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(Original Signature of Member)

117TH CONGRESS
2^D SESSION

H. R. _____

To eliminate the inpatient-only service list.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To eliminate the inpatient-only service list.

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 “Consumer Choice of
5 Care Act”.

6 **SEC. 2. ELIMINATION OF INPATIENT-ONLY SERVICE LIST.**

7 Beginning January 1, 2023, the Secretary of Health
8 and Human Services may not refuse to designate an out-
9 patient hospital service pursuant to section
10 1833(t)(1)(B)(i) of the Social Security Act (42 U.S.C.

- 1 1395l(t)(1)(B)(i) based solely on a determination by the
- 2 Secretary that such service may only be safely furnished
- 3 in an inpatient setting.

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117TH CONGRESS
2^D SESSION

H. R. _____

To direct the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services to conduct an annual study on health care competition and consolidation at the State level.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To direct the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services to conduct an annual study on health care competition and consolidation at the State level.

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 “Competition in State
5 Healthcare Markets Act”.

1 **SEC. 2. ANNUAL STUDY ON HEALTH CARE COMPETITION**
2 **AND CONSOLIDATION AT STATE LEVEL.**

3 (a) **IN GENERAL.**—Over each of the 10 years fol-
4 lowing the date of enactment of this Act, the Assistant
5 Secretary for Planning and Evaluation of the Department
6 of Health and Human Services (in this section referred
7 to as the “Assistant Secretary”) shall conduct a study on
8 health care competition and consolidation at the State
9 level.

10 (b) **CONSULTATION.**—In conducting the study under
11 this section, the Assistant Secretary shall consult with the
12 Chair of the Federal Trade Commission and the Assistant
13 Attorney General in charge of the Antitrust Division of
14 the Department of Justice.

15 (c) **OBTAINING DATA.**—The Assistant Secretary may
16 secure from the Federal Trade Commission information
17 necessary to enable the Assistant Secretary to carry out
18 subsection (d)(2). Upon request of the Assistant Sec-
19 retary, the Chair of the Federal Trade Commission shall
20 furnish that information to the Assistant Secretary.

21 (d) **METRICS.**—The study under this section shall in-
22 clude data collection on each of the following:

23 (1) Licensing requirements for doctors, nurses,
24 and other health care practitioners, including re-
25 quirements with respect to—

26 (A) initial licensure;

- 1 (B) ongoing maintenance of licensure;
- 2 (C) specific training and postgraduate and
- 3 continuing medical education;
- 4 (D) residency supervisory requirements;
- 5 and
- 6 (E) board certification.
- 7 (2) Mergers and acquisitions (both vertical and
- 8 horizontal), involving—
- 9 (A) hospitals;
- 10 (B) ambulatory or outpatient practices;
- 11 (C) ambulatory surgical centers;
- 12 (D) health insurance providers;
- 13 (E) habilitative service providers (such as
- 14 providers of physical therapy or occupational
- 15 therapy); and
- 16 (F) telehealth.
- 17 (3) The number of—
- 18 (A) State laws establishing a legal mecha-
- 19 nism by which a State approves mergers be-
- 20 tween or among two or more hospitals (com-
- 21 monly referred to as “certificates of public ad-
- 22 vantage”); and
- 23 (B) State laws establishing a legal mecha-
- 24 nism for regulating the growth of construction

1 of new health care facilities (commonly referred
2 to as “certificates of need”).

3 (4) The availability of alternative forms of
4 health insurance coverage, including—

5 (A) short-term limited duration insurance
6 (as defined for purposes of section 2791(b)(5)
7 of the Public Health Service Act (42 U.S.C.
8 300gg-91(b)(5)); and

9 (B) association health plans (including
10 plans offered through the American Farm Bu-
11 reau Federation).

12 (5) The number of each of the following in op-
13 eration at the start and the end of each year covered
14 by the 10-year study period:

15 (A) Hospitals.

16 (B) Medical practices.

17 (C) Ambulatory or outpatient practices.

18 (D) Ambulatory surgical centers.

19 (E) Health insurance providers.

20 (F) Habilitative service providers.

21 (6) The Herfindahl–Hirschman Index, within
22 geographic areas defined by the Assistant Secretary
23 in consultation with the Bureau of Competition of
24 the Federal Trade Commission, for the following
25 health care services:

1 (A) General acute care hospital services.

2 (B) Ambulatory or outpatient medical
3 services, disaggregated by medical specialty.

4 (C) Habilitative services.

5 (e) ANNUAL REPORTS.—

6 (1) IN GENERAL.—Not later than the end of
7 each of the 10 years referred to in subsection (a),
8 the Assistant Secretary shall submit to the Com-
9 mittee on Energy and Commerce and the Committee
10 on Ways and Means of the House of Representatives
11 and the Committee on Finance and the Committee
12 on Health, Education, Labor, and Pensions of the
13 Senate a report on the status and results of the
14 study under this section.

15 (2) PUBLICATION; PUBLICLY ACCESSIBLE
16 DATASETS.—Not later than the end of each of the
17 10 years referred to in subsection (a), the Assistant
18 Secretary shall—

19 (A) publish on the website of the Office of
20 the Assistant Secretary the report submitted
21 under paragraph (1) for the respective year;
22 and

23 (B) make the data collected through the
24 study under this section available to the public

1 on such website in a manner that is publicly ac-
2 cessible and interactive.

