar-  
7 riers and significantly improve the state of pain care  
8 research, education, and clinical care in the United  
9 States.

10 (c) OTHER APPROPRIATE ENTITY.—If the Institute  
11 of Medicine declines to enter into an agreement under sub-  
12 section (a), the Secretary of Health and Human Services  
13 may enter into such agreement with another appropriate  
14 entity.

15 (d) REPORT.—A report summarizing the Con-  
16 ference's findings and recommendations shall be sub-  
17 mitted to the Congress not later than June 30, 2011.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—For the  
19 purpose of carrying out this section, there is authorized  
20 to be appropriated \$500,000 for each of fiscal years 2010  
21 and 2011.

22 **SEC. 2622. PAIN RESEARCH AT NATIONAL INSTITUTES OF**  
23 **HEALTH.**

24 Part B of title IV (42 U.S.C. 284 et seq.) is amended  
25 by adding at the end the following:

1 **“SEC. 409J. PAIN RESEARCH.**

2 “(a) RESEARCH INITIATIVES.—

3 “(1) IN GENERAL.—The Director of NIH is en-  
4 couraged to continue and expand, through the Pain  
5 Consortium, an aggressive program of basic and  
6 clinical research on the causes of and potential treat-  
7 ments for pain.

8 “(2) ANNUAL RECOMMENDATIONS.—Not less  
9 than annually, the Pain Consortium, in consultation  
10 with the Division of Program Coordination, Plan-  
11 ning, and Strategic Initiatives, shall develop and  
12 submit to the Director of NIH recommendations on  
13 appropriate pain research initiatives that could be  
14 undertaken with funds reserved under section  
15 402A(c)(1) for the Common Fund or otherwise  
16 available for such initiatives.

17 “(3) DEFINITION.—In this subsection, the term  
18 ‘Pain Consortium’ means the Pain Consortium of  
19 the National Institutes of Health or a similar trans-  
20 National Institutes of Health coordinating entity  
21 designated by the Secretary for purposes of this sub-  
22 section.

23 “(b) INTERAGENCY PAIN RESEARCH COORDINATING  
24 COMMITTEE.—

25 “(1) ESTABLISHMENT.—The Secretary shall es-  
26 tablish not later than 1 year after the date of the

1       enactment of this section and as necessary maintain  
2       a committee, to be known as the Interagency Pain  
3       Research Coordinating Committee (in this section  
4       referred to as the ‘Committee’), to coordinate all ef-  
5       forts within the Department of Health and Human  
6       Services and other Federal agencies that relate to  
7       pain research.

8               “(2) MEMBERSHIP.—

9                       “(A) IN GENERAL.—The Committee shall  
10                      be composed of the following voting members:

11                               “(i) Not more than 7 voting Federal  
12                              representatives as follows:

13                                       “(I) The Director of the Centers  
14                                      for Disease Control and Prevention.

15                                       “(II) The Director of the Na-  
16                                      tional Institutes of Health and the di-  
17                                      rectors of such national research insti-  
18                                      tutes and national centers as the Sec-  
19                                      retary determines appropriate.

20                                       “(III) The heads of such other  
21                                      agencies of the Department of Health  
22                                      and Human Services as the Secretary  
23                                      determines appropriate.

24                                       “(IV) Representatives of other  
25                                      Federal agencies that conduct or sup-

1 port pain care research and treat-  
2 ment, including the Department of  
3 Defense and the Department of Vet-  
4 erans Affairs.

5 “(ii) 12 additional voting members ap-  
6 pointed under subparagraph (B).

7 “(B) ADDITIONAL MEMBERS.—The Com-  
8 mittee shall include additional voting members  
9 appointed by the Secretary as follows:

10 “(i) Six members shall be appointed  
11 from among scientists, physicians, and  
12 other health professionals, who—

13 “(I) are not officers or employees  
14 of the United States;

15 “(II) represent multiple dis-  
16 ciplines, including clinical, basic, and  
17 public health sciences;

18 “(III) represent different geo-  
19 graphical regions of the United  
20 States; and

21 “(IV) are from practice settings,  
22 academia, manufacturers or other re-  
23 search settings; and

24 “(ii) six members shall be appointed  
25 from members of the general public, who

1           are representatives of leading research, ad-  
2           vocacy, and service organizations for indi-  
3           viduals with pain-related conditions.

