H. R. 116TH CONGRESS 2D SESSION

To direct the Secretary of Labor to issue an emergency temporary standard that requires certain employers to develop and implement a comprehensive infectious disease exposure control plan to protect employees in the health care sectors and other employees at elevated risk from exposure to SARS–CoV–2, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Scott of Virginia introduced the following bill; which was referred to the Committee on __________________

A BILL

To direct the Secretary of Labor to issue an emergency temporary standard that requires certain employers to develop and implement a comprehensive infectious disease exposure control plan to protect employees in the health care sectors and other employees at elevated risk from exposure to SARS–CoV–2, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Covid–19 Health Care Worker Protection Act of 2020”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The infectious disease COVID-19 presents a grave danger to health care workers who are the first line of defense of the United States against this epidemic.

(2) Hundreds of health care workers in the United States have been infected or quarantined due to exposure to patients with COVID-19. Surveys conducted by health care worker unions and others have found that many health care facilities are inadequately prepared to safely protect health care workers who are exposed to the virus.

(3) Inadequate infection control precautions have a detrimental impact on health care workers, patients and the public, and if there is breakdown in health care worker protections, the nation’s public health system is placed at risk.

(4) The Severe Acute Respiratory Syndrome (hereinafter referred to as “SARS”) epidemic of 2003 and 2004 in Canada, which involved a coronavirus, resulted in a disproportionately large number of infections of both health care workers and
patients in Ontario, Canada, hospitals due to insufficient infection control procedures involving SARS.

(5) The Occupational Safety and Health Administration began rulemaking on a standard to protect health care workers from airborne and other infectious diseases in 2009. In 2017, the Trump Administration suspended work on this rulemaking, removing it from the active Regulatory Agenda.


(7) Absent an enforceable standard, employers lack mandatory requirements to implement an effective and ongoing infection and exposure control program that provides protection to health care workers from COVID-19.

(8) Section 6(c)(1) of the Occupational Safety and Health Act authorizes the Occupational Safety and Health Administration to issue an “Emergency Temporary Standard” if employees are exposed to grave danger from harmful agents or new hazards and if an emergency standard is necessary to protect
employees from such danger. The widespread outbreak of COVID-19 clearly satisfies these two conditions.

(9) The Occupational Safety and Health Administration has received two petitions in March 2020 calling on the Occupational Safety and Health Administration to issue an Emergency Temporary Standard to protect workers from COVID-19.

(10) An Emergency Temporary Standard is necessary to ensure the immediate protection of workers in health care workplaces and other high-risk workplaces identified by the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration from infection related to COVID-19.

TITLE I—COVID–19 EMERGENCY TEMPORARY STANDARD

SEC. 101. COVID–19 EMERGENCY TEMPORARY STANDARD.

(a) Emergency Temporary Standard.—Pursuant to section 6(c)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)(1)), not later than 1 month after the date of enactment of this Act, the Secretary of Labor shall promulgate an emergency temporary standard to protect from occupational exposure to SARS–CoV–2—
(1) employees of health care sector employers;

and

(2) employees in other sectors whom the Centers for Disease Control and Prevention or the Occupational Safety and Health Administration identifies as having elevated risk.

(b) PERMANENT STANDARD.—Upon publication of the emergency standard under subsection (a), the Secretary of Labor shall commence a proceeding to promulgate a standard under section 6(c)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)(3)) with respect to such emergency temporary standard.

(c) REQUIREMENTS.—Each standard promulgated under this section shall—

(1) require the employers of the employees described in subsection (a) to develop and implement a comprehensive infectious disease exposure control plan; and

(2) at a minimum, be based on the precautions for severe acute respiratory syndrome (SARS) in the “2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings” of the Centers for Disease Control and Prevention and any subsequent updates; and
(3) provide no less protection for novel pathogens than precautions mandated by standards adopted by a State plan that has been approved by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667).

TITLE I—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 201. APPLICATION OF COVID–19 EMERGENCY TEMPORARY STANDARD TO CERTAIN FACILITIES RECEIVING MEDICARE FUNDS.

(a) In General.—Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (X), by striking “and” at the end;

(B) in subparagraph (Y), by striking the period at the end and inserting “; and”; and

(C) by inserting after subparagraph (Y) the following new subparagraph:

“(Z) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970 (or a State occupational safety and health plan that is approved under 18(b) of such Act) and skilled nursing fa-
ilities that are not otherwise subject to such
Act (or such a State occupational safety and
health plan), to comply with the standards pro-
mulgated under section 101 of the Covid–19
Health Care Worker Protection Act of 2020.”;
and
(2) in subsection (b)(4)—
(A) in subparagraph (A), by inserting
“and a hospital or skilled nursing facility that
fails to comply with the requirement of sub-
section (a)(1)(Z) (relating to the standards pro-
mulgated under section 101 of the Covid–19
Health Care Worker Protection Act of 2020)”
after “Bloodborne Pathogens Standard”); and
(B) in subparagraph (B)—
(i) by striking “(a)(1)(U)” and insert-
ing “(a)(1)(V)”; and
(ii) by inserting “(or, in the case of a
failure to comply with the requirement of
subsection (a)(1)(Z), for a violation of the
standards referred to in such subsection by
a hospital or skilled nursing facility, as ap-
pllicable, that is subject to the provisions of
such Act)” before the period at the end.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning on the date that is 1 month after the date of promulgation of the emergency temporary standard under section 101 of the COVID–19 Health Care Worker Protection Act of 2020.