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(Original Signature of Member)

119TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Patient Protection and Affordable Care Act to reduce fraudulent enrollments in qualified health plans, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Ms. Ross introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Patient Protection and Affordable Care Act to reduce fraudulent enrollments in qualified health plans, 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 “Insurance Fraud Ac-  
5 countability Act”.

1 **SEC. 2. REDUCTION OF FRAUDULENT ENROLLMENT IN**  
2 **QUALIFIED HEALTH PLANS.**

3 (a) PENALTIES FOR AGENTS AND BROKERS.—Sec-  
4 tion 1411(h)(1) of the Patient Protection and Affordable  
5 Care Act (42 U.S.C. 18081(h)(1)) is amended—

6 (1) in subparagraph (A)—

7 (A) by redesignating clause (ii) as clause  
8 (iv);

9 (B) in clause (i)—

10 (i) in the matter preceding subclause  
11 (I), by striking “If—” and all that follows  
12 through the “such person” in the matter  
13 following subclause (II) and inserting the  
14 following: “If any person (other than an  
15 agent or broker) fails to provide correct in-  
16 formation under subsection (b) and such  
17 failure is attributable to negligence or dis-  
18 regard of any rules or regulations of the  
19 Secretary, such person”; and

20 (ii) in the second sentence, by striking  
21 “For purposes” and inserting the fol-  
22 lowing:

23 “(iii) DEFINITIONS OF NEGLIGENCE,  
24 DISREGARD.—For purposes”;

25 (C) by inserting after clause (i) the fol-  
26 lowing:

1                   “(ii) CIVIL PENALTIES FOR CERTAIN  
2                   VIOLATIONS BY AGENTS OR BROKERS.—If  
3                   any agent or broker fails to provide correct  
4                   information under subsection (b) or section  
5                   1311(c)(8) or other information, as speci-  
6                   fied by the Secretary, and such failure is  
7                   attributable to negligence or disregard of  
8                   any rules or regulations of the Secretary,  
9                   such agent or broker shall be subject, in  
10                  addition to any other penalties that may be  
11                  prescribed by law, including subparagraph  
12                  (C), to a civil penalty of not less than  
13                  \$10,000 and not more than \$50,000 with  
14                  respect to each individual who is the sub-  
15                  ject of an application for which such incor-  
16                  rect information is provided.”; and  
17                  (D) in clause (iv) (as so redesignated), by  
18                  inserting “or (ii)” after “clause (i)”;  
19                  (2) in subparagraph (B)—  
20                        (A) by inserting “including subparagraph  
21                        (C),” after “law,”;  
22                        (B) by striking “Any person” and insert-  
23                  ing the following:  
24                            “(i) IN GENERAL.—Any person”; and  
25                            (i) by adding at the end the following:

1                   “(ii) CIVIL PENALTIES FOR KNOWING  
2                   VIOLATIONS BY AGENTS OR BROKERS.—

3                   “(I) IN GENERAL.—Any agent or  
4                   broker who knowingly provides false  
5                   or fraudulent information under sub-  
6                   section (b) or section 1311(c)(8), or  
7                   other false or fraudulent information  
8                   as part of an application for enroll-  
9                   ment in a qualified health plan offered  
10                  through an Exchange, as specified by  
11                  the Secretary, shall be subject, in ad-  
12                  dition to any other penalties that may  
13                  be prescribed by law, including sub-  
14                  paragraph (C), to a civil penalty of  
15                  not more than \$200,000 with respect  
16                  to each individual who is the subject  
17                  of an application for which such false  
18                  or fraudulent information is provided.

19                  “(II) PROCEDURE.—The provi-  
20                  sions of section 1128A of the Social  
21                  Security Act (other than subsections  
22                  (a) and (b) of such section) shall  
23                  apply to a civil monetary penalty  
24                  under subclause (I) in the same man-  
25                  ner as such provisions apply to a pen-

1                    alty or proceeding under section  
2                    1128A of the Social Security Act.”;  
3                    and

4                    (3) by adding at the end the following:

5                    “(C) CRIMINAL PENALTIES.—Any agent or  
6                    broker who knowingly and willfully provides  
7                    false or fraudulent information under sub-  
8                    section (b) or section 1311(c)(8), or other false  
9                    or fraudulent information as part of an applica-  
10                   tion for enrollment in a qualified health plan of-  
11                   fered through an Exchange, as specified by the  
12                   Secretary, shall be fined under title 18, United  
13                   States Code, imprisoned for not more than 10  
14                   years, or both.”.