4           “(C) NONVOTING MEMBERS.—The Com-  
5           mittee shall include such nonvoting members as  
6           the Secretary determines to be appropriate.

7           “(3) CHAIRPERSON.—The voting members of  
8           the Committee shall select a chairperson from  
9           among such members. The selection of a chairperson  
10          shall be subject to the approval of the Director of  
11          NIH.

12          “(4) MEETINGS.—The Committee shall meet at  
13          the call of the chairperson of the Committee or upon  
14          the request of the Director of NIH, but in no case  
15          less often than once each year.

16          “(5) DUTIES.—The Committee shall—

17                 “(A) develop a summary of advances in  
18                 pain care research supported or conducted by  
19                 the Federal agencies relevant to the diagnosis,  
20                 prevention, and treatment of pain and diseases  
21                 and disorders associated with pain;

22                 “(B) identify critical gaps in basic and  
23                 clinical research on the symptoms and causes of  
24                 pain;

1           “(C) make recommendations to ensure that  
2           the activities of the National Institutes of  
3           Health and other Federal agencies, including  
4           the Department of Defense and the Department  
5           of Veteran Affairs, are free of unnecessary du-  
6           plication of effort;

7           “(D) make recommendations on how best  
8           to disseminate information on pain care; and

9           “(E) make recommendations on how to ex-  
10          pand partnerships between public entities, in-  
11          cluding Federal agencies, and private entities to  
12          expand collaborative, cross-cutting research.

13          “(6) REVIEW.—The Secretary shall review the  
14          necessity of the Committee at least once every 2  
15          years.”.

16   **SEC. 2623. PUBLIC AWARENESS CAMPAIGN ON PAIN MAN-**  
17                                   **AGEMENT.**

18          Part B of title II (42 U.S.C. 238 et seq.) is amended  
19          by adding at the end the following:

20   **“SEC. 249. NATIONAL EDUCATION OUTREACH AND AWARE-**  
21                                   **NESS CAMPAIGN ON PAIN MANAGEMENT.**

22          “(a) ESTABLISHMENT.—Not later than June 30,  
23          2010, the Secretary shall establish and implement a na-  
24          tional pain care education outreach and awareness cam-  
25          paign described in subsection (b).

1           “(b) REQUIREMENTS.—The Secretary shall design  
2 the public awareness campaign under this section to edu-  
3 cate consumers, patients, their families, and other care-  
4 givers with respect to—

5           “(1) the incidence and importance of pain as a  
6 national public health problem;

7           “(2) the adverse physical, psychological, emo-  
8 tional, societal, and financial consequences that can  
9 result if pain is not appropriately assessed, diag-  
10 nosed, treated, or managed;

11           “(3) the availability, benefits, and risks of all  
12 pain treatment and management options;

13           “(4) having pain promptly assessed, appro-  
14 priately diagnosed, treated, and managed, and regu-  
15 larly reassessed with treatment adjusted as needed;

16           “(5) the role of credentialed pain management  
17 specialists and subspecialists, and of comprehensive  
18 interdisciplinary centers of treatment expertise;

19           “(6) the availability in the public, nonprofit,  
20 and private sectors of pain management-related in-  
21 formation, services, and resources for consumers,  
22 employers, third-party payors, patients, their fami-  
23 lies, and caregivers, including information on—

1           “(A) appropriate assessment, diagnosis,  
2           treatment, and management options for all  
3           types of pain and pain-related symptoms; and

4           “(B) conditions for which no treatment op-  
5           tions are yet recognized; and

6           “(7) other issues the Secretary deems appro-  
7           priate.

