

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 5800
OFFERED BY MS. SHALALA OF FLORIDA**

Add at the end the following new section:

1 **SEC. 10. CONTINUITY OF CARE.**

2 (a) IN GENERAL.—Subpart B of part 7 of subtitle
3 B of title I of the Employee Retirement Income Security
4 Act of 1974 (29 U.S.C. 1185 et seq.), as amended by sec-
5 tions 2, 6, and 8, is further amended by adding at the
6 end the following:

7 **“SEC. 719. CONTINUITY OF CARE.**

8 “(a) ENSURING CONTINUITY OF CARE WITH RE-
9 SPECT TO TERMINATIONS OF CERTAIN CONTRACTUAL
10 RELATIONSHIPS RESULTING IN CHANGES IN PROVIDER
11 NETWORK STATUS.—

12 “(1) IN GENERAL.—In the case of an individual
13 with benefits under a group health plan or health in-
14 surance coverage offered by a health insurance
15 issuer in connection with a group health plan and
16 with respect to a health care provider or facility that
17 has a contractual relationship with such plan or
18 such issuer (as applicable) for furnishing items and
19 services under such plan or such coverage, if, while

1 such individual is a continuing care patient (as de-
2 fined in subsection (b)) with respect to such provider
3 or facility—

4 “(A) such contractual relationship is termi-
5 nated (as defined in paragraph (b));

6 “(B) benefits provided under such plan or
7 such health insurance coverage with respect to
8 such provider or facility are terminated because
9 of a change in the terms of the participation of
10 the provider or facility in such plan or coverage;
11 or

12 “(C) a contract between such group health
13 plan and a health insurance issuer offering
14 health insurance coverage in connection with
15 such plan is terminated, resulting in a loss of
16 benefits provided under such plan with respect
17 to such provider or facility;

18 the plan or issuer, respectively, shall meet the re-
19 quirements of paragraph (2) with respect to such in-
20 dividual.

21 “(2) REQUIREMENTS.—The requirements of
22 this paragraph are that the plan or issuer—

23 “(A) notify each individual enrolled under
24 such plan or coverage who is a continuing care
25 patient with respect to a provider or facility at

1 the time of a termination described in para-
2 graph (1) affecting such provider or facility on
3 a timely basis of such termination and such in-
4 dividual's right to elect continued transitional
5 care from such provider or facility under this
6 section;

7 “(B) provide such individual with an op-
8 portunity to notify the plan or issuer of the in-
9 dividual's need for transitional care; and

10 “(C) permit the patient to elect to continue
11 to have benefits provided under such plan or
12 such coverage, under the same terms and condi-
13 tions as would have applied and with respect to
14 such items and services as would have been cov-
15 ered under such plan or coverage had such ter-
16 mination not occurred, with respect to the
17 course of treatment furnished by such provider
18 or facility relating to such individual's status as
19 a continuing care patient during the period be-
20 ginning on the date on which the notice under
21 subparagraph (A) is provided and ending on the
22 earlier of—

23 “(i) the 90-day period beginning on
24 such date; or

1 “(ii) the date on which such individual
2 is no longer a continuing care patient with
3 respect to such provider or facility.

4 “(b) DEFINITIONS.—In this section:

5 “(1) CONTINUING CARE PATIENT.—The term
6 ‘continuing care patient’ means an individual who,
7 with respect to a provider or facility—

8 “(A) is undergoing a course of treatment
9 for a serious and complex condition from the
10 provider or facility;

11 “(B) is undergoing a course of institu-
12 tional or inpatient care from the provider or fa-
13 cility;

14 “(C) is scheduled to undergo nonelective
15 surgery from the provide or facility, including
16 receipt of postoperative care from such provider
17 or facility with respect to such a surgery;

18 “(D) is pregnant and undergoing a course
19 of treatment for the pregnancy from the pro-
20 vider or facility; or

21 “(E) is or was determined to be terminally
22 ill (as determined under section 1861(dd)(3)(A)
23 of the Social Security Act) and is receiving
24 treatment for such illness from such provider or
25 facility.

1 “(2) SERIOUS AND COMPLEX CONDITION.—The
2 term ‘serious and complex condition’ means, with re-
3 spect to a participant, beneficiary, or enrollee under
4 a group health plan or health insurance coverage—

5 “(A) in the case of an acute illness, a con-
6 dition that is serious enough to require special-
7 ized medical treatment to avoid the reasonable
8 possibility of death or permanent harm; or

9 “(B) in the case of a chronic illness or con-
10 dition, a condition that—

11 “(i) is life-threatening, degenerative,
12 potentially disabling, or congenital; and

13 “(ii) requires specialized medical care
14 over a prolonged period of time.

15 “(3) TERMINATED.—The term ‘terminated’ in-
16 cludes, with respect to a contract, the expiration or
17 nonrenewal of the contract, but does not include a
18 termination of the contract for failure to meet appli-
19 cable quality standards or for fraud.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 in section 1 of the Employee Retirement Income Security
22 Act of 1974 (29 U.S.C. 1001), as amended by sections
23 2, 6, and 8, is further amended by inserting after the item
24 relating to section 718 the following new item:

 “Sec. 719. Continuity of care.”.

1 (c) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply with respect to plan years begin-
3 ning on or after January 1, 2021.

