

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Public Health Service Act to require the Secretary of Health and Human Services to enforce certain requirements with respect to for-profit corporations that own health care systems, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY (for himself, Ms. BALDWIN, Mr. WELCH, Mr. MERKLEY, Ms. WARREN, Mr. SANDERS, Mr. BOOKER, Ms. SMITH, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Public Health Service Act to require the Secretary of Health and Human Services to enforce certain requirements with respect to for-profit corporations that own health care systems, 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 Over Wealth  
5 Act”.

1 **SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE**  
2 **ACT.**

3 The Public Health Service Act (42 U.S.C. 201 et  
4 seq.) is amended by adding at the end the following:

5 **“TITLE XXXIV—REQUIREMENTS**  
6 **RELATING TO PRIVATE OWN-**  
7 **ERSHIP IN HEALTH CARE**

8 **“SEC. 3401. DEFINITIONS.**

9 “In this title:

10 “(1) **AFFILIATE.**—The term ‘affiliate’ means—

11 “(A) a person that directly or indirectly  
12 owns, controls, or holds with power to vote, 20  
13 percent or more of the outstanding voting secu-  
14 rities of another entity, other than a person  
15 that holds such securities—

16 “(i) in a fiduciary or agency capacity  
17 without sole discretionary power to vote  
18 such securities; or

19 “(ii) solely to secure a debt, if such  
20 entity has not in fact exercised such power  
21 to vote;

22 “(B) a corporation 20 percent or more of  
23 whose outstanding voting securities are directly  
24 or indirectly owned, controlled, or held with  
25 power to vote, by another entity (referred to in  
26 this subparagraph as a ‘covered entity’), or by

1 an entity that directly or indirectly owns, con-  
2 trols, or holds with power to vote, 20 percent or  
3 more of the outstanding voting securities of the  
4 covered entity, other than an entity that holds  
5 such securities—

6 “(i) in a fiduciary or agency capacity  
7 without sole discretionary power to vote  
8 such securities; or

9 “(ii) solely to secure a debt, if such  
10 entity has not in fact exercised such power  
11 to vote;

12 “(C) a person whose business is operated  
13 under a lease or operating agreement by an-  
14 other entity, or person substantially all of whose  
15 property is operated under an operating agree-  
16 ment with that other entity; or

17 “(D) an entity that operates the business  
18 or substantially all of the property of another  
19 entity under a lease or operating agreement.

20 “(2) CORPORATION.—The term ‘corporation’  
21 means—

22 “(A) a joint-stock company;

23 “(B) a company or partnership association  
24 organized under a law that makes only the cap-  
25 ital subscribed or callable up to a specified

1 amount responsible for the debts of the associa-  
2 tion, including a limited partnership and a lim-  
3 ited liability company;

4 “(C) a trust; or

5 “(D) an association having a power or  
6 privilege that a private corporation, but not an  
7 individual or a partnership, possesses.

8 “(3) COVERED FIRM.—The term ‘covered firm’  
9 means a for-profit corporation that owns or is an af-  
10 filiate of a health care entity.

11 “(4) HEALTH CARE ENTITY.—The term ‘health  
12 care entity’ means an entity that consists of 1 or  
13 more of the following health care providers:

14 “(A) A hospital.

15 “(B) A physician practice.

16 “(C) A skilled nursing facility.

17 “(D) A hospice facility.

18 “(E) A mental or behavioral health care  
19 provider.

20 “(F) An opioid treatment program.

21 “(G) A provider of services (as defined in  
22 section 1861(u) of the Social Security Act (42  
23 U.S.C. 1395x(u)) or a supplier (as defined in  
24 section 1861(d) of such Act (42 U.S.C.  
25 1395(d)) enrolled in the Medicare program.

1           “(H) Any other entity the Secretary deter-  
2           mines appropriate.

3           “(5) PRIVATE EQUITY FUND.—The term ‘pri-  
4           vate equity fund’ means—

5           “(A)(i) a person that would be considered  
6           an investment company under section 3 of the  
7           Investment Company Act of 1940 (15 U.S.C.  
8           80a–3) but for the application of paragraph (1)  
9           or (7) of subsection (c) of such section 3;

10           “(ii) a venture capital fund, as defined in  
11           section 275.203(l)–1 of title 17, Code of Federal  
12           Regulations (or successor regulations); or

13           “(iii) a sovereign wealth fund; and

14           “(B) directly, or through an affiliate, acts  
15           as a control person.

16 **“SEC. 3402. HEALTH CARE OWNERSHIP TRANSPARENCY.**

17           “(a) REQUIRED REPORTING.—

18           “(1) IN GENERAL.—The Secretary shall require  
19           each covered firm to submit to the Secretary, at  
20           such times as the Secretary determines appropriate,  
21           through the infrastructure established under para-  
22           graph (2), a report containing—

23           “(A) for a covered firm with respect to  
24           which there is a private equity fund that is a

1 control person of the covered firm, the informa-  
2 tion described in subsection (b); and

3 “(B) for a covered firm not described in  
4 subparagraph (A), the information described in  
5 subsection (c).

6 “(2) REPORTING INFRASTRUCTURE.—The Sec-  
7 retary, in consultation with the Secretary of the  
8 Treasury and the Federal Trade Commission, shall  
9 establish infrastructure to collect the data submitted  
10 under paragraph (1).

11 “(3) PUBLIC AVAILABILITY.—The Secretary  
12 shall make the data submitted under paragraph (1)  
13 publicly available.

14 “(4) AUDITING.—The Secretary shall periodi-  
15 cally conduct audits to verify the data submitted  
16 under paragraph (1).

17 “(5) ANNUAL REPORTS.—The Secretary shall  
18 submit to Congress annual reports describing trends  
19 identified through analysis of the data submitted  
20 under paragraph (1) relating to—

21 “(A) the financial status of covered firms;  
22 and

23 “(B) how the type of ownership of health  
24 care entities impacts access to health care,  
25 health care quality, and patient safety.

1           “(b) REPORTS SUBMITTED BY COVERED FIRMS  
2 OWNED BY OR AFFILIATED WITH PRIVATE EQUITY.—

3 For purposes of subsection (a), and with respect to a cov-  
4 ered firm described in subsection (a)(1)(A) and each pri-  
5 vate equity fund that is a control person of the covered  
6 firm, the information described in this subsection is the  
7 following information with respect to each year of the pre-  
8 vious 10-year period:

9           “(1) The percentage of the equity of the private  
10 equity fund contributed by—

11                   “(A) the general partners of the fund; and

12                   “(B) the limited partners of the fund.

13           “(2) The level of debt of the covered firm at the  
14 end of the applicable year.

