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(Original Signature of Member)

112TH CONGRESS  
1ST SESSION

# H. R.

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

Mr. ROGERS of Michigan introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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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 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 “, remun-  
12          eration 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           muneration 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.