AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5825
OFFERED BY MR. NEAL OF MASSACHUSETTS

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Transparency in Health Care Investments Act”.

SEC. 2. REPORTING BY CERTAIN INVESTORS WITH RESPECT TO CERTAIN SPECIFIED MEDICAL CARE PROVIDERS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039J the following new section:

“SEC. 6039K. RETURNS BY CERTAIN INVESTORS WITH RESPECT TO CERTAIN SPECIFIED MEDICAL CARE PROVIDERS.

“(a) IN GENERAL.—Each reporting person with respect to any specified medical care provider shall electronically file a separate annual return with respect to each such medical care provider which contains the information described in subsection (b).
“(b) INFORMATION REQUIRED.—With respect to each specified medical care provider with respect to which the person is a reporting person, such information as the Secretary may require relating to each of the following:

“(1) GROSS RECEIPTS.—

“(A) Amounts received by the specified medical care provider as reimbursement for any item or service under title XVIII of the Social Security Act.

“(B) Amounts received by the specified medical care provider as reimbursement for any item or service received under a State plan (or waiver of such plan) under title XIX of the Social Security Act.

“(C) Amounts not described in subparagraph (A) or (B) received by the specified medical care provider pursuant to a negotiated rate with respect to any provider of health insurance.

“(D) Amounts received by the specified medical care provider in the sale of, or other arrangement with respect to, any receivable arising in connection with the provision of medical care.
“(E) Amounts not described in any preceding subparagraph of this paragraph which are received by the specified medical care provider for the provision of medical care (and a separate statement of such amounts which are received from any provider of health insurance).

“(F) Gross receipts not described in any preceding subparagraph of this paragraph (and divided into such categories as the Secretary may provide).

“(2) ACQUISITIONS AND DISPOSITIONS.—

“(A) The first date on which the reporting person, or any person related to the reporting person, controls the specified medical care provider.

“(B) The addresses of all real estate owned or leased by the specified medical care provider as of such first date.

“(C) The adjusted taxable income (as defined in section 163(j)(8), determined without regard to ‘in the case of taxable years beginning before January 1, 2022’ in subparagraph (A)(v) thereof) for the last taxable year of specified medical care provider ending before such first date.
“(D) Any debt incurred (including any refinancing of debt) or guaranteed by (or secured by any property held by) the specified medical care provider or any person related to such provider if such debt was so incurred, guaranteed, or secured in connection with the acquisition of any equity interest relevant to the acquisition of control referred to in subparagraph (A).

“(E) With respect to each transaction in which a reporting person, or any person related to the reporting person, disposes of any equity interest relevant to the control of the specified medical care provider referred to in subparagraph (A)—

“(i) the person who disposed of such interest and information sufficient to establish the relationship between such person and the specified medical care provider,

“(ii) the date on which such person disposed of such interest,

“(iii) whether the reporting person (or any person related to the reporting person) retains control of the specified medical care provider after such disposition, and
“(iv) the value of all consideration received in exchange for the interest disposed of.

“(3) REAL ESTATE.—

“(A) The addresses of all real estate owned or leased by the specified medical care provider.

“(B) Amounts paid as principal or interest by the specified medical care provider on any debt which is secured by real estate (and a separate statement of such amounts which are paid to the reporting person or any person related to the reporting person).

“(C) Amounts paid by the specified medical care provider as rent for real property (and a separate statement of such amounts which are paid to the reporting person or any person related to the reporting person).

“(D) Amounts received by the specified medical care provider for any interest in real property (and a separate statement of such amounts which are received from the reporting person or any person related to the reporting person).

“(4) OTHER PAYMENTS TO RELATED PERSONS.—
“(A) Amounts paid as principal or interest by the specified medical provider on any debt not described in paragraph (3) to the reporting person or any person related to the reporting person.

“(B) Amounts paid by the specified medical care provider as rent for any property other than real property to the reporting person or any person related to the reporting person.

“(C) Amounts not described in subparagraph (A) or (B) paid by the specified medical care provider to the reporting person or any person related to the reporting person (and divided into such categories as the Secretary may provide).

“(5) OTHER INFORMATION.—Such other information as the Secretary may reasonably require.

