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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend title XVIII of the Social Security Act to temporarily provide for long-term care pharmacy supply fees in connection with the dispensing of certain drugs.

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**IN THE HOUSE OF REPRESENTATIVES**

Ms. VAN DUYNE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title XVIII of the Social Security Act to temporarily provide for long-term care pharmacy supply fees in connection with the dispensing of certain drugs.

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 “Preserving Patient Ac-  
5       cess to Long-Term Care Pharmacies Act”.

1 **SEC. 2. LONG TERM CARE PHARMACY SUPPLY FEE.**

2 (a) IN GENERAL.—Section 1860D–4(b)(1) of the So-  
3 cial Security Act (42 U.S.C. 1395w–104(b)(1)) is amend-  
4 ed by adding at the end the following new subparagraph:

5 “(F) LONG-TERM CARE PHARMACY SUPPLY  
6 FEES.—

7 “(i) PLAN REIMBURSEMENT TO PHAR-  
8 MACY.—

9 “(I) IN GENERAL.—For plan  
10 years 2026 and 2027, for each speci-  
11 fied prescription dispensed by a long-  
12 term care pharmacy to an enrollee  
13 during such plan year, each PDP  
14 sponsor of a prescription drug plan  
15 and each MA organization offering an  
16 MA–PD plan shall pay such pharmacy  
17 a supply fee in an amount equal to—

18 “(aa) for plan year 2026,  
19 \$30; and

20 “(bb) for plan year 2027,  
21 the amount of the supply fee for  
22 the prior plan year, increased by  
23 the annual percentage increase  
24 described in section 1860D–  
25 2(b)(6).

1                   “(II) CLARIFICATION.—The sup-  
2                   ply fee under this subparagraph shall  
3                   be paid at the same time and in addi-  
4                   tion to any other pharmacy reim-  
5                   bursements, including ingredient  
6                   costs, dispensing fees, or other pay-  
7                   ments negotiated between the PDP  
8                   sponsor or MA organization and the  
9                   long-term care pharmacy, and shall  
10                  not result in a reduction to such other  
11                  reimbursements.

12               “(ii) ENFORCEMENT.—

13                   “(I) CIVIL MONEY PENALTY.—  
14                  The Secretary shall impose a civil  
15                  money penalty on each PDP sponsor  
16                  of a prescription drug plan and MA  
17                  organization offering an MA–PD plan  
18                  that fails to pay a supply fee for a  
19                  specified prescription dispensed to an  
20                  enrollee in accordance with this sub-  
21                  paragraph for each such failure in an  
22                  amount of not less than \$10,000.

23                   “(II) APPLICATION.—The provi-  
24                  sions of section 1128A (other than  
25                  subsections (a) and (b)) shall apply to

1 a civil money penalty under this  
2 clause in the same manner as such  
3 provisions apply to a penalty or pro-  
4 ceeding under section 1128A(a).

5 “(iii) DEFINITIONS.—In this subpara-  
6 graph:

7 “(I) APPLICABLE MAXIMUM FAIR  
8 PRICE ELIGIBLE INDIVIDUAL.—The  
9 term ‘applicable maximum fair price  
10 eligible individual’ means, with respect  
11 to a specified prescription, a max-  
12 imum fair price eligible individual  
13 who, with respect to such prescription,  
14 is described in section 1191(c)(2)(A).

15 “(II) LONG-TERM CARE PHAR-  
16 MACY.—The term ‘long-term care  
17 pharmacy’ means a pharmacy with a  
18 national provider identifier associated  
19 with taxonomy code 3336L0003X (or  
20 a successor code), as maintained by  
21 the National Uniform Claim Com-  
22 mittee.

23 “(III) MAXIMUM FAIR PRICE.—  
24 The term ‘maximum fair price’ has

1 the meaning given such term in sec-  
2 tion 1191(c)(3).

3 “(IV) MAXIMUM FAIR PRICE ELI-  
4 GIBLE INDIVIDUAL.—The term ‘max-  
5 imum fair price eligible individual’ has  
6 the meaning given such term in sec-  
7 tion 1191(c)(2).

