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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend title XVIII of the Social Security Act to establish exceptions
for certain physician wellness programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend title XVIII of the Social Security Act to establish
exceptions for certain physician wellness programs, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Physician Wellness
5 Program Act of 2022”.

6 **SEC. 2. EXCEPTION FOR PHYSICIAN WELLNESS PROGRAMS.**

7 (a) EXCEPTION FOR PHYSICIAN WELLNESS PRO-
8 GRAMS.—

1 (1) IN GENERAL.—Section 1877(e) of the So-
2 cial Security Act (42 U.S.C. 1395nn(e)) is amended
3 by adding at the end the following:

4 “(9) PHYSICIAN WELLNESS PROGRAMS.—A
5 bona fide mental health or behavioral health im-
6 provement or maintenance program offered to a phy-
7 sician by an entity, if—

8 “(A) such program—

9 “(i) consists of counseling, mental
10 health services, a suicide prevention pro-
11 gram, or a substance use disorder preven-
12 tion and treatment program;

13 “(ii) is made available to a physician
14 for the primary purpose of preventing sui-
15 cide, improving mental health and resil-
16 iency, or providing training in appropriate
17 strategies to promote the mental health
18 and resiliency of such physician;

19 “(iii) is set out in a written policy, ap-
20 proved in advance of the operation of the
21 program by the governing body of the enti-
22 ty providing such program, that includes—

23 “(I) a description of the content
24 and duration of the program;

1 “(II) a description of the evi-
2 dence-based support for the design of
3 the program;

4 “(III) the estimated cost of the
5 program;

6 “(IV) the personnel (including
7 the qualifications of such personnel)
8 implementing the program; and

9 “(V) the method by which such
10 entity will evaluate the use and suc-
11 cess of the program;

12 “(iv) is offered by an entity with a
13 formal medical staff to all physicians who
14 practice in the geographic area served by
15 such entity, including physicians who hold
16 bona fide appointments to the medical
17 staff of such entity or otherwise have clin-
18 ical privileges at such entity;

19 “(v) is offered to all such physicians
20 on the same terms and conditions and
21 without regard to the volume or value of
22 referrals or other business generated by a
23 physician for such entity;

24 “(vi) is evidence-based and conducted
25 by a qualified health professional; and

1 “(vii) meets such other requirements
2 the Secretary may impose by regulation as
3 needed to protect against program or pa-
4 tient abuse;

5 “(B) such entity is—

6 “(i) a hospital;

7 “(ii) an ambulatory surgical center;

8 “(iii) a community health center;

9 “(iv) a rural emergency hospital;

10 “(v) a rural health clinic;

11 “(vi) a skilled nursing facility; or

12 “(vii) a similar entity, as determined
13 by the Secretary; and

14 “(C) neither the provision of such pro-
15 gram, nor the value of such program, are con-
16 tingent upon the number or value of referrals
17 made by a physician to such entity.”.

18 (2) REGULATION.—Not later than 1 year after
19 the date of enactment of this Act, the Secretary of
20 Health and Human Services shall promulgate such
21 regulations as are necessary to carry out the amend-
22 ment made by paragraph (1).

23 (b) EXCEPTION UNDER THE ANTI-KICKBACK STAT-
24 UTE.—Section 1128B(b)(3) of the Social Security Act (42
25 U.S.C. 1320a–7b(b)(3)) is amended—

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

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

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

6 “(L) a bona fide mental health or behavioral
7 health improvement or maintenance program, if—

8 “(i) such program—

9 “(I) consists of counseling, mental
10 health services, a suicide prevention pro-
11 gram, or a substance use disorder preven-
12 tion and treatment program;

13 “(II) is made available to a physician
14 and other clinicians for the primary pur-
15 pose of preventing suicide, improving men-
16 tal health and resiliency, or providing
17 training in appropriate strategies to pro-
18 mote the mental health and resiliency of
19 such physician;

20 “(III) is set out in a written policy,
21 approved in advance of the operation of
22 the program by the governing body of the
23 entity providing such program, that in-
24 cludes—

1 “(aa) a description of the content
2 and duration of the program;

3 “(bb) a description of the evi-
4 dence-based support for the design of
5 the program;

6 “(cc) the estimated cost of the
7 program;

8 “(dd) the personnel (including
9 the qualifications of such personnel)
10 implementing the program; and

11 “(ee) the method by which such
12 entity will evaluate the use and suc-
13 cess of the program;

14 “(IV) is offered by an entity with a
15 formal medical staff to all physicians and
16 other clinicians who practice in the geo-
17 graphic area served by such entity, includ-
18 ing physicians who hold bona fide appoint-
19 ments to the medical staff of such entity or
20 otherwise have clinical privileges at such
21 entity;

22 “(V) is offered to all such physicians
23 and clinicians on the same terms and con-
24 ditions and without regard to the volume
25 or value of referrals or other business gen-

1 erated by a physician or clinician for such
2 entity;

3 “(VI) is evidence-based and conducted
4 by a qualified health professional; and

5 “(VII) meets such other requirements
6 the Secretary may impose by regulation as
7 needed to protect against program or pa-
8 tient abuse;

9 “(ii) such entity is—

10 “(I) a hospital;

11 “(II) an ambulatory surgical center;

12 “(III) a community health center;

13 “(IV) a rural emergency hospital;

14 “(V) a skilled nursing facility; or

15 “(VI) any similar entity, as deter-
16 mined by the Secretary; and

17 “(iii) neither the provision of such pro-
18 gram, nor the value of such program, are con-
19 tingent upon the number or value of referrals
20 made by a physician or other clinician to such
21 entity.”.