15                   (b) CONSUMER PROTECTIONS.—

16                   (1) IN GENERAL.—Section 1311(c) of the Pa-  
17                   tient Protection and Affordable Care Act (42 U.S.C.  
18                   18031(c)) is amended by adding at the end the fol-  
19                   lowing:

20                   “(8) AGENT- OR BROKER-ASSISTED ENROLL-  
21                   MENT IN QUALIFIED HEALTH PLANS IN CERTAIN  
22                   EXCHANGES.—

23                   “(A) IN GENERAL.—For plan years begin-  
24                   ning on or after such date specified by the Sec-  
25                   retary, but not later than January 1, 2029, in

1 the case of an Exchange that the Secretary op-  
2 erates pursuant to section 1321(c)(1), the Sec-  
3 retary shall establish a verification process for  
4 new enrollments of individuals in, and changes  
5 in coverage for individuals under, a qualified  
6 health plan offered through such Exchange,  
7 which are submitted by an agent or broker in  
8 accordance with section 1312(e) and for which  
9 the agent or broker is eligible to receive a com-  
10 mission.

11 “(B) REQUIREMENTS.—The enrollment  
12 verification process under subparagraph (A)  
13 shall include—

14 “(i) a requirement that the agent or  
15 broker provide with the new enrollment or  
16 coverage change such documentation or  
17 evidence (such as a standardized consent  
18 form) or other sources as the Secretary de-  
19 termines necessary to establish that the  
20 agent or broker has the consent of the in-  
21 dividual for the new enrollment or coverage  
22 change;

23 “(ii) a requirement that any commis-  
24 sions due to a broker or agent for such  
25 new enrollment or coverage change are

1           paid after the enrollee has resolved all in-  
2           consistencies in accordance with para-  
3           graphs (3) and (4) of section 1411(e);

4           “ (iii) a requirement that the informa-  
5           tion required under clause (i) and, as ap-  
6           plicable, the date on which inconsistencies  
7           are resolved as described in clause (ii), is  
8           accessible to the applicable qualified health  
9           plan through a database or other resource,  
10          as determined by the Secretary, so that  
11          any commissions due to a broker or agent  
12          for such enrollment can be effectuated at  
13          the appropriate time;

14          “ (iv) a requirement that individuals  
15          are notified of any changes to enrollment,  
16          coverage, the agent of record, or premium  
17          tax credits in a timely manner and that  
18          such notice provides plain language in-  
19          structions on how individuals can cancel  
20          unauthorized activity;

21          “ (v) a requirement that individuals be  
22          able to access their account information on  
23          a website or other technology platform, as  
24          defined by the Secretary, when used to  
25          submit an enrollment or plan change, in

1            lieu of the Exchange website described in  
2            subsection (d)(4)(C), including information  
3            on the agent of record, the qualified health  
4            plan, and when any changes are made to  
5            the agent of record or the qualified health  
6            plan, on a consumer-facing website or  
7            through a toll-free telephone hotline; and

8            “(vi) a requirement that the agent or  
9            broker report to the Secretary any third-  
10           party marketing organization or field mar-  
11           keting organization (as such terms are de-  
12           fined in section 1312(e)) involved in the  
13           chain of enrollment (as so defined) with re-  
14           spect to such new enrollment or coverage  
15           change.

16           “(C) CONSUMER PROTECTION.—The Sec-  
17           retary shall ensure that the enrollment  
18           verification process under subparagraph (A)  
19           prioritizes continuity of coverage and care for  
20           individuals, including by not disenrolling indi-  
21           viduals from a qualified health plan without the  
22           consent of the individual, regardless of whether  
23           the broker, agent, or qualified health plan is in  
24           violation of any requirement under this para-  
25           graph.”.



