

Thurs 11:30
9:54 am
C

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3200**

OFFERED BY M. BALON

[AINS-EC_001]

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

1 TITLE VI—HEALTH CARE INFOR-
2 MATION TRANSPARENCY OF-
3 FICE

4 SEC. 601. SHORT TITLE OF TITLE.

5 This title may be cited as the “Health Care Informa-
6 tion Transparency Act of 2009”.

7 SEC. 602. HEALTH CARE INFORMATION TRANSPARENCY OF-
8 FICE.

9 (a) ESTABLISHMENT.—

10 (1) IN GENERAL.—There is hereby established
11 a Health Care Information Transparency Office (in
12 this section referred to as the “Office”), which shall
13 be an entity in the Department of Health and
14 Human Services, to be composed of five commis-
15 sioners to be appointed by the President by and with
16 the advice and consent of the Senate. Not more than
17 three of such commissioners shall be members of the
18 same political party, and in making appointments

1 members of different political parties shall be ap-
2 pointed alternately as nearly as may be practicable.

3 (2) LIMITATION ON OUTSIDE ACTIVITIES.—No
4 commissioner shall engage in any other business, vo-
5 cation, or employment other than that of serving as
6 commissioner, nor shall any commissioner partici-
7 pate, directly or indirectly, in any operation of a
8 health care enterprise subject to regulation by the
9 Office pursuant to this section.

10 (3) TERMS.—Each commissioner shall hold of-
11 fice for a term of five years and until the commis-
12 sioner's successor is appointed and has qualified, ex-
13 cept that such a commissioner shall not so continue
14 to serve beyond the expiration of the next session of
15 Congress subsequent to the expiration of said fixed
16 term of office, and except that—

17 (A) any commissioner appointed to fill a
18 vacancy occurring prior to the expiration of the
19 term for which the commissioner's predecessor
20 was appointed shall be appointed for the re-
21 mainder of such term (but may be reappointed
22 for subsequent terms); and

23 (B) the terms of office of the commis-
24 sioners first taking office after the date of the
25 enactment of this Act shall expire, as des-

1 ignated by the President at the time of nomina-
2 tion, one at the end of one year, one at the end
3 of two years, one at the end of three years, one
4 at the end of four years, and one at the end of
5 five years, after the date of the enactment of
6 this Act.

7 (4) CHAIRMAN.—The President shall designate
8 one of the commissioners to be the Chairman of the
9 Office.

10 (b) STAFF.—

11 (1) IN GENERAL.—Section 4(b) of the Securi-
12 ties Exchange Act of 2934 (15 U.S.C. 78d(b)), and
13 section 4802 of title 5, United States Code, shall
14 apply to the Office in the same manner as they
15 apply to the Securities and Exchange Commission
16 except that any reference in such section 4802 to
17 functions under the securities law shall be deemed
18 for purposes of this paragraph a reference to func-
19 tions of the Office under this Act.

20 (2) EXPERTS AND CONSULTANTS; DETAIL-
21 ING.—The Office may procure temporary and inter-
22 mittent services under section 3109(b) of title 5,
23 United States Code, in the same manner as the Se-
24 curities and Exchange Commission is permitted. The
25 head of a Federal department or agency may detail

1 any of the personnel of that department or agency
2 to the Office to assist it in carrying out its duties
3 under this title in the same manner and to the same
4 extent as such department or agency may detail
5 such personnel to the Securities and Exchange Com-
6 mission.

7 (c) POWERS OF OFFICE.—The Office shall have with
8 respect to its duties under this title the same powers as
9 the Securities and Exchange Commission has with respect
10 to its duties under the Securities Exchange Act of 1934.

11 (d) ORGANIZATIONAL UNITS.—Except as the Office
12 may otherwise provide by rule, the Office shall be orga-
13 nized and structured consistent with the following:

14 (1) DIVISION OF PRICING INFORMATION.—

15 There shall be a Division of Pricing Information
16 with the duty to assist the Office in executing its re-
17 sponsibility for collection, analysis, and dissemina-
18 tion of pricing information in a format that is useful
19 for the general public, academic researchers, and or-
20 ganizations seeking to educate the public through
21 further analysis and dissemination of the informa-
22 tion.

