

Union Calendar No. 507

112TH CONGRESS
2^D SESSION

H. R. 1206

[Report No. 112-694]

To amend title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. ROGERS of Michigan (for himself, Mr. BARROW, Mr. WALSH of Illinois, Mr. BURGESS, Mr. AUSTRIA, Mr. ROKITA, Mr. BOREN, Mr. CARTER, Mr. HECK, Mr. ROSS of Arkansas, Mr. STIVERS, Mrs. McMORRIS RODGERS, Mr. HOLDEN, Mr. ROSKAM, and Mr. McCLINTOCK) introduced the following bill; which was referred to the Committee on Energy and Commerce

NOVEMBER 15, 2012

Additional sponsors: Mrs. BLACKBURN, Mr. GRIFFIN of Arkansas, Mr. RUPPERSBERGER, Mr. YODER, Mr. SESSIONS, Mr. McCAUL, Mr. BURTON of Indiana, Mr. McCOTTER, Mr. MULVANEY, Mr. KISSELL, Mr. PRICE of Georgia, Mr. PLATTS, Mr. COBLE, Mr. GINGREY of Georgia, Mr. ROGERS of Kentucky, Mr. BOUSTANY, Mr. HUIZENGA of Michigan, Ms. GRANGER, Mr. PAUL, Ms. BORDALLO, Mr. AKIN, Mr. DOLD, Mr. GARDNER, Mr. CASSIDY, Mr. FITZPATRICK, Mr. SCHRADER, Mr. FORBES, Mr. GUTHRIE, Mr. SULLIVAN, Mr. McKINLEY, Mr. STUTZMAN, Mr. LONG, Mr. BENISHEK, Ms. McCOLLUM, Mr. WOODALL, Mr. ANDREWS, Mr. BARLETTA, Mr. McINTYRE, Mr. FLEMING, Mr. STEARNS, Mr. CHANDLER, Mr. COFFMAN of Colorado, Mr. HARPER, Mr. DEFazio, Mr. HULTGREN, Mr. HARRIS, Mr. SCHOCK, Mr. LUETKEMEYER, Mr. NUNNELEE, Mr. GERLACH, Mr. WALBERG, Mr. KINZINGER of Illinois, Mr. RIBBLE, Mr. WHITFIELD, Mr. TIBERI, Mr. TERRY, Mr. POMPEO, Mr. WALDEN, Mr. WILSON of South Carolina, Ms. JENKINS, Mr. MATHESON, Mr. SHIMKUS, Mr. POSEY, Mr. SAM JOHNSON of Texas, Mr. JOHNSON of Ohio, Mr. SCHWEIKERT, Mr. THORNBERRY, Mr. FORTENBERRY, Mr. LATTA, Mr. CANSECO, Mr. ALTMIRE, Mr. REHBERG, Mr. FARENTHOLD, Mr. BASS of New Hampshire, Mr. GUINTA, Mr. SCALISE, Mr. PAULSEN, Mr. LATHAM, Mr. PETRI, Mr. CONAWAY, Mr. POE of

