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.

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

SEC. 2. FINDINGS.

Congress finds the following:
(1) Licensed independent insurance producers (agents and brokers) provide a wide range of services for both individual consumers and the business community. Producers interface with insurers, acquire quotes, analyze plan options, and consult clients through the purchase of health insurance.

(2) Licensed independent insurance producers provide guidance regarding benefit and contribution arrangements to ensure compliance with applicable State and Federal laws and regulations; assist with establishing section 125 plan tax savings under the Internal Revenue Code, health reimbursement arrangements, flexible spending arrangements, and other programs to maximize tax advantages and ensure compliance with applicable Internal Revenue Service guidelines; create educational materials and provide on-site assistance to aid in employee benefit communication; assist in managing eligibility for new hires and terminated employees; provide advocacy for employees through the health insurance claim process; and advocate for employers with insurers in developing proposals, renewals, and for service issues throughout the year.

(3) In order to meet these responsibilities, licensed independent insurance producers are required
to complete continuing education on an ongoing basis in order to maintain appropriate licenses. This requirement to maintain educational standards helps assure the insured public that producers remain current with the ever-evolving insurance market.

(4) It is essential that licensed independent insurance producers continue to perform these duties, and others, as the Patient Protection and Affordable Care Act has made significant changes to the regulatory environment for health plans. To understand these changes, employers and consumers will need professional guidance even more in the future. This service is especially important for small businesses, as such producers often fill the role of a human resources department as well as professional consultant.

(5) The National Association of Insurance Commissioners—whose core mission is to protect consumers in all aspects of the business of insurance—strongly advocates for the continuing role of licensed independent insurance producers in health insurance, and has expressed that the ability of insurance agents and brokers to continue assisting health insurance consumers at a time of rapid insurance market changes is more essential than ever.
(6) It is critical that the indispensable role
played by licensed independent insurance producers
is recognized and protected.

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

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

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

(2) in subsection (b)(1)(A)—

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

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

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

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

(3) in subsection (b)(1)(B), by inserting “, remuneration paid for licensed independent insurance producers,” after “State taxes”;

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

(5) by adding at the end the following new subsection:

“(f) INDEPENDENT INSURANCE PRODUCER REMUNERATION DEFINITIONS.—For purposes of this section:

“(1) The term ‘independent insurance producer’ means an insurance agent or broker, insurance consultant, benefit specialist, limited insurance representative, and any other person required to be licensed under the laws of the particular State to sell, solicit, negotiate, service, effect, procure, renew or bind policies of insurance coverage or offer advice, counsel, opinions, or services related to insurance.

“(2) The term ‘remuneration’ means compensation paid by or accrued from an insurance issuer or health plan for services rendered under contractual agreement which may include fees, commissions, or rebates.”.
(b) REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in coordination with the National Association of Insurance Commissioners, shall amend any applicable regulations so as to take the amendments made by subsection (a) into account.