15           “(3) Information on the debt held by the pri-  
16 vate equity fund, including—

17                   “(A) the dollar amount of total debt;

18                   “(B) the percentage of debt for which the  
19 creditor is a financial institution in the United  
20 States;

21                   “(C) the percentage of debt for which the  
22 creditor is a financial institution outside of the  
23 United States;

24                   “(D) the percentage of debt for which the  
25 creditor is an entity that is located in the

1 United States and is not a financial institution;  
2 and

3 “(E) the percentage of debt for which the  
4 creditor is an entity that is located outside of  
5 the United States and is not a financial institu-  
6 tion.

7 “(4) The total amount of debt held by the cov-  
8 ered firm that is categorized as—

9 “(A) liabilities;

10 “(B) long-term liabilities; and

11 “(C) payment in kind or zero coupon debt.

12 “(5) The average debt-to-equity ratio of—

13 “(A) each covered firm with respect to the  
14 private equity fund; and

15 “(B) the private equity fund.

16 “(6) The average debt-to-EBITDA (Earnings  
17 Before Interest, Taxes, Depreciation, and Amortiza-  
18 tion) of each covered firm with respect to the private  
19 equity fund.

20 “(7) The total number of covered firms with re-  
21 spect to the private equity fund that experienced a  
22 default during the applicable year, and the name of  
23 any such covered firm.

24 “(8) The total gross asset value of each covered  
25 firm with respect to the private equity fund.

1           “(9) The gross performance of the private equity fund during the applicable year.

2           “(10) The total dollar amount of aggregate fees and expenses collected by the private equity fund, the manager of the fund, or related parties from covered firms with respect to the private equity fund, which shall—

3                   “(A) be categorized by the type of fee; and

4                   “(B) include a description of the purpose of the fees.

5           “(11) Any transaction, monitoring, management, performance, or other fees collected by the private equity fund from the covered firm.

6           “(12) In dollars, the total amount of regulatory assets under management by the private equity fund.

7           “(13) In dollars, the total amount of net assets under management by the private equity fund.

8           “(14) With respect to the applicable year, the difference obtained by subtracting the financial gains of the private equity fund by the fees that the general partners of the fund charged to the limited partners of the fund (commonly referred to as the ‘performance net of fees’).

1           “(15) Any management services agreements be-  
2           tween the covered firm and the private equity fund,  
3           including a disclosure of fees paid through manage-  
4           ment services agreements.

5           “(16) Any other services procured by the cov-  
6           ered firm from the private equity fund or any other  
7           company owned by the private equity fund.

8           “(17) Dividends paid by the covered firm to the  
9           private equity fund.

10          “(18) The names of—

11                 “(A) the limited partners of the private eq-  
12                 uity fund;

13                 “(B) the board members of the private eq-  
14                 uity fund; and

15                 “(C) the leadership of the covered firm.

16          “(19) All political spending by the covered firm,  
17          including contributions, lobbying spending, and con-  
18          tributions to groups that do not share their donor  
19          list.

20          “(20) All political spending by the private eq-  
21          uity fund, an affiliate of the fund, or an investment  
22          professional at the fund, with respect to—

23                 “(A) health care related issues; or

24                 “(B) members of congressional committees  
25          with oversight of health care.

1           “(21) Information on the extent to which the  
2 covered firm entered into any sale lease back trans-  
3 actions with the private equity fund.

4           “(22) Every asset purchased by the covered  
5 firm during the applicable year.

6           “(23) Information that is similar to the infor-  
7 mation required to be contained in a notification  
8 filed pursuant to the rules under subsection  
9 7A(d)(1) of the Clayton Act (15 U.S.C. 18a(d)(1)).

10           “(24) Data related to real estate, mortgage,  
11 and lease payments.

12           “(25) Interest expenses and payments made by  
13 the private equity fund and each covered firm with  
14 respect to the private equity fund to comply with tax  
15 receivable agreements.

16           “(26) Average interest rate paid on secured and  
17 unsecured lines of credit by the private equity fund  
18 and each covered firm with respect to the private eq-  
19 uity fund.

20           “(27) For the private equity fund and each cov-  
21 ered firm with respect to the private equity fund, a  
22 list of—

23                   “(A) all transactions with the 10 largest  
24 vendors or service providers; and

25                   “(B) any new vendors or service providers.

1           “(28) For the private equity fund and each cov-  
2           ered firm with respect to the private equity fund, the  
3           number of payments to staffing firms.

4           “(29) For the covered firm, the staffing of each  
5           health care provider owned by such covered firm,  
6           disaggregated by position and ratio of staff to pa-  
7           tients.

8           “(30) For the covered firm, the staff retention  
9           rates, number of job postings, and vacancy rates,  
10          disaggregated by position, with respect to each  
11          health care provider owned by such covered firm.

12          “(31) For a covered firm that owns 1 or more  
13          hospitals, the number of beds in use and the capaci-  
14          ty of each such hospital.

15          “(32) For the covered firm, the number of  
16          health care facilities or providers owned by such cov-  
17          ered firm that have closed during such year.

18          “(33) For the covered firm, health care costs  
19          charged to patients and public and private health  
20          plans.

21          “(34) For the covered firm, the percentage and  
22          number of non-patient care areas in health care fa-  
23          cilities owned by such covered firm that have been  
24          converted into patient care areas.

1           “(35) For the covered firm, reductions in the  
2 wages or benefits of health workers employed by  
3 health care providers owned by such covered firm.

4           “(36) For the private equity fund and each cov-  
5 ered firm with respect to the private equity fund,  
6 complaints of, or citations for violations of, State or  
7 Federal worker protection laws, including charges of  
8 unfair labor practices, complaints of violations of  
9 State or Federal antidiscrimination laws, complaints  
10 of violations of wage and hour laws, and whistle-  
11 blower complaints.

12           “(37) For the private equity fund and each cov-  
13 ered firm with respect to the private equity fund,  
14 disclosure of any agreement or arrangement with a  
15 labor relations consultant or other independent con-  
16 tractor or organization for which a report is required  
17 to be filed under section 203(a)(4) of the Labor-  
18 Management Reporting and Disclosure Act of 1959  
19 (29 U.S.C. 433(a)(4)).

20           “(38) Any other information that the Secretary  
21 determines relevant for evaluating the impact of pri-  
22 vate equity ownership of health care entities on the  
23 provision of health care, health care quality, and  
24 safety.

1           “(c) INFORMATION SUBMITTED BY COVERED FIRMS  
2 NOT OWNED BY PRIVATE EQUITY.—For purposes of sub-  
3 section (a) and with respect to a covered firm described  
4 in subsection (a)(1)(B), the information described in this  
5 subsection is the following information with respect to  
6 each year of the previous 10-year period:

7           “(1) The level of debt of the covered firm at the  
8 end of the applicable year.

