Mike Braun
Amendment #3

AMENDMENT NO.________ Calendar No.______

Purpose: To amend the Public Health Service Act to provide for hospital and insurer price transparency.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 3393

To reauthorize the SUPPORT for Patients and Communities Act, and for other purposes.

Referred to the Committee on ____________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by ______________

Viz:

1 At the appropriate place, insert the following:

2 **TITLE ____—HOSPITAL AND**
3 **INSURER PRICE TRANSPARENCY**

4 **SEC. __01. SHORT TITLE.**

5 This title may be cited as the "Health Care Prices
6 Revealed and Information to Consumers Explained Trans-
7 parency Act" or the "Health Care PRICE Transparency
8 Act 2.0".

1 **SEC. __02. STRENGTHENING HOSPITAL PRICE TRANS-**
2 **PARENCY REQUIREMENTS.**

3 (a) IN GENERAL.—Section 2718(e) of the Public
4 Health Service Act (42 U.S.C. 300gg–18(e)) is amended
5 to read as follows:

6 "(e) STANDARD HOSPITAL CHARGES.—

7 "(1) IN GENERAL.—

8 "(A) DISCLOSURE OF STANDARD
9 CHARGES.—For purposes of paragraph (1), the
10 price transparency requirement described in
11 this paragraph is, with respect to a hospital,
12 that such hospital, in accordance with a method
13 and format established by the Secretary under
14 subparagraph (C), compile and make public
15 (without subscription and free of charge) for
16 each month—

17 "(i) all of the hospital's standard
18 charges (including the information de-
19 scribed in subparagraph (B)) for each item
20 and service furnished by such hospital; and

21 "(ii) information in a consumer-
22 friendly format (as specified by the Sec-
23 retary)—

24 "(I) on the hospital's prices (in-
25 cluding the information described in
26 subparagraph (B)) for as many of the

Centers for Medicare & Medicaid Services-specified shoppable services that are furnished by the hospital, and as many additional hospital-selected shoppable services (or all such additional services, if such hospital furnishes fewer than 300 shoppable services) as may be necessary for a combined total of at least 300 shoppable services through December 31, 2024, after which the hospital's prices shall include all shoppable services; and

"(II) that includes, with respect to each Centers for Medicare & Medicaid Services-specified shoppable service that is not furnished by the hospital, an indication that such service is not so furnished.

"(B) STANDARD CHARGES DESCRIBED.—For purposes of subparagraph (A), the information described in this subparagraph is, with respect to standard charges and prices, as applicable, made public by a hospital, the following:

1 "(i) A plain language description of
2 each item or service, accompanied by any
3 applicable billing codes, including modi-
4 fiers, using commonly recognized billing
5 code sets, including the Current Proce-
6 dural Terminology code, the Healthcare
7 Common Procedure Coding System code,
8 the diagnosis-related group, the National
9 Drug Code, and other nationally recog-
10 nized identifier.

11 "(ii) The gross charge, as applicable,
12 expressed as a dollar amount, for each
13 such item or service, when provided in, as
14 applicable, the inpatient setting and out-
15 patient department setting.

16 "(iii) The discounted cash price, as
17 applicable, expressed as a dollar amount,
18 for each such item or service when pro-
19 vided in, as applicable, the inpatient set-
20 ting and outpatient department setting (or,
21 in the case no discounted cash price is
22 available for an item or service, the min-
23 imum cash price accepted by the hospital
24 from self-pay individuals for such item or
25 service, expressed as a dollar amount, as

1 well as, with respect to prices made public
2 pursuant to subparagraph (A)(ii), a link to
3 a consumer-friendly document that clearly
4 explains the hospital's charity care policy).
5 The hospital shall accept the discounted
6 cash price as payment in full from any pa-
7 tient that chooses to pay in cash without
8 regard to the patient's coverage.

9 "(iv) Any payer-specific negotiated
10 charges, as applicable, clearly associated
11 with the name of the third party payer and
12 plan and expressed as a dollar amount (or,
13 in the case that such a dollar amount is
14 not knowable in advance because such
15 charges are based on an algorithm, per-
16 centage of another amount, or other for-
17 mula, the maximum dollar amount that
18 may be charged), that apply to each such
19 item or service when provided in, as appli-
20 cable, the inpatient setting and outpatient
21 department setting.

22 "(v) The de-identified maximum and
23 minimum negotiated charges, as applica-
24 ble, for each such item or service, ex-
25 pressed as a non-zero dollar amount.

1 "(vi) Any other additional information
2 the Secretary may require for the purpose
3 of improving the accuracy of, or enabling
4 consumers to easily understand and com-
5 pare, standard charges and prices for an
6 item or service, except information that is
7 duplicative of any other reporting require-
8 ment under this subsection. In the case of
9 standard charges and prices for an item or
10 service included as part of a bundled, per
11 diem, episodic, or other similar arrange-
12 ment, the information described in this
13 subparagraph shall be made available as
14 determined appropriate by the Secretary.
15 "(C) UNIFORM METHOD AND FORMAT.—
16 Not later than January 1, 2025, the Secretary
17 shall establish a standard, uniform method and
18 format for hospitals to use in compiling and
19 making public standard charges pursuant to
20 subparagraph (A)(i) and a standard, uniform
21 method and format for such hospitals to use in
22 compiling and making public prices pursuant to
23 subparagraph (A)(ii). Such methods and for-
24 mats—

1 "(i) shall, in the case of such method
2 and format for making public standard
3 charges pursuant to subparagraph (A)(i),
4 ensure that such charges are made avail-
5 able in a machine-readable spreadsheet for-
6 mat;
7 "(ii) may be similar to any template
8 made available by the Centers for Medicare
9 & Medicaid Services as of the date of the
10 enactment of this subparagraph;
11 "(iii) shall meet such standards as de-
12 termined appropriate by the Secretary in
13 order to ensure the accessibility and
14 usability of such charges and prices; and
15 "(iv) shall be updated as determined
16 appropriate by the Secretary, in consulta-
17 tion with stakeholders.
18 "(2) NO DEEMED COMPLIANCE.—The avail-
19 ability of a price estimator tool shall not be consid-
20 ered to deem compliance with or otherwise vitiate
21 the requirements of paragraph (2)(A)(ii) or any
22 other requirements of this section. Furthermore, the
23 use of an estimator tool shall not be used for pur-
24 poses of compliance with any provisions in this Sec-
25 tion.

1 "(3) MONITORING COMPLIANCE.—The Sec-
2 retary shall, in consultation with the Inspector Gen-
3 eral of the Department of Health and Human Serv-
4 ices, establish a process to monitor compliance with
5 this subsection. Such process shall ensure that each
6 hospital's compliance with this subsection is re-
7 viewed not less frequently than once every year.
8 "(4) ATTESTATION.—A senior official from
9 each hospital (the Chief Executive Officer, Chief Fi-
10 nancial Officer, or an official of equivalent seniority)
11 shall attest to the accuracy and completeness of the
12 disclosures made in accordance with the hospital
13 price transparency requirements set forth in this
14 regulation. Such attestation shall be deemed to be
15 material to payment from the Federal government to
16 the hospital.
17 "(5) ENFORCEMENT.—
18 "(A) IN GENERAL.—In the case of a hos-
19 pital that fails to comply with the requirements
20 of this subsection, not later than 30 days after
21 the date on which the Secretary determines
22 such failure exists, the Secretary shall submit
23 to such hospital a notification of such deter-
24 mination, which shall include a request for a