8           “(c) CONSULTATION.—In designing and imple-  
9           menting the public awareness campaign required by this  
10          section, the Secretary shall consult with organizations rep-  
11          resenting patients in pain and other consumers, employ-  
12          ers, physicians including physicians specializing in pain  
13          care, other pain management professionals, medical device  
14          manufacturers, and pharmaceutical companies.

15          “(d) COORDINATION.—

16                 “(1) LEAD OFFICIAL.—The Secretary shall des-  
17                 ignate one official in the Department of Health and  
18                 Human Services to oversee the campaign established  
19                 under this section.

20                 “(2) AGENCY COORDINATION.—The Secretary  
21                 shall ensure the involvement in the public awareness  
22                 campaign under this section of the Surgeon General  
23                 of the Public Health Service, the Director of the  
24                 Centers for Disease Control and Prevention, and  
25                 such other representatives of offices and agencies of

1 the Department of Health and Human Services as  
2 the Secretary determines appropriate.

3 “(e) UNDERSERVED AREAS AND POPULATIONS.—In  
4 designing the public awareness campaign under this sec-  
5 tion, the Secretary shall—

6 “(1) take into account the special needs of geo-  
7 graphic areas and racial, ethnic, gender, age, and  
8 other demographic groups that are currently under-  
9 served; and

10 “(2) provide resources that will reduce dispari-  
11 ties in access to appropriate diagnosis, assessment,  
12 and treatment.

13 “(f) GRANTS AND CONTRACTS.—The Secretary may  
14 make awards of grants, cooperative agreements, and con-  
15 tracts to public agencies and private nonprofit organiza-  
16 tions to assist with the development and implementation  
17 of the public awareness campaign under this section.

18 “(g) EVALUATION AND REPORT.—Not later than the  
19 end of fiscal year 2012, the Secretary shall prepare and  
20 submit to the Congress a report evaluating the effective-  
21 ness of the public awareness campaign under this section  
22 in educating the general public with respect to the matters  
23 described in subsection (b).

24 “(h) AUTHORIZATION OF APPROPRIATIONS.—For  
25 purposes of carrying out this section, there are authorized

1 to be appropriated \$2,000,000 for fiscal year 2010 and  
2 \$4,000,000 for each of fiscal years 2011 and 2012.”.

### 3 **Subtitle N—Postpartum Depression**

#### 4 **SEC. 2631. EXPANSION AND INTENSIFICATION OF ACTIVITIES.**

6 (a) CONTINUATION OF ACTIVITIES.—The Secretary  
7 is encouraged to expand and intensify activities on  
8 postpartum conditions.

9 (b) PROGRAMS FOR POSTPARTUM CONDITIONS.—In  
10 carrying out subsection (a), the Secretary is encouraged  
11 to continue research to expand the understanding of the  
12 causes of, and treatments for, postpartum conditions, in-  
13 cluding conducting and supporting the following:

14 (1) Basic research concerning the etiology and  
15 causes of the conditions.

16 (2) Epidemiological studies to address the fre-  
17 quency and natural history of the conditions and the  
18 differences among racial and ethnic groups with re-  
19 spect to the conditions.

20 (3) The development of improved screening and  
21 diagnostic techniques.

22 (4) Clinical research for the development and  
23 evaluation of new treatments.

1           (5) Information and education programs for  
2 health care professionals and the public, which may  
3 include a coordinated national campaign that—

4           (A) is designed to increase the awareness  
5 and knowledge of postpartum conditions;

6           (B) may include public service announce-  
7 ments through television, radio, and other  
8 means; and

9           (C) may focus on—

10           (i) raising awareness about screening;

11           (ii) educating new mothers and their  
12 families about postpartum conditions to  
13 promote earlier diagnosis and treatment;  
14 and

15           (iii) ensuring that such education in-  
16 cludes complete information concerning  
17 postpartum conditions, including its symp-  
18 toms, methods of coping with the illness,  
19 and treatment resources.

20 **SEC. 2632. REPORT BY THE SECRETARY.**

21           (a) **STUDY.**—The Secretary shall conduct a study on  
22 the benefits of screening for postpartum conditions.