9           “(2) The total amount of debt held by the cov-  
10 ered firm that is categorized as—

11                   “(A) liabilities;

12                   “(B) long-term liabilities; and

13                   “(C) payment in kind or zero coupon debt.

14           “(3) The average debt-to-equity ratio of the  
15 covered firm.

16           “(4) The average debt-to-EBITDA (Earnings  
17 Before Interest, Taxes, Depreciation, and Amortiza-  
18 tion) of the covered firm.

19           “(5) Whether the covered firm experienced a  
20 default during the applicable year.

21           “(6) The total gross asset value of the covered  
22 firm.

23           “(7) Dividends paid by the covered firm.

24           “(8) The names of the leadership of the covered  
25 firm.

1           “(9) All political spending by the covered firm,  
2 including contributions, lobbying spending, and con-  
3 tributions to groups that do not share their donor  
4 list.

5           “(10) Every asset purchased by the covered  
6 firm during the applicable year.

7           “(11) Information that is similar to the infor-  
8 mation required to be included in a notification filed  
9 pursuant to the rules under subsection 7A(d)(1) of  
10 the Clayton Act (15 U.S.C. 18a(d)(1)).

11           “(12) Data related to real estate, mortgage,  
12 and lease payments.

13           “(13) Interest expenses and payments made to  
14 comply with tax receivable agreements.

15           “(14) Average interest rate paid on secured and  
16 unsecured lines of credit.

17           “(15) A list of—

18                   “(A) all transactions with the 10 largest  
19 vendors or service providers; and

20                   “(B) any new vendors or servicer pro-  
21 viders.

22           “(16) The number of payments to staffing  
23 firms.

1           “(17) The salaries of the executives of the cov-  
2           ered firm and each health care entity owned by such  
3           covered firm.

4           “(18) The board membership of the covered  
5           firm and each health care entity owned by such cov-  
6           ered firm.

7           “(19) The staff retention rates, number of job  
8           postings, and vacancy rates, disaggregated by posi-  
9           tion, with respect to each health care provider owned  
10          by the covered firm.

11          “(20) The percentage and number of non-pa-  
12          tient care areas in health care facilities owned by the  
13          covered firm that have been converted into patient  
14          care areas.

15          “(21) Reductions in the wages or benefits of  
16          health workers employed by health care providers  
17          owned by the covered firm.

18          “(22) Complaints of, or citations for violations  
19          of, State or Federal worker protection laws, includ-  
20          ing charges of unfair labor practices, complaints of  
21          violations of State or Federal antidiscrimination  
22          laws, complaints of violations of wage and hour laws,  
23          and whistleblower complaints.

24          “(23) Disclosure of any agreement or arrange-  
25          ment with a labor relations consultant or other inde-

1       pendent contractor or organization for which a re-  
2       port is required to be filed under section 203(a)(4)  
3       of the Labor-Management Reporting and Disclosure  
4       Act of 1959 (29 U.S.C. 433(a)(4)).

5               “(24) Any other information that the Secretary  
6       determines relevant for evaluating the impact of for-  
7       profit ownership of health care entities on the provi-  
8       sion of health care, health care quality, and safety.

9               “(d) NONDUPLICATION; REDUCTION OF ADMINIS-  
10       TRATIVE BURDEN.—To the maximum extent practicable,  
11       the Secretary shall—

12               “(1) ensure that the reporting requirements  
13       under this section are not duplicative of other re-  
14       porting requirements under Federal law; and

15               “(2) reduce the administrative burden on cov-  
16       ered firms of complying with such requirements.

17       **“SEC. 3403. RISK MITIGATION AND ACCOUNTABILITY.**

18               “(a) RISK MITIGATION.—

19               “(1) DEFINITION OF ESSENTIAL SERVICES.—In  
20       this subsection, the term ‘essential services’, with re-  
21       spect to a health care provider of a health care enti-  
22       ty owned by or affiliated with a covered firm, means  
23       services that are necessary for preserving health care  
24       access, health care quality, and patient safety, as de-

1       terminated by the Secretary, including services for  
2       which the Secretary determines—

3               “(A) there are no equivalent services avail-  
4               able within the same travel time;

5               “(B) that loss of the services would result  
6               in meaningful reductions in surge capacity that  
7               will negatively impact access to services, health  
8               care quality, and patient safety;

9               “(C) that loss of the services would limit  
10              health care access, health care quality, and pa-  
11              tient safety for specific demographics of individ-  
12              uals based on sex, sexuality, race, nationality,  
13              age, or disability status; or

14              “(D) that loss of the services would have  
15              a meaningful impact on the ability of health  
16              care entities to provide care in the surrounding  
17              geographical area of the health care provider.

18              “(2) MECHANISM TO ENSURE RISK MITIGA-  
19              TION.—The Secretary shall establish a mechanism  
20              to ensure that the risks of covered firms with respect  
21              to which there is a private equity fund that is a con-  
22              trol person of the covered firm are mitigated. Such  
23              mechanism may require each such covered firm—

24                      “(A) to establish an escrow account with  
25                      sufficient funding to cover operating and capital

1 expenditures for not less than 5 years, includ-  
2 ing, in the case of the closure of a health care  
3 provider of a health care entity owned by or af-  
4 filiated with such covered firm or if there are  
5 reductions of essential health services at such a  
6 health care provider, sufficient funding—

7 “(i) to pay out contract obligations to  
8 health care providers and other staff of  
9 such health care entity; and

10 “(ii) to provide supplemental funding  
11 to community health care or non-profit  
12 health care providers in the surrounding  
13 geographical area impacted by such closure  
14 or service reductions;

15 “(B) to obligate a minimum capital invest-  
16 ment in any health care entity that is owned by  
17 or affiliated with such covered firm; or

18 “(C) to carry out such other activities as  
19 the Secretary determines appropriate to ensure  
20 that such covered firm provides a financial con-  
21 tribution sufficient to mitigate the impact of a  
22 potential closure, reduction of essential services,  
23 workforce shortage, or reduction in quality or  
24 safety of care or health care access.

1           “(b) LIMITATION ON THE USE OF REAL ESTATE IN-  
2 VESTMENT TRUSTS IN HEALTH CARE.—

3           “(1) PROHIBITION.—No health care entity or  
4 covered firm may enter into agreement to sell to, or  
5 lease from, a real estate investment trust (as defined  
6 in section 856 of the Internal Revenue Code of  
7 1986) an interest in real property if the terms of  
8 such sale or lease would lead to long-term weakened  
9 financial status of the health care entity or place the  
10 public health at risk.

11           “(2) REVIEW OF SALE OR LEASE TERMS.—

12           “(A) IN GENERAL.—The Secretary shall  
13 require each health care entity, or the covered  
14 firm that owns such health care entity, seeking  
15 to enter into an agreement described in para-  
16 graph (1) to submit to the Secretary for review  
17 the terms of the sale or lease, as applicable.

