

113TH CONGRESS  
1ST SESSION

# H. R. 2328

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2013

Mr. ROGERS of Michigan (for himself, Mr. BARROW of Georgia, Mrs. BLACKBURN, Mr. ROE of Tennessee, Mr. KINZINGER of Illinois, Mr. DUFFY, Mr. CLAY, Mr. HARRIS, Mrs. BACHMANN, Mr. DUNCAN of South Carolina, Mr. CASSIDY, Mr. PALAZZO, Mr. CONAWAY, Mr. DENT, Mr. WOMACK, Mr. GRIMM, Mr. HUELSKAMP, Mr. ROKITA, Mr. JOYCE, Mr. MCKINLEY, Mr. GRIFFITH of Virginia, Mr. BISHOP of Georgia, Mr. BURGESS, Mrs. CAPITO, Mr. GINGREY of Georgia, and Mr. YOUNG of Indiana) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

9 (2) Licensed independent insurance producers  
10 provide guidance regarding benefit and contribution  
11 arrangements to ensure compliance with applicable  
12 State and Federal laws and regulations; assist with  
13 establishing section 125 plan tax savings under the  
14 Internal Revenue Code, health reimbursement ar-  
15 rangements, flexible spending arrangements, and  
16 other programs to maximize tax advantages and en-  
17 sure compliance with applicable Internal Revenue  
18 Service guidelines; create educational materials and  
19 provide on-site assistance to aid in employee benefit  
20 communication; assist in managing eligibility for  
21 new hires and terminated employees; provide advo-  
22 cacy for employees through the health insurance  
23 claim process; and advocate for employers with in-  
24 surers in developing proposals, renewals, and for  
25 service issues throughout the year.

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

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

19          (5) The National Association of Insurance  
20          Commissioners—whose core mission is to protect  
21          consumers in all aspects of the business of insur-  
22          ance—strongly advocates for the continuing role of  
23          licensed independent insurance producers in health  
24          insurance, and has expressed that the ability of in-  
25          surance agents and brokers to continue assisting

1 health insurance consumers at a time of rapid insur-  
2 ance market changes is more essential than ever.

3 (6) It is critical that the indispensable role  
4 played by licensed independent insurance producers  
5 is recognized and protected.

6 **SEC. 3. PROTECTING THE ABILITY OF LICENSED INDE-**  
7 **PENDENT INSURANCE PRODUCERS TO CON-**  
8 **TINUE TO SERVE THE PUBLIC.**

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

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

16 (2) in subsection (b)(1)(A)—

17 (A) in the matter preceding clause (i), by  
18 inserting “, remuneration paid for licensed  
19 independent insurance producers,” after “State  
20 taxes”; and

21 (B) in clause (ii), by inserting “or small  
22 group market” before “in such State”;

23 (3) in subsection (b)(1)(B), by inserting “, re-  
24 muneration paid for licensed independent insurance  
25 producers,” after “State taxes”;

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

3           (5) by adding at the end the following new sub-  
4 section:

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

7           “(1) The term ‘independent insurance producer’  
8 means an insurance agent or broker, insurance con-  
9 sultant, benefit specialist, limited insurance rep-  
10 resentative, and any other person required to be li-  
11 censed under the laws of the particular State to sell,  
12 solicit, negotiate, service, effect, procure, renew or  
13 bind policies of insurance coverage or offer advice,  
14 counsel, opinions, or services related to insurance.

15           “(2) The term ‘remuneration’ means compensa-  
16 tion earned from an insurance issuer for services  
17 rendered under contractual agreement which may in-  
18 clude commissions or any other thing of value but  
19 which shall not include production bonuses.”.

20           (b) REGULATIONS.—Not later than 60 days after the  
21 date of the enactment of this Act, the Secretary of Health  
22 and Human Services, in coordination with the National  
23 Association of Insurance Commissioners, shall amend any

- 1 applicable regulations so as to take the amendments made
- 2 by subsection (a) into account.

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