23           (b) **REPORT.**—Not later than 2 years after the date  
24 of the enactment of this Act, the Secretary shall complete

1 the study required by subsection (a) and submit a report  
2 to the Congress on the results of such study.

3 **SEC. 2633. SENSE OF CONGRESS REGARDING LONGITU-**  
4 **DINAL STUDY OF RELATIVE MENTAL HEALTH**  
5 **CONSEQUENCES FOR WOMEN OF RESOLVING**  
6 **A PREGNANCY.**

7 (a) SENSE OF CONGRESS.—It is the sense of the Con-  
8 gress that the Director of the National Institute of Mental  
9 Health may conduct a nationally representative longitu-  
10 dinal study (during the period of fiscal years 2009 through  
11 2018) on the relative mental health consequences for  
12 women of resolving a pregnancy (intended and unin-  
13 tended) in various ways, including carrying the pregnancy  
14 to term and parenting the child, carrying the pregnancy  
15 to term and placing the child for adoption, miscarriage,  
16 and having an abortion. This study may assess the inci-  
17 dence, timing, magnitude, and duration of the immediate  
18 and long-term mental health consequences (positive or  
19 negative) of these pregnancy outcomes.

20 (b) REPORT.—Beginning not later than 3 years after  
21 the date of the enactment of this Act, and periodically  
22 thereafter for the duration of the study, such Director may  
23 prepare and submit to the Congress reports on the find-  
24 ings of the study.

1 **SEC. 2634. DEFINITIONS.**

2 In this subtitle:

3 (1) The term “postpartum condition” means  
4 postpartum depression or postpartum psychosis.

5 (2) The term “Secretary” means the Secretary  
6 of Health and Human Services.

7 **SEC. 2635. AUTHORIZATION OF APPROPRIATIONS.**

8 For the purpose of carrying out this subtitle, in addi-  
9 tion to any other amounts authorized to be appropriated  
10 for such purpose, there are authorized to be appropriated  
11 such sums as may be necessary for fiscal years 2010  
12 through 2012.

13 **Subtitle O—No Child Left**  
14 **Unimmunized Against Influenza**

15 **SEC. 2641. DEMONSTRATION PROGRAM USING ELEMEN-**  
16 **TARY AND SECONDARY SCHOOLS AS INFLU-**  
17 **ENZA VACCINATION CENTERS.**

18 (a) **PURPOSE.**—The Secretary of Health and Human  
19 Services, in consultation with the Secretary of Education  
20 and the Secretary of Labor, shall award grants to eligible  
21 partnerships to carry out demonstration programs de-  
22 signed to test the feasibility of using the Nation’s elemen-  
23 tary schools and secondary schools as influenza vaccina-  
24 tion centers.

25 (b) **IN GENERAL.**—The Secretary shall coordinate  
26 with the Secretary of Labor, the Secretary of Education,

1 State Medicaid agencies, State insurance agencies, and  
2 private insurers to carry out a program consisting of  
3 awarding grants under subsection (c) to ensure that chil-  
4 dren have coverage for all reasonable and customary ex-  
5 penses related to influenza vaccinations, including the  
6 costs of purchasing and administering the vaccine in-  
7 curred when influenza vaccine is administered outside of  
8 the physician's office in a school or other related setting.

9 (c) PROGRAM DESCRIPTION.—

10 (1) GRANTS.—From amounts appropriated pur-  
11 suant to subsection (k), the Secretary shall award  
12 grants to eligible partnerships to be used to provide  
13 influenza vaccinations to children in elementary and  
14 secondary schools, in coordination with school  
15 nurses, school health care programs, community  
16 health care providers, State insurance agencies, or  
17 private insurers.

18 (2) ACIP RECOMMENDATIONS.—The program  
19 under this section shall be designed to administer  
20 vaccines consistent with the recommendations of the  
21 Centers for Disease Control and Prevention's Advi-  
22 sory Committee on Immunization Practices (ACIP)  
23 for the annual vaccination of all children aged 5  
24 years through 19 years.