18           “(B) STANDARD.—In conducting a review  
19 of a sale or lease under subparagraph (A), the  
20 Secretary shall determine whether the terms of  
21 such sale or lease would lead to long-term  
22 weakened financial status of the health care en-  
23 tity or place the public health at risk.

1                   “(C) CONSULTATION.—The Secretary may  
2                   consult with the relevant State attorney general  
3                   in conducting a review under subparagraph (A).

4                   “(3) LITIGATION AUTHORITY.—Except as pro-  
5                   vided in section 518 of title 28, United States Code  
6                   (relating to litigation before the Supreme Court), at-  
7                   torneys designated by the Secretary may appear for  
8                   the Department of Health and Human Services and  
9                   represent the Department in any civil action brought  
10                  in connection with a violation of paragraph (1).

11                  “(c) LICENSURE.—

12                  “(1) DEFINITION OF PRIVATE EQUITY FIRM.—  
13                  In this subsection, the term ‘private equity firm’  
14                  means a for-profit corporation with respect to which  
15                  there is a private equity fund that is a control per-  
16                  son of the corporation.

17                  “(2) LICENSES.—The Secretary shall issue li-  
18                  censes for private equity firms to invest, directly or  
19                  indirectly, in or purchase a health care entity.

20                  “(3) FEES.—The Secretary may charge a fee  
21                  for applications for licenses under paragraph (1),  
22                  which shall be deposited into a special account, the  
23                  amounts in which shall remain available to the Sec-  
24                  retary, until expended and without further appro-  
25                  priation, for funding for the National Health Service

1 Corps, the community health centers program under  
2 section 330, teaching health centers that operate  
3 graduate medical education programs under section  
4 340H, and other health workforce programs carried  
5 out by the Health Resources and Services Adminis-  
6 tration, and hospitals that have received dispropor-  
7 tionate share hospital payments under section 1886  
8 of the Social Security Act or section 1923 of such  
9 Act.

10 “(4) DENIAL; REVOCATION.—

11 “(A) IN GENERAL.—The Secretary may  
12 deny or revoke a license under this subsection—

13 “(i) in cases in which the Secretary  
14 determines that the private equity firm—

15 “(I) has failed to comply with  
16 any of the provisions of this title; or

17 “(II) has engaged in price gaug-  
18 ing, understaffing, access barriers, or  
19 such other metrics as the Secretary  
20 determines appropriate, with respect  
21 to the private equity firm’s ownership  
22 of health care entities; or

23 “(ii) for such other reason involving  
24 actions or practices of the private equity  
25 firm that may impact or interfere with ac-

1                   cess to, or quality of, health care, as the  
2                   Secretary determines appropriate.

3                   “(B) DIVESTMENT.—A private equity firm  
4                   the license of which is revoked under subpara-  
5                   graph (A) shall be required to divest from any  
6                   investments in any health care entity.

7                   “(5) CIVIL MONETARY PENALTIES.—Any pri-  
8                   vate equity firm that violates a requirement of this  
9                   subsection with respect to a health care entity shall  
10                  be liable for a civil monetary penalty of not more  
11                  than the amount that is equal to the amount of Fed-  
12                  eral funding received by the health care entity,  
13                  which shall be deposited in the account described in  
14                  paragraph (3).

15   **“SEC. 3404. TASK FORCE REVIEW OF THE ROLE OF PRIVATE**  
16                   **EQUITY AND CONSOLIDATION IN HEALTH**  
17                   **CARE.**

18                  “(a) ESTABLISHMENT.—The Secretary shall estab-  
19                  lish and operate a task force to monitor changes in the  
20                  health care marketplace, to address and limit the role of  
21                  private equity and consolidation in health care, and to ad-  
22                  dress changes to the health care marketplace and private  
23                  equity or market consolidation patterns that may create,  
24                  continue, or exacerbate health care disparities or disparate  
25                  health outcomes based on sex, sexuality, race, nationality,

1 ethnicity, age, disability, immigration status, socio-  
2 economic status, or location of residence (referred to in  
3 this section as the ‘Task Force’).

4 “(b) COMPOSITION.—

5 “(1) CHAIR.—The Secretary shall chair the  
6 Task Force.

7 “(2) CO-CHAIR.—The Secretary shall select  
8 from among the members appointed under para-  
9 graph (3) a co-chair of the Task Force, who shall  
10 be a practicing health care provider.

11 “(3) MEMBERS.—The Secretary shall appoint  
12 the members of the Task Force from among the fol-  
13 lowing:

14 “(A) Academic experts and researchers  
15 with expertise on—

16 “(i) the role of private equity in  
17 healthcare; and

18 “(ii) the impact of mergers and acqui-  
19 sitions in healthcare on costs and patients.

20 “(B) Representatives from organizations  
21 focused on consumer protection, antitrust,  
22 health care equity, patient advocacy, and work-  
23 er advocacy.

24 “(C) Hospital and health care staff (and  
25 the labor organizations representing such staff).

1                   “(D) Patients.

2                   “(4) ADVISORY MEMBERS.—In addition to the  
3 members described in paragraph (3), the Chair of  
4 the Federal Trade Commission and the Attorney  
5 General shall serve as advisory members of the Task  
6 Force.

7                   “(5) MEMBER APPOINTMENT.—Not later than  
8 180 days after the date of enactment of this Act, the  
9 Secretary shall appoint the members of the Task  
10 Force—

11                   “(A) in accordance with paragraph (2);  
12 and

13                   “(B) using a competitive application proc-  
14 ess.

15                   “(c) RECOMMENDATIONS.—The Task Force shall—

16                   “(1) identify best practices and, for purposes of  
17 subsection (d), develop recommendations, for lim-  
18 iting the role of private equity in health care, taking  
19 into account the implications on health outcomes  
20 and staff working conditions;

21                   “(2) identify emerging trends within the health  
22 care marketplace that may undermine access to  
23 health care, quality of care, or patient safety or cre-  
24 ate financial instability and risk for health providers;  
25 and

1           “(3) develop legislative recommendations for  
2           preserving and expanding health care quality, safety,  
3           and access under this title.

4           “(d) REPORT.—The Secretary shall submit to Con-  
5           gress annually a report—

6           “(1) on the recommendations developed sub-  
7           section (c); and

8           “(2) that includes regulatory and legislative rec-  
9           ommendations to address any adverse effects of  
10          health care consolidation, private equity’s involve-  
11          ment in health care, or any other change or emerg-  
12          ing trend in the health care marketplace.

