H. R. ______

To amend title XVIII of the Social Security Act to provide for Medicare coverage of staff-assisted home dialysis for certain hemodialysis and peritoneal dialysis patients and to ensure all patients are educated on modality options and receive the resources, information, and support to succeed on the modality of their choice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Rush introduced the following bill; which was referred to the Committee on ______

A BILL

To amend title XVIII of the Social Security Act to provide for Medicare coverage of staff-assisted home dialysis for certain hemodialysis and peritoneal dialysis patients and to ensure all patients are educated on modality options and receive the resources, information, and support to succeed on the modality of their choice, 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 “Improving Access to Home Dialysis Act of 2021”.

SEC. 2. PROVIDING FOR STAFF-ASSISTED HOME DIALYSIS FOR CERTAIN HEMODIALYSIS AND PERITONEAL DIALYSIS PATIENTS.

(a) IN GENERAL.—Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)) is amended by adding at the end the following new subparagraph:

“(J)(i) For services furnished on or after the date which is 1 year after the date of the enactment of this subparagraph which are staff-assisted home dialysis (as defined in clause (iv)(III)), the Secretary shall increase the single payment that would otherwise apply under this paragraph for renal dialysis services furnished to new and respite individuals in accordance with the payment system established under clause (iii) by qualified providers.

“(ii)(I) Subject to subclause (II), staff-assisted home dialysis may only be furnished during—

“(aa) with respect to an individual described in subclause (iv)(I)(aa), one 90-day period which may be renewed up to two 30-day periods; and
“(bb) with respect to an individual described in subclause (iv)(I)(bb) and notwithstanding whether such an individual receives any respite care under part A, any 30-day period;

“(II) Notwithstanding the limits described in subclause (I), staff-assisted home dialysis may be furnished for as long as the Secretary determines appropriate to an individual who—

“(aa) is blind;

“(bb) has a cognitive or neurological impairment (including a stroke, Alzheimer’s, dementia amyotrophic lateral sclerosis, or any other impairment determined by the Secretary); or

“(cc) has any other illness or injury that reduces mobility (including cerebral palsy, spinal cord injuries, or any other illness or injury determined by the Secretary).

“(iii) The Secretary shall establish a prospective payment system through regulations to determine the amounts payable to qualified providers for staff-assisted home dialysis. In estab-
lishing such system, the Secretary may consider—

“(I) the costs of furnishing staff-assisted home dialysis;

“(II) consultations with dialysis providers, dialysis patients, private payers, and MA plans;

“(III) payment amounts for similar items and services under parts A and B; and

“(IV) payment amounts established by MA plans under part C, group health plans, and health insurance coverage offered by health insurance issuers.

“(iv) In this subparagraph:

“(I) The term ‘new and respite individual’ means an individual described in subsection (a) who is either—

“(aa) initiating either peritoneal or home hemodialysis; or

“(bb) receiving home dialysis and is unable to self-dialyze due to illness, injury, caregiver issues, or other temporary circumstances.
“(II) The term ‘qualified provider’ means a trained professional (as determined by the Secretary, including nurses and certified patient technicians) who furnishes renal dialysis services and—

“(aa) meets requirements (as determined by the Secretary) that ensures competency in patient care and modality usage; and

“(bb) provides in-person assistance to a patient for at least 75 percent of staff-assisted home dialysis sessions during a period described in clause (ii)(i).

“(III)(aa) The term ‘staff-assisted home dialysis’ means home dialysis using trained professionals to assist individuals who have been determined to have end stage renal disease, and the frequency of such home dialysis is determined by such professionals in coordination with the patient and his or her care partner, and outlined in a patient plan of care.

“(bb) In this subclause, the term ‘care partner’ means anyone who is designated
by the patient who assists the individual with the furnishing of home dialysis.

“(cc) In this subclause, the term ‘patient plan of care’ has the meaning given such term in section 494.90 of title 42, Code of Federal Regulations.”.

(b) PATIENT EDUCATION AND TRAINING RELATING TO STAFF-ASSISTED HOME DIALYSIS.—Section 1881(b)(5) of the Social Security Act (42 U.S.C. 1395rr(b)(5)) is amended—

(1) in subparagraph (C), by striking at the end “and”;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new sub-

paragraphs:

“(D) educate patients of the opportunity to receive staff-assisted home dialysis (as defined in paragraph (14)(J)(iv)(III)) during the period beginning 30 days after the first day such facility furnishes renal dialysis services to an individual and ending 60 days after such day; and

“(E) provide for nurses, certified patient technicians, or other professionals to train pa-

tients and their care partners in skills and pro-
procedures needed to perform home dialysis (as defined in paragraph (14)(J)(iv)(III)) treatment—

“(i) regularly and independently;

“(ii) through telehealth services or through group training (as described in the interpretive guidance relating to tag number V590 of ‘Advance Copy – End Stage Renal Disease (ESRD) Program Interpretive Guidance Version 1.1’ (published on October 3, 2008)) in accordance with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996; and

“(iii) in the home or resident of a patient, in a dialysis facility, or the place in which the patient intends to receive staff-assisted home dialysis.”.

(c) OTHER PROVISIONS.—

(1) ANTI-KICKBACK STATUTE.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—
(A) in subparagraph (J), by striking at the end “and”;

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

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

“(L) any remuneration relating to the furnishing of staff-assisted home dialysis (as defined in section 1881(b)(14)(J)(iv)(III)).”.

(2) CMI MODEL.—Section 1115A(b)(2)(B) of the Social Security Act (42 U.S.C. 1320b–(b)(2)(B)) is amended by adding at the end the following new clause:

“(xxviii) Making payment to anyone who is designated by a patient who receives staff-assisted home dialysis (as defined in section 1881(b)(14)(J)(iv)(III)) and otherwise meets the requirements (as determined by the Secretary), notwithstanding whether an individual is a qualified provider (as defined in section 1881(b)(14)(J)(iv)(II)) or otherwise eligible for reimbursement under title XVIII.”.

(3) STUDY.—Not later than 2 years after the date of the enactment of this Act, the Secretary of
Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that examines racial disparities in the utilization of the home dialysis defined in section 1881(b)(14)(J)(iv)(III) of the Social Security Act (42 U.S.C. 1395rr(b)(14)(J)(iv)(III)) and make recommendations on how to improve access to such dialysis for communities of color.

(4) Patient decision tool.—Not later than December 31, 2023, for the purpose of section 1881(b)(14)(J) of the Social Security Act (42 U.S.C. 1395rr(b)(14)(J)), the Secretary of Health and Human Services shall convene a patient panel to create a patient-centered decision tool for dialysis patients to evaluate their lifestyle and goals and be assisted in choosing the dialysis modality that best suits them. This tool should include an acknowledgment that they are capable of home dialysis and want home dialysis, if that is the modality they choose.

(5) Patient quality of life metric.—Section 1115A(b)(2)(B)) of the Social Security Act (42 U.S.C. 1315a(b)(2)(B))) is amended by adding at the end the following new subparagraph:
“(i) A patient quality of life metric for all patients utilizing dialysis regardless of modality with the intent of measuring and improving patient quality of life on dialysis.”.