Texas, Mr. HANNA, Mr. SMITH of Texas, Mr. MILLER of Florida, Mr. ROE of Tennessee, Mr. RENACCI, Mr. BROOKS, Mr. LOBIONDO, Mr. KING of Iowa, Mr. NEUGEBAUER, Mr. ALEXANDER, Mr. RYAN of Wisconsin, Mrs. CAPITO, Mr. MARINO, Mr. HALL, Mr. MURPHY of Pennsylvania, Mrs. MILLER of Michigan, Mr. GIBSON, Ms. HAYWORTH, Mr. KELLY, Mr. NUGENT, Mr. AUSTIN SCOTT of Georgia, Mr. RAHALL, Mr. CALVERT, Mr. MARCHANT, Mr. BUCSHON, Mr. YOUNG of Indiana, Mr. DUNCAN of South Carolina, Mr. DUFFY, Mrs. MYRICK, Mr. GRAVES of Missouri, Mr. FLEISCHMANN, Mr. OWENS, Ms. BUERKLE, Mr. TIPTON, Mr. SCOTT of South Carolina, Mr. CHABOT, Mr. GOODLATTE, Mrs. BIGGERT, Mrs. BONO MACK, Mr. DENT, Mr. PERLMUTTER, Mr. SHUSTER, Mr. HURT, Mr. DAVIS of Kentucky, Mr. MICA, Mr. OLSON, Mr. HUELSKAMP, Ms. HERRERA BEUTLER, Mr. BROUN of Georgia, Mr. WITTMAN, Mr. WEST, Mrs. ELLMERS, Mr. FRELINGHUYSEN, Mr. PENCE, Mr. REED, Mrs. ADAMS, Mr. BISHOP of Georgia, Mr. MEEHAN, Mr. BISHOP of Utah, Mr. MANZULLO, Mr. BILBRAY, Mr. DUNCAN of Tennessee, Mr. LANDRY, Mr. PEARCE, Mr. THOMPSON of Pennsylvania, Mr. GOWDY, Mr. KINGSTON, Mr. GALLEGLY, Mr. FINCHER, Mr. LANCE, Mr. LATOURETTE, Mr. REICHERT, Mr. AMODEI, Mr. PASTOR of Arizona, Mrs. ROBY, Mr. GRAVES of Georgia, Mr. WESTMORELAND, Mr. WOMACK, Mr. LABRADOR, Mr. SMITH of New Jersey, Mr. PALAZZO, Mr. RUNYAN, Mr. DESJARLAIS, Mr. GIBBS, Mr. SCHILLING, Mr. GRIFFITH of Virginia, Mr. BONNER, Mrs. HARTZLER, Mr. HENSARLING, Mr. JONES, Mr. RIGELL, Mrs. BLACK, Mr. YOUNG of Alaska, Mr. DANIEL E. LUNGREN of California, Mr. BARTON of Texas, Mr. BARTLETT, Mr. HINCHEY, Mr. TOWNS, Mr. SOUTHERLAND, Mr. CRAWFORD, Mr. GOSAR, Mr. DAVID SCOTT of Georgia, Mrs. EMERSON, Mr. CHAFFETZ, Mr. McKEON, Mr. HASTINGS of Washington, Mr. BRADY of Texas, Mr. SIMPSON, Mrs. BACHMANN, Mr. BUCHANAN, Mrs. NOEM, Mr. CLAY, Mr. GOHMERT, Mr. MACK, Mr. FLAKE, Mrs. LUMMIS, Mr. GARY G. MILLER of California, Mr. GRIMM, Mr. CRENSHAW, Mr. RIVERA, Mr. KLINE, Mr. CRAVAACK, Mr. BISHOP of New York, Mr. TURNER of Ohio, Mr. FLORES, and Mr. ADERHOLT

NOVEMBER 15, 2012

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers.

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 “Access to Professional
5 Health Insurance Advisors Act of 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Licensed independent insurance producers
9 (agents and brokers) provide a wide range of serv-
10 ices for both individual consumers and the business
11 community. Producers interface with insurers, ac-
12 quire quotes, analyze plan options, and consult cli-
13 ents through the purchase of health insurance.

14 (2) Licensed independent insurance producers
15 provide guidance regarding benefit and contribution
16 arrangements to ensure compliance with applicable
17 State and Federal laws and regulations; assist with
18 establishing section 125 plan tax savings under the
19 Internal Revenue Code, health reimbursement ar-
20 rangements, flexible spending arrangements, and
21 other programs to maximize tax advantages and en-
22 sure compliance with applicable Internal Revenue
23 Service guidelines; create educational materials and
24 provide on-site assistance to aid in employee benefit
25 communication; assist in managing eligibility for

1 new hires and terminated employees; provide advocacy
2 for employees through the health insurance
3 claim process; and advocate for employers with in-
4 surers in developing proposals, renewals, and for
5 service issues throughout the year.