1 corrective action plan to comply with such re-
2 quirements.
3 "(B) CIVIL MONETARY PENALTY.—
4 "(i) IN GENERAL.—In addition to any
5 other enforcement actions or penalties that
6 may apply under another provision of law,
7 a hospital that has received a request for
8 a corrective action plan under subpara-
9 graph (A) and fails to comply with the re-
10 quirements of this subsection by the date
11 that is 45 days after such request is made
12 shall be subject to a civil monetary penalty
13 of an amount specified by the Secretary for
14 each day (beginning with the day on which
15 the Secretary first determined that such
16 hospital was not complying with such re-
17 quirements) during which such failure was
18 ongoing. Such amount shall not exceed—
19 "(I) in the case of a hospital with
20 30 or fewer beds, $300 per day;
21 "(II) in the case of a hospital
22 with more than 30 beds but fewer
23 than 101 beds, $10 per bed per day
24 (or, in the case of such a hospital that
25 has been noncompliant with such re-

1 quirements for a 1-year period or
2 longer, beginning with the first day
3 following such 1-year period, $12.50
4 per bed per day);
5 "(III) in the case of a hospital
6 with more than 100 beds but fewer
7 than 301 beds, $15 per bed per day
8 (or, in the case of such a hospital that
9 has been noncompliant with such re-
10 quirements for a 1-year period or
11 longer, beginning with the first day
12 following such 1-year period, $17.50
13 per bed per day);
14 "(IV) in the case of a hospital
15 with more than 300 beds but fewer
16 than 501 beds, $20 per bed per day
17 (or, in the case of such a hospital that
18 has been noncompliant with such re-
19 quirements for a 1-year period or
20 longer, beginning with the first day
21 following such 1-year period, $25 per
22 bed per day); and
23 "(V) in the case of a hospital
24 with more than 500 beds, $25 per bed
25 per day (or, in the case of such a hos-

1 pital that has been noncompliant with
2 such requirements for a 1-year period
3 or longer, beginning with the first day
4 following such 1-year period, $35 per
5 bed per day).

6 "(ii) INCREASE AUTHORITY.—In ap-
7 plying this subparagraph with respect to
8 violations occurring in 2027 or a subse-
9 quent year, the Secretary may through no-
10 tice and comment rulemaking increase—

11 "(I) the limitation on the per day
12 amount of any penalty applicable to a
13 hospital under clause (i)(I);

14 "(II) the limitations on the per
15 bed per day amount of any penalty
16 applicable under any of subclauses
17 (II) through (V) of clause (i); and

18 "(III) the limitation on the in-
19 crease of any penalty applied under
20 clause (iii) pursuant to the amounts
21 specified in subclause (II) of such
22 clause.

23 "(iii) PERSISTENT NONCOMPLI-
24 ANCE.—

1 "(I) IN GENERAL.—In the case
2 of a hospital that the Secretary has
3 determined to be knowingly and will-
4 fully noncompliant with the provisions
5 of this subsection two or more times
6 during a 1-year period, the Secretary
7 may increase any penalty otherwise
8 applicable under this subparagraph by
9 the amount specified in subclause (II)
10 with respect to such hospital and may
11 require such hospital to complete such
12 additional corrective actions plans as
13 the Secretary may specify.

14 "(II) SPECIFIED AMOUNT.—For
15 purposes of subclause (I), the amount
16 specified in this subclause is, with re-
17 spect to a hospital—

18 "(aa) with more than 30
19 beds but fewer than 101 beds, an
20 amount that is not less than
21 $500,000 and not more than
22 $1,000,000;

23 "(bb) with more than 100
24 beds but fewer than 301 beds, an
25 amount that is greater than

1 $1,000,000 and not more than
2 $2,000,000;
3 "(cc) with more than 300
4 beds but fewer than 501 beds, an
5 amount that is greater than
6 $2,000,000 and not more than
7 $4,000,000; and
8 "(dd) with more than 500
9 beds, and amount that is not less
10 than $5,000,000 and not more
11 than $10,000,000.
12 "(iv) PROVISION OF TECHNICAL AS-
13 SISTANCE.—The Secretary may, to the ex-
14 tent practicable, provide technical assist-
15 ance relating to compliance with the provi-
16 sions of this section to hospitals requesting
17 such assistance.
18 "(v) APPLICATION OF CERTAIN PROVI-
19 SIONS.—The provisions of section 1128A
20 (other than subsections (a) and (b) of such
21 section) shall apply to a civil monetary
22 penalty imposed under this subparagraph
23 in the same manner as such provisions
24 apply to a civil monetary penalty imposed
25 under subsection (a) of such section.

1 "(C) NO WAIVER.—The Secretary shall not
2 grant or extend any waiver, delay, tolling, or
3 other mitigation of a civil monetary penalty for
4 violation of this subsection.
5 "(6) DEFINITIONS.—For purposes of this sub-
6 section:
7 "(A) DISCOUNTED CASH PRICE.—The
8 term 'discounted cash price' means the min-
9 imum charge that the hospital accepts from an
10 individual who pays cash, or cash equivalent,
11 for a hospital-furnished item or service.
12 "(B) GROSS CHARGE.—The term 'gross
13 charge' means the charge for an individual item
14 or service that is reflected on a hospital's
15 chargemaster, absent any discounts.
16 "(C) HOSPITAL.—The term 'hospital'
17 means a hospital (as defined in section 1861(e)
18 of the Social Security Act), a critical access
19 hospital (as defined in section 1861(mmm)(1)
20 of the Social Security Act), or a rural emer-
21 gency hospital (as defined in section 1861(kkk)
22 of the Social Security Act), together with any
23 parent, subsidiary, or other affiliated provider
24 or supplier of health care items and services
25 without regard to whether such parent, sub-

1 sidiary, or other affiliated provider or supplier
2 operates under separate licensure, certification,
3 or designation.
4 "(D) PAYER-SPECIFIC NEGOTIATED
5 CHARGE.—The term 'payer-specific negotiated
6 charge' means the charge that a hospital has
7 negotiated with a third party payer for an item
8 or service.
9 "(E) SHOPPABLE SERVICE.—The term
10 'shoppable service' means a service that can be
11 scheduled by a health care consumer in advance
12 and includes all ancillary items and services
13 customarily furnished as part of such service.
14 "(F) THIRD PARTY PAYER.—The term
15 'third party payer' means an entity that is, by
16 statute, contract, or agreement, legally respon-
17 sible for payment of a claim for a health care
18 item or service.".
19 (b) EFFECTIVE DATE.—
20 (1) IN GENERAL.—The amendments made by
21 subsection (a) shall apply beginning January 1,
22 2025.
23 (2) CONTINUED APPLICABILITY OF RULES FOR
24 PREVIOUS YEARS.—Nothing in the amendments
25 made by this section may be construed as affecting

1 the applicability of the regulations codified at part
2 180 of title 45, Code of Federal Regulations, before
3 January 1, 2025.

4 (c) CONTINUED APPLICABILITY OF STATE LAW.—
5 The provisions of this title shall not supersede any provi-
6 sion of State law that establishes, implements, or con-
7 tinues in effect any requirement or prohibition related to
8 health care price transparency, except to the extent that
9 such requirement or prohibition prevents the application
10 of a requirement or prohibition of this title.

11 **SEC. _03. INCREASING PRICE TRANSPARENCY OF CLIN-**
12 **ICAL DIAGNOSTIC LABORATORY TESTS**
13 **UNDER THE MEDICARE PROGRAM.**

14 Section 2718 of the Public Health Service Act (42
15 U.S.C. 300gg–18) is amended by adding at the end the
16 following:

17 "(f) CLINICAL DIAGNOSTIC LABORATORY PRICE
18 TRANSPARENCY.—

19 "(1) IN GENERAL.—Beginning January 1,
20 2025, any applicable laboratory that receives pay-
21 ment from a group health plan or health insurance
22 issuer for furnishing any specified clinical diagnostic
23 laboratory test shall—

24 "(A) make publicly available on an Inter-
25 net website the information described in para-

1 graph (2) with respect to each such specified
2 clinical diagnostic laboratory test that such lab-
3 oratory so furnishes; and

4 "(B) ensure that such information is up-
5 dated not less frequently than annually.