8 “(V) SPECIFIED PRESCRIP-  
9 TION.—The term ‘specified prescrip-  
10 tion’ means a covered part D drug  
11 dispensed by a long-term care phar-  
12 macy to an applicable maximum fair  
13 price eligible individual at the max-  
14 imum fair price pursuant to section  
15 1193(a)(3)(A).”.

16 (b) REPAYMENT OF LONG-TERM PHARMACY SUPPLY  
17 FEES.—Section 1860D–15 of the Social Security Act (42  
18 U.S.C. 1395w–115) is amended by adding at the end the  
19 following new subsection:

20 “(i) REPAYMENT OF LONG-TERM PHARMACY SUPPLY  
21 FEES.—

22 “(1) IN GENERAL.—In addition to amounts  
23 otherwise payable under this section to a PDP spon-  
24 sor of a prescription drug plan or an MA organiza-  
25 tion offering an MA–PD plan, for plan years 2026

1       and 2027, the Secretary shall provide the PDP  
2       sponsor or MA organization offering the plan sub-  
3       sidies in an amount equal to the aggregate amount  
4       of supply fees paid by such sponsor or organization  
5       to long-term care pharmacies pursuant to section  
6       1860D–4(b)(1)(F) during the plan year.

7               “(2) TIMING.—The Secretary shall provide a  
8       subsidy under paragraph (1), as applicable, not later  
9       than 18 months following the end of the applicable  
10      plan year.”.

11      (c) GAO STUDY AND REPORT.—

12              (1) IN GENERAL.—Not later than 12 months  
13      after the date of enactment of this section, the  
14      Comptroller General of the United States shall com-  
15      plete a study and submit to Congress a report on  
16      the economic sustainability of the participation of  
17      long-term care pharmacies in the Medicare prescrip-  
18      tion drug program. Such report shall include—

19              (A) an analysis of—

20                      (i) payment to long-term care phar-  
21                      macies under the Medicare prescription  
22                      drug program with respect to—

23                              (I) ingredient costs—

24                                      (aa) for brand-name drugs;

25                                      and

1 (bb) for generic drugs; and  
2 (II) dispensing fees;  
3 (ii) the costs to long-term care phar-  
4 macies of compliance with the performance  
5 and service criteria for network long-term  
6 care pharmacies, as described in the Medi-  
7 care Prescription Drug Benefit Manual;  
8 and  
9 (iii) changes to payment to long-term  
10 care pharmacies under the Medicare pre-  
11 scription drug program during the 5-year  
12 period preceding the date of enactment of  
13 this section; and  
14 (B) recommendations on steps that Con-  
15 gress and the Secretary of Health and Human  
16 Services should consider for purposes of cre-  
17 ating a sustainable payment system under the  
18 Medicare prescription drug program for long-  
19 term care pharmacies that would ensure that  
20 Medicare beneficiaries with long-term care  
21 needs have uninterrupted access to long-term  
22 care pharmacy services in all markets, particu-  
23 larly rural markets.  
24 (2) DEFINITIONS.—In this subsection:

1           (A) LONG-TERM CARE PHARMACY.—The  
2           term “long-term care pharmacy” has the mean-  
3           ing given such term in subparagraph (F)(iii)(II)  
4           of section 1860D–4(b)(1) of the Social Security  
5           Act (42 U.S.C. 1395w–104(b)(1)), as added by  
6           subsection (a).

7           (B) MEDICARE BENEFICIARY.—The term  
8           “Medicare beneficiary” means an individual  
9           who is entitled to benefits under part A of title  
10          XVIII of the Social Security Act (42 U.S.C.  
11          1395c et seq.) or enrolled under part B of such  
12          title (42 U.S.C. 1395j et seq.).

13          (C) MEDICARE PRESCRIPTION DRUG PRO-  
14          GRAM.—The term “Medicare prescription drug  
15          program” means the program under part D of  
16          title XVIII of the Social Security Act (42  
17          U.S.C. 1395w–101 et seq.).