

110TH CONGRESS  
2D SESSION

# S. 2704

To amend title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician.

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IN THE SENATE OF THE UNITED STATES

MARCH 5, 2008

Mrs. LINCOLN (for herself and Mr. CRAPO) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend title XVIII of the Social Security Act to provide for Medicare coverage of services of qualified respiratory therapists performed under the general supervision of a physician.

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 “Medicare Respiratory  
5       Therapy Initiative Act of 2008”.

1 **SEC. 2. MEDICARE COVERAGE OF SERVICES OF QUALIFIED**  
2 **RESPIRATORY THERAPISTS PERFORMED**  
3 **UNDER THE GENERAL SUPERVISION OF A**  
4 **PHYSICIAN.**

5 (a) IN GENERAL.—Section 1861 of the Social Secu-  
6 rity Act (42 U.S.C. 1395x), as amended by section 114  
7 of the Medicare, Medicaid, and SCHIP Extension Act of  
8 2007 (Public Law 110–173), is amended—

9 (1) in subsection (s)(2)—

10 (A) by striking “and” at the end of sub-  
11 paragraph (Z);

12 (B) by adding “and” at the end of sub-  
13 paragraph (AA); and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(BB) respiratory therapy services which would  
17 be physicians’ services if furnished by a physician  
18 (as defined in subsection (r)(1)) for the diagnosis  
19 and treatment of respiratory illnesses and which are  
20 performed by a respiratory therapist (as defined in  
21 subsection (ddd)) under the general supervision of a  
22 physician and which the respiratory therapist is le-  
23 gally authorized to perform by the State in which  
24 the services are performed, but only if no facility or  
25 other provider charges or is paid any amounts with  
26 respect to the furnishing of such services.”; and

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

3                           “Respiratory Therapist

4           “(ddd) For purposes of subsection (s)(2)(BB) and  
5 section 1833(a)(1)(W) only, the term ‘respiratory thera-  
6 pist’ means an individual who—

7                   “(1) is credentialed by a national credentialing  
8 board recognized by the Secretary;

9                   “(2)(A) is licensed to practice respiratory ther-  
10 apy in the State in which the respiratory therapy  
11 services are performed, or (B) in the case of an indi-  
12 vidual in a State which does not provide for such li-  
13 censure, is legally authorized to perform respiratory  
14 therapy services (in the State in which the individual  
15 performed such services) under State law (or the  
16 State regulatory mechanism provided by State law);

17                   “(3) is a registered respiratory therapist; and

18                   “(4) holds a bachelor’s degree.”.

19           (b) PAYMENT.—Section 1833(a)(1) of such Act (42  
20 U.S.C. 1395l(a)(1)) is amended—

21                   (1) by striking “and” before “(V)”; and

22                   (2) by inserting before the semicolon at the end  
23 the following: “(W) with respect to services de-  
24 scribed in section 1861(s)(2)(BB) (relating to serv-  
25 ices furnished by a respiratory therapist) that are

1 furnished by a respiratory therapist (as defined in  
2 section 1861(ddd)), the amount paid shall be equal  
3 to 80 percent of the lesser of the actual charge for  
4 the services or 85 percent of the fee schedule  
5 amount provided under section 1848 for the same  
6 services if furnished by a physician”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to services furnished on or after  
9 January 1, 2009.

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