6 "(2) INFORMATION DESCRIBED.—For purposes
7 of paragraph (1), the information described in this
8 paragraph is, with respect to an applicable labora-
9 tory and a specified clinical diagnostic laboratory
10 test, the following:

11 "(A) A plain language description of each
12 item or service, accompanied by any applicable
13 billing codes, including modifiers, using com-
14 monly recognized billing code sets, including the
15 Current Procedural Terminology code, the
16 Healthcare Common Procedure Coding System
17 code, the diagnosis-related group, the National
18 Drug Code, and other nationally recognized
19 identifier.

20 "(B) The gross charge, as applicable, ex-
21 pressed as a dollar amount, for each such item
22 or service.

23 "(C) The discounted cash price, as applica-
24 ble, expressed as a dollar amount, for each such
25 item or service (or, in the case no discounted

1 cash price is available for an item or service,
2 the minimum cash price accepted by the labora-
3 tory from self-pay individuals for such item or
4 service when provided in such settings for the
5 previous three years, expressed as a dollar
6 amount, as well as, with respect to prices made
7 public pursuant to subparagraph (A)(ii), a link
8 to a consumer-friendly document that clearly
9 explains the laboratory's charity care policy).
10 The laboratory shall accept the discounted cash
11 price as payment in full from any patient that
12 chooses to pay in cash without regard to the pa-
13 tient's coverage.

14 "(D) Any payer-specific negotiated
15 charges, as applicable, clearly associated with
16 the name of the third party payer and plan and
17 expressed as a dollar amount (or, in the case
18 that such a dollar amount is not knowable in
19 advance because such charges are based on an
20 algorithm, percentage of another amount, or
21 other formula, the maximum dollar amount
22 that may be charged), that apply to each such
23 item or service.

24 "(E) The de-identified maximum and min-
25 imum negotiated charges, as applicable, for

1 each such item or service, expressed as a non-
2 zero dollar amount.
3 "(F) Any other additional information the
4 Secretary may require for the purpose of im-
5 proving the accuracy of, or enabling consumers
6 to easily understand and compare, standard
7 charges and prices for an item or service, ex-
8 cept information that is duplicative of any other
9 reporting requirement under this subsection. In
10 the case of standard charges and prices for an
11 item or service included as part of a bundled,
12 per diem, episodic, or other similar arrange-
13 ment, the information described in this sub-
14 paragraph shall be made available as deter-
15 mined appropriate by the Secretary.
16 "(3) UNIFORM METHOD AND FORMAT.—Not
17 later than January 1, 2025, the Secretary shall es-
18 tablish a standard, uniform method and format for
19 applicable laboratories to use in compiling and mak-
20 ing public information pursuant to paragraph (1).
21 Such method and format—
22 "(A) shall include a machine-readable
23 spreadsheet format containing the information
24 described in paragraph (2) for all items and
25 services furnished by each laboratory;

1 "(B) may be similar to any template made
2 available by the Centers for Medicare & Med-
3 icaid Services (as described in subsection (e));
4 "(C) shall meet such standards as deter-
5 mined appropriate by the Secretary in order to
6 ensure the accessibility and usability of such in-
7 formation; and
8 "(D) shall be updated as determined ap-
9 propriate by the Secretary, in consultation with
10 stakeholders.
11 "(4) INCLUSION OF ANCILLARY SERVICES.—
12 Any price or rate for a specified clinical diagnostic
13 laboratory test available to be furnished by an appli-
14 cable laboratory made publicly available in accord-
15 ance with paragraph (1) shall include the price or
16 rate (as applicable) for any ancillary item or service
17 (such as specimen collection services) that would
18 normally be furnished by such laboratory as part of
19 such test, as specified by the Secretary.
20 "(5) ENFORCEMENT.—
21 "(A) IN GENERAL.—In the case that the
22 Secretary determines that an applicable labora-
23 tory is not in compliance with paragraph (1)—

1 "(i) not later than 30 days after such
2 determination, the Secretary shall notify
3 such laboratory of such determination; and
4 "(ii) if such laboratory continues to
5 fail to comply with such paragraph after
6 the date that is 90 days after such notifi-
7 cation is sent, the Secretary may impose a
8 civil monetary penalty in an amount not to
9 exceed $300 for each (beginning with the
10 day on which the Secretary first deter-
11 mined that such laboratory was failing to
12 comply with such paragraph) during which
13 such failure is ongoing.
14 "(B) INCREASE AUTHORITY.—In applying
15 this paragraph with respect to violations occur-
16 ring in 2025 or a subsequent year, the Sec-
17 retary may through notice and comment rule-
18 making increase the per day limitation on civil
19 monetary penalties under subparagraph (A)(ii).
20 "(C) APPLICATION OF CERTAIN PROVI-
21 SIONS.—The provisions of section 1128A of the
22 Social Security Act (other than subsections (a)
23 and (b) of such section) shall apply to a civil
24 monetary penalty imposed under this paragraph
25 in the same manner as such provisions apply to

1 a civil monetary penalty imposed under sub-
2 section (a) of such section.
3 "(6) PROVISION OF TECHNICAL ASSISTANCE.—
4 The Secretary shall, to the extent practicable, pro-
5 vide technical assistance relating to compliance with
6 the provisions of this subsection to applicable labora-
7 tories requesting such assistance.
8 "(7) DEFINITIONS.—In this subsection:
9 "(A) APPLICABLE LABORATORY.—The
10 term 'applicable laboratory' has the meaning
11 given such term in section 414.502, of title 42,
12 Code of Federal Regulations (or a successor
13 regulation), except that such term does not in-
14 clude a laboratory with respect to which stand-
15 ard charges and prices for specified clinical di-
16 agnostic laboratory tests furnished by such lab-
17 oratory are made available by a hospital pursu-
18 ant to subsection (e).
19 "(B) DISCOUNTED CASH PRICE.—The
20 term 'discounted cash price' means the charge
21 that applies to an individual who pays cash, or
22 cash equivalent, for an item or service.
23 "(C) GROSS CHARGE.—The term 'gross
24 charge' means the charge for an individual item

1 or service that is reflected on an applicable lab-
2 oratory's chargemaster, absent any discounts.
3 "(D) PAYER-SPECIFIC NEGOTIATED
4 CHARGE.—The term 'payer-specific negotiated
5 charge' means the charge that an applicable
6 laboratory has negotiated with a third party
7 payer for an item or service.
8 "(E) SPECIFIED CLINICAL DIAGNOSTIC
9 LABORATORY TEST.—The term 'specified clin-
10 ical diagnostic laboratory test' means a clinical
11 diagnostic laboratory test that is included on
12 the list of shoppable services specified by the
13 Centers for Medicare & Medicaid Services (as
14 described in subsection (e)), other than such a
15 test that is only available to be furnished by a
16 single provider of services or supplier.
17 "(F) THIRD PARTY PAYER.—The term
18 'third party payer' means an entity that is, by
19 statute, contract, or agreement, legally respon-
20 sible for payment of a claim for a health care
21 item or service.".

22 **SEC. __04. IMAGING TRANSPARENCY.**

23 Section 2718 of the Public Health Service Act (42
24 U.S.C. 300gg–18), as amended by section __03, is further
25 amended by adding at the end the following:

1 "(g) IMAGING SERVICES PRICE TRANSPARENCY.—

2 "(1) IN GENERAL.—Beginning January 1,
3 2025, each provider of services and supplier that re-
4 ceives payment from a group health plan or health
5 insurance issuer for furnishing a specified imaging
6 service, other than such a provider or supplier with
7 respect to which standard charges and prices for
8 such services furnished by such provider or supplier
9 are made available by a hospital pursuant to sub-
10 section (e), shall—

11 "(A) make publicly available (in accord-
12 ance with paragraph (3)) on an Internet
13 website the information described in paragraph
14 (2) with respect to each such service that such
15 provider of services or supplier furnishes; and

16 "(B) ensure that such information is up-
17 dated not less frequently than annually.

