

The material previously referred to by Mr. *Polis* is as follows:

Strike all and insert the following:

*Resolved*, That immediately upon adoption of this resolution, it shall be in order to consider in the House the bill (H.R. 3350) to authorize health insurance issuers to continue to offer for sale current individual health insurance coverage in satisfaction of the minimum essential health insurance coverage requirement, and for other purposes. All points of order against consideration of the bill are waived. An amendment in the nature of a substitute consisting of the text printed in section 2 of this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any amendment thereto without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the [Committee on Energy and Commerce]; and (2) one motion to recommit with or without instructions.

*Section 2.* The text of the amendment in the nature of a substitute referenced in the first section is as follows:

H.R. X

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the ``Consumer Health Plan Protection Act of 2013''.

## **SEC. 2. MAINTAINING EXISTING COVERAGE.**

(a) *In General.*--Notwithstanding any provision of the Patient Protection and Affordable Care Act (including any amendment made by such Act or by the Health Care and Education Reconciliation Act of 2010), in the case of health insurance coverage offered by a health insurance issuer in the individual market that is in effect for an individual as of October 1, 2013, the issuer may continue such coverage for such individual for a plan year beginning in 2014 in such market outside of an Exchange established under section 1311 or 1321 of such Act (42 U.S.C. 18031, 18041).

(b) *Treatment as Grandfathered Health Plan in Satisfaction of Minimum Essential Coverage.*--Health insurance coverage described in subsection (a) shall be treated as a grandfathered health plan for purposes of the amendment made by section 1501(b) of the Patient Protection and Affordable Care Act.

(c) *Notice.*--As a condition for a health insurance issuer to continue health insurance coverage under subsection (a), the issuer shall provide for notice to each individual to be offered such continued coverage (and for other individuals covered under health insurance coverage offered by such issuer for whom such continued coverage is not offered) prompt notice of the following:

(1) The health insurance coverage options available to the individual through the Marketplace under the Patient Protection and Affordable Care Act and how to exercise such options.

(2) The premium and cost-sharing assistance available for coverage obtained through such Marketplace.

(3) The consumer protections provided under such Act that are not provided under the continuing health insurance coverage.

(d) *Construction Regarding Notices of Cancellation or Conversion.*--

(1) **IN GENERAL.**--Nothing in this section shall be construed to prevent the Secretary of Health and Human Services from requiring State insurance commissioners--

(A) to investigate and take appropriate administrative or other actions (such as the imposition of a fine) on cases of inadequate notices of cancellations or conversions of health insurance coverage in the individual market that take effect on or after January 1, 2014; and

(B) to submit to the Secretary reports on the investigations and actions so taken.

(2) **INADEQUATE NOTICE.**--In this subsection, a notice of the cancellation or conversion of individual health insurance coverage shall be treated as inadequate if the notice--

(A) fails to contain information contained in subsection (c);

(B) fails to be transparent by inappropriately steering individuals to more expensive plans provided by the cancelling issuer; or

(C) fails to otherwise comply with requirements of law.

(e) *Construction Regarding Protection Against Discriminatory Rates.*--Nothing in this section shall be construed as preventing the Secretary or the relevant State insurance commissioner or State regulator from taking corrective actions to ensure that any excessive, unjustified, or unfairly discriminatory rates for the continued coverage offered under subsection (a) are corrected prior to renewal.

(f) *Construction Regarding Premium Protection.*--Nothing in this section shall be construed as preventing the Secretary from using all available tools to ensure that Marketplace premiums are not adversely affected by the operation of this section.

### **SEC. 3. REQUIRING STATE INSURANCE COMMISSIONERS TO INVESTIGATE INSTANCES OF INADEQUATE NOTICES OF CANCELLATION OR CONVERSION OF INDIVIDUAL HEALTH INSURANCE POLICIES.**

(a) *In General.*--Each State insurance commissioner shall investigate and take appropriate administrative or other actions (such as the imposition of a fine) on cases of inadequate notices of cancellations or conversions of health insurance coverage in the individual market that take effect on or after January 1, 2014.

(b) *Inadequate Notice.*--In this section, a notice of the cancellation or conversion of individual health insurance coverage shall be treated as inadequate if the notice--

(1) fails to contain information--

(A) on obtaining health insurance coverage through an Exchange under the Patient Protection and Affordable Care Act;

(B) on the possible availability of assistance under such Act towards payment of the premiums and cost-sharing for such coverage; and

(C) on the improved benefits for coverage through an Exchange, compared to health insurance coverage not offered through an Exchange;

(2) fails to be transparent by inappropriately steering individuals to more expensive plans provided by the cancelling issuer; or

(3) fails to otherwise comply with requirements of law.

(c) *Reports.*--

(1) **STATE COMMISSIONERS TO HHS.**--Not later than March 31, 2014, each State insurance commissioner shall submit to the Secretary of Health and Human Services a report on the investigations and actions described in subsection (a).

(2) **HHS REPORT TO CONGRESS.**--Not later than April 30, 2014, the Secretary shall submit to Congress a report on such investigations and actions.

(d) *Definitions of State, Health Insurance Coverage, and Individual Market.*--In this section, the terms "State", "health insurance coverage", and "individual market" have the meanings given such terms for purposes of title I of the Patient Protection and Affordable Care Act.

