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119TH CONGRESS
2D SESSION

H. R. 11152

To amend section 408 of the Employee Retirement Income Security Act of 1974 to prohibit kickbacks.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 24, 2026

Mr. DESAULNIER introduced the following bill; which was referred to the Committee on Education and Workforce

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A BILL

To amend section 408 of the Employee Retirement Income Security Act of 1974 to prohibit kickbacks.

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 ''ERISA Health Plan Anti-Kickback Act''.

SEC. 2. PROHIBITION ON COVERED SERVICE PROVIDER KICKBACKS.

(a) IN GENERAL.—Section 408(b)(2)(B) of the Employee Retirement Income Security Act (29 U.S.C.

1108(b)(2)(B)) is amended by adding at the end the following:

''(xi)(I) In the case of a contract or arrangement between a covered plan and a covered service provider, no amount of compensation (whether direct compensation or indirect compensation) may be paid by such service provider to any individual or entity for—

''(aa) the referral, recommendation, placement, retention, or renewal of, or access to, the business of the covered plan or the health insurance issuer offering health insurance coverage for the covered plan;

''(bb) inclusion in, participation in, or the design of—

''(AA) a request for proposal;

''(BB) a market check;

''(CC) an evaluation;

''(DD) the volume, value, or use of covered plan business; or

''(EE) any other contracting process.

''(II) For the purposes of this clause, the characterization of compensation shall be based on the economic substance and practical operation of the contract or arrangement, without regard to the char-

acterization or labeling of the compensation by the covered service provider.

''(III) Any compensation paid by a covered service provider to a brokerage firm, broker, consultant, advisor, or related entity shall be presumed to be related to an activity described in item (aa) or (bb) of subclause (I) unless the parties demonstrate through contemporaneous written documentation that such compensation—

''(aa) reflects fair market value for bona fide services actually rendered; and

''(bb) is not related, directly or indirectly, to any activity described in such items.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for plan years beginning after the date of enactment of this Act.

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