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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

# H. R. 5347

To amend title XVIII of the Social Security Act to ensure the availability of appropriate collection types for quality reporting under the Medicare Shared Savings Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. BUCHANAN (for himself and Mr. PANETTA) introduced the following bill;  
which was referred to the Committee on \_\_\_\_\_

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## A BILL

To amend title XVIII of the Social Security Act to ensure the availability of appropriate collection types for quality reporting under the Medicare Shared Savings Program, 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 “Health Care Efficiency  
5       Through Flexibility Act”.

1 **SEC. 2. ENSURING AVAILABILITY OF APPROPRIATE COL-**  
2 **LECTION TYPES FOR QUALITY REPORTING**  
3 **UNDER THE MEDICARE SHARED SAVINGS**  
4 **PROGRAM.**

5 Section 1899(b)(3)(B) of the Social Security Act (42  
6 U.S.C. 1395jjj(b)(3)(B)) is amended—

7 (1) by striking “An ACO shall submit” and in-  
8 serting the following:

9 “(i) IN GENERAL.—An ACO shall  
10 submit”; and

11 (2) by adding at the end the following new  
12 clauses:

13 “(ii) REQUIRED AVAILABILITY OF  
14 COLLECTION TYPES FOR CERTAIN  
15 YEARS.—For performance years 2025  
16 through 2029, the Secretary shall ensure  
17 that the following collection types (as de-  
18 scribed in section 414.1305 of title 42,  
19 Code of Federal Regulations (or a suc-  
20 cessor regulation)) are available with re-  
21 spect to each measure described in sub-  
22 paragraph (A)(i) required to be reported  
23 by an ACO under this paragraph:

24 “(I) Electronic clinical quality  
25 measures.

1 “(II) MIPS clinical quality meas-  
2 ures.

3 “(III) Medicare Clinical Quality  
4 Measures for Accountable Care Orga-  
5 nizations Participating in the Medi-  
6 care Shared Savings Program.

7 “(iii) CLARIFICATION ON APPLICA-  
8 TION OF DATA COMPLETENESS REQUIRE-  
9 MENTS IN CERTAIN CASES.—

10 “(I) IN GENERAL.—In deter-  
11 mining whether data submitted by an  
12 ACO with respect to a measure de-  
13 scribed in subparagraph (A)(i) for a  
14 performance year beginning on or  
15 after January 1, 2025, satisfies the  
16 data completeness requirements appli-  
17 cable to such measure under section  
18 414.1340 of title 42, Code of Federal  
19 Regulations (or a successor regula-  
20 tion) (as applied pursuant to section  
21 425.512 of title 42, Code of Federal  
22 Regulations (or a successor regula-  
23 tion)), the Secretary may not find  
24 such data to be unrepresentative of  
25 such ACO’s performance for such

1 year (as described in paragraph (e) of  
2 such section 414.1340) based solely  
3 on the fact that such data excludes  
4 applicable data from 1 or more ACO  
5 participants in such ACO if—

6 “(aa) such data submitted  
7 by the ACO otherwise complies  
8 with the data completeness re-  
9 quirements of such section  
10 414.1340; and

11 “(bb) such ACO dem-  
12 onstrates to the satisfaction of  
13 the Secretary that such ACO  
14 participant was unable to collect  
15 such data through the collection  
16 type (as described in clause (ii))  
17 selected by the ACO for the sub-  
18 mission of such data.

19 “(II) DEFINITION.—In this  
20 clause, the term ‘ACO participant’  
21 has the meaning given such term in  
22 section 425.20 of title 42, Code of  
23 Federal Regulations (or a successor  
24 regulation).

1 “(III) IMPLEMENTATION.—The  
2 Secretary may implement this clause  
3 by program instruction or otherwise.”.

4 **SEC. 3. PILOT PROGRAM FOR DIGITAL QUALITY MEASURE**  
5 **REPORTING.**

6 Section 1899(b)(3)(B) of the Social Security Act (42  
7 U.S.C. 1395jjj(b)(3)(B)), as amended by section 2, is fur-  
8 ther amended by adding at the end the following new  
9 clause:

10 “(iv) PILOT PROGRAM FOR DIGITAL  
11 QUALITY MEASURE REPORTING.—

12 “(I) IN GENERAL.—For each of  
13 performance years 2028 through  
14 2032, the Secretary shall establish a  
15 digital quality measure reporting pilot  
16 program (in this clause referred to as  
17 the ‘program’) under which ACOs se-  
18 lected under subclause (II) for such  
19 performance year report quality meas-  
20 ures specified by the Secretary under  
21 subclause (III) for such performance  
22 year through a digital quality measure  
23 collection type specified by the Sec-  
24 retary.

1                   “(II) SELECTION.—The Sec-  
2                   retary shall select ACOs to participate  
3                   in the program for a performance  
4                   year from among ACOs that submit  
5                   an application at such time and in  
6                   such form and manner as specified by  
7                   the Secretary.

8                   “(III) SPECIFICATION OF QUAL-  
9                   ITY MEASURES.—For each perform-  
10                  ance year of the program, the Sec-  
11                  retary shall specify 2 measures de-  
12                  scribed in subparagraph (A)(i) other-  
13                  wise required to be reported by ACOs  
14                  for such performance year for which  
15                  an ACO selected under subclause (II)  
16                  shall submit data through the collec-  
17                  tion type specified in subclause (I).

18                  “(IV) WAIVER OF REQUIREMENT  
19                  TO REPORT OTHER MEASURES.—The  
20                  Secretary may not require an ACO se-  
21                  lected under subclause (II) for a per-  
22                  formance year to report data on any  
23                  measure described in subparagraph  
24                  (A) otherwise required to be reported  
25                  by an ACO under this paragraph for

1           such performance year, other than  
2           such a measure specified under sub-  
3           clause (III) for such performance  
4           year.

5                   “(V) DISREGARD OF DATA FOR  
6           CERTAIN MEASURES.—The Secretary  
7           may not take into account any data  
8           for a measure specified under sub-  
9           clause (III) for a performance year  
10          submitted by an ACO selected under  
11          subclause (II) for such performance  
12          year, or any data for a measure with  
13          respect to which such ACO is not re-  
14          quired to report data for such per-  
15          formance year under subclause (IV),  
16          in determining—

17                   “(aa) whether such ACO has  
18           met quality performance stand-  
19           ards established by the Secretary  
20           under subparagraph (C) for such  
21           performance year; or

22                   “(bb) any score for the qual-  
23           ity performance category (as de-  
24           scribed           in           section  
25           1848(q)(2)(A)(i)) for an ACO

1 participant (as defined in clause  
2 (iii)(II)) in such ACO for such  
3 performance year.

4 “(VI) TECHNICAL ASSISTANCE.—  
5 The Secretary shall provide such tech-  
6 nical assistance to ACOs selected to  
7 participate in the program as is prac-  
8 ticable.

9 “(VII) PROVISION OF INFORMA-  
10 TION.—Not later than December 31,  
11 2032, the Secretary shall publicly post  
12 (or include as part of annual rule-  
13 making for this section) the following:

14 “(aa) An analysis of the pro-  
15 gram.

16 “(bb) Any recommendations  
17 for increasing submissions of  
18 data for measures described in  
19 subparagraph (A)(i) through the  
20 collection type specified in sub-  
21 clause (I); and

22 “(cc) A proposed timeline  
23 for requiring such measures to be  
24 submitted through such collection  
25 type.”.