

112TH CONGRESS
1ST SESSION

H. R. 1206

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

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:

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

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

24 (3) In order to meet these responsibilities, li-
25 censed independent insurance producers are required

1 to complete continuing education on an ongoing
2 basis in order to maintain appropriate licenses. This
3 requirement to maintain educational standards helps
4 assure the insured public that producers remain cur-
5 rent with the ever-evolving insurance market.

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

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

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

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

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

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

14 (2) in subsection (b)(1)(A)—

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

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

21 (C) by adding at the end the following new
22 sentence:

23 “In the case of a State request for an adjust-
24 ment pursuant to clause (ii), the Secretary shall

1 defer to the State’s findings and determinations
2 regarding destabilization.”;

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

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

8 (5) by adding at the end the following new sub-
9 section:

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

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

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

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

○