18 "(2) INFORMATION DESCRIBED.—For purposes
19 of paragraph (1), the information described in this
20 paragraph is, with respect to a provider of services
21 or supplier and a specified imaging service, the fol-
22 lowing:

23 "(A) A plain language description of each
24 item or service, accompanied by any applicable
25 billing codes, including modifiers, using com-

1 monly recognized billing code sets, including the
2 Current Procedural Terminology code, the
3 Healthcare Common Procedure Coding System
4 code, the diagnosis-related group, the National
5 Drug Code, and other nationally recognized
6 identifier.
7 "(B) The gross charge, as applicable, ex-
8 pressed as a dollar amount, for each such item
9 or service.
10 "(C) The discounted cash price, as applica-
11 ble, expressed as a dollar amount, for each such
12 item or service (or, in the case no discounted
13 cash price is available for an item or service,
14 the minimum cash price accepted by the pro-
15 vider of services or supplier from self-pay indi-
16 viduals for such item or service when provided
17 in such settings for the previous three years, ex-
18 pressed as a dollar amount, as well as, with re-
19 spect to prices made public pursuant to sub-
20 paragraph (A)(ii), a link to a consumer-friendly
21 document that clearly explains the provider of
22 services or supplier's charity care policy). The
23 provider of services or supplier shall accept the
24 discounted cash price as payment in full from

1 any patient that chooses to pay in cash without
2 regard to the patient's coverage.
3 "(D) Any payer-specific negotiated
4 charges, as applicable, clearly associated with
5 the name of the third party payer and plan and
6 expressed as a dollar amount (or, in the case
7 that such a dollar amount is not knowable in
8 advance because such charges are based on an
9 algorithm, percentage of another amount, or
10 other formula, the maximum dollar amount
11 that may be charged), that apply to each such
12 item or service.
13 "(E) The de-identified maximum and min-
14 imum negotiated charges, as applicable, for
15 each such item or service, expressed as a non-
16 zero dollar amount.
17 "(F) Any other additional information the
18 Secretary may require for the purpose of im-
19 proving the accuracy of, or enabling consumers
20 to easily understand and compare, standard
21 charges and prices for an item or service, ex-
22 cept information that is duplicative of any other
23 reporting requirement under this subsection. In
24 the case of standard charges and prices for an
25 item or service included as part of a bundled,

1 per diem, episodic, or other similar arrange-
2 ment, the information described in this sub-
3 paragraph shall be made available as deter-
4 mined appropriate by the Secretary.

5 "(3) UNIFORM METHOD AND FORMAT.—Not
6 later than January 1, 2025, the Secretary shall es-
7 tablish a standard, uniform method and format for
8 providers of services and suppliers to use in making
9 public information described in paragraph (2). Any
10 such method and format—

11 "(A) shall include a machine-readable
12 spreadsheet format containing the information
13 described in paragraph (2) for all items and
14 services furnished by each provider of services
15 and supplier described in paragraph (1);

16 "(B) may be similar to any template made
17 available by the Centers for Medicare & Med-
18 icaid Services (as described in subsection (e));

19 "(C) shall meet such standards as deter-
20 mined appropriate by the Secretary in order to
21 ensure the accessibility and usability of such in-
22 formation; and

23 "(D) shall be updated as determined ap-
24 propriate by the Secretary, in consultation with
25 stakeholders.

1 "(4) MONITORING COMPLIANCE.—The Sec-
2 retary shall, through notice and comment rule-
3 making and in consultation with the Inspector Gen-
4 eral of the Department of Health and Human Serv-
5 ices, establish a process to monitor compliance with
6 this subsection.
7 "(5) ENFORCEMENT.—
8 "(A) IN GENERAL.—In the case that the
9 Secretary determines that a provider of services
10 or supplier is not in compliance with paragraph
11 (1)—
12 "(i) not later than 30 days after such
13 determination, the Secretary shall notify
14 such provider or supplier of such deter-
15 mination;
16 "(ii) upon request of the Secretary,
17 such provider or supplier shall submit to
18 the Secretary, not later than 45 days after
19 the date of such request, a corrective ac-
20 tion plan to comply with such paragraph;
21 and
22 "(iii) if such provider or supplier con-
23 tinues to fail to comply with such para-
24 graph after the date that is 90 days after
25 such notification is sent (or, in the case of

1 such a provider or supplier that has sub-
2 mitted a corrective action plan described in
3 clause (ii) in response to a request so de-
4 scribed, after the date that is 90 days after
5 such submission), the Secretary may im-
6 pose a civil monetary penalty in an amount
7 not to exceed $300 for each day (beginning
8 with the day on which the Secretary first
9 determined that such provider or supplier
10 was failing to comply with such paragraph)
11 during which such failure to comply or fail-
12 ure to submit is ongoing.

13 "(B) INCREASE AUTHORITY.—In applying
14 this paragraph with respect to violations occur-
15 ring in 2027 or a subsequent year, the Sec-
16 retary may through notice and comment rule-
17 making increase the amount of the civil mone-
18 tary penalty under subparagraph (A)(iii).

19 "(C) APPLICATION OF CERTAIN PROVI-
20 SIONS.—The provisions of section 1128A of the
21 Social Security Act (other than subsections (a)
22 and (b) of such section) shall apply to a civil
23 monetary penalty imposed under this paragraph
24 in the same manner as such provisions apply to

1 a civil monetary penalty imposed under sub-
2 section (a) of such section.
3 "(D) NO AUTHORITY TO WAIVE OR RE-
4 DUCE PENALTY.—The Secretary shall not grant
5 or extend any waiver, delay, tolling, or other
6 mitigation of a civil monetary penalty for viola-
7 tion of this subsection.
8 "(E) PROVISION OF TECHNICAL ASSIST-
9 ANCE.—The Secretary shall, to the extent prac-
10 ticable, provide technical assistance relating to
11 compliance with the provisions of this sub-
12 section to providers of services and suppliers re-
13 questing such assistance.
14 "(F) CLARIFICATION OF NONAPPLICA-
15 BILITY OF OTHER ENFORCEMENT PROVI-
16 SIONS.—Notwithstanding any other provision of
17 this title, this paragraph shall be the sole
18 means of enforcing the provisions of this sub-
19 section.
20 "(6) SPECIFIED IMAGING SERVICE DEFINED.—
21 the term 'specified imaging service' means an imag-
22 ing service that is a Centers for Medicare & Med-
23 icaid Services-specified shoppable service (as de-
24 scribed in subsection (e)).".

1 **SEC. __05. AMBULATORY SURGICAL CENTER PRICE TRANS-**
2 **PARENCY REQUIREMENTS.**
3 Section 2718 of the Public Health Service Act (42
4 U.S.C. 300gg–18), as amended by section __04, is further
5 amended by adding at the end the following:
6 "(h) AMBULATORY SURGERY CENTER TRANS-
7 PARENCY.—
8 "(1) IN GENERAL.—Beginning January 1,
9 2025, each specified ambulatory surgical center that
10 receives payment from a group health plan or health
11 insurance issuer for furnishing items and services
12 shall comply with the price transparency require-
13 ment described in paragraph (2).
14 "(2) REQUIREMENT DESCRIBED.—
15 "(A) IN GENERAL.—For purposes of para-
16 graph (1), the price transparency requirement
17 described in this subsection is, with respect to
18 a specified ambulatory surgical center, that
19 such surgical center in accordance with a meth-
20 od and format established by the Secretary
21 under subparagraph (C)), compile and make
22 public (without subscription and free of
23 charge), for each year—
24 "(i) one or more lists, in a machine-
25 readable format specified by the Secretary,
26 of the ambulatory surgical center's stand-

