

119TH CONGRESS  
2D SESSION

# S. 4027

To ban anticompetitive terms in facility and insurance contracts that limit access to higher quality, lower cost care.

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IN THE SENATE OF THE UNITED STATES

MARCH 9, 2026

Mr. HUSTED 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 ban anticompetitive terms in facility and insurance contracts that limit access to higher quality, lower cost care.

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 “Healthy Competition  
5 for Better Care Act”.

6 **SEC. 2. BANNING ANTICOMPETITIVE TERMS IN FACILITY**  
7 **AND INSURANCE CONTRACTS THAT LIMIT AC-**  
8 **CESS TO HIGHER QUALITY, LOWER COST**  
9 **CARE.**

10 (a) IN GENERAL.—

1 (1) PHSA.—

2 (A) IN GENERAL.—Section 2799A–9 of the  
3 Public Health Service Act (42 U.S.C. 300gg–  
4 119) is amended—

5 (i) in the heading, by striking “**BY**  
6 **REMOVING**” and all that follows through  
7 “**INFORMATION**” and inserting “**;** **PRO-**  
8 **HIBITION ON ANTICOMPETITIVE**  
9 **AGREEMENTS**”;

10 (ii) in subsection (a)(5), in the first  
11 sentence, by striking “section” and insert-  
12 ing “subsection”; and

13 (iii) by adding at the end the fol-  
14 lowing:

15 “(b) PROTECTING HEALTH PLANS NETWORK DE-  
16 SIGN FLEXIBILITY.—

17 “(1) IN GENERAL.—A group health plan or a  
18 health insurance issuer offering group or individual  
19 health insurance coverage may not enter into an  
20 agreement with a covered entity if such agreement,  
21 directly or indirectly—

22 “(A) restricts (including by operation of  
23 any agreement in effect between such covered  
24 entity and another covered entity) the group  
25 health plan or health insurance issuer from—

1           “(i) directing or steering participants  
2           or beneficiaries to other health care pro-  
3           viders who are not subject to such agree-  
4           ment; or

5           “(ii) offering incentives to encourage  
6           participants or beneficiaries to utilize spe-  
7           cific health care providers;

8           “(B) requires the group health plan or  
9           health insurance issuer to enter into any addi-  
10          tional agreement with an affiliate of the covered  
11          entity;

12          “(C) requires the group health plan or  
13          health insurance issuer to agree to payment  
14          rates or other terms for any affiliate of the cov-  
15          ered entity not party to the agreement; or

16          “(D) restricts other group health plans or  
17          health insurance issuers not party to the agree-  
18          ment from paying a lower rate for items or  
19          services than the plan or issuer involved in the  
20          agreement pays for such items or services.

21          “(2) EXCEPTIONS FOR CERTAIN PROVIDER  
22          GROUP AND VALUE-BASED NETWORK DESIGNS.—  
23          Paragraph (1)(A) shall not apply to a group health  
24          plan or health insurance issuer offering group or in-  
25          dividual health insurance coverage with respect to—

1           “(A) a health maintenance organization, if  
2 such health maintenance organization operates  
3 primarily through exclusive contracts with  
4 multi-specialty physician groups, nor to any ar-  
5 rangement between such a health maintenance  
6 organization and its affiliates; or

7           “(B) a value-based network arrangement,  
8 such as an exclusive provider network, account-  
9 able care organization, center of excellence, a  
10 provider sponsored health insurance issuer that  
11 operates primarily through aligned multi-spe-  
12 cialty physician group practices or integrated  
13 health systems, or such other similar network  
14 arrangements as determined by the Secretary  
15 through guidance or rulemaking.

16           “(3) COVERED ENTITY DEFINED.—For pur-  
17 poses of this subsection, the term ‘covered entity’  
18 means a health care provider, network or association  
19 of providers, third-party administrator, or other  
20 service provider offering access to a network of pro-  
21 viders.