1           (3) PARTICIPATION VOLUNTARY.—Participation  
2           by a school or an individual shall be voluntary.

3           (d) USE OF FUNDS.—Eligible partnerships receiving  
4 a grant under this section shall ensure the maximum num-  
5 ber of children access influenza vaccinations as follows:

6           (1) COVERED CHILDREN.—To the extent to  
7           which payment of the costs of purchasing and ad-  
8           ministering the influenza vaccine for children is not  
9           covered through other federally funded programs or  
10          through private insurance, eligible partnerships re-  
11          ceiving a grant shall use funds to purchase and ad-  
12          minister influenza vaccinations.

13          (2) CHILDREN COVERED BY OTHER FEDERAL  
14          PROGRAMS.—For children who are eligible under  
15          other federally funded programs for payment of the  
16          costs of purchasing and administering the influenza  
17          vaccine, eligible partnerships receiving a grant shall  
18          not use funds provided under this section for such  
19          costs.

20          (3) CHILDREN COVERED BY PRIVATE HEALTH  
21          INSURANCE.—For children who have private insur-  
22          ance, eligible partnerships receiving a grant shall  
23          offer assistance in accessing coverage for vaccina-  
24          tions administered through the program under this  
25          section.

1 (e) PRIVACY.—The Secretary shall ensure that the  
2 program under this section adheres to confidentiality and  
3 privacy requirements of section 264 of the Health Insur-  
4 ance Portability and Accountability Act of 1996 (42  
5 U.S.C. 1320d–2 note) and section 444 of the General  
6 Education Provisions Act (42 U.S.C. 1232g; commonly re-  
7 ferred to as the “Family Educational Rights and Privacy  
8 Act of 1974”).

9 (f) APPLICATION.—An eligible partnership desiring a  
10 grant under this section shall submit an application to the  
11 Secretary at such time, in such manner, and containing  
12 such information as the Secretary may require.

13 (g) DURATION.—Eligible partnerships receiving a  
14 grant shall administer a demonstration program funded  
15 through this section over a period of 2 consecutive school  
16 years.

17 (h) CHOICE OF VACCINE.—The program under this  
18 section shall not restrict the discretion of a health care  
19 provider to administer any influenza vaccine approved by  
20 the Food and Drug Administration for use in pediatric  
21 populations.

22 (i) AWARDS.—The Secretary shall award—

23 (1) a minimum of 10 grants in 10 different  
24 States to eligible partnerships that each include one

1 or more public schools serving primarily low-income  
2 students; and

3 (2) a minimum of 5 grants in 5 different States  
4 to eligible partnerships that each include one or  
5 more public schools located in a rural local education  
6 agency.

7 (j) REPORT.—Not later than 90 days following the  
8 completion of the program under this section, the Sec-  
9 retary shall submit to the Committees on Education and  
10 Labor, Energy and Commerce, and Appropriations of the  
11 House of Representatives and to the Committees on  
12 Health, Education, Labor, and Pensions and Appropria-  
13 tions of the Senate a report on the results of the program.  
14 The report shall include—

15 (1) an assessment of the influenza vaccination  
16 rates of school-aged children in localities where the  
17 program is implemented, compared to the national  
18 average influenza vaccination rates for school-aged  
19 children, including whether school-based vaccination  
20 assists in achieving the recommendations of the Ad-  
21 visory Committee on Immunization Practices for an-  
22 nual influenza vaccination of all children aged 6  
23 months to 18 years;

24 (2) an assessment of the utility of employing el-  
25 elementary schools and secondary schools as a part of

1 a multi-state, community-based pandemic response  
2 program that is consistent with existing Federal and  
3 State pandemic response plans;

4 (3) an assessment of the feasibility of using ex-  
5 isting Federal and private insurance funding in es-  
6 tablishing a multi-state, school-based vaccination  
7 program for seasonal influenza vaccination;

8 (4) an assessment of the number of education  
9 days gained by students as a result of seasonal vac-  
10 cinations based on absenteeism rates; and

11 (5) a determination of whether the program  
12 under this section—

13 (A) increased vaccination rates in the par-  
14 ticipating localities;

15 (B) was implemented for sufficient time  
16 for gathering enough valid data; and

17 (C) a recommendation on whether the pro-  
18 gram should be continued, expanded, or termi-  
19 nated.