1 ard charges (including the information de-
2 scribed in subparagraph (B)) for each item
3 and service furnished by such surgical cen-
4 ter;
5 "(ii) information in a consumer-
6 friendly format (as specified by the Sec-
7 retary) on the ambulatory surgical center's
8 prices (including the information described
9 in subparagraph (B)) for as many of the
10 Centers for Medicare & Medicaid Services-
11 specified shoppable services included on the
12 list described in subsection (e) that are
13 furnished by such surgical center, and as
14 many additional ambulatory surgical cen-
15 ter-selected shoppable services (or all such
16 additional services, if such surgical center
17 furnishes fewer than 300 shoppable serv-
18 ices) as may be necessary for a combined
19 total of at least 300 shoppable services;
20 and
21 "(iii) with respect to each Centers for
22 Medicare & Medicaid Services-specified
23 shoppable service (as described in clause
24 (ii)) that is not furnished by the ambula-

1 tory surgical center, an indication that
2 such service is not so furnished.
3 "(B) INFORMATION DESCRIBED.—For pur-
4 poses of subparagraph (A), the information de-
5 scribed in this subparagraph is, with respect to
6 standard charges and prices, as applicable,
7 made public by a specified ambulatory surgical
8 center, the following:
9 "(i) A description of each item or
10 service, accompanied by, as applicable, the
11 Healthcare Common Procedure Coding
12 System code, the national drug code, or
13 other identifier used or approved by the
14 Centers for Medicare & Medicaid
15 Services.
16 "(ii) The gross charge, expressed as a
17 dollar amount, for each such item or serv-
18 ice.
19 "(iii) The discounted cash price, ex-
20 pressed as a dollar amount, for each such
21 item or service (or, in the case no dis-
22 counted cash price is available for an item
23 or service, the minimum cash price accept-
24 ed by the specified ambulatory surgical
25 center from self-pay individuals for such

1 item or service when provided in such set-
2 tings for the previous three years, ex-
3 pressed as a dollar amount, as well as,
4 with respect to prices made public pursu-
5 ant to subparagraph (A)(ii), a link to a
6 consumer-friendly document that clearly
7 explains the provider of services or sup-
8 plier's charity care policy). The specified
9 ambulatory surgical center shall accept the
10 discounted cash price as payment in full
11 from any patient that chooses to pay in
12 cash without regard to the patient's cov-
13 erage.

14 "(iv) Any payer-specific negotiated
15 charges, clearly associated with the name
16 of the third party payer and plan and ex-
17 pressed as a dollar amount, that applies to
18 each such item or service. In the case of
19 standard charges and prices for an item or
20 service included as part of a bundled, per
21 diem, episodic, or other similar arrange-
22 ment, the information described in this
23 subparagraph shall be made available as
24 determined appropriate by the Secretary.

1 "(v) The de-identified maximum and
2 minimum negotiated charges, as applica-
3 ble, for each such item or service, ex-
4 pressed as a non-zero dollar amount.
5 "(vi) Any other additional information
6 the Secretary may require for the purpose
7 of improving the accuracy of, or enabling
8 consumers to easily understand and com-
9 pare, standard charges and prices for an
10 item or service, except information that is
11 duplicative of any other reporting require-
12 ment under this subsection.
13 "(C) UNIFORM METHOD AND FORMAT.—
14 Not later than January 1, 2025, the Secretary
15 shall establish a standard, uniform method and
16 format for specified ambulatory surgical centers
17 to use in making public standard charges pur-
18 suant to subparagraph (A)(i) and a standard,
19 uniform method and format for such centers to
20 use in making public prices pursuant to sub-
21 paragraph (A)(ii). Any such method and for-
22 mat—
23 "(i) shall, in the case of such charges
24 made public by an ambulatory surgical

1 center, ensure that such charges are made
2 available in a machine-readable format;
3 "(ii) may be similar to any template
4 made available by the Centers for Medicare
5 & Medicaid Services (as described in sub-
6 section (e));
7 "(iii) shall meet such standards as de-
8 termined appropriate by the Secretary in
9 order to ensure the accessibility and
10 usability of such charges and prices; and
11 "(iv) shall be updated as determined
12 appropriate by the Secretary, in consulta-
13 tion with stakeholders.
14 "(3) NO DEEMED COMPLIANCE.—The avail-
15 ability of a price estimator tool shall not be consid-
16 ered to deem compliance with or otherwise vitiate
17 the requirements of this subsection (aa). Further-
18 more, the use of an estimator tool shall not be used
19 for purposes of compliance with any provisions in
20 this subsection.
21 "(4) MONITORING COMPLIANCE.—The Sec-
22 retary shall, in consultation with the Inspector Gen-
23 eral of the Department of Health and Human Serv-
24 ices, establish a process to monitor compliance with
25 this subsection. Such process shall ensure that each

1 specified ambulatory surgical center's compliance
2 with this subsection is reviewed not less frequently
3 than once every year.
4 "(5) ENFORCEMENT.—
5 "(A) IN GENERAL.—In the case of a speci-
6 fied ambulatory surgical center that fails to
7 comply with the requirements of this sub-
8 section—
9 "(i) the Secretary shall notify such
10 ambulatory surgical center of such failure
11 not later than 30 days after the date on
12 which the Secretary determines such fail-
13 ure exists; and
14 "(ii) upon request of the Secretary,
15 the ambulatory surgical center shall submit
16 to the Secretary, not later than 45 days
17 after the date of such request, a corrective
18 action plan to comply with such require-
19 ments.
20 "(B) CIVIL MONETARY PENALTY.—
21 "(i) IN GENERAL.—A specified ambu-
22 latory surgical center that has received a
23 notification under subparagraph (A)(i) and
24 fails to comply with the requirements of
25 this subsection by the date that is 90 days

1 after such notification (or, in the case of
2 an ambulatory surgical center that has
3 submitted a corrective action plan de-
4 scribed in subparagraph (A)(ii) in response
5 to a request so described, by the date that
6 is 90 days after such submission) shall be
7 subject to a civil monetary penalty of an
8 amount specified by the Secretary for each
9 day (beginning with the day on which the
10 Secretary first determined that such hos-
11 pital was not complying with such require-
12 ments) during which such failure is ongo-
13 ing (not to exceed $300 per day).

14 "(ii) INCREASE AUTHORITY.—In ap-
15 plying this subparagraph with respect to
16 violations occurring in 2027 or a subse-
17 quent year, the Secretary may through no-
18 tice and comment rulemaking increase the
19 limitation on the per day amount of any
20 penalty applicable to a specified ambula-
21 tory surgical center under clause (i).

22 "(iii) APPLICATION OF CERTAIN PRO-
23 VISIONS.—The provisions of section 1128A
24 of the Social Security Act (other than sub-
25 sections (a) and (b) of such section) shall

1 apply to a civil monetary penalty imposed
2 under this subparagraph in the same man-
3 ner as such provisions apply to a civil mon-
4 etary penalty imposed under subsection (a)
5 of such section.

6 "(iv) NO AUTHORITY TO WAIVE OR
7 REDUCE PENALTY.—The Secretary shall
8 not grant or extend any waiver, delay, toll-
9 ing, or other mitigation of a civil monetary
10 penalty for violation of this subsection.

11 "(6) PROVISION OF TECHNICAL ASSISTANCE.—
12 The Secretary shall, to the extent practicable, pro-
13 vide technical assistance relating to compliance with
14 the provisions of this subsection to specified ambula-
15 tory surgical centers requesting such assistance.

16 "(7) DEFINITIONS.—For purposes of this sec-
17 tion:

18 "(A) DISCOUNTED CASH PRICE.—The
19 term 'discounted cash price' means the charge
20 that applies to an individual who pays cash, or
21 cash equivalent, for a item or service furnished
22 by an ambulatory surgical center.