1           (2)       REQUIRED       REPORTING.—Section  
2       1311(e)(1) of the Patient Protection and Affordable  
3       Care Act (42 U.S.C. 18031(e)(1)) is amended—

4           (A) in subparagraph (H), by striking  
5       “and” at the end;

6           (B) in subparagraph (I), by striking the  
7       period at the end and inserting “; and”; and

8           (C) by adding at the end the following:

9           “(J) report to the Secretary the termi-  
10       nation (as defined in section 1312(e)(4)(C)) of  
11       an issuer.”.

12       (c) AUTHORITY TO REGULATE FIELD MARKETING  
13       ORGANIZATIONS AND THIRD-PARTY MARKETING ORGANI-  
14       ZATIONS.—Section 1312(e) of the Patient Protection and  
15       Affordable Care Act (42 U.S.C. 18032(e)) is amended—

16           (1) by redesignating paragraphs (1) and (2) as  
17       subclauses (I) and (II), respectively, and adjusting  
18       the margins accordingly;

19           (2) in subclause (II) (as so redesignated), by  
20       striking the period at the end and inserting “; and”;

21           (3) by striking the subsection designation and  
22       heading and all that follows through “brokers—”  
23       and inserting the following:

24       “(e) REGULATION OF AGENTS, BROKERS, AND CER-  
25       TAIN MARKETING ORGANIZATIONS.—

1           “(1) AGENTS, BROKERS, AND CERTAIN MAR-  
2           KETING ORGANIZATIONS.—

3           “(A) IN GENERAL.—The Secretary shall  
4           establish procedures under which a State may  
5           allow—

6                     “(i) agents or brokers—”; and

7           (4) by adding at the end the following:

8                     “(ii) field marketing organizations  
9                     and third-party marketing organizations to  
10                    participate in the chain of enrollment for  
11                    an individual with respect to qualified  
12                    health plans offered through an Exchange.

13           “(B) CRITERIA.—For plan years beginning  
14           on or after such date specified by the Secretary,  
15           but not later than January 1, 2029, the Sec-  
16           retary, by regulation, shall establish criteria for  
17           States to use in determining whether to allow  
18           agents and brokers to enroll individuals and  
19           employers in qualified health plans as described  
20           in subclause (I) of subparagraph (A)(i) and to  
21           assist individuals as described in subclause (II)  
22           of such subparagraph and field marketing orga-  
23           nizations and third-party marketing organiza-  
24           tions to participate in the chain of enrollment

1 as described in subparagraph (A)(ii). Such cri-  
2 teria shall, at a minimum, require that—

3 “(i) an agent or broker act in accord-  
4 ance with a standard of conduct that in-  
5 cludes a duty of such agent or broker to  
6 act in the best interests of the enrollee;

7 “(ii) a field marketing organization or  
8 third-party marketing organization agree  
9 to report the termination of an agent or  
10 broker to the applicable State and the Sec-  
11 retary, including the reason for termi-  
12 nation; and

13 “(iii) an agent, broker, field mar-  
14 keting organization, or third-party mar-  
15 keting organization—

16 “(I) meet such marketing re-  
17 quirements as are required by the  
18 Secretary;

19 “(II) meet marketing require-  
20 ments in accordance with other appli-  
21 cable Federal or State law;

22 “(III) does not employ practices  
23 that are confusing or misleading, as  
24 determined by the Secretary;

1                   “(IV) submit all marketing mate-  
2                   rials to the Secretary for, as deter-  
3                   mined appropriate by the Secretary,  
4                   review and approval;

5                   “(V) is a licensed agent or broker  
6                   or meets other licensure requirements,  
7                   as required by the State;

8                   “(VI) register with the Secretary;  
9                   and

10                   “(VII) does not compensate any  
11                   individual or organization for referrals  
12                   or any other service relating to the  
13                   sale of, marketing for, or enrollment  
14                   in qualified health plans unless such  
15                   individual or organization meets the  
16                   criteria described in subclauses (I)  
17                   through (VI).

18                   “(C) DEFINITIONS.—In this paragraph:

19                   “(i) CHAIN OF ENROLLMENT.—The  
20                   term ‘chain of enrollment’, with respect to  
21                   enrollment of an individual in a qualified  
22                   health plan offered through an Exchange,  
23                   means any steps taken from marketing to  
24                   such individual, to such individual making

1 an enrollment decision with respect to such  
2 a plan.