20 (k) DEFINITIONS.—In this section:

21 (1) ELIGIBLE PARTNERSHIP.—The term “eligi-  
22 ble partnership” means a local public health depart-  
23 ment, or another health organization defined by the  
24 Secretary as eligible to submit an application, and  
25 one or more elementary and secondary schools.

1           (2) ELEMENTARY SCHOOL.—The terms “ele-  
2           mentary school’ ” and “secondary school” have the  
3           meanings given such terms in section 9101 of the  
4           Elementary and Secondary Education Act of 1965  
5           (20 U.S.C. 7801).

6           (3) LOW-INCOME.—The term “low-income”  
7           means a student, age 5 through 19 eligible for free  
8           or reduced-price lunch under the National School  
9           Lunch Act (42 U.S.C. 1751 et seq.).

10          (4) RURAL LOCAL EDUCATIONAL AGENCY.—  
11          The term “rural local educational agency” means an  
12          eligible local educational agency described in section  
13          6211(b)(1) of the Elementary and Secondary Edu-  
14          cation Act of 1965 (20 U.S.C. 7345(b)(1))

15          (5) SECRETARY.—Except as otherwise speci-  
16          fied, the term “Secretary” means the Secretary of  
17          Health and Human Services.

18          (1) AUTHORIZATION OF APPROPRIATIONS.—To carry  
19          out this section, there are authorized to be appropriated  
20          such sums as may be necessary.



**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3200  
OFFERED BY Ms. MATSUI OF CALIFORNIA  
(AINS-EC\_001)**

In section 3121(b) of the Public Health Service Act, added by section 2301(a), in paragraph (5), strike “(4)” and insert “(5)”, redesignate such paragraph as paragraph (6), and insert after paragraph (4) the following new paragraph:

1           “(5) Review of prevention payment incentives,  
2           the prevention workforce, and prevention delivery  
3           system capacity.”.

At the end of section 3121(c) of the Public Health Service Act, added by section 2301(a), insert the following:

4           “(5) The Task Force on Community Preventive  
5           Services and the Task Force on Clinical Preventive  
6           Services.”.

In sections 3131(b)(6) and 3132(b)(6) of the Public Health Service Act, added by section 2301(a), strike “as appropriate,”.



**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3200  
OFFERED BY MRS. CHRISTENSEN OF VIRGIN  
ISLANDS**

Page 879, line 7, strike clause (ii) and insert the following:

1                   “(ii) high needs for health services, in-  
2                   cluding services to address health dispari-  
3                   ties.

Page 880, line 20, strike “(d)” and all that follows through “the term ‘primary health services’ has the meaning” and insert the following:

4           “(d) DEFINITIONS.—In this subpart:  
5           “(1) The term ‘health disparities’ has the  
6           meaning given to the term in section 3171.  
7           “(2) The term ‘primary health services’ has the  
8           meaning



1 Secretary by regulation and posted prominently  
2 on the menu and designed to enable the public  
3 to understand, in the context of a total daily  
4 diet, the significance of the caloric information  
5 that is provided on the menu;

6 “(II)(aa) in a nutrient content disclosure  
7 statement adjacent to the name of the standard  
8 menu item, so as to be clearly associated with  
9 the standard menu item, on the menu board,  
10 including a drive-through menu board, the  
11 number of calories contained in the standard  
12 menu item, as usually prepared and offered for  
13 sale; and

14 “(bb) a succinct statement concerning sug-  
15 gested daily caloric intake, as specified by the  
16 Secretary by regulation and posted prominently  
17 on the menu board, designed to enable the pub-  
18 lic to understand, in the context of a total daily  
19 diet, the significance of the nutrition informa-  
20 tion that is provided on the menu board;

21 “(III) in a written form, available on the prem-  
22 ises of the restaurant or similar retail establishment  
23 and to the consumer upon request, the nutrition in-  
24 formation required under clauses (C) and (D) of  
25 subparagraph (1); and

1           “(IV) on the menu or menu board, a promi-  
2           nent, clear, and conspicuous statement regarding the  
3           availability of the information described in item  
4           (III).

