Bill Cassidy, M.D.

AMENDMENT NO. **5**   Calendar No._____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1895

To lower health care costs.

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 Mr. CASSIDY

Viz:

1   At the appropriate place in title V, insert the fol-

2 lowing:

3 **SEC. 5____. APPLICATION OF HIPAA REGULATIONS TO**

4   **CERTAIN SOFTWARE APPLICATIONS RECEIV-**

5   **ING PATIENT INFORMATION.**

6   Part C of title XI of the Social Security Act (42

7 U.S.C. 1320d et seq.) is amended by adding at the end

8 the following:

9 **"SEC. 1180A. APPLICATION OF HIPAA REGULATIONS CER-**

10   **TAIN SOFTWARE APPLICATIONS RECEIVING**

11   **PATIENT INFORMATION.**

12   "(a) SCOPE.—This section applies to an entity that

13 owns or maintains a software application or program that

1 is, or that uses, an application programming interface to

2 create, receive, maintain, or transmit individually identifi-

3 able health information, as that term is defined in section

4 160.103 of title 45, Code of Federal Regulations.

5   "(b) ISSUANCE OF REGULATIONS.—The Secretary

6 shall issue regulations prescribing the extent to which, and

7 the manner in which, the following rules (and any succes-

8 sors of such rules) shall apply to the activities of an entity

9 described in subsection (a) with respect to such entity's

10 creation, receipt, maintenance, or transmittal of individ-

11 ually identifiable health information:

12   "(1) The Privacy Rule, part 160 and subparts

13   A and E of part 164 of title 45, Code of Federal

14   Regulations."(2) The Security Rule, part 160 and

15   subparts A and C of part 164 of such title 45.

16   "(2) The Breach Notification Rule, part 160

17   and subparts A and D of part 164 of such title 45.

18   "(c) SUPPLEMENTAL PROVISIONS.—The Secretary

19 may include in the regulations under subsection (b) such

20 supplemental provisions on the subjects of the rules listed

21 in subsection (b) as the Secretary considers necessary to

22 address circumstances where, because of differences be-

23 tween the activities described by this section and the ac-

24 tivities covered by such rules, application of such rules to

25 the activities described by this section would not ade-

1 quately ensure privacy, security, or notification of

2 breaches.

3   "(d) ENFORCEMENT.—Section 1176 of the Social Se-

4 curity Act shall apply to violations of regulations issued

5 under this section, and the Secretary may include in such

6 regulations provisions implementing such section 1176

7 with respect to this section.

8   "(e) PROCEDURE.—

9   "(1) TIMING.—The Secretary shall issue the

10   initial set of regulations under this section not later

11   than 2 years after the date of enactment of the

12   Lower Health Care Costs Act.

13   "(2) AUTHORITY TO USE INTERIM FINAL PRO-

14   CEDURES.—The Secretary may make such initial set

15   of regulations effective and final immediately upon

16   issuance, on an interim basis, without making the

17   finding described by section 553(b)(B) of title 5,

18   United States Code, and provide for a period of pub-

19   lic comment on such initial set of regulations after

20   the date of publication.".