3 “(ii) FIELD MARKETING ORGANIZA-  
4 TION.—The term ‘field marketing organi-  
5 zation’ means an organization or individual  
6 that directly employs or contracts with  
7 agents and brokers, or contracts with car-  
8 riers, to provide functions relating to en-  
9 rollment of individuals in qualified health  
10 plans offered through an Exchange as part  
11 of the chain of enrollment.

12 “(iii) MARKETING.—The term ‘mar-  
13 keting’ means the use of marketing mate-  
14 rials to provide information to current and  
15 prospective enrollees in a qualified health  
16 plan offered through an Exchange.

17 “(iv) MARKETING MATERIALS.—The  
18 term ‘marketing materials’ means mate-  
19 rials relating to a qualified health plan of-  
20 fered through an Exchange or benefits of-  
21 fered through an Exchange that—

22 “(I) are intended—

23 “(aa) to draw an individual’s  
24 attention to such plan or the pre-  
25 mium tax credits or cost-sharing

1 reductions for such plan or plans  
2 offered through an Exchange;

3 “(bb) to influence an indi-  
4 vidual’s decision-making process  
5 when selecting a qualified health  
6 plan in which to enroll; or

7 “(cc) to influence an enroll-  
8 ee’s decision to stay enrolled in  
9 such plan; and

10 “(II) include or address content  
11 regarding the benefits, benefit struc-  
12 ture, premiums, or cost sharing of  
13 such plan.

14 “(v) TERMINATION.—The term ‘ter-  
15 mination’, with respect to a contract or  
16 business arrangement between an agent or  
17 broker and a field marketing organization,  
18 third-party marketing organization, or  
19 health insurance issuer, means—

20 “(I) the ending of such contract  
21 or business arrangement, either uni-  
22 laterally by one of the parties or on  
23 mutual agreement; or

24 “(II) the expiration of such con-  
25 tract or business arrangement that is

1 not replaced by a substantially similar  
2 agreement.

3 “(vi) THIRD-PARTY MARKETING ORGA-  
4 NIZATION.—The term ‘third-party mar-  
5 keting organization’ means an organization  
6 or individual that is compensated to per-  
7 form lead generation, marketing, or sales  
8 relating to enrollment of individuals in  
9 qualified health plans offered through an  
10 Exchange as part of the chain of enroll-  
11 ment.”.

12 (d) TRANSPARENCY.—Section 1312(e) of the Patient  
13 Protection and Affordable Care Act (42 U.S.C. 18032(e))  
14 (as amended by subsection (c)) is amended by adding at  
15 the end the following:

16 “(2) AUDITS.—

17 “(A) IN GENERAL.—For plan years begin-  
18 ning on or after such date specified by the Sec-  
19 retary, but not later than January 1, 2029, the  
20 Secretary, in coordination with the States and  
21 in consultation with the National Association of  
22 Insurance Commissioners, shall implement a  
23 process for the oversight and enforcement of  
24 agent and broker compliance with this section

1 and other applicable Federal and State law (in-  
2 cluding regulations) that shall include—

3 “(i) periodic audits of agents and bro-  
4 kers based on—

5 “(I) complaints filed with the  
6 Secretary by individuals enrolled by  
7 such an agent or broker in a qualified  
8 health plan offered through an Ex-  
9 change;

10 “(II) an incident or enrollment  
11 pattern that suggests fraud; and

12 “(III) other factors determined  
13 by the Secretary; and

14 “(ii) a process under which the Sec-  
15 retary shall share audit results and refer  
16 potential cases of fraud to the relevant  
17 State department of insurance.

18 “(B) EFFECT.—Nothing in this paragraph  
19 limits or restricts any referrals made under sec-  
20 tion 1311(i)(3) or any enforcement actions  
21 under section 1411(h).

22 “(3) LIST.—The Secretary shall develop a proc-  
23 ess to regularly provide to qualified health plans,  
24 Exchanges, and States a list of suspended and ter-  
25 minated agents and brokers.”.