22           “(4) STATE GRANDFATHERING OPTION.—An  
23 applicable State authority may make a determina-  
24 tion that the prohibitions under paragraph (1)(A)  
25 (relating to conditions that would direct or steer en-

1 rollees to, or offer incentives to encourage enrollees  
2 to use, other health care providers) will not apply in  
3 the State with respect to any specified agreement ex-  
4 ecuted on June 19, 2019, and any agreements re-  
5 lated to such specified agreement executed on or be-  
6 fore December 31, 2020, for a maximum length of  
7 nonapplicability of up to 10 years from the date of  
8 execution of the contract if the applicable State au-  
9 thority determines that the contract is unlikely to  
10 significantly lessen competition. With respect to a  
11 specified agreement for which an applicable State  
12 authority has made a determination under the pre-  
13 ceding sentence, an applicable State authority may  
14 determine whether renewal of the contract, within  
15 the applicable 10-year period, is allowed.

16 “(5) RULE OF CONSTRUCTION.—Except as pro-  
17 vided in paragraph (1), nothing in this subsection  
18 shall be construed to limit network design or cost or  
19 quality initiatives by a group health plan or health  
20 insurance issuer, including accountable care organi-  
21 zations, exclusive provider organizations, networks  
22 that tier providers by cost or quality or steer enroll-  
23 ees to centers of excellence, or other pay-for-per-  
24 formance programs.”.

1 (B) REGULATIONS.—Not later than 1 year  
 2 after the date of the enactment of this Act, the  
 3 Secretary of Health and Human Services, in  
 4 consultation with the Secretary of Labor and  
 5 the Secretary of the Treasury, shall promulgate  
 6 regulations to carry out the amendments made  
 7 by this paragraph.

8 (2) EMPLOYEE RETIREMENT INCOME SECURITY  
 9 ACT OF 1974.—

10 (A) IN GENERAL.—Section 724 of the Em-  
 11 ployee Retirement Income Security Act of 1974  
 12 (29 U.S.C. 1185m) is amended—

13 (i) in the heading, by striking “**BY**  
 14 **REMOVING**” and all that follows through  
 15 “**INFORMATION**” and inserting “**;** **PRO-**  
 16 **HIBITION ON ANTICOMPETITIVE**  
 17 **AGREEMENTS**”;

18 (ii) in subsection (a)(4), in the first  
 19 sentence, by striking “section” and insert-  
 20 ing “subsection”; and

21 (iii) by adding at the end the fol-  
 22 lowing:

23 “(b) PROTECTING HEALTH PLANS NETWORK DE-  
 24 SIGN FLEXIBILITY.—

1           “(1) IN GENERAL.—A group health plan or a  
2 health insurance issuer offering group health insur-  
3 ance coverage may not enter into an agreement with  
4 a covered entity if such agreement, directly or indi-  
5 rectly—

6           “(A) restricts (including by operation of  
7 any agreement in effect between such covered  
8 entity and another covered entity) the group  
9 health plan or health insurance issuer from—

10           “(i) directing or steering participants  
11 or beneficiaries to other health care pro-  
12 viders who are not subject to such agree-  
13 ment; or

14           “(ii) offering incentives to encourage  
15 participants or beneficiaries to utilize spe-  
16 cific health care providers;

17           “(B) requires the group health plan or  
18 health insurance issuer to enter into any addi-  
19 tional agreement with an affiliate of the covered  
20 entity;

21           “(C) requires the group health plan or  
22 health insurance issuer to agree to payment  
23 rates or other terms for any affiliate of the cov-  
24 ered entity not party to the agreement; or

1           “(D) restricts other group health plans or  
2 health insurance issuers not party to the agree-  
3 ment from paying a lower rate for items or  
4 services than the plan or issuer involved in the  
5 agreement pays for such items or services.