13          “(e) MORATORIUM.—The Secretary may prohibit a  
14          private equity fund from purchasing voting securities of  
15          a covered firm, and may prohibit any merger or acquisi-  
16          tion that would result in a private equity fund gaining con-  
17          trol of voting securities of a covered firm, until the date  
18          on which the Secretary determines that the Task Force  
19          has had sufficient time to study and identify whether  
20          abuses are taking place in specific health care sectors or  
21          by health care entities related to price gauging, under-  
22          staffing, access barriers, or such other metrics as the Sec-  
23          retary determines appropriate.

24          **“SEC. 3405. CORPORATE ACCOUNTABILITY.**

25          “The Secretary shall—

1           “(1) maintain a corporate accountability data  
2 collection program for the reporting of any person  
3 subject to the requirements of this title for failure  
4 to comply with this title; and

5           “(2) furnish the information collected under  
6 paragraph (1) to the National Practitioner Data  
7 Bank established pursuant to the Health Care Qual-  
8 ity Improvement Act of 1986.

9 **“SEC. 3406. ENFORCEMENT.**

10       “(a) STATE ENFORCEMENT.—

11           “(1) STATE AUTHORITY.—Each State may re-  
12 quire a person subject to the requirements of this  
13 title to satisfy such requirements applicable to the  
14 person.

15           “(2) FAILURE TO IMPLEMENT REQUIRE-  
16 MENTS.—In the case of a State that fails to sub-  
17 stantially enforce the requirements of this title with  
18 respect to applicable persons in the State, the Sec-  
19 retary shall enforce the requirements of this title  
20 under subsection (b) to the extent that such require-  
21 ments relate to actions prohibited under this title oc-  
22 ccurring in such State.

23       “(b) SECRETARIAL ENFORCEMENT AUTHORITY.—

24           “(1) IN GENERAL.—If a person is found by the  
25 Secretary to be in violation of this title, the Sec-



1           “(D) health care entity recruitment and re-  
2           tention;

3           “(E) labor organization membership rates  
4           and collective bargaining power of health work-  
5           er labor organizations;

6           “(F) health care worker pay, pensions, and  
7           other benefits;

8           “(G) health outcomes; and

9           “(H) health disparities;

10          “(3) the effectiveness of State law (including  
11          regulations) and State enforcement on ensuring ac-  
12          quisition of health care entities by covered firms  
13          does not place access to health care, health care  
14          quality, or patient safety at risk; and

15          “(4) compliance the CMS–855A Medicare En-  
16          rollment Application and other Federal ownership  
17          transparency requirements.”.

18 **SEC. 3. PROHIBITED ACTS BY INVESTMENT COMPANIES**

19 **WITH RESPECT TO HEALTH CARE.**

20          Section 12 of the Investment Company Act of 1940  
21          (15 U.S.C. 80a–12) is amended by adding at the end the  
22          following:

23          “(h)(1) In this subsection, the term ‘health care enti-  
24          ty’ has the meaning given the term in section 3401 of the  
25          Public Health Service Act.

1       “(2) It shall be unlawful for any registered invest-  
2 ment company to engage in any act, practice, or course  
3 of business that would strip an asset from a health care  
4 entity or otherwise undermine the quality or safety of, or  
5 access to, health care.

6       “(3) The Commission, in consultation with the Sec-  
7 retary of Health and Human Services, shall, for the pur-  
8 poses of this subsection, by rules and regulations define,  
9 and prescribe means reasonably designed to prevent, ac-  
10 tions, practices, and courses of business described in para-  
11 graph (2).”.

12 **SEC. 4. AMENDMENTS TO TITLE 11, UNITED STATES CODE.**

13       (a) **PRIORITIES OF CLAIMS IN BANKRUPTCY.—**

14               (1) **IN GENERAL.—**Section 507(a) of title 11,  
15 United States Code, is amended—

16                       (A) by redesignating paragraphs (1)  
17 through 10 as paragraphs (2) through (11), re-  
18 spectively;

19                       (B) by inserting before paragraph (2), as  
20 so redesignated, the following:

21                               “(A) First, withdrawal liability determined  
22 under part 1 of subtitle E of title IV of the  
23 Employee Retirement Income Security Act of  
24 1974 (29 U.S.C. 1381 et seq.).”;

1 (C) in the matter preceding subparagraph  
2 (A) of paragraph (2), as so redesignated, by  
3 striking “First:” and inserting “Second:”;

4 (D) in paragraph (3), as so redesignated,  
5 by striking “Second,” and inserting “Third,”;

6 (E) in paragraph (4), as so redesignated,  
7 by striking “Third,” and inserting “Fourth,”;

8 (F) in the matter preceding subparagraph  
9 (A) of paragraph (5), as so redesignated, by  
10 striking “Fourth,” and inserting “Fifth,”;

11 (G) in the matter preceding subparagraph  
12 (A) of paragraph (6), as so redesignated, by  
13 striking “Fifth,” and inserting “Sixth,”;

14 (H) in the matter preceding subparagraph  
15 (A) of paragraph (7), as so redesignated, by  
16 striking “Sixth,” and inserting “Seventh,”;

17 (I) in paragraph (8), as so redesignated,  
18 by striking “Seventh,” and inserting “Eighth,”;

19 (J) in the matter preceding subparagraph  
20 (A) of paragraph (9), as so redesignated, by  
21 striking “Eighth,” and inserting “Ninth,”;

22 (K) in paragraph (10), as so redesignated,  
23 by striking “Ninth,” and inserting “Tenth,”;

24 and

1 (L) in paragraph (11), as so redesignated,  
2 by striking “Tenth,” and inserting “Eleventh.”

3 (2) TECHNICAL AND CONFORMING AMEND-  
4 MENTS.—

5 (A) Section 502(i) of title 11, United  
6 States Code, is amended by striking “section  
7 507(a)(8)” and inserting “section 507(a)(9)”.

8 (B) Section 503(b)(1)(B)(i) of title 11,  
9 United States Code, is amended by striking  
10 “section 507(a)(8)” and inserting “section  
11 507(a)(9)”.

12 (C) Section 507(d) of title 11, United  
13 States Code, is amended by striking “(a)(1),  
14 (a)(4), (a)(5), (a)(6), (a)(7), (a)(8) excluding  
15 subparagraph (F), or (a)(9)” and inserting  
16 “(a)(2), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9) ex-  
17 cluding subparagraph (F), or (a)(10)”.

18 (D) Section 523(a)(1)(A) of title 11,  
19 United States Code, is amended by striking  
20 “section 507(a)(3) or 507(a)(8)” and inserting  
21 “section 507(a)(4) or 507(a)(9)”.