5           “(iii) SELF-SERVICE FOOD AND FOOD ON DIS-  
6           PLAY.—Except as provided in subclause (vii), in the  
7           case of food sold at a salad bar, buffet line, cafeteria  
8           line, or similar self-service facility, and for self-serv-  
9           ice beverages or food that is on display and that is  
10          visible to customers, a restaurant or similar retail  
11          food establishment shall place adjacent to each food  
12          offered a sign that lists calories per displayed food  
13          item or per serving.

14          “(iv) REASONABLE BASIS.—For the purposes of  
15          this clause, a restaurant or similar retail food estab-  
16          lishment shall have a reasonable basis for its nutri-  
17          ent content disclosures, including nutrient databases,  
18          cookbooks, laboratory analyses, and other reasonable  
19          means, as described in section 101.10 of title 21,  
20          Code of Federal Regulations (or any successor regu-  
21          lation) or in a related guidance of the Food and  
22          Drug Administration.

23          “(v) MENU VARIABILITY AND COMBINATION  
24          MEALS.—The Secretary shall establish by regulation  
25          standards for determining and disclosing the nutri-

1 ent content for standard menu items that come in  
2 different flavors, varieties, or combinations, but  
3 which are listed as a single menu item, such as soft  
4 drinks, ice cream, pizza, doughnuts, or children's  
5 combination meals, through means determined by  
6 the Secretary, including ranges, averages, or other  
7 methods.

8 “(vi) ADDITIONAL INFORMATION.—If the Sec-  
9 retary determines that a nutrient, other than a nu-  
10 trient required under subclause (ii)(III), should be  
11 disclosed for the purpose of providing information to  
12 assist consumers in maintaining healthy dietary  
13 practices, the Secretary may require, by regulation,  
14 disclosure of such nutrient in the written form re-  
15 quired under subclause (ii)(III).

16 “(vii) NONAPPLICABILITY TO CERTAIN FOOD.—

17 “(I) IN GENERAL.—Subclauses (i) through  
18 (vi) do not apply to—

19 “(aa) items that are not listed on a  
20 menu or menu board (such as condiments  
21 and other items placed on the table or  
22 counter for general use);

23 “(bb) daily specials, temporary menu  
24 items appearing on the menu for less than

1                   60 days per calendar year, or custom or-  
2                   ders; or

3                   “(cc) such other food that is part of  
4                   a customary market test appearing on the  
5                   menu for less than 90 days, under terms  
6                   and conditions established by the Sec-  
7                   retary.

8                   “(II) WRITTEN FORMS.—Clause (C) shall  
9                   apply to any regulations promulgated under  
10                  subclauses (ii)(III) and (vi).

11                  “(viii) VENDING MACHINES.—

12                  “(I) IN GENERAL.—In the case of an arti-  
13                  cle of food sold from a vending machine that—

14                         “(aa) does not permit a prospective  
15                         purchaser to examine the Nutrition Facts  
16                         Panel before purchasing the article or does  
17                         not otherwise provide visible nutrition in-  
18                         formation at the point of purchase; and

19                         “(bb) is operated by a person who is  
20                         engaged in the business of owning or oper-  
21                         ating 20 or more vending machines,

22                         the vending machine operator shall provide a  
23                         sign in close proximity to each article of food or  
24                         the selection button that includes a clear and

1 conspicuous statement disclosing the number of  
2 calories contained in the article.

