

116TH CONGRESS
2D SESSION

H. R. 6005

To amend title XXVII of the Public Health Service Act to increase transparency of group health plans and health insurance issuers offering group or individual health insurance coverage by removing gag clauses on price and quality information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2020

Mr. MALINOWSKI (for himself and Mr. BUCSHON) 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 increase transparency of group health plans and health insurance issuers offering group or individual health insurance coverage by removing gag clauses on price and quality information, and for other purposes.

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 “Know the Price Act”.

1 **SEC. 2. INCREASING TRANSPARENCY BY REMOVING GAG**
2 **CLAUSES ON PRICE AND QUALITY INFORMA-**
3 **TION.**

4 Subpart II of part A of title XXVII of the Public
5 Health Service Act (42 U.S.C. 300gg–11 et seq.) is
6 amended by adding at the end the following:

7 **“SEC. 2729A. INCREASING TRANSPARENCY BY REMOVING**
8 **GAG CLAUSES ON PRICE AND QUALITY IN-**
9 **FORMATION.**

10 “(a) INCREASING PRICE AND QUALITY TRANS-
11 PARENCY FOR PLAN SPONSORS AND CONSUMERS.—

12 “(1) GROUP HEALTH PLANS.—A group health
13 plan or a health insurance issuer offering group
14 health insurance coverage may not enter into an
15 agreement with a health care provider, network or
16 association of providers, third-party administrator,
17 or other service provider offering access to a network
18 of providers that would directly or indirectly restrict
19 a group health plan or health insurance issuer
20 from—

21 “(A) providing provider-specific cost or
22 quality of care information, through a consumer
23 engagement tool or any other means, to refer-
24 ring providers, the plan sponsor, enrollees, or
25 eligible enrollees of the plan or coverage;

“(B) electronically accessing de-identified claims and encounter data for each enrollee in the plan or coverage, upon request and consistent with the privacy regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act, the amendments to this Act made by the Genetic Information Nondiscrimination Act of 2008, and the Americans with Disabilities Act of 1990, with respect to the applicable health plan or health insurance coverage, including, on a per claim basis—

“(i) financial information, such as the allowed amount, or any other claim-related financial obligations included in the provider contract;

“(ii) provider information, including name and clinical designation;

“(iii) service codes; or

“(iv) any other data element normally included in claim or encounter transactions when received by a plan or issuer; or

“(C) sharing data described in subparagraph (A) or (B) with a business associate as defined in section 160.103 of title 45, Code of

1 Federal Regulations (or successor regulations),
2 consistent with the privacy regulations promul-
3 gated pursuant to section 264(c) of the Health
4 Insurance Portability and Accountability Act,
5 the amendments to this Act made by the Ge-
6 netic Information Nondiscrimination Act of
7 2008, and the Americans with Disabilities Act
8 of 1990.

9 “(2) INDIVIDUAL HEALTH INSURANCE COV-
10 ERAGE.—A health insurance issuer offering indi-
11 vidual health insurance coverage may not enter into
12 an agreement with a health care provider, network
13 or association of providers, or other service provider
14 offering access to a network of providers that would,
15 directly or indirectly restrict the health insurance
16 issuer from—

17 “(A) providing provider-specific price or
18 quality of care information, through a consumer
19 engagement tool or any other means, to refer-
20 ring providers or the plan sponsor, enrollees, or
21 eligible enrollees of the plan or coverage; or

22 “(B) sharing data described in subpara-
23 graph (A) with a business associate as defined
24 in section 160.103 of title 45, Code of Federal
25 Regulations (or successor regulations), con-

1 sistent with the privacy regulations promul-
2 gated pursuant to section 264(c) of the Health
3 Insurance Portability and Accountability Act,
4 the amendments to this Act made by the Ge-
5 netic Information Nondiscrimination Act of
6 2008, and the Americans with Disabilities Act
7 of 1990, for plan design, plan administration,
8 and plan, financial, legal, and quality improve-
9 ment activities.

10 “(3) CLARIFICATION REGARDING PUBLIC DIS-
11 CLOSURE OF INFORMATION.—Nothing in paragraph
12 (1)(A) or (2)(A) prevents a health care provider,
13 network or association of providers, or other service
14 provider from placing reasonable restrictions on the
15 public disclosure of the information described in
16 such paragraphs (1) and (2).

17 “(4) ATTESTATION.—A group health plan or a
18 health insurance issuer offering group or individual
19 health insurance coverage shall annually submit to,
20 as applicable, the applicable authority described in
21 section 2723 or the Secretary of Labor, an attesta-
22 tion that such plan or issuer is in compliance with
23 the requirements of this subsection.

24 “(5) RULE OF CONSTRUCTION.—Nothing in
25 this section shall be construed to otherwise limit

1 group health plan or plan sponsor access to data
2 currently permitted under the privacy regulations
3 promulgated pursuant to section 264(c) of the
4 Health Insurance Portability and Accountability Act,
5 the amendments to this Act made by the Genetic In-
6 formation Nondiscrimination Act of 2008, and the
7 Americans with Disabilities Act of 1990.”.

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