22 (E) Section 724 of title 11, United States  
23 Code, is amended—

24 (i) in subsection (b)(2)—

1 (I) by striking “section  
2 507(a)(1)(C) or 507(a)(2)” and in-  
3 serting “section 507(a)(2)(C) or  
4 507(a)(3)”; and

5 (II) by striking “507(a)(1)(A),  
6 507(a)(1)(B), 507(a)(3), 507(a)(4),  
7 507(a)(5), 507(a)(6), or 507(a)(7)”  
8 and inserting “507(a)(2)(A),  
9 507(a)(2)(B), 507(a)(4), 507(a)(5),  
10 507(a)(6), 507(a)(7), or 507(a)(8)”;  
11 and

12 (ii) in subsection (f)—

13 (I) in paragraph (1), by striking  
14 “section 507(a)(4)” and inserting  
15 “section 507(a)(5)”; and

16 (II) in paragraph (2), by striking  
17 “section 507(a)(5)” and inserting  
18 “section 507(a)(6)”.

19 (F) Section 726(b) of title 11, United  
20 States Code, is amended by striking “paragraph  
21 (1), (2), (3), (4), (5), (6), (7), (8), (9), or (10)  
22 of section 507(a)” and inserting “paragraphs  
23 (2) through (11) of section 507(a)”.

1 (G) Section 752(a) of title 11, United  
2 States Code, is amended by striking “section  
3 507(a)(2)” and inserting “section 507(a)(3)”.

4 (H) Section 766 of title 11, United States  
5 Code, is amended—

6 (i) in subsection (h), by striking “sec-  
7 tion 507(a)(2)” and inserting “section  
8 507(a)(3)”; and

9 (ii) in subsection (i)—

10 (I) in paragraph (1), by striking  
11 “section 507(a)(2)” and inserting  
12 “section 507(a)(3)”; and

13 (II) in paragraph (2), by striking  
14 “section 507(a)(2)” and inserting  
15 “section 507(a)(3)”.

16 (I) Section 901 of title 11, United States  
17 Code, is amended by striking “507(a)(2)” and  
18 inserting “507(a)(3)”.

19 (J) Section 943(b)(5) of title 11, United  
20 States Code, is amended by striking “section  
21 507(a)(2)” and inserting “section 507(a)(3)”.

22 (K) Section 1123(a)(1) of title 11, United  
23 States Code, is amended by striking “section  
24 507(a)(2), 507(a)(3), or 507(a)(8)” and insert-

1           ing “section 507(a)(3), 507(a)(4), or  
2           507(a)(9)”.

3           (L) Section 1129(a)(9) of title 11, United  
4           States Code, is amended—

5                 (i) in subparagraph (A), by striking  
6                 “section 507(a)(2) or 507(a)(3)” and in-  
7                 serting “section 507(a)(3) or 507(a)(4)”;

8                 (ii) in the matter preceding clause (i)  
9                 of subparagraph (B), by striking “section  
10                507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6),  
11                or 507(a)(7)” and inserting “section  
12                507(a)(2), 507(a)(5), 507(a)(6), 507(a)(7),  
13                or 507(a)(8)”;

14                (iii) in the matter preceding clause (i)  
15                of subparagraph (C), by striking “section  
16                507(a)(8)” and inserting “section  
17                507(a)(9)”;

18                (iv) in subparagraph (D), by striking  
19                “section 507(a)(8)” and inserting “section  
20                507(a)(9)”.

21           (M) Section 1191(e) of title 11, United  
22           States Code, is amended by striking “paragraph  
23           (2) or (3)” and inserting “paragraph (3) or  
24           (4)”.

1 (N) Section 1222(a)(4) of title 11, United  
2 States Code, is amended by striking “section  
3 507(a)(1)(B)” and inserting “507(a)(2)(B)”.

4 (O) Section 1226(b)(1) of title 11, United  
5 States Code, is amended by striking “section  
6 507(a)(2)” and inserting “section 507(a)(3)”.

7 (P) Section 1322(a)(4) of title 11, United  
8 States Code, is amended by striking “section  
9 507(a)(1)(B)” and inserting “section  
10 507(a)(2)(B)”.

11 (Q) Section 1326(b)(1) of title 11, United  
12 States Code, is amended by striking “section  
13 507(a)(2)” and inserting “section 507(a)(3)”.

14 (R) Section 1328(a)(2) of title 11, United  
15 States Code, is amended by striking “section  
16 507(a)(8)(C)” and inserting “section  
17 507(a)(9)(C)”.

18 (S) Section 6(e) of the Securities Investor  
19 Protection Act of 1970 (15 U.S.C. 78fff(e)) is  
20 amended, in the last sentence, by striking “sec-  
21 tion 507(a)(2)” and inserting “section  
22 507(a)(3)”.

23 (b) CONFIRMATION OF PLAN.—Section 1129 of title  
24 11, United States Code, is amended by adding at the end  
25 the following:



1           (2) by adding at the end the following new sub-  
2           section:

3           “(1) REQUIREMENTS FOR HOSPITALS RELATING TO  
4 DISCONTINUATION OF SERVICES OR CLOSURE.—

5           “(1) REQUIREMENTS.—

6           “(A) IN GENERAL.—For purposes of sub-  
7           section (a)(1)(Z), except as provided in sub-  
8           paragraph (B), the requirements described in  
9           this subsection are that a hospital—

10                   “(i) notify the Secretary, in accord-  
11                   ance with paragraph (2), not less than 90  
12                   days prior to the discontinuation of serv-  
13                   ices or full hospital closure;

14                   “(ii) prohibit the discontinuation of  
15                   essential services (as defined in paragraph  
16                   (6)) during the notification period (as de-  
17                   fined in such paragraph) unless there is a  
18                   clear harm posed to patient or employee  
19                   health or safety in the hospital continuing  
20                   to furnish such services;

21                   “(iii) respond to any inquiries by the  
22                   Secretary relating to the implementation of  
23                   this subsection, including the determina-  
24                   tion of essential services under paragraph  
25                   (6)(C); and

1 “(iv) if applicable—

2 “(I) submit a mitigation plan  
3 and related information as described  
4 in paragraph (3); and

5 “(II) participate in the public  
6 comment and review process (includ-  
7 ing, if applicable, the alternative miti-  
8 gation plan) described in paragraph  
9 (4).

10 “(B) APPLICATION IN CASE OF CATA-  
11 STROPHIC EVENTS.—In the case where a dis-  
12 continuation of services or closure of a hospital  
13 is due to an unforeseen catastrophic event (as  
14 defined by the Secretary), the requirements de-  
15 scribed in subparagraph (A) shall apply, ex-  
16 cept—

17 “(i) the hospital shall provide the no-  
18 tification under clause (i) of such subpara-  
19 graph not later than 30 days after the cat-  
20 astrophic event or as soon as feasible as  
21 determined by the Secretary; and

22 “(ii) clause (ii) of such subparagraph  
23 (relating to prohibiting the discontinuation  
24 of services) shall not apply.