23 (2) DIVISION OF QUALITY INFORMATION.—

24 There shall be a Division of Quality Information
25 with the duty to assist the Office in executing its re-

1 sponsibility for collection, analysis, and dissemina-
2 tion of quality information in a format that is useful
3 for the general public, academic researchers, and or-
4 ganizations seeking to educate the public through
5 further analysis, comparisons, and dissemination of
6 the information.

7 (3) OFFICE OF INFORMATION TECHNOLOGY.—
8 There shall be an Office of Information Technology
9 with the duty to support the Office and its staff in
10 all aspects of information technology. The Office
11 shall maintain a website that provides free, public
12 access to publicly available information on the Of-
13 fice's activities.

14 (4) HEADQUARTERS AND REGIONAL OFFICES.—
15 The Office shall establish its headquarters in the
16 Washington, D.C., metropolitan area.

17 (e) INDEPENDENCE OF THE OFFICE.—

18 (1) RELATION TO DHHS.—The Office shall be
19 subject to the general oversight of the Secretary of
20 Health and Human Services. No officer or agency of
21 the United States shall have any authority to require
22 the Office, to submit legislative recommendations, or
23 testimony, or comments on legislation, to any officer
24 or agency of the United States for approval, com-
25 ments, or review, prior to the submission of such

1 recommendations, testimony, or comments to the
2 Congress if such recommendations, testimony, or
3 comments to the Congress include a statement indi-
4 cating that the views expressed therein are those of
5 the Office and do not necessarily represent the views
6 of the President.

7 (2) AUTHORITY TO PRESCRIBE REGULA-
8 TIONS.—The Office may prescribe such regulations
9 and issue such orders as the Office may determine
10 to be necessary for carrying out this title.

11 (3) AUTONOMY.—The Secretary of Health and
12 Human Services may not intervene in any matter or
13 proceeding before the Office (including agency en-
14 forcement actions) unless otherwise specifically pro-
15 vided by law.

16 (4) RULEMAKING.—The Secretary of Health
17 and Human Services may not delay or prevent the
18 issuance of any rule or the promulgation of any reg-
19 ulation by the Office. The Secretary may not delay
20 or prevent the issuance of any rule or the promulga-
21 tion of any regulation by the Office.

22 (5) CIVIL LITIGATING AUTHORITY.—The Office
23 shall have civil litigating authority, independent of
24 the Attorney General, over matters concerning the
25 Office.

1 **SEC. 603. REGISTRATION OF CLASSES OF REGISTRANTS.**

2 (a) CLASSES OF REGISTRANTS.—For purposes of
3 this title there shall be 4 classes of registrants (each in
4 this title referred to as a “class of registrant”) as follows:

5 (1) Hospitals, ambulatory surgical centers,
6 skilled nursing facilities, nursing facilities, group
7 practices, and other group health care providers (as
8 identified by the Office).

9 (2) Health insurance issuers and group health
10 plans (as such terms are defined in section 2791 of
11 the Public Health Service Act), as well as those enti-
12 ties responsible for administration of Governmental
13 health plans (including the Centers for Medicare &
14 Medicaid Services with respect to the medicare pro-
15 gram under title XVIII of the Social Security Act,
16 State agencies responsible for administration of a
17 Medicaid program or a State children’s health insur-
18 ance program under title XIX or XXI of such Act,
19 the Office of Personnel Management with respect to
20 the Federal Employees Health Benefits Program
21 under chapter 89 of title 5, United States Code).

22 (3) State-based price and quality transparency
23 programs as described in section 1902(a)(74) of the
24 Social Security Act.

25 (4) Individual health care practitioners.

1 (b) REGISTRATION.—Each entity within a class of
2 registrant described in paragraph (1) or (2) of subsection
3 (a) shall register, and each entity within the class of reg-
4 istrant described in subsection (a)(4) may register, with
5 the Office, in a form and manner specified by the Office.