“(c) REPORTING PERSON.—For purposes of this section—

“(1) IN GENERAL.—The term ‘reporting person’ means, with respect to any specified medical care provider, any person if—

“(A) such person holds an interest in such specified medical care provider,
“(B) such person (or any person related to such person) controls such specified medical care provider, and

“(C) such person (or any person related to such person) either—

“(i) is engaged in an applicable trade or business with respect to which any interest in such specified medical care provider is, directly or indirectly, an expanded specified asset, or

“(ii) receives any service from any person engaged in an applicable trade or business described in clause (i).

“(2) APPLICABLE PARTNERSHIP INTEREST REQUIREMENT.—

“(A) IN GENERAL.—A person shall not be treated as a reporting person with respect to any specified medical care provider unless one or more persons receive or hold an applicable partnership interest with respect to the applicable trade or business which is referred to in paragraph (1)(C) with respect to such specified medical care provider.

“(B) APPLICABLE PARTNERSHIP INTEREST.—The term ‘applicable partnership inter-
"(3) Applicable trade or business.—The term ‘applicable trade or business’ has the meaning which would be given such term by section 1061(c) if the term ‘applicable trade or business’ had the meaning given such term by paragraph (3) for purposes of such section.

"(4) Expanded specified assets.—The term ‘expanded specified asset’ means any specified asset (as defined in section 1061(c)(3)) and any interest in a partnership.

"(5) Control.—For purposes of paragraph (1)(B)—

"(A) except as provided in subparagraph (B), control shall be determined under the rules of paragraph (2) or (3) of section 6038(e), and

"(B) if the investment of any person described in paragraph (1)(B) is coordinated with the investment of any other person the investment of such other person shall be treated as held by such person.
For purposes of subparagraph (B), investments of persons shall not fail to be treated as coordinated if contractual obligations exist (directly or indirectly) between such persons with respect to such investments or the provision of any services in connection with any applicable trade or business.

“(d) Specified Medical Care Provider.—For purposes of this section, the term ‘specified medical care provider’ means any corporation or partnership which—

“(1) is enrolled under section 1866(j) of the Social Security Act,

“(2) is enrolled as a participating provider in a State plan (or waiver of such plan) under title XIX of such Act, or

“(3) in the course of any trade or business which includes the provision of medical care, employs any individual who is so enrolled or certified.

“(e) Related Persons.—For purposes of this section, persons are related to each other if such persons are described in section 267(b) or 707(b)(1), determined by substituting ‘20 percent’ for ‘50 percent’ each place it appears in such sections.

“(f) Regulations.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this section, including—
“(1) the time and manner of filing the return required under subsection (a),

“(2) rules to prevent, to the extent practicable, more than one person from being required to report the same information,

“(3) rules to prevent the use of intermediaries, agents, nominee ownership, and other arrangements to avoid the application of this section, and

“(4) rules to require reporting of information to any person by any person related to such person to the extent that such information is necessary for such person to determine if such person is a reporting person, or is required to be reported by such person under this section, and is not otherwise available to such person.

“(g) Public Availability of Returns.—Annual returns filed under this section shall be made available by the Secretary to the public as soon as practicable in a machine readable format.”.

(b) Penalty for Failure to File Complete and Correct Return.—Part II of subchapter B of chapter 68 of such Code is amended by adding at the end the following new section:
“SEC. 6726. FAILURE TO FILE CORRECT INFORMATION RETURN WITH RESPECT TO SPECIFIED MEDICAL CARE PROVIDERS.

“(a) In General.—In the case of any person’s failure to file a complete and correct return under section 6039K with respect to any specified medical care provider (as defined in such section) at the time and in the manner prescribed therefor, such person shall pay a penalty of $5,000 for each such return for each day during which such failure continues.

“(b) Maximum Penalty Per Return.—The maximum penalty under this section on failures with respect to any 1 return shall not exceed $1,000,000.

“(c) Deficiency Procedures Not to Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply with respect to the assessment or collection of any penalty imposed by this section.”.

(c) Clerical Amendments.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039J the following new item:

“Sec. 6039K. Returns by certain investors with respect to certain specified medical care providers.”.
(2) The table of sections for part II of subchapter B of chapter 68 of such Code is amended by adding at the end the following new item:

“Sec. 6726. Failure to file correct information return with respect to specified medical care providers.”.

(d) Effective Date.—The amendments made by this section shall apply to returns with respect to taxable years of specified medical care providers beginning after the date of the enactment of this Act.