23 "(B) GROSS CHARGE.—The term 'gross
24 charge' means the charge for an individual item
25 or service that is reflected on a specified sur-

1 gical center's chargemaster, absent any dis-
2 counts.
3 "(C) GROUP HEALTH PLAN; GROUP
4 HEALTH INSURANCE COVERAGE; INDIVIDUAL
5 HEALTH INSURANCE COVERAGE.—The terms
6 'group health plan', 'group health insurance
7 coverage', and 'individual health insurance cov-
8 erage' have the meaning given such terms in
9 section 2791 of the Public Health Service Act.
10 "(D) PAYER-SPECIFIC NEGOTIATED
11 CHARGE.—The term 'payer-specific negotiated
12 charge' means the charge that a specified sur-
13 gical center has negotiated with a third party
14 payer for an item or service.
15 "(E) SHOPPABLE SERVICE.—The term
16 'shoppable service' means a service that can be
17 scheduled by a health care consumer in advance
18 and includes all ancillary items and services
19 customarily furnished as part of such service.
20 "(F) SPECIFIED AMBULATORY SURGICAL
21 CENTER.—The term 'specified ambulatory sur-
22 gical center' means an ambulatory surgical cen-
23 ter with respect to which a hospital (or any per-
24 son with an ownership or control interest (as
25 defined in section 1124(a)(3) of the Social Se-

1 curity Act) in a hospital) is a person with an
2 ownership or control interest (as so defined).
3 "(G) THIRD PARTY PAYER.—The term
4 'third party payer' means an entity that is, by
5 statute, contract, or agreement, legally respon-
6 sible for payment of a claim for a health care
7 item or service.".

8 **SEC. __06. STRENGTHENING HEALTH COVERAGE TRANS-**
9 **PARENCY REQUIREMENTS.**

10 (a) TRANSPARENCY IN COVERAGE.—Section
11 1311(e)(3)(C) of the Patient Protection and Affordable
12 Care Act (42 U.S.C. 18031(e)(3)(C)) is amended—
13 (1) by striking "The Exchange" and inserting
14 the following:
15 "(i) IN GENERAL.—The Exchange";
16 (2) in clause (i), as inserted by paragraph (1)—
17 (A) by striking "participating provider"
18 and inserting "provider";
19 (B) by inserting "shall include the infor-
20 mation specified in clause (ii) and" after "such
21 information";
22 (C) by striking "an Internet website" and
23 inserting "a self-service tool that meets the re-
24 quirements of clause (iii)"; and

1 (D) by striking "and such other" and all
2 that follows through the period and inserting
3 "or, at the option such individual, through a
4 paper or phone disclosure (as selected by such
5 individual and provided at no cost to such indi-
6 vidual) that meets such requirements as the
7 Secretary may specify."; and
8 (3) by adding at the end the following new
9 clauses:
10 "(ii) SPECIFIED INFORMATION.—For
11 purposes of clause (i), the information
12 specified in this clause is, with respect to
13 benefits available under a health plan for
14 an item or service furnished by a health
15 care provider, the following:
16 "(I) If such provider is a partici-
17 pating provider with respect to such
18 item or service, the in-network rate
19 (as defined in subparagraph (F)) for
20 such item or service.
21 "(II) If such provider is not de-
22 scribed in subclause (I), the maximum
23 allowed amount for such item or serv-
24 ice.

1 "(III) The amount of cost shar-
2 ing (including deductibles, copay-
3 ments, and coinsurance) that the indi-
4 vidual will incur for such item or serv-
5 ice (which, in the case such item or
6 service is to be furnished by a pro-
7 vider described in subclause (II), shall
8 be calculated using the maximum
9 amount described in such subclause).
10 "(IV) The amount the individual
11 has already accumulated with respect
12 to any deductible or out of pocket
13 maximum under the plan (broken
14 down, in the case separate deductibles
15 or maximums apply to separate indi-
16 viduals enrolled in the plan, by such
17 separate deductibles or maximums, in
18 addition to any cumulative deductible
19 or maximum).
20 "(V) In the case such plan im-
21 poses any frequency or volume limita-
22 tions with respect to such item or
23 service (excluding medical necessity
24 determinations), the amount that such
25 individual has accrued towards such

1 limitation with respect to such item or
2 service.
3 "(VI) Any prior authorization,
4 concurrent review, step therapy, fail
5 first, or similar requirements applica-
6 ble to coverage of such item or service
7 under such plan.
8 "(iii) SELF-SERVICE TOOL.—For pur-
9 poses of clause (i), a self-service tool estab-
10 lished by a health plan meets the require-
11 ments of this clause if such tool—
12 "(I) is based on an internet
13 website;
14 "(II) provides for real-time re-
15 sponses to requests described in such
16 clause;
17 "(III) is updated in a manner
18 such that information provided
19 through such tool is timely and accu-
20 rate;
21 "(IV) allows such a request to be
22 made with respect to an item or serv-
23 ice furnished by—
24 "(aa) a specific provider
25 that is a participating provider

1 with respect to such item or serv-
2 ice;
3 "(bb) all providers that are
4 participating providers with re-
5 spect to such plan and such item
6 or service; or
7 "(cc) a provider that is not
8 described in item (bb);
9 "(V) provides that such a request
10 may be made with respect to an item
11 or service through use of the billing
12 code for such item or service or
13 through use of a descriptive term for
14 such item or service; and
15 "(VI) holds a member harmless
16 for the amount of any difference in
17 excess of the amount of the individ-
18 ual's responsibility generated by the
19 self-service tool and the amount ulti-
20 mately billed or charged to the indi-
21 vidual.".
22 (b) DISCLOSURE OF ADDITIONAL INFORMATION.—
23 Section 1311(e)(3) of the Patient Protection and Afford-
24 able Care Act (42 U.S.C. 18031(e)(3)) is amended by add-
25 ing at the end the following new subparagraphs:

1 "(E) RATE AND PAYMENT INFORMA-
2 TION.—
3 "(i) IN GENERAL.—Not later than
4 January 1, 2025, and every month there-
5 after, each health plan shall submit to the
6 Exchange, the Secretary, the State insur-
7 ance commissioner, and make available to
8 the public, the rate and payment informa-
9 tion described in clause (ii) in accordance
10 with clause (iii).
11 "(ii) RATE AND PAYMENT INFORMA-
12 TION DESCRIBED.—For purposes of clause
13 (i), the rate and payment information de-
14 scribed in this clause is, with respect to a
15 health plan, the following:
16 "(I) With respect to each item or
17 service for which benefits are available
18 under such plan (expressed as a dollar
19 amount), including prescription drugs,
20 identified by CPT, HCPCS, DRG,
21 NDC, or other applicable nationally
22 recognized identifier, including any
23 applicable code modifiers, and accom-
24 panied by a brief description of the
25 item or service, the in-network rate in

1 effect as of the date of the submission
2 of such information with each pro-
3 vider (identified by national provider
4 identifier) that is a participating pro-
5 vider with respect to such item or
6 service, other than such a rate in ef-
7 fect with a provider that has sub-
8 mitted no claims for such item or
9 service to such plan.
10 "(II) With respect to each drug
11 (identified by National Drug Code, J-
12 code, or other commonly recognized
13 billing code used for drugs) for which
14 benefits are available under such plan:
15 "(aa) The in-network rate
16 (expressed as a dollar amount),
17 including the individual and total
18 amounts for any bundled rates,
19 in effect as of the first day of the
20 month in which such information
21 is made public with each provider
22 that is a participating provider
23 with respect to such drug.
24 "(bb) The historical net
25 price paid by such plan (net of

1 rebates, discounts, and price con-
2 cessions) (expressed as a dollar
3 amount) for such drug dispensed
4 or administered during the 90-
5 day period beginning 180 days
6 before such date of submission to
7 each provider that was a partici-
8 pating provider with respect to
9 such drug, broken down by each
10 such provider (identified by na-
11 tional provider identifier), other
12 than such an amount paid to a
13 provider that has submitted no
14 claims for such drug to such
15 plan.
16 "(III) With respect to each item
17 or service for which benefits are avail-
18 able under such plan (expressed as a
19 dollar amount), identified by CPT,
20 DRG, HCPCS, NDC, or other appli-
21 cable nationally recognized identifier,
22 including any applicable code modi-
23 fiers, and accompanied by a brief de-
24 scription of the item or service, the
25 amount billed or charged by the pro-