6 (c) REQUIRING REPORTING OF INFORMATION AS
7 CONDITION OF REGISTRATION.—The Office shall not reg-
8 ister an entity within a class of registrant under this sec-
9 tion unless the entity provides, in a form and manner spec-
10 ified by the Office, for the collection and reporting to the
11 Office of pricing and quality information specified under
12 section 604.

13 (d) REQUIREMENT FOR MEDICARE PARTICIPA-
14 TION.—The registration of an entity under this section
15 and the requirement for an entity to report timely and
16 accurate information in accordance with this title is a re-
17 quirement for the entity's participation under the Medi-
18 care program under title XVIII of the Social Security Act.

19 (e) REGISTRATION FEES.—

20 (1) IN GENERAL.—As a condition of registra-
21 tion of a non-governmental registrant within the
22 class of registrants described in subsection (a)(2),
23 the Office may require payment of a reasonable fee,
24 which may vary based on the size of such reg-
25 istrants.

1 (2) LIMITATION.—Such fees shall only be in
2 amounts that the Office determines to be necessary
3 to defray reasonable costs of the Office in carrying
4 out this title.

5 (3) BY RULE.—Such fees shall be established
6 by rule promulgated not later than 24 months after
7 the date of the enactment of this Act and the Office
8 shall impose such fees not later than 30 months
9 after such date. The Office, by rule, may change the
10 amount of such fees consistent with paragraph (2).

11 (4) AVAILABILITY.—Such fees shall available to
12 the Office, without further appropriation, only for
13 purposes of carrying out this title.

14 **SEC. 604. INFORMATION TO BE REPORTED AND DIS-**
15 **CLOSED.**

16 (a) REPORTING OF INFORMATION TO OFFICE.—The
17 Office shall, by rule and consistent with this section, speci-
18 fy the specific information that a class of registrant is re-
19 quired to report to the Office under this title. The Office
20 shall seek over time to expand the scope of such informa-
21 tion in order to provide for the maximum feasible report-
22 ing of information to meet the needs of consumers and
23 providers in making determinations with regard to health
24 care items and services.

1 (b) PRICING INFORMATION TO BE REPORTED AND
2 DISCLOSED.—The Office shall carry out this section in a
3 manner so as to achieve the following goals:

4 (1) Allow a health care consumer to search for
5 health care providers based on the out-of-pocket ex-
6 pense that such consumer would be responsible for
7 related to a particular item or service furnished by
8 such provider.

9 (2) Allow a health care provider to learn the
10 rate of payment that a particular insurance plan or
11 coverage provides with respect to the furnishing of
12 a particular item or service by such provider to a
13 particular individual.

14 (3) Allow individuals and health care providers
15 to learn the amount of cost-sharing (including
16 deductibles, copayments, and coinsurance) under the
17 individual's plan or coverage that the individual
18 would be responsible for paying with respect to the
19 furnishing of such items and services by such pro-
20 vider to such individual.

21 (c) QUALITY INFORMATION TO BE DISCLOSED.—In
22 reporting the pricing data, the Office shall to the extent
23 practicable associate such data with the quality data devel-
24 oped in subtitle C of title IV of division B.

25 (d) OFFICE DISCLOSURE OF INFORMATION.—

1 (1) AVAILABILITY.—Except as provided in
2 paragraph (2), information reported to the Office
3 under this section shall be made publicly available
4 consistent with this subsection, in a manner speci-
5 fied by the Office by rule, such as through one or
6 more appropriate Internet websites.

7 (2) PROGRAM DESIGN AND IMPLEMENTA-
8 TION.—The Office shall, by rule, specify the infor-
9 mation to be made available in a manner that—

10 (A) ensures that the information made
11 available is in a format that is easily accessible,
12 useable, and understandable to individuals;

13 (B) ensures that the information made
14 available is as current as deemed appropriate
15 by the Office;

16 (C) to the extent feasible, makes such in-
17 formation available in a manner that permits
18 an individual to search by geographic area and
19 by family income the information made avail-
20 able under this section;

21 (D) periodically solicits comments from a
22 sampling of such individuals that access the in-
23 formation on how to best improve the utility of
24 such information; and

1 (E) to the extent that such information is
2 with respect to a patient, such information has
3 been de-identified in accordance with regula-
4 tions promulgated pursuant to section 264(c) of
5 the Health Insurance Portability and Account-
6 ability Act of 1996.

