

117TH CONGRESS
1ST SESSION

H. R. 5622

To amend title XXVII of the Public Health Service Act to allow for premium rates in the group and individual health insurance markets to vary during the COVID–19 emergency period based on COVID–19 vaccination status, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2021

Mr. GALLEGO introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXVII of the Public Health Service Act to allow for premium rates in the group and individual health insurance markets to vary during the COVID–19 emergency period based on COVID–19 vaccination status, 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 “Vaccine Accountability
5 and Premium Protection Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) More than 700,000 COVID–19 deaths have
4 been reported in the United States and many public
5 health experts believe this to be an undercount of
6 the actual death toll of the virus.

7 (2) There are three vaccines that have received
8 either FDA approval or Emergency Use Authoriza-
9 tion, have undergone rigorous testing, and have been
10 proven to be safe and highly effective.

11 (3) These vaccines are free and widely available
12 in the United States to protect individuals against
13 COVID–19.

14 (4) Full vaccination has been proven to reduce
15 the risk of moderate to severe COVID–19 infection
16 by five times and hospitalization and death by more
17 than ten times.

18 (5) Over 20 percent of Americans eligible to re-
19 ceive the vaccine remain unvaccinated.

20 (6) COVID–19 hospitalizations of unvaccinated
21 individuals have cost the U.S. health system an esti-
22 mated \$5.7 billion between June 2021 and August
23 2021.

24 (7) Some health insurers have proposed or pre-
25 dicted increases in premium costs due to higher

1 health care costs and higher utilization because of
2 COVID–19-related services.

3 (8) Evidence shows that the ongoing COVID–
4 19 pandemic continues to impact Americans’ phys-
5 ical and mental health negatively, has increased sub-
6 stance use and drug overdoses, and has led to hos-
7 pitals rationing care for non-COVID–19-related
8 care.

9 (9) The over 20 percent of eligible Americans
10 who have not been vaccinated against COVID–19
11 are jeopardizing their own health, the health of their
12 communities, and the ability of local health systems
13 to provide comprehensive, high-quality care to every-
14 one who needs it.

15 (10) The over 20 percent of eligible Americans
16 who have not been vaccinated against COVID–19
17 are disproportionately responsible for the continu-
18 ation of community spread of COVID–19 and the
19 public health emergency in America, as well as its
20 associated economic consequences.

1 **SEC. 3. ALLOWING PREMIUM RATES IN GROUP AND INDIVIDUAL HEALTH INSURANCE MARKETS TO**
2 **VARY BASED ON COVID-19 VACCINATION STATUS.**

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5 Section 2701(a) of the Public Health Service Act
6 (300gg(a)) is amended—

7 (1) in paragraph (1)(A)—

8 (A) in clause (iii), by striking at the end
9 “and”;

10 (B) by adding at the end the following new
11 clause:

12 “(v) during any portion of the emergency period (as described in section
13 1135(g)(1)(B) of the Social Security Act)
14 (beginning on or after the date of the enactment of this clause), consistent with
15 paragraph (6), status as not being fully
16 vaccinated (as defined by the Centers for
17 Disease Control and Prevention) for
18 COVID-19, except that such rate shall not
19 vary by more than 1.5 to 1; and”;

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21
22 (2) in paragraph (4)—

23 (A) in the header, by striking “OR TOBACCO USE” and inserting “, TOBACCO USE, OR
24 VACCINATION STATUS”; and
25

1 (B) by striking “clauses (iii) and (iv)” and
2 inserting “clauses (iii), (iv), and (v)”; and

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

5 “(6) CONDITIONS FOR VARYING PREMIUMS BY
6 VACCINATION STATUS.—A health insurance issuer
7 offering health insurance coverage in the individual
8 or small group market (or, if applicable under para-
9 graph (5), the large group market), may vary the
10 premium rate with respect to the particular plan or
11 coverage involved by the factor described in para-
12 graph (1)(A)(v) during any portion of the period de-
13 scribed in such paragraph only if each of the fol-
14 lowing conditions are met:

