

113TH CONGRESS
2D SESSION

S. _____

To amend title XVIII of the Social Security Act to require State licensure and performance guarantees for entities submitting bids under the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive acquisition program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. PORTMAN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title XVIII of the Social Security Act to require State licensure and performance guarantees for entities submitting bids under the Medicare durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) competitive acquisition program, 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 “Medicare DMEPOS
5 Competitive Bidding Improvement Act of 2014”.

1 **SEC. 2. REQUIRING STATE LICENSURE AND PERFORMANCE**
2 **GUARANTEES OF BIDDING ENTITIES UNDER**
3 **THE MEDICARE DMEPOS COMPETITIVE AC-**
4 **QUISITION PROGRAM.**

5 Section 1847(a)(1) of the Social Security Act (42
6 U.S.C. 1395w-3(a)(1)) is amended by adding at the end
7 the following new subparagraphs:

8 “(G) REQUIRING STATE LICENSURE AND
9 PERFORMANCE GUARANTEES FOR BIDDING EN-
10 TITIES.—With respect to rounds of competi-
11 tions beginning under this subsection on or
12 after the date of enactment of this subpara-
13 graph, the Secretary may not accept a bid from
14 an entity for an area unless, as of the deadline
15 for bid submission—

16 “(i) the entity meets applicable State
17 licensure requirements for such area for all
18 items in such bid for a product category;
19 and

20 “(ii) the entity has obtained (and pro-
21 vided the Secretary with proof of having
22 obtained) a bid and performance surety
23 bond (in this paragraph referred to as a
24 ‘bid and performance bond’) in a form
25 specified by the Secretary consistent with
26 subparagraph (H) and in an amount that

1 is not less than \$50,000 for each such
2 area.

3 “(H) TREATMENT OF BID AND PERFORM-
4 ANCE BONDS SUBMITTED.—

5 “(i) FOR SUCCESSFUL BIDDERS.—In
6 the case of a bidding entity that is offered
7 a contract for an area for a product cat-
8 egory, if the entity’s composite bid—

9 “(I) is at or below the product
10 category’s median composite bid rate
11 for the area and the entity does not
12 accept the contract offered for the
13 product and area, the bid and per-
14 formance bond submitted shall be for-
15 feited by the bidding entity and the
16 Secretary shall collect on it; or

17 “(II) is above such median com-
18 posite bid rate and the entity chooses
19 not to accept a contract for the prod-
20 uct category, the bid and performance
21 bond submitted shall be returned
22 within 90 days of the date of notice of
23 nonacceptance.

24 “(ii) CONVERSION INTO PERFORM-
25 ANCE GUARANTEE UPON CONTRACTING.—

1 If a bidding entity is offered and accepts
2 the contract, the bid and performance
3 bond submitted shall be retained as a per-
4 formance guarantee under the contract
5 and—

6 “(I) shall be returned to the enti-
7 ty within 90 days of the date of com-
8 pletion of the contract; or

9 “(II) shall be collected on by the
10 Secretary if the contract is terminated
11 before the expiration of the contract.

12 “(iii) RETURN OF BOND FOR LOSING
13 BIDDERS.—If a bidding entity submits a
14 bid that is not accepted for an area, the
15 bid and performance bond submitted for
16 the entity for such area shall be returned
17 within 90 days of the date of notice of
18 nonacceptance.”.