

115TH CONGRESS  
2D SESSION

# S. 2494

To provide standards for short-term limited duration health insurance policies.

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## IN THE SENATE OF THE UNITED STATES

MARCH 5, 2018

Ms. BALDWIN (for herself, Mrs. GILLIBRAND, Mr. CARDIN, Mr. MURPHY, Mr. VAN HOLLEN, Ms. SMITH, Mr. KAINE, Mr. WYDEN, Ms. WARREN, Ms. HARRIS, Mr. SANDERS, Ms. HASSAN, Mrs. MURRAY, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Ms. STABENOW, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide standards for short-term limited duration health insurance policies.

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 “Fair Care Act”.

5 **SEC. 2. SHORT-TERM LIMITED DURATION HEALTH INSUR-**  
6 **ANCE POLICIES.**

7 (a) PROHIBITION ON PROPOSED RULE.—Notwith-  
8 standing any other provision of law, the Secretary of  
9 Health and Human Services, the Secretary of the Treas-

1 ury, and the Secretary of Labor may not take any action  
2 to implement, enforce, or otherwise give effect to the pro-  
3 posed rule relating to the definition of short-term limited-  
4 duration insurance (83 Fed. Reg. 7437–7447, February  
5 21, 2018), insofar as such proposed rule relates to a re-  
6 vised definition of the term “short-term limited duration  
7 insurance” and the Secretaries shall implement, enforce,  
8 and otherwise give effect to the definition of such term  
9 as applied by the Secretaries under the regulations in ef-  
10 fect on the date of enactment of this Act (81 Fed. Reg.  
11 75316), and such regulations shall continue in effect with  
12 respect to policies until the effective date described in sub-  
13 section (b)(2).

14 (b) STANDARDS.—

15 (1) IN GENERAL.—Section 2791(b) of the Pub-  
16 lic Health Service Act (42 U.S.C. 300gg–91) is  
17 amended by adding at the end the following:

18 “(6) SHORT-TERM LIMITED DURATION INSUR-  
19 ANCE.—The term ‘short-term limited duration insur-  
20 ance’ means health insurance coverage provided pur-  
21 suant to a contract with a health insurance issuer  
22 that—

23 “(A) has a specified, limited duration not  
24 to exceed 93 days after the original effective  
25 date of the contract, except that the health plan

1           may permit coverage to continue until the end  
2           of the period of hospitalization for a condition  
3           for which the covered person was hospitalized  
4           on the day that coverage would otherwise have  
5           ended;

6           “(B) is non-renewable and issued only to  
7           individuals who have not been covered under a  
8           short-term limited duration insurance policy  
9           from any health insurance issuer within the  
10          prior 12 months;

11          “(C) displays prominently in marketing  
12          materials, the contract, and in any application  
13          materials provided in connection with enroll-  
14          ment in such insurance a notice to consumers  
15          that includes such information which the State  
16          insurance commissioner deems sufficient to in-  
17          form the individual that coverage and benefits  
18          are limited;

19          “(D) covers essential health benefits as set  
20          forth in section 1302 of the Patient Protection  
21          and Affordable Care Act;

22          “(E) meets the following requirements for  
23          individual health insurance coverage as set  
24          forth in this title—

1           “(i) section 2701 (relating to fair  
2 health insurance premiums);

3           “(ii) section 2702 (relating to guaran-  
4 teed availability of coverage), except as  
5 provided in paragraph (1) consistent with  
6 the limitations of subsection (c);

7           “(iii) section 2704 (relating to the  
8 prohibition of pre-existing condition exclu-  
9 sions or other discrimination based on  
10 health status);

11           “(iv) section 2705 (relating to the  
12 prohibition of discrimination against indi-  
13 vidual participants and beneficiaries based  
14 on health status);

15           “(v) section 2706 (relating to non-  
16 discrimination in health care);

17           “(vi) section 2707 (relating to com-  
18 prehensive health insurance coverage);

19           “(vii) section 2711 (prohibiting life-  
20 time and annual limits);

21           “(viii) section 2712 (prohibiting re-  
22 scissions);

23           “(ix) section 2713 (coverage of pre-  
24 ventive health services);

1           “(x) section 2714 (relating to cov-  
2           erage of dependents); and

3           “(xi) section 2719 (relating to ap-  
4           peals); and

5           “(F) upon the issuance of a health insur-  
6           ance plan that an issuer asserts to be short-  
7           term limited duration insurance, the issuer of  
8           such plan shall provide documentation to the  
9           Secretary and the State insurance commis-  
10          sioner, in a form determined by the Secretary,  
11          regarding the individuals covered by the plan  
12          and the duration of the plan which shall be re-  
13          viewed by the entity responsible for enforcement  
14          under section 2722, together with documenta-  
15          tion submitted by other issuers, to determine  
16          whether the plan satisfies the requirement  
17          under subparagraph (B) and, if not, such entity  
18          shall take appropriate enforcement action.”.

19          (2) EFFECTIVE DATE.—The amendment made  
20          by paragraph (1) shall apply to plan years beginning  
21          on or after January 1, 2019.

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