7 (e) GENERAL PROVISIONS.—

8 (1) TIMELY REPORTING OF INFORMATION.—In
9 requiring the reporting of information under this
10 section, Office shall require that the information re-
11 ported is as current as deemed appropriate by the
12 Office.

13 (2) PREFERENCE FOR CERTAIN REG-
14 ISTRANTS.—In requiring the reporting of informa-
15 tion under this section, the Office shall to the extent
16 practicable seek information from a registrant under
17 paragraph (2) or (3) of section 603(a) before seek-
18 ing information from a registrant under paragraph
19 (1) or (4) of such section.

20 (3) GUIDANCE.—Not later than 24 months
21 after the date of the enactment of this section, the
22 Office shall issue guidance to registrants on the re-
23 porting of information under this section.

1 **SEC. 605. IMPLEMENTATION.**

2 The Office shall first require the registration and re-
3 porting of information under this title not later than 3
4 years after the date of the enactment of this Act.

5 **SEC. 606. STATE BASED PRICE AND QUALITY TRANSPARENCY PROGRAMS.**
6

7 (a) IN GENERAL.—Section 1902(a) of the Social Se-
8 curity Act (42 U.S.C. 1396a(a)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (72);

11 (2) by striking the period at the end of para-
12 graph (73) and inserting “; and”;

13 (3) by inserting after paragraph (73) the fol-
14 lowing new paragraph:

15 “(74) provide that the State will establish and
16 maintain laws, in accordance with the requirements
17 of section 1921A, to require disclosure of informa-
18 tion on hospital charges and quality, to make such
19 information available to the public and the Sec-
20 retary.”; and

21 (4) by inserting after section 1921 the following
22 new section:

23 **“SEC. 1921A. PRICE AND QUALITY TRANSPARENCY.**

24 “The requirements referred to in section 1902(a)(74)
25 are that the laws of a State must—

1 “(1) require disclosure, by each registrant
2 under section 603(a)(1) of the America’s Affordable
3 Health Choices Act of 2009 located in the State, of
4 information on—

5 “(A) at a minimum, the charges for inpa-
6 tient and outpatient services as determined by
7 the Health Care Information Transparency Of-
8 fice;

9 “(B) the Medicare and Medicaid reim-
10 bursement amount for such services; and

11 “(C) if the registrant provides charity care,
12 the factors considered in making determinations
13 for reductions in charges, including contact in-
14 formation for the specific department of a hos-
15 pital that responds to such inquiries;

16 “(2) provide for notice to individuals seeking or
17 requiring such services of the availability of informa-
18 tion on charges described in paragraph (1);

19 “(3) provide for timely access to such informa-
20 tion by individuals seeking or requiring such serv-
21 ices; and

22 “(4) provide for timely access to information re-
23 garding the quality of care at each hospital made
24 publicly available in accordance with section 501 of

1 Public Law 108–173, section 1139A , or section
2 1139B.”

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by subsection (a)
6 shall take effect on October 1, 2010.

7 (2) EXCEPTION.—In the case of a State plan
8 for medical assistance under title XIX of the Social
9 Security Act which the Secretary of Health and
10 Human Services determines requires State legisla-
11 tion (other than legislation appropriating funds) in
12 order for the plan to meet the additional require-
13 ments imposed by the amendments made by sub-
14 section (a), the State plan shall not be regarded as
15 failing to comply with the requirements of such title
16 solely on the basis of its failure to meet these addi-
17 tional requirements before the first day of the first
18 calendar quarter beginning after the close of the
19 first regular session of the State legislature that be-
20 gins after the date of the enactment of this Act. For
21 purposes of the previous sentence, in the case of a
22 State that has a 2-year legislative session, each year
23 of such session shall be deemed to be a separate reg-
24 ular session of the State legislature.