6           “(2) EXCEPTIONS FOR CERTAIN PROVIDER  
7 GROUP AND VALUE-BASED NETWORK DESIGNS.—  
8 Paragraph (1)(A) shall not apply to a group health  
9 plan or health insurance issuer offering group health  
10 insurance coverage with respect to—

11           “(A) a health maintenance organization, if  
12 such health maintenance organization operates  
13 primarily through exclusive contracts with  
14 multi-specialty physician groups, nor to any ar-  
15 rangement between such a health maintenance  
16 organization and its affiliates; or

17           “(B) a value-based network arrangement,  
18 such as an exclusive provider network, account-  
19 able care organization, center of excellence, a  
20 provider sponsored health insurance issuer that  
21 operates primarily through aligned multi-spe-  
22 cialty physician group practices or integrated  
23 health systems, or such other similar network  
24 arrangements as determined by the Secretary  
25 through guidance or rulemaking.

1           “(3) COVERED ENTITY DEFINED.—For pur-  
2 poses of this subsection, the term ‘covered entity’  
3 means a health care provider, network or association  
4 of providers, third-party administrator, or other  
5 service provider offering access to a network of pro-  
6 viders.

7           “(4) STATE GRANDFATHERING OPTION.—An  
8 applicable State authority may make a determina-  
9 tion that the prohibitions under paragraph (1)(A)  
10 (relating to conditions that would direct or steer en-  
11 rollees to, or offer incentives to encourage enrollees  
12 to use, other health care providers) will not apply in  
13 the State with respect to any specified agreement ex-  
14 ecuted on June 19, 2019, and any agreements re-  
15 lated to such specified agreement executed on or be-  
16 fore December 31, 2020, for a maximum length of  
17 nonapplicability of up to 10 years from the date of  
18 execution of the contract if the applicable State au-  
19 thority determines that the contract is unlikely to  
20 significantly lessen competition. With respect to a  
21 specified agreement for which an applicable State  
22 authority has made a determination under the pre-  
23 ceding sentence, an applicable State authority may  
24 determine whether renewal of the contract, within  
25 the applicable 10-year period, is allowed.

1           “(5) RULE OF CONSTRUCTION.—Except as pro-  
 2           vided in paragraph (1), nothing in this subsection  
 3           shall be construed to limit network design or cost or  
 4           quality initiatives by a group health plan or health  
 5           insurance issuer, including accountable care organi-  
 6           zations, exclusive provider organizations, networks  
 7           that tier providers by cost or quality or steer enroll-  
 8           ees to centers of excellence, or other pay-for-per-  
 9           formance programs.”.

10           (B) CLERICAL AMENDMENT.—The table of  
 11           contents in section 1 of such Act is amended,  
 12           in the entry relating to section 724, by amend-  
 13           ing such entry to read as follows:

“Sec. 724. Increasing transparency; prohibition on anticompetitive agree-  
 ments.”.

14           (C) REGULATIONS.—Not later than 1 year  
 15           after the date of the enactment of this Act, the  
 16           Secretary of Labor, in consultation with the  
 17           Secretary of Health and Human Services and  
 18           the Secretary of the Treasury, shall promulgate  
 19           regulations to carry out the amendments made  
 20           by this paragraph.

21           (3) IRC.—

22           (A) IN GENERAL.—Section 9824 of the In-  
 23           ternal Revenue Code of 1986 is amended—

1 (i) in the header, by striking “**BY RE-**  
 2 **MOVING**” and all that follows through  
 3 “**INFORMATION**” and inserting “**;** **PRO-**  
 4 **HIBITION ON ANTICOMPETITIVE**  
 5 **AGREEMENTS**”;

6 (ii) in subsection (a)(4), in the first  
 7 sentence, by striking “section” and insert-  
 8 ing “subsection”; and

9 (iii) by adding at the end the fol-  
 10 lowing:

11 “(b) PROTECTING HEALTH PLANS NETWORK DE-  
 12 SIGN FLEXIBILITY.—

13 “(1) IN GENERAL.—A group health plan may  
 14 not enter into an agreement with a covered entity if  
 15 such agreement, directly or indirectly—

16 “(A) restricts (including by operation of  
 17 any agreement in effect between such covered  
 18 entity and another covered entity) the group  
 19 health plan from—