1           “(2) NOTIFICATION INFORMATION.—For pur-  
2           poses of paragraph (1)(A)(i), the notification under  
3           such paragraph shall include the following informa-  
4           tion with respect to a hospital:

5                   “(A) DISCONTINUATION OF SERVICES.—In  
6           the case where the hospital is discontinuing  
7           services (without full hospital closure):

8                           “(i) The services that will be discon-  
9                           tinued and number of hospital beds im-  
10                           pacted.

11                           “(ii) The number of individuals fur-  
12                           nished such services annually and a break-  
13                           down of the type of insurance used by such  
14                           individuals for such services.

15                           “(iii) The number of impacted em-  
16                           ployees and what labor organization rep-  
17                           resents them (and the contact information  
18                           for such organization).

19                           “(iv) The names and addresses of any  
20                           organized health care coalitions and com-  
21                           munity groups that represent the commu-  
22                           nities impacted by the discontinuation of  
23                           such services.

24                           “(v) Alternative providers of such  
25                           services, including provider type, contact

1 information, and distance and transpor-  
2 tation time by car and public transit from  
3 the hospital.

4 “(B) FULL HOSPITAL CLOSURE.—In the  
5 case of full hospital closure:

6 “(i) Hospital ownership entities.

7 “(ii) The full extent of services that  
8 will no longer be furnished by the hospital.

9 “(iii) The number of individuals fur-  
10 nished services annually by the hospital, a  
11 description of the services furnished, and a  
12 breakdown of the type of insurance used  
13 by such individuals for such services.

14 “(iv) The number of impacted employ-  
15 ees and, if applicable, what labor organiza-  
16 tions represent them (and the contact in-  
17 formation for each such organization).

18 “(v) The names and addresses of any  
19 organized health care coalitions and com-  
20 munity groups that represent the commu-  
21 nities impacted by the closure.

22 “(vi) Alternative providers, including  
23 provider type, contact information, and  
24 distance and transportation time by car  
25 and public transit from the hospital.

1                   “(vii) Steps taken prior to the deci-  
2                   sion to close in order to avoid closure.

3                   “(viii) Distribution of liquidation pro-  
4                   ceeds (cash or assets) or any payments  
5                   (cash or assets) made to employees, own-  
6                   ers, or contractors related to the closure.

7                   “(3) SUBMISSION OF MITIGATION PLAN AND  
8                   RELATED INFORMATION FOR ESSENTIAL SERV-  
9                   ICES.—

10                   “(A) NOTIFICATION BY SECRETARY.—If  
11                   the Secretary determines that the discontinu-  
12                   ation of services or closure of an applicable hos-  
13                   pital would negatively impact access to essential  
14                   services, the Secretary shall notify the applica-  
15                   ble hospital of such determination.

16                   “(B) SUBMISSION OF MITIGATION PLAN  
17                   AND RELATED INFORMATION.—If an applicable  
18                   hospital receives a notification under subpara-  
19                   graph (A), the applicable hospital shall, not  
20                   later than 15 days after receiving such notifica-  
21                   tion, submit to the Secretary, the State health  
22                   department, and the local department of public  
23                   health—

24                   “(i) a plan to—

1                   “(I) preserve access to essential  
2                   services for impacted communities  
3                   through partnerships, commitments  
4                   from surrounding facilities, transpor-  
5                   tation plan access, and preparation  
6                   for surge response; and

7                   “(II) support employees in  
8                   transitioning to new positions within  
9                   health care;

10                  “(ii) information on workforce and  
11                  public engagement to ensure awareness of  
12                  the discontinuation of services or closure;

13                  “(iii) a description of potential alter-  
14                  natives to the discontinuation of services or  
15                  closure that the hospital considered and an  
16                  explanation of why those alternatives are  
17                  not a viable option; and

18                  “(iv) a local market study to ascertain  
19                  regional bed supply, payor mix distribution  
20                  among all providers, demographic trends,  
21                  and remaining health systems in the area.

22                  “(C) PUBLIC AVAILABILITY.—The Sec-  
23                  retary shall make a mitigation plan and related  
24                  information submitted by an applicable hospital  
25                  under this paragraph available to the public on

1 the internet website of the Centers for Medicare  
2 & Medicaid Services.

3 “(4) PUBLIC COMMENT AND REVIEW PROCESS;  
4 ALTERNATIVE MITIGATION PLAN.—

5 “(A) PUBLIC COMMENT PERIOD.—

6 “(i) IN GENERAL.—The Secretary  
7 shall provide a public comment period of  
8 not less than 45 days with the opportunity  
9 to submit written comments regarding the  
10 impact of the potential discontinuation of  
11 services or closure of an applicable hos-  
12 pital.

13 “(ii) NOTICE.—Notice of the oppor-  
14 tunity to submit comments shall be pub-  
15 lished in the Federal Register and distrib-  
16 uted to—

17 “(I) providers of services and  
18 suppliers that may be impacted by the  
19 discontinuation of services or closure  
20 of the applicable hospital;

21 “(II) any labor organization that  
22 represents any subdivision of employ-  
23 ees of the applicable hospital;

24 “(III) organized health care coa-  
25 litions and community groups that

1 represent the communities impacted  
2 by the discontinuation of services or  
3 closure;

4 “(IV) the State health agency;  
5 and

6 “(V) the local department of pub-  
7 lic health.

8 “(iii) RECOMMENDATIONS OF STATE  
9 HEALTH AGENCY AND LOCAL DEPART-  
10 MENTS OF PUBLIC HEALTH.—In reviewing  
11 a mitigation plan submitted by an applica-  
12 ble hospital under paragraph (3), the Sec-  
13 retary shall take into consideration any  
14 recommendations submitted by the State  
15 health agency and local departments of  
16 public health, as applicable, regarding  
17 whether such plan should be approved.

18 “(B) ALTERNATIVE MITIGATION PLAN.—

19 “(i) IN GENERAL.—If, after reviewing  
20 the mitigation plan submitted by an appli-  
21 cable hospital under paragraph (3) and the  
22 comments submitted during the public  
23 comment period under subparagraph (A)  
24 with respect to the discontinuation of serv-  
25 ices or closure of the applicable hospital,

1 the Secretary finds that the discontinu-  
2 ation of services or closure of the applica-  
3 ble hospital would have a significant im-  
4 pact on access to essential services, the  
5 Secretary shall work with the applicable  
6 hospital or other providers of services and  
7 suppliers in the area, as appropriate, to de-  
8 velop and implement an alternative plan to  
9 the plan submitted by the applicable hos-  
10 pital under paragraph (3) (referred to in  
11 this subsection as the ‘alternative mitiga-  
12 tion plan’) in order to ensure continued ac-  
13 cess to essential services, which may in-  
14 clude an agreement to delay the dis-  
15 continuation of services or closure of the  
16 applicable hospital until the alternative  
17 mitigation plan is complete.