15 “(A) An increase pursuant to paragraph
16 (1)(A)(v) may be made to the premium rate of
17 an enrollee with respect to the particular plan
18 or coverage only with respect to months during
19 such portion of such period with respect to
20 which each of the following applies to the en-
21 rollee:

22 “(i) The enrollee is, based on guide-
23 lines of the Food and Drug Administration
24 and of the Centers for Disease Control and

1 Prevention, eligible for a COVID–19 vac-
2 cine.

3 “(ii) The enrollee is not fully vac-
4 cinated (as defined by the Centers for Dis-
5 ease Control and Prevention) for COVID–
6 19.

7 “(iii) The enrollee is not an individual
8 who has not been fully vaccinated by rea-
9 son of a verified medical condition or an
10 objection to the vaccine on the basis of sin-
11 cerely held religious beliefs.

12 “(B) The amount of premium applied with
13 respect to an enrollee with respect to the par-
14 ticular plan or coverage during such portion of
15 such period after application of such paragraph
16 (1)(A)(v) does not result in a premium rate
17 that exceeds an amount equal to 10 percent of
18 the enrollee’s household income for such portion
19 of such period.

20 “(C) The issuer pays to the Secretary of
21 the Treasury an amount equal to 25 percent of
22 the amount by which—

23 “(i) the total premiums charged with
24 respect to the particular plan or coverage
25 during such portion of such period after

1 application of such paragraph (1)(A)(v);
2 exceeds

3 “(ii) the total premiums that would
4 have been charged with respect to such
5 plan or coverage during such portion of
6 such period without application of such
7 paragraph.

8 “(D) The issuer certifies to the Secretary
9 of Health and Human Services that the pre-
10 mium rate applied with respect to enrollees who
11 are fully vaccinated (as defined by the Centers
12 for Disease Control and Prevention) for
13 COVID–19 with respect to the particular plan
14 or coverage on vaccinated individuals will not be
15 increased during such portion of such period by
16 reason of increased costs associated with the
17 emergency period described in paragraph
18 (1)(A)(v).

19 “(E) Before applying an increase to the
20 premium rate pursuant to paragraph (1)(A)(v),
21 the issuer notifies each enrollee with respect to
22 the particular plan or coverage who will be sub-
23 ject to such increase in premium rate and pro-
24 vides each such enrollee with information on
25 where and how to receive a vaccine for COVID–

1 19 without cost to such enrollee for such vac-
2 cine.”.

3 **SEC. 4. SENSE OF CONGRESS RELATED TO THE SERIOUS-**
4 **NESS OF PRESENTING, CREATING, OR DIS-**
5 **TRIBUTING FRAUDULENT VACCINATION**
6 **CARDS.**

7 It is the sense of Congress that—

8 (1) any individual falsely representing them-
9 selves as vaccinated against COVID–19 undermines
10 mitigation efforts, endangers public health, and puts
11 those around them at increased risk for contracting
12 COVID–19;

13 (2) the presentation, sale, purchase, or distribu-
14 tion of counterfeit COVID–19 vaccination cards ap-
15 pearing to be issued by the Centers for Disease Con-
16 trol and Prevention or official vaccination cards
17 filled out with information falsely indicating that a
18 person who has not received the COVID–19 vaccina-
19 tion is indeed vaccinated is a serious crime in viola-
20 tion of Federal law;

21 (3) an individual guilty of the crime of pre-
22 senting or purchasing a fraudulent vaccination card
23 should, in accordance with law, be subject to a fine
24 of not less than \$5,000; and

1 (4) an individual or organization guilty of the
2 crime of selling or distributing a fraudulent vaccina-
3 tion card should receive the maximum penalty per-
4 missible under section 1017 of title 18, United
5 States Code, in accordance with the scope of the
6 crime.

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