#### **SEC. 4. PROTECTION OF CONSUMERS FROM EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.**

(a) *Protection From Excessive, Unjustified, or Unfairly Discriminatory Rates.*--The first section 2794 of the Public Health Service Act (42 U.S.C. 300gg-94), as added by section 1003 of the Patient Protection and Affordable Care Act (Public Law 111-148), is amended by adding at the end the following new subsection:

"(e) *Protection From Excessive, Unjustified, or Unfairly Discriminatory Rates.*--

"(1) **AUTHORITY OF STATES.**--Nothing in this section shall be construed to prohibit a State from imposing requirements (including requirements relating to rate review standards and procedures and information reporting) on health insurance issuers with respect to rates that are in addition to the requirements of this section and are more protective of consumers than such requirements.

"(2) **CONSULTATION IN RATE REVIEW PROCESS.**--In carrying out this section, the Secretary shall consult with the National Association of Insurance Commissioners and consumer groups.

"(3) **DETERMINATION OF WHO CONDUCTS REVIEWS FOR EACH STATE.**--The Secretary shall determine, after the date of enactment of this section and periodically thereafter, the following:

"(A) In which markets in each State the State insurance commissioner or relevant State regulator shall undertake the corrective actions under paragraph (4), as a condition of the State receiving the grant in subsection (c), based on the Secretary's determination that the State regulator is adequately undertaking and utilizing such actions in that market.

“(B) In which markets in each State the Secretary shall undertake the corrective actions under paragraph (4), in cooperation with the relevant State insurance commissioner or State regulator, based on the Secretary's determination that the State is not adequately undertaking and utilizing such actions in that market.

“(4) **CORRECTIVE ACTION FOR EXCESSIVE, UNJUSTIFIED, OR UNFAIRLY DISCRIMINATORY RATES.**--In accordance with the process established under this section, the Secretary or the relevant State insurance commissioner or State regulator shall take corrective actions to ensure that any excessive, unjustified, or unfairly discriminatory rates are corrected prior to implementation, or as soon as possible thereafter, through mechanisms such as--

“(A) denying rates;

“(B) modifying rates; or

“(C) requiring rebates to consumers.

“(5) **NONCOMPLIANCE.**--Failure to comply with any corrective action taken by the Secretary under this subsection may result in the application of civil monetary penalties and, if the Secretary determines appropriate, make the plan involved ineligible for classification as a Qualified Health Plan.”.

(b) *Clarification of Regulatory Authority.*--Such section is further amended--

(1) in subsection (a)--

(A) in the heading, by striking “*Premium*” and inserting “*Rate*”;

(B) in paragraph (1), by striking “unreasonable increases in premiums” and inserting “potentially excessive, unjustified, or unfairly discriminatory rates, including premiums,”; and

(C) in paragraph (2)--

(i) by striking “an unreasonable premium increase” and inserting “a potentially excessive, unjustified, or unfairly discriminatory rate”;

(ii) by striking “the increase” and inserting “the rate”; and

(iii) by striking “such increases” and inserting “such rates”;

(2) in subsection (b)--

(A) by striking ``premium increases" each place it appears and inserting ``rates"; and

(B) in paragraph (2)(B), by striking ``premium" and inserting ``rate"; and

(3) in subsection (c)(1)--

(A) in the heading, by striking ``**PREMIUM**" and inserting ``**RATE**";

(B) by inserting ``that satisfy the condition under subsection (e)(3)(A)" after ``award grants to States"; and

(C) in subparagraph (A), by striking ``premium increases" and inserting ``rates".

(c) *Conforming Amendment.*--Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended--

(1) in section 2723 (42 U.S.C. 300gg-22), as redesignated by the Patient Protection and Affordable Care Act--

(A) in subsection (a)--

(i) in paragraph (1), by inserting ``and section 2794" after ``this part"; and

(ii) in paragraph (2), by inserting ``or section 2794" after ``this part"; and

(B) in subsection (b)--

(i) in paragraph (1), by inserting ``and section 2794" after ``this part"; and

(ii) in paragraph (2)--

(I) in subparagraph (A), by inserting ``or section 2794 that is" after ``this part"; and

(II) in subparagraph (C)(ii), by inserting ``or section 2794" after ``this part"; and

(2) in section 2761 (42 U.S.C. 300gg-61)--

(A) in subsection (a)--

(i) in paragraph (1), by inserting ``and section 2794" after ``this part"; and

(ii) in paragraph (2)--

(I) by inserting ``or section 2794" after ``set forth in this part"; and

(II) by inserting ``and section 2794" after ``the requirements of this part"; and

(B) in subsection (b)--

(i) by inserting ``and section 2794" after ``this part"; and

(ii) by inserting ``and section 2794" after ``part A".

(d) *Applicability to Grandfathered Plans.*--Section 1251(a)(4)(A) of the Patient Protection and Affordable Care Act (Public Law 111-148), as added by section 2301 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), is amended by adding at the end the following:

``(v) Section 2794 (relating to reasonableness of rates with respect to health insurance coverage).".

(e) *Authorization of Appropriations.*--There are authorized to be appropriated to carry out this section, such sums as may be necessary.

(f) *Effective Date.*--The amendments made by this section shall take effect on the date of enactment of this Act and shall be implemented with respect to health plans beginning not later than January 1, 2014.