

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To amend the Public Health Service Act to prohibit application of preexisting condition exclusions and to guarantee availability of health insurance coverage in the individual and group market, contingent on the enactment of legislation repealing the Patient Protection and Affordable Care Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. WALDEN introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Public Health Service Act to prohibit application of preexisting condition exclusions and to guarantee availability of health insurance coverage in the individual and group market, contingent on the enactment of legislation repealing the Patient Protection and Affordable Care Act, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Preexisting Conditions
3 Protection and Continuous Coverage Incentive Act of
4 2017”.

5 **TITLE I—PROHIBITION OF PRE-**
6 **EXISTING CONDITION EXCLU-**
7 **SIONS AND GUARANTEED**
8 **AVAILABILITY OF HEALTH IN-**
9 **SURANCE COVERAGE**

10 **SEC. 101. PROHIBITION OF PREEXISTING CONDITION EX-**
11 **CLUSIONS.**

12 (a) **GROUP MARKET.**—Subject to section 103(a) of
13 this Act, subpart 1 of part A of title XXVII of the Public
14 Health Service Act (42 U.S.C. 300gg et seq.), as restored
15 or revived pursuant to PPACA repeal legislation described
16 in section 103(b) of this Act, is amended by striking sec-
17 tion 2701 and inserting the following:

18 **“SEC. 2701. PROHIBITION OF PREEXISTING CONDITION EX-**
19 **CLUSIONS.**

20 “(a) **IN GENERAL.**—A group health plan or a health
21 insurance issuer offering group health insurance coverage
22 may not impose any preexisting condition exclusion with
23 respect to such plan or coverage.

24 “(b) **DEFINITIONS.**—For purposes of this section:

25 “(1) **PREEXISTING CONDITION EXCLUSION.**—

1 “(A) IN GENERAL.—The term ‘preexisting
2 condition exclusion’ means, with respect to a
3 group health plan or health insurance coverage,
4 a limitation or exclusion of benefits relating to
5 a condition based on the fact that the condition
6 was present before the date of enrollment in
7 such plan or for such coverage, whether or not
8 any medical advice, diagnosis, care, or treat-
9 ment was recommended or received before such
10 date.

11 “(B) TREATMENT OF GENETIC INFORMA-
12 TION.—Genetic information shall not be treated
13 as a preexisting condition in the absence of a
14 diagnosis of the condition related to such infor-
15 mation.

16 “(2) DATE OF ENROLLMENT.—The term ‘date
17 of enrollment’ means, with respect to an individual
18 covered under a group health plan or health insur-
19 ance coverage, the date of enrollment of the indi-
20 vidual in the plan or coverage or, if earlier, the first
21 day of the waiting period for such enrollment.

22 “(3) WAITING PERIOD.—The term ‘waiting pe-
23 riod’ means, with respect to a group health plan and
24 an individual who is a potential participant or bene-
25 ficiary in the plan, the period that must pass with

1 respect to the individual before the individual is eli-
2 gible to be covered for benefits under the terms of
3 the plan.”.

4 (b) INDIVIDUAL MARKET.—Subject to section 103(a)
5 of this Act, subpart 1 of part B of title XXVII of the
6 Public Health Service Act (42 U.S.C. 300gg–41 et seq.),
7 as restored or revived pursuant to PPACA repeal legisla-
8 tion described in section 103(b) of this Act, is amended
9 by adding at the end the following:

10 **“SEC. 2746. PROHIBITION OF PREEXISTING CONDITION EX-**
11 **CLUSIONS OR OTHER DISCRIMINATION**
12 **BASED ON HEALTH STATUS.**

13 “The provisions of section 2701 shall apply to health
14 insurance coverage offered to individuals by a health in-
15 surance issuer in the individual market in the same man-
16 ner as it applies to health insurance coverage offered by
17 a health insurance issuer in the group market.”.

18 **SEC. 102. GUARANTEED AVAILABILITY OF COVERAGE.**

19 (a) GROUP MARKET.—Subject to section 103(a) of
20 this Act, subpart 3 of part A of title XXVII of the Public
21 Health Service Act, as restored or revived pursuant to
22 PPACA repeal legislation described in section 103(b) of
23 this Act, is amended by striking section 2711 (42 U.S.C.
24 300gg–11) and inserting the following:

1 **“SEC. 2711. GUARANTEED AVAILABILITY OF COVERAGE.**

2 “(a) GUARANTEED ISSUANCE OF COVERAGE IN THE
3 GROUP MARKET.—Subject to subsection (b), each health
4 insurance issuer that offers health insurance coverage in
5 the group market in a State shall accept every employer
6 and every individual in a group in the State that applies
7 for such coverage.

8 “(b) ENROLLMENT.—

9 “(1) RESTRICTION.—A health insurance issuer
10 described in subsection (a) may restrict enrollment
11 in coverage described in such subsection to open or
12 special enrollment periods.

13 “(2) ESTABLISHMENT.—A health insurance
14 issuer described in subsection (a) shall establish spe-
15 cial enrollment periods for qualifying events (as such
16 term is defined in section 603 of the Employee Re-
17 tirement Income Security Act of 1974).”.

18 (b) INDIVIDUAL MARKET.—Subject to section 103(a)
19 of this Act, subpart 1 of part B of title XXVII of the
20 Public Health Service Act, as restored or revived pursuant
21 to PPACA repeal legislation described in section 103(b)
22 of this Act, is amended by striking section 2741 of such
23 Act (42 U.S.C. 300gg–41) and inserting the following:

24 **“SEC. 2741. GUARANTEED AVAILABILITY OF COVERAGE.**

25 “The provisions of section 2711 shall apply to health
26 insurance coverage offered to individuals by a health in-

1 surance issuer in the individual market in the same man-
2 ner as such provisions apply to health insurance coverage
3 offered to employers by a health insurance issuer in con-
4 nection with health insurance coverage in the group mar-
5 ket. For purposes of this section, the Secretary shall treat
6 any reference of the word ‘employer’ in such section as
7 a reference to the term ‘individual’.”.

8 **SEC. 103. EFFECTIVE DATE CONTINGENT ON REPEAL OF**
9 **PPACA.**

10 (a) IN GENERAL.—Sections 101 and 102 and the
11 amendments made by such sections shall take effect upon
12 the enactment of PPACA repeal legislation described in
13 subsection (b) and such sections and amendments shall
14 have no force or effect if such PPACA repeal legislation
15 is not enacted.

16 (b) PPACA REPEAL LEGISLATION DESCRIBED.—
17 For purposes of subsection (a), PPACA repeal legislation
18 described in this subsection is legislation that—

19 (1) repeals Public Law 111–148, and restores
20 or revives the provisions of law amended or repealed,
21 respectively, by such Act as if such Act had not been
22 enacted and without further amendment to such
23 provisions of law; and

24 (2) repeals title I and subtitle B of title II of
25 the Health Care and Education Reconciliation Act of

1 2010 (Public Law 111–152), and restores or revives
2 the provisions of law amended or repealed, respec-
3 tively, by such title or subtitle, respectively, as if
4 such title and subtitle had not been enacted and
5 without further amendment to such provisions of
6 law.

7 **TITLE II—CONTINUOUS COV-**
8 **ERAGE INCENTIVE**
9 **[PLACEHOLDER]**