20 “(i) directing or steering participants  
 21 or beneficiaries to other health care pro-  
 22 viders who are not subject to such agree-  
 23 ment; or

1           “(ii) offering incentives to encourage  
2 participants or beneficiaries to utilize spe-  
3 cific health care providers;

4           “(B) requires the group health plan to  
5 enter into any additional agreement with an af-  
6 filiate of the covered entity;

7           “(C) requires the group health plan to  
8 agree to payment rates or other terms for any  
9 affiliate of the covered entity not party to the  
10 agreement; or

11           “(D) restricts other group health plans not  
12 party to the agreement from paying a lower  
13 rate for items or services than the plan involved  
14 in the agreement pays for such items or serv-  
15 ices.

16           “(2) EXCEPTIONS FOR CERTAIN PROVIDER  
17 GROUP AND VALUE-BASED NETWORK DESIGNS.—  
18 Paragraph (1)(A) shall not apply to a group health  
19 plan with respect to—

20           “(A) a health maintenance organization, if  
21 such health maintenance organization operates  
22 primarily through exclusive contracts with  
23 multi-specialty physician groups, nor to any ar-  
24 rangement between such a health maintenance  
25 organization and its affiliates; or

1           “(B) a value-based network arrangement,  
2           such as an exclusive provider network, account-  
3           able care organization, center of excellence, a  
4           provider sponsored health insurance issuer that  
5           operates primarily through aligned multi-spe-  
6           cialty physician group practices or integrated  
7           health systems, or such other similar network  
8           arrangements as determined by the Secretary  
9           through guidance or rulemaking.

10           “(3) COVERED ENTITY DEFINED.—For pur-  
11           poses of this subsection, the term ‘covered entity’  
12           means a health care provider, network or association  
13           of providers, third-party administrator, or other  
14           service provider offering access to a network of pro-  
15           viders.

16           “(4) STATE GRANDFATHERING OPTION.—An  
17           applicable State authority may make a determina-  
18           tion that the prohibitions under paragraph (1)(A)  
19           (relating to conditions that would direct or steer en-  
20           rollees to, or offer incentives to encourage enrollees  
21           to use, other health care providers) will not apply in  
22           the State with respect to any specified agreement ex-  
23           ecuted on June 19, 2019, and any agreements re-  
24           lated to such specified agreement executed on or be-  
25           fore December 31, 2020, for a maximum length of

1 nonapplicability of up to 10 years from the date of  
2 execution of the contract if the applicable State au-  
3 thority determines that the contract is unlikely to  
4 significantly lessen competition. With respect to a  
5 specified agreement for which an applicable State  
6 authority has made a determination under the pre-  
7 ceding sentence, an applicable State authority may  
8 determine whether renewal of the contract, within  
9 the applicable 10-year period, is allowed.

10 “(5) RULE OF CONSTRUCTION.—Except as pro-  
11 vided in paragraph (1), nothing in this subsection  
12 shall be construed to limit network design or cost or  
13 quality initiatives by a group health plan, including  
14 accountable care organizations, exclusive provider or-  
15 ganizations, networks that tier providers by cost or  
16 quality or steer enrollees to centers of excellence, or  
17 other pay-for-performance programs.”

18 (B) CLERICAL AMENDMENT.—The table of  
19 contents in section 1 of such Act is amended,  
20 in the entry relating to section 9824, by amend-  
21 ing such entry to read as follows:

“Sec. 9824. Increasing transparency; prohibition on anticompetitive agree-  
ments.”.

22 (C) REGULATIONS.—Not later than 1 year  
23 after the date of the enactment of this Act, the  
24 Secretary of the Treasury, in consultation with

1           the Secretary of Health and Human Services  
2           and the Secretary of Labor, shall promulgate  
3           regulations to carry out the amendments made  
4           by this paragraph.

5           (b) **EFFECTIVE DATE.**—The amendments made by  
6 subsection (a) shall apply with respect to any contract en-  
7 tered into, amended, or renewed on or after the date that  
8 is 18 months after the date of enactment of this Act.

○