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117TH CONGRESS
2D SESSION

H. R. _____

To require the Government Accountability Office to evaluate the effects of anticompetitive contracting clauses in contracts between health insurers and health care providers and to determine actions taken by the Federal Trade Commission and the Department of Justice relating to the use of such clauses in such contracts and to assess their ability to effectively enforce the Federal antitrust laws with respect to such use.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To require the Government Accountability Office to evaluate the effects of anticompetitive contracting clauses in contracts between health insurers and health care providers and to determine actions taken by the Federal Trade Commission and the Department of Justice relating to the use of such clauses in such contracts and to assess their ability to effectively enforce the Federal antitrust laws with respect to such use.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Addressing Anti-Com-
3 petitive Contracting Clauses Act”.

4 **SEC. 2. GAO STUDY.**

5 (a) STUDY.—Not later than 18 months after the date
6 of the enactment of this Act, the Comptroller General of
7 the United States, in coordination with the Federal Trade
8 Commission and the Assistant Attorney General of the
9 Antitrust Division of the Department of Justice, shall
10 carry out a study that—

11 (1) evaluates the effect of anticompetitive con-
12 tract clauses known as anti-steering clauses, anti-
13 tiering clauses, all-or-nothing clauses, and gag
14 clauses in contracts between health insurers and
15 health care providers, including the effects such con-
16 tracts have on consolidation in the health care indus-
17 try, prices paid by consumers for medical services,
18 and consumer access to health care,

19 (2) contains a list of all actions the Federal
20 Trade Commission and the Department of Justice
21 have taken directly or indirectly related to use of
22 such contract clauses in contracts between health in-
23 surers and health care providers,

24 (3) contains an assessment of whether the Fed-
25 eral Trade Commission and the Department of Jus-
26 tice have the resources and the capability to effec-

1 tively enforce the Federal antitrust laws as applied
2 to such the use of such clauses in such contracts,
3 and

4 (4) includes recommendations for legislative or
5 administrative actions if necessary to increase such
6 resources.

7 (b) REPORT.—The report containing the results of
8 the study carried out under subsection (a) shall be sub-
9 mitted timely by the Comptroller General as follows:

10 (1) To—

11 (A) the Committee on Energy and Com-
12 merce,

13 (B) the Committee on Ways and Means,

14 (C) the Committee on Education and
15 Labor, and

16 (D) the Committee on the Judiciary,
17 of the House of Representatives.

18 (2) To—

19 (A) The Committee on Health, Education,
20 Labor, and Pensions, and

21 (B) The Committee on the Judiciary,
22 of the Senate.

23 **SEC. 3. DEFINITIONS.**

24 For purposes of this Act:

1 (1) ALL-OR-NOTHING CLAUSE.—The term “all-
2 or-nothing clause” means a provision of a health
3 care contract that requires—

4 (A) a health insurance carrier or health
5 plan administrator to include all members of a
6 health care provider in a network plan; or

7 (B) a health insurance carrier or health
8 plan administrator to enter into an additional
9 contract with an affiliate of the health care pro-
10 vider as a condition of entering into a contract
11 with such health care provider.

12 (2) ANTI-STEERING CLAUSE.—The term “anti-
13 steering clause” means a provision of a health care
14 contract that restricts the ability of a health insur-
15 ance carrier or a health plan administrator from en-
16 couraging an enrollee to obtain a health care service
17 from a competitor of the hospital or health system,
18 including offering incentives to encourage enrollees
19 to utilize specific health care providers.

20 (3) ANTI-TIERING CLAUSE.—The term “anti-
21 tiering clause” means a provision in a health care
22 contract that—

23 (A) restricts the ability of a health insur-
24 ance carrier or a health plan administrator to

1 introduce or modify a tiered network plan or
2 assign health care providers into tiers; or

3 (B) requires the health insurance carrier
4 or health plan administrator to place all mem-
5 bers of a health care provider in the same tier
6 of a tiered network plan.

7 (4) GAG CLAUSE.—the term “gag clause”
8 means a provision of a health care contract that—

9 (A) restricts the ability of a health insur-
10 ance carrier, a health plan administrator, or a
11 health care provider to disclose a price or qual-
12 ity information, including the allowed amount,
13 negotiated rates or discounts, a fees for serv-
14 ices, or any other claim-related financial obliga-
15 tions included in the provider contract to—

16 (i) a governmental entity as author-
17 ized by law ,

18 (ii) its contractors or agents,

19 (iii) an enrollee,

20 (iv) a treating health care provider of
21 an enrollee,

22 (v) a plan sponsor, or

23 (vi) a potential eligible enrollees and
24 plan sponsors; or

1 (B) restricts the ability of a health insur-
2 ance carrier, a health plan administrator, or a
3 health care provider to disclose out-of-pocket
4 costs to an enrollee.

5 (5) TIERED NETWORK PLAN.—The term
6 “tiered network plan” means a health benefit plan
7 that sorts some or all types of health care providers
8 into specific groups to which different provider reim-
9 bursement, enrollee cost sharing, health care pro-
10 vider access requirements, or a combination thereof,
11 are applied for the same services.

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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend the Pension Funding Equity Act of 2004 to repeal the antitrust exemption applicable to graduate medical resident matching programs.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Pension Funding Equity Act of 2004 to repeal the antitrust exemption applicable to graduate medical resident matching programs.

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 “Increasing Competition
5 for Medical Residency Act”.

6 **SEC. 2. REPEALER.**

7 Section 207 of the Pension Funding Equity Act of
8 2004 (15 U.S.C. 37B) is repealed.

1 **SEC. 3. EFFECTIVE DATE.**

2 This Act shall take effect on the March 18 that 1st
3 occurs after the date of the enactment of this Act.