1 vider, and the amount allowed by the
2 plan, for each such item or service
3 furnished during the 90-day period
4 beginning 180 days before such date
5 of submission by each provider that
6 was not a participating provider with
7 respect to such item or service, broken
8 down by each such provider (identified
9 by national provider identifier), other
10 than items and services with respect
11 to which no claims for such item or
12 service were submitted to such plan
13 during such period.
14 "(iii) MANNER OF SUBMISSION.—Rate
15 and payment information required to be
16 submitted and made available under this
17 subparagraph shall be so submitted and so
18 made available as follows:
19 "(I) Information shall be con-
20 tained in 3 separate machine-readable
21 files corresponding to the information
22 described in each of subclauses (I)
23 through (III) of clause (ii) that meet
24 such requirements as specified by the
25 Secretary through rulemaking, in con-

1 sultation with the Secretaries of
2 Labor and the Treasury to apply com-
3 parable requirements to group health
4 plans and to entities providing benefit
5 management or other third-party ad-
6 ministration services on a contractual
7 basis with a group health plan.
8 "(II) Requirements specified by
9 the Secretary through rulemaking
10 shall ensure that:
11 "(aa) Such files are limited
12 to an appropriate size, are made
13 available in a widely-available
14 format that allows for informa-
15 tion contained in such files to be
16 compared across health plans,
17 and are accessible to individuals
18 at no cost and without the need
19 to establish a user account or
20 provider other credentials.
21 "(bb) The rates, amounts,
22 and prices to be disclosed include
23 contractual terms containing cal-
24 culation formulae, pricing meth-
25 odologies, and other information

1 necessary to determine the dollar
2 value of reimbursement.
3 "(cc) Each such file includes
4 each of the following data ele-
5 ments:
6 "(AA) A numerical
7 identifier for the group
8 health plan and/or health in-
9 surance issuer (such as a
10 Health Insurance Oversight
11 System identifier).
12 "(BB) A plain-language
13 description of the item or
14 service (including, for drugs,
15 the proprietary and non-
16 proprietary name assigned).
17 "(CC) The billing code,
18 including any applicable
19 modifiers, associated with
20 such item or service, includ-
21 ing the Healthcare Common
22 Procedure Coding System
23 code, diagnosis-related
24 group, national drug code,

1 or other commonly recog-
2 nized code set.
3 "(DD) The place of
4 service code.
5 "(EE) The National
6 Provider Identifier or pro-
7 vider Tax Identification
8 Number.
9 "(III) The rate and payment in-
10 formation disclosed under subclauses
11 (I) through (III) of clause (ii) shall be
12 separately delineated for each item or
13 service, regardless of whether such
14 item or service is reimbursed as a part
15 of a bundle, episode, or other group-
16 ing of items and services.
17 "(IV) An officer or executive of
18 competent authority shall attest to the
19 accuracy and completeness of infor-
20 mation submitted and made available
21 under this subparagraph. Such attes-
22 tation shall be deemed material to
23 payments from the Federal govern-
24 ment received by the group health
25 plan or health insurance issuer.

1 "(V) Regulations promulgated
2 pursuant to this section shall provide
3 that:
4 "(aa) The Secretary shall
5 audit the three machine-readable
6 files required by subparagraph
7 (E)(ii) posted by no fewer than
8 20 group health plans or health
9 insurance issuers.
10 "(bb) The Secretary of
11 Labor shall audit the three ma-
12 chine-readable files required by
13 subparagraph (E)(ii) posted by
14 no fewer than 200 group health
15 plans or service providers fur-
16 nishing third-party administrator
17 services to a group health plan.
18 "(cc) Findings, conclusions,
19 and enforcement actions taken
20 based on audits of the machine-
21 readable files shall be reported
22 annually to Congress no later
23 than July 1 of the calendar year
24 during which the files were au-

1 dited. Such report to Congress
2 shall be accessible to the public.
3 "(iv) USER GUIDE.—Each health plan
4 shall make available to the public instruc-
5 tions written in plain language explaining
6 how individuals may search for information
7 described in clause (ii) in files submitted in
8 accordance with clause (iii).
9 "(F) DEFINITIONS.—In this paragraph:
10 "(i) PARTICIPATING PROVIDER.—The
11 term 'participating provider' has the mean-
12 ing given such term in section 2799A–1 of
13 the Public Health Service Act.
14 "(ii) IN-NETWORK RATE.—The term
15 'in-network rate' means, with respect to a
16 health plan and an item or service fur-
17 nished by a provider that is a participating
18 provider with respect to such plan and
19 item or service, the contracted rate in ef-
20 fect between such plan and such provider
21 for such item or service.
22 "(G) APPLICABILITY TO ACCOUNTABLE
23 CARE ORGANIZATIONS.—An applicable ACO
24 participating in the Medicare Shared Savings
25 Program, as defined in Section 1899 of the So-

1 cial Security Act (42 U.S.C. § 1395jjj), shall be
2 subject to the requirements of this paragraph
3 as if such applicable ACO is a group health
4 plan or health insurance issuer.

5 "(H) ENFORCEMENT.—Each year, the
6 Secretary shall audit the three machine-read-
7 able files required by subparagraph (E)(ii) post-
8 ed by no fewer than 20 group health plans or
9 health insurance issuers.".

10 (c) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendments made by
12 subsection (a) shall apply beginning January 1,
13 2025.

14 (2) CONTINUED APPLICABILITY OF RULES FOR
15 PREVIOUS YEARS.—Nothing in the amendments
16 made by this section may be construed as affecting
17 the applicability of the rule entitled "Transparency
18 in Coverage" published by the Department of the
19 Treasury, the Department of Labor, and the De-
20 partment of Health and Human Services on Novem-
21 ber 12, 2020 (85 Fed. Reg. 72158) before January
22 1, 2025.

1 **SEC. _07. INCREASING GROUP HEALTH PLAN ACCESS TO**
2 **HEALTH DATA.**

3 (a) GROUP HEALTH PAN ACCESS TO INFORMA-
4 TION.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 408(b) of the Employee Retirement Income Security
7 Act of 1974 (29 U.S.C. 1108(b)) is amended by
8 adding at the end the following new subparagraphs:

9 "(C) No contract or arrangement for serv-
10 ices between a group health plan and any other
11 entity, including a health care provider (includ-
12 ing a health care facility), network or associa-
13 tion of providers, service provider offering ac-
14 cess to a network of providers, third-party ad-
15 ministrator, or pharmacy benefit manager (col-
16 lectively, 'Covered Service Providers'), is rea-
17 sonable within the meaning of this paragraph
18 unless such contract or arrangement—

19 "(i) allows the responsible group
20 health plan access to all claims and en-
21 counter information, and any documenta-
22 tion supporting claim payments, including,
23 but not limited to, medical records and pol-
24 icy documents, or data described in section
25 724(a)(1)(B) to—

1 "(I) enable such entity to comply
2 with the terms of the plan and any
3 applicable law; and
4 "(II) determine the accuracy or
5 reasonableness of payment; and
6 "(ii) does not—
7 "(I) unreasonably limit or delay
8 access to such information or data;
9 "(II) limit the volume of claims
10 and encounter information or data
11 that the group health plan may access
12 during an audit;
13 "(III) limit the disclosure of pric-
14 ing terms for value-based payment ar-
15 rangements or capitated payment ar-
16 rangements, including—
17 "(aa) payment calculations
18 and formulas;
19 "(bb) quality measures;
20 "(cc) contract terms;
21 "(dd) payment amounts;
22 "(ee) measurement periods
23 for all incentives; and
24 "(ff) other payment meth-
25 odologies used by an entity, in-