6 (3) In order to meet these responsibilities, li-
7 censed independent insurance producers are required
8 to complete continuing education on an ongoing
9 basis in order to maintain appropriate licenses. This
10 requirement to maintain educational standards helps
11 assure the insured public that producers remain cur-
12 rent with the ever-evolving insurance market.

13 (4) It is essential that licensed independent in-
14 surance producers continue to perform these duties,
15 and others, as the Patient Protection and Affordable
16 Care Act has made significant changes to the regu-
17 latory environment for health plans. To understand
18 these changes, employers and consumers will need
19 professional guidance even more in the future. This
20 service is especially important for small businesses,
21 as such producers often fill the role of a human re-
22 sources department as well as professional consult-
23 ant.

24 (5) The National Association of Insurance
25 Commissioners—whose core mission is to protect

1 consumers in all aspects of the business of insur-
2 ance—strongly advocates for the continuing role of
3 licensed independent insurance producers in health
4 insurance, and has expressed that the ability of in-
5 surance agents and brokers to continue assisting
6 health insurance consumers at a time of rapid insur-
7 ance market changes is more essential than ever.

8 (6) It is critical that the indispensable role
9 played by licensed independent insurance producers
10 is recognized and protected.

11 **SEC. 3. PROTECTING THE ABILITY OF LICENSED INDE-**
12 **PENDENT INSURANCE PRODUCERS TO CON-**
13 **TINUE TO SERVE THE PUBLIC.**

14 (a) IN GENERAL.—Section 2718 of the Public Health
15 Service Act (42 U.S.C. 300gg et seq.), as inserted by sec-
16 tion 1001 and amended by section 10101(f) of the Patient
17 Protection and Affordable Care Act, is amended—

18 (1) in subsection (a)(3), by inserting “, remu-
19 neration paid for licensed independent insurance
20 producers,” after “State taxes”;

21 (2) in subsection (b)(1)(A)—

22 (A) in the matter preceding clause (i), by
23 inserting “, remuneration paid for licensed
24 independent insurance producers,” after “State
25 taxes”;

1 (B) in clause (ii), by inserting “or small
2 group market” before “in such State”; and

3 (C) by adding at the end the following new
4 sentence:

5 “In the case of a State request for an adjust-
6 ment pursuant to clause (ii), the Secretary shall
7 defer to the State’s findings and determinations
8 regarding destabilization.”;

9 (3) in subsection (b)(1)(B), by inserting “, re-
10 munerated paid for licensed independent insurance
11 producers,” after “State taxes”;

12 (4) in subsection (d), by inserting “or small
13 group market” after “individual market”; and

14 (5) by adding at the end the following new sub-
15 section:

16 “(f) INDEPENDENT INSURANCE PRODUCER REMU-
17 NERATION DEFINITIONS.—For purposes of this section:

18 “(1) The term ‘independent insurance producer’
19 means an insurance agent or broker, insurance con-
20 sultant, benefit specialist, limited insurance rep-
21 resentative, and any other person required to be li-
22 censed under the laws of the particular State to sell,
23 solicit, negotiate, service, effect, procure, renew or
24 bind policies of insurance coverage or offer advice,
25 counsel, opinions, or services related to insurance.

1 “(2) The term ‘remuneration’ means compensa-
2 tion paid by or accrued from an insurance issuer or
3 health plan for services rendered under contractual
4 agreement which may include fees, commissions, or
5 rebates.”.

6 (b) REGULATIONS.—Not later than 60 days after the
7 date of the enactment of this Act, the Secretary of Health
8 and Human Services, in coordination with the National
9 Association of Insurance Commissioners, shall amend any
10 applicable regulations so as to take the amendments made
11 by subsection (a) into account.

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