3 “(ix) VOLUNTARY PROVISION OF NUTRITION IN-  
4 FORMATION.—

5 “(I) IN GENERAL.—An authorized official  
6 of any restaurant or similar retail food estab-  
7 lishment or vending machine operator not sub-  
8 ject to the requirements of this clause may elect  
9 to be subject to the requirements of such  
10 clause, by registering biannually the name and  
11 address of such restaurant or similar retail food  
12 establishment or vending machine operator with  
13 the Secretary, as specified by the Secretary by  
14 regulation.

15 “(II) REGISTRATION.—Within 120 days of  
16 enactment of this clause, the Secretary shall  
17 publish a notice in the Federal Register speci-  
18 fying the terms and conditions for implementa-  
19 tion of item (I), pending promulgation of regu-  
20 lations.

21 “(III) RULE OF CONSTRUCTION.—Nothing  
22 in this subclause shall be construed to authorize  
23 the Secretary to require an application, review,  
24 or licensing process for any entity to register  
25 with the Secretary, as described in such item.

1           “(x) REGULATIONS.—

2                   “(I) PROPOSED REGULATION.—Not later  
3 than 1 year after the date of enactment of this  
4 clause, the Secretary shall promulgate proposed  
5 regulations to carry out this clause.

6                   “(II) CONTENTS.—In promulgating regula-  
7 tions, the Secretary shall—

8                           “(aa) consider standardization of rec-  
9 ipes and methods of preparation, reason-  
10 able variation in serving size and formula-  
11 tion of menu items, space on menus and  
12 menu boards, inadvertent human error,  
13 training of food service workers, variations  
14 in ingredients, and other factors, as the  
15 Secretary determines; and

16                           “(bb) specify the format and manner  
17 of the nutrient content disclosure require-  
18 ments under this subclause.

19                   “(III) REPORTING.—The Secretary shall  
20 submit to the Committee on Health, Education,  
21 Labor, and Pensions of the Senate and the  
22 Committee on Energy and Commerce of the  
23 House of Representatives a quarterly report  
24 that describes the Secretary’s progress toward

1 promulgating final regulations under this sub-  
2 paragraph.

3 “(xi) DEFINITION.—In this clause, the term  
4 ‘menu’ or ‘menu board’ means the primary writing  
5 of the restaurant or other similar retail food estab-  
6 lishment from which a consumer makes an order se-  
7 lection.”

8 (c) NATIONAL UNIFORMITY.—Section 403A(a)(4) of  
9 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.  
10 343-1(a)(4)) is amended by striking “except a require-  
11 ment for nutrition labeling of food which is exempt under  
12 subclause (i) or (ii) of section 403(q)(5)(A)” and inserting  
13 “except that this paragraph does not apply to food that  
14 is offered for sale in a restaurant or similar retail food  
15 establishment that is not part of a chain with 20 or more  
16 locations doing business under the same name (regardless  
17 of the type of ownership of the locations) and offering for  
18 sale substantially the same menu items unless such res-  
19 taurant or similar retail food establishment complies with  
20 the voluntary provision of nutrition information require-  
21 ments under section 403(q)(5)(H)(ix)”.

22 (d) RULE OF CONSTRUCTION.—Nothing in the  
23 amendments made by this section shall be construed—

24 (1) to preempt any provision of State or local  
25 law, unless such provision establishes or continues

1 into effect nutrient content disclosures of the type  
2 required under section 403(q)(5)(H) of the Federal  
3 Food, Drug, and Cosmetic Act (as added by sub-  
4 section (b)) and is expressly preempted under sec-  
5 tion 403A(a)(4) of such Act;

6 (2) to apply to any State or local requirement  
7 respecting a statement in the labeling of food that  
8 provides for a warning concerning the safety of the  
9 food or component of the food; or

10 (3) except as provided in section  
11 403(q)(5)(H)(ix) of the Federal Food, Drug, and  
12 Cosmetic Act (as added by subsection (b)), to apply  
13 to any restaurant or similar retail food establish-  
14 ment other than a restaurant or similar retail food  
15 establishment described in section 403(q)(5)(H)(i) of  
16 such Act.