1 cluding a health care provider
2 (including a health care facility),
3 network or association of pro-
4 viders, service provider offering
5 access to a network of providers,
6 third-party administrator, or
7 pharmacy benefit manager;
8 "(IV) limit the disclosure of over-
9 payments and overpayment recovery
10 terms;
11 "(V) limit the right of the group
12 health plan to select an auditor or de-
13 fine audit scope or frequency;
14 "(VI) otherwise limit or unduly
15 delay the group health plan from ac-
16 cessing claims and encounter informa-
17 tion or data in a daily batch.
18 "(VII) limit the disclosure of fees
19 charged to the group health plan re-
20 lated to plan administration and
21 claims processing, including renegoti-
22 ation fees, access fees, repricing fees,
23 or enhanced review fees; or

1 "(VIII) limit the right of the
2 group health plan to request action on
3 any suspect claim payments
4 "(D) PRIVACY REQUIREMENTS.—Covered
5 Service Providers shall provide information
6 under this paragraph in a manner consistent
7 with the privacy and security regulations pro-
8 mulgated under the Health Insurance Port-
9 ability and Accountability Act (HIPAA). This
10 subparagraph shall not be read to abridge or
11 limit the disclosure requirements under this
12 paragraph.
13 "(E) DISCLOSURE AND REDISCLOSURE;
14 LIMITATION TO BUSINESS ASSOCIATES.—A
15 group health plan receiving information or data
16 under this paragraph may disclose such infor-
17 mation only to the entity from which the infor-
18 mation or data was received, the group health
19 plan to which the information or data pertains,
20 or to that entity's business associates as defined
21 in section 160.103 of title 45, Code of Federal
22 Regulations (or successor regulations) or as
23 permitted by the HIPAA Privacy Rule (45 CFR
24 parts 160 and 164, subparts A and E).

1 "(F) DATA STANDARDS.—Information
2 made available under this section shall conform
3 to the following standards:
4 "(i) Institutional, professional, and
5 dental claims received from a healthcare
6 provider shall be made available to the
7 group health plan as ASC X12N 837 files.
8 The files shall be unmodified copies of the
9 files sent from the provider. In the event
10 that paper claims are sent by the provider,
11 they shall be converted to the ASC X12N
12 837 electronic format. Files shall be acces-
13 sible to the plan at no cost to the group
14 health plan;
15 "(ii) All claim payment (or EFT, elec-
16 tronic funds transfer) and electronic remit-
17 tance advice (ERA) notices sent by a Cov-
18 ered Service Provider shall be made avail-
19 able to the group health plan as ASC
20 X12N 835 files. The files shall be unmodi-
21 fied copies of the files sent by the Covered
22 Service Provider to the healthcare pro-
23 vider. Files shall be accessible at no cost to
24 the group health plan.

1 "(iii) The contractual terms con-
2 taining calculation formulae, pricing meth-
3 odologies, and other information used to
4 determine the dollar value of reimburse-
5 ment;
6 "(iv) All non-claim costs shall be
7 itemized and made available to the group
8 health plan in real time through a web-
9 based portal, through an API, and through
10 a downloadable CSV file.".
11 (2) CIVIL ENFORCEMENT.—
12 (A) IN GENERAL.—Subsection (c) of sec-
13 tion 502 of such Act (29 U.S.C. 1132) is
14 amended by adding at the end the following
15 new paragraph: "(13) In the case of an agree-
16 ment between a group health plan and a health
17 care provider (including a health care facility),
18 network or association of providers, service pro-
19 vider offering access to a network of providers,
20 third-party administrator, or pharmacy benefit
21 manager, that violates the provisions of section
22 724, the Secretary may assess a civil penalty
23 against such provider, network or association,
24 service provider offering access to a network of
25 providers, third-party administrator, pharmacy

1 benefit manager, or other service provider in
2 the amount of $10,000 for each day during
3 which such violation continues. Such penalty
4 shall be in addition to other penalties as may
5 be prescribed by law.
6 (B) CONFORMING AMENDMENT.—Para-
7 graph (6) of section 502(a) of such Act is
8 amended by striking "or (9)" and inserting
9 "(9), or (13)".
10 (3) EXISTING PROVISIONS VOID.—Section 410
11 of such Act is amended by adding at the end the fol-
12 lowing:
13 "(c) Any provision in an agreement or instrument
14 shall be void as against public policy if such provision—
15 "(1) unduly delays or limits a group health plan
16 from accessing the claims and encounter information
17 or data described in section 724(a)(1)(B); or
18 "(2) violates the requirements of section
19 408(b)(2)(C).".
20 (4) TECHNICAL AMENDMENT.—Clause (i) of
21 section 408(b)(2)(B) of such Act is amended by
22 striking "this clause" and inserting "this para-
23 graph".
24 (b) UPDATED ATTESTATION FOR PRICE AND QUAL-
25 ITY INFORMATION.—Section 724(a)(3) of the Employee

1 Retirement Income Security Act (29 U.S.C. 1185m(a)(3))
2 is amended to read as follows:
3 "(3) ATTESTATION.—
4 "(A) IN GENERAL.—Subject to subpara-
5 graph (C), the group health plan or health in-
6 surance issuer offering group health insurance
7 coverage shall annually submit to the Secretary
8 an attestation that such plan or issuer of such
9 coverage is in compliance with the requirements
10 of this subsection. Such attestation shall also
11 include a statement verifying that—
12 "(i) the information or data described
13 under subparagraphs (A) and (B) of para-
14 graph (1) is available upon request and
15 provided to the group health plan, the plan
16 administrator, or the issuer in a timely
17 manner; and
18 "(ii) there are no terms in the agree-
19 ment under such paragraph (1) that di-
20 rectly or indirectly restrict or unduly delay
21 a group health plan, the plan adminis-
22 trator, or the issuer from auditing, review-
23 ing, or otherwise accessing such informa-
24 tion, except as permitted under section
25 408(b)(2)(C).

1 "(B) LIMITATION ON SUBMISSION.—Sub-
2 ject to clause (ii), a group health plan or issuer
3 offering group health insurance coverage may
4 not enter into an agreement with a third-party
5 administrator or other service provider to sub-
6 mit the attestation required under subpara-
7 graph (A).
8 "(C) EXCEPTION.—In the case of a group
9 health plan or issuer offering group health in-
10 surance coverage that is unable to obtain the
11 information or data needed to submit the attes-
12 tation required under subparagraph (A), such
13 plan or issuer may submit a written statement
14 in lieu of such attestation that includes—
15 "(i) an explanation of why such plan
16 or issuer was unsuccessful in obtaining
17 such information or data, including wheth-
18 er such plan or issuer was limited or pre-
19 vented from auditing, reviewing, or other-
20 wise accessing such information or data;
21 "(ii) a description of the efforts made
22 by the group health plan to remove any
23 gag clause provisions from the agreement
24 under paragraph (1); and

1 "(iii) a description of any response by
2 the third-party administrator or other serv-
3 ice provider with respect to efforts to com-
4 ply with the attestation requirement under
5 subparagraph (A).".

6 (c) EFFECTIVE DATE.—The amendments made by
7 subsections (a) and (b) shall apply with respect to a plan
8 beginning with the first plan year that begins on or after
9 the date that is 1 year after the date of enactment of this
10 Act.

11 **SEC. __08. PREEMPTION ONLY IN EVENT OF CONFLICT.**

12 The provisions of this title (including the amend-
13 ments made by this title) shall not supersede any provision
14 of State law which establishes, implements, or continues
15 in effect any requirement or prohibition related to health
16 care price transparency, except to the extent that such re-
17 quirement or prohibition prevents the application of a re-
18 quirement or prohibition of this title (or amendment).