18 “(ii) TECHNICAL ASSISTANCE.—An  
19 alternative mitigation plan under clause (i)  
20 may include technical assistance or infor-  
21 mation on available funding mechanisms to  
22 support the furnishing of essential services.

23 “(iii) COLLABORATION.—The Sec-  
24 retary should, to the extent practicable,  
25 collaborate with State and municipal gov-

1                   ernment officials in the development of an  
2                   alternative mitigation plan under clause  
3                   (i).

4                   “(iv) PUBLIC AVAILABILITY.—The  
5                   Secretary shall make any information sub-  
6                   mitted and the alternative mitigation plan  
7                   developed under this paragraph available  
8                   to the public on the internet website of the  
9                   Centers for Medicare & Medicaid Services.

10                  “(C) IMPLEMENTATION.—The Secretary  
11                  shall promulgate regulations to detail the re-  
12                  quired response time by an applicable hospital  
13                  and the speed of the review process under this  
14                  paragraph in order to ensure that such process  
15                  can be completed with respect to an applicable  
16                  hospital prior to the proposed service dis-  
17                  continuation date or closure date of the applica-  
18                  ble hospital.

19                  “(D) PROHIBITION.—In the case where  
20                  the Secretary finds that a hospital has violated  
21                  the requirements of this subsection, the Sec-  
22                  retary may prohibit the hospital and any hos-  
23                  pital under the same hospital ownership entity  
24                  from being eligible to enroll or reenroll under

1 the program under this title under section  
2 1866(j) until the earlier of—

3 “(i) the date that is 3 years after the  
4 date on which the hospital discontinues  
5 services or closes;

6 “(ii) the date on which the Secretary  
7 determines essential health services that  
8 were negatively impacted by the dis-  
9 continuation or closure have been restored;  
10 or

11 “(iii) such time as the Secretary is  
12 satisfied with the mitigation plan sub-  
13 mitted by the hospital under paragraph (3)  
14 or the alternative mitigation plan under  
15 paragraph (4).

16 “(5) ANNUAL REPORTS.—The Secretary shall  
17 submit an annual report to Congress on the dis-  
18 continuation of services and full closure of hospitals.  
19 Each report submitted under the preceding sentence  
20 shall include—

21 “(A) a description of trends in the dis-  
22 continuation of services and closures of hos-  
23 pitals, including hospital ownership type, geo-  
24 graphic location, types of services furnished, de-  
25 mographic served, and insurance type;

1           “(B) an analysis of the impact of the dis-  
2           continuation of services and closures on health  
3           care access and ability to meet surge demand  
4           due to emergency (such as a pandemic or cli-  
5           mate disaster);

6           “(C) recommendations for such adminis-  
7           trative or legislative changes as the Secretary  
8           determines appropriate to preserve access to es-  
9           sential services nationwide.

10          “(6) DEFINITIONS.—In this subsection:

11           “(A) APPLICABLE HOSPITAL.—The term  
12           ‘applicable hospital’ means a hospital that sub-  
13           mits a notification under paragraph (1)(A)(i) of  
14           a discontinuation of services or full hospital clo-  
15           sure.

16           “(B) DISCONTINUATION.—The term ‘dis-  
17           continuation’ may include any reduction or dis-  
18           continuation of services furnished by an appli-  
19           cable hospital, including those that occur as  
20           part of a merger or acquisition agreement.

21           “(C) ESSENTIAL SERVICES.—The term ‘es-  
22           sential services’ means, with respect to an ap-  
23           plicable hospital, services that are necessary for  
24           preserving health care access (as determined by

1 the Secretary), including services for which the  
2 Secretary determines—

3 “(i) there are no equivalent services  
4 available within the same travel time;

5 “(ii) that loss of the services would re-  
6 sult in meaningful reductions in surge ca-  
7 pacity that will negatively impact access to  
8 services;

9 “(iii) that loss of the services would  
10 limit health care access for specific demo-  
11 graphics of individuals based on sex, sexu-  
12 ality, race, nationality, age, or disability  
13 status;

14 “(iv) that loss of the services would  
15 have a meaningful impact on the ability of  
16 health systems to respond to impacts of  
17 climate change; or

18 “(v) there is a health or health care-  
19 related emergency declaration status appli-  
20 cable to the surrounding geographical area  
21 of the hospital on the date on which the  
22 hospital submits notification under para-  
23 graph (1)(A)(i) of a discontinuation of  
24 services or full hospital closure.

1           “(D) NOTIFICATION PERIOD.—The term  
2           ‘notification period’ means, with respect to an  
3           applicable hospital, the period beginning on the  
4           date on which the hospital submits notification  
5           under paragraph (1)(A)(i) of a discontinuation  
6           of services or full hospital closure and ending  
7           on the date of such discontinuation of services  
8           or closure.

9           “(7) NO PREEMPTION OF STATE LAW.—Noth-  
10          ing in subsection (a)(1)(Z) or this subsection shall  
11          be construed to limit any rights or remedies under  
12          State or local law relating to protecting access to es-  
13          sential services or reviewing proposed hospital clo-  
14          sures or reduction of services.”.

15 **SEC. 6. TREATMENT OF RENTS FROM QUALIFIED HEALTH**  
16 **CARE PROPERTY.**

17          (a) IN GENERAL.—Section 856(d)(2) of the Internal  
18          Revenue Code of 1986 is amended by striking “and” at  
19          the end of subparagraph (B), by striking the period and  
20          inserting “, and” at the end of subparagraph (C), and by  
21          adding at the end the following new subparagraph:

22                 “(D) notwithstanding paragraphs (4), (6),  
23                 and (8), any amount received or accrued di-  
24                 rectly or indirectly from qualified health care

1 property (as defined in subsection  
2 (e)(6)(D)(i)).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 856(d)(8)(B) of the Internal Rev-  
5 enue Code of 1986 is amended—

6 (A) by striking “or a qualified health care  
7 property (as defined in subsection  
8 (e)(6)(D)(i))”, and

9 (B) by striking “qualified health care prop-  
10 erty or”.

11 (2) Section 856(d)(9) of such Code is amend-  
12 ed—

13 (A) by striking “or a qualified health care  
14 property (as defined in subsection  
15 (e)(6)(D)(i))” in subparagraph (A),

16 (B) by striking “or qualified health care  
17 property” each place it appears in subpara-  
18 graph (A) and (B), and

19 (C) by striking “or qualified health care  
20 properties” in subparagraph (A).

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 the date of the enactment of this Act.