

**2019 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2118**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2118  
1/7/2019  
Job # 30492

- Subcommittee  
 Conference Committee

Committee Clerk: Amy Crane
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### Explanation or reason for introduction of bill/resolution:

Relating to short term limited duration health insurance plans.

### Minutes:

Att. #1 – Chrystal Bartuska Att. #2 – Pat Ward (Kristi Schlosser Carlson)
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**Chairman Klein:** Opened the hearing on SB. All members were present.

**Chrystal Bartuska, Product Filing Division Director, North Dakota Insurance Department:** See attachment #1 for testimony in support of the bill.

**(4:21)Chairman Klein:** We already have something like this in place?

**Chrystal:** The current short-term limited duration plans that come into my division for review, following our basic health chapter. So some of them do have different benefit requirements but as far as consumer protections, other than outside just a typical insurance product, we don't have a lot of protection. They don't have to file their marketing. That's what this would do.

**Chairman Klein:** If we're currently doing something like this, the rules are basically the same, we are just cleaning this up, to more clearly state what can be done and what can't be done and what the roles are and what's not to be allowed?

**Chrystal:** Correct, we're putting consumer protections in place, so if you go to an agent and these are actually the complaints that we hear, is that my agent or my company told me this was a major med plan. I actually had this exact case. A consumer got a cancer diagnosis, and had over \$20,000 in cancer treatments and their policy didn't cover any of that, cause its not a comprehensive major med plan. Oftentimes these plans work more like indemnity plans, where they'll pay a \$1,000 flat rate for a hospital visit, versus covering the entire hospital visit or at a percentage. From a benefit perspective we're not changing anything, we're just requiring more protections around the marketing and the selling of these policies to consumers.

**Chairman Klein:** And what I also heard is you have to see an agent to get a contract? This isn't something I can subscribe to over the internet or via telemarketer?

**Chrystal:** We are seeing that these policies are being sold by when like a local cell phone number calls you, and we're seeing a lot of those situations happening. And we're hoping by requiring an agent signature and an identification number, that will help prevent that. In addition, the commissioner recently issued a bullet in July and August, where we will require certain questions that the consumer has to initial off on saying that they recognize and understand that this is not a comprehensive major medical plan. So they really truly know what they are buying.

**Chairman Klein:** This is six months and then we can get six more?

**Chrystal:** Correct, under the current law you could buy a plan and have it for six months. For example, if I start a new job but I'm not going to get benefits for 90 days, I could purchase one of these plans. Let's say the job falls through, I don't have insurance. I can do a renewal of this plan up to twelve months and I don't have to be re-underwritten, within that twelve month window, within that renewal and the extension. Now when my twelve months ends, if I still don't have a job, I would have to either go on the ACA market or talking to an agent and getting a comprehensive major medical plan, but for some reason if I know another job is starting and I want another one of these plans, then after that twelve months, then it's a whole new plan.

**Vice Chairman Vedaa:** Is there a penalty in this for a robocall that sells you this?

**Chrystal:** No there's not. We have penalties in the other sections of code but if you're violating prohibited practices, you're marketing, soliciting, selling insurance and you don't have a license, we have other sections of statute that we would be able to go after somebody for. But not in this particular bill.

**Pat Ward representing the Association of North Dakota Insurers:** See attachment #2 for presented testimony on behalf of Kristi Schlosser Carlson of North Dakota Farmer's Union Insurance in support of the bill.

**(10:30)Kayla Pulvermacher representing the members of North Dakota Farmers Union:** I'm here representing North Dakota Farmer's Union, you received testimony on behalf of the Farmers Union Insurance company, from our legal counsel. I'm here to say that North Dakota Farmers Union also supports this, based on the duration of the plans and the aligning with the enrollment periods.

**Chairman Klein:** Closed the hearing on SB 2118.

**Senator Roers: Moved a Do Pass.**

**Vice Chairman Vedaa: Seconded.**

**Chairman Klein:** I guess we can clarify some of this language and once again, I still think insurance is a complicated business and I don't read all the fine print. I trust my agent but in today's environment when you can watch and buy all this stuff on the internet. We're buying insurance on a whim, I'm sure we'll hear more about that as we go down the road. Its mind boggling but it's good to see that we're providing a lot more consumer support and at the end

of the day, we're spending a lot of money for a lot of these things and people should get what they're paying for.

**Senator Piepkorn:** Just a point of curiosity question but where is the opposition on something like this?

**Chairman Klein:** Certainly an unscrupulous individual of some sort. I think the issue being that we're just creating clarity. And that's something that needs to be done and in particular, this case. Especially in the market that we're currently in.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Chairman Klein will carry the bill.**



**REPORT OF STANDING COMMITTEE**

**SB 2118: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2118 was placed on the Eleventh order on the calendar.

**2019 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2118**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2118  
3/5/2019  
33183

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang

### Explanation or reason for introduction of bill/resolution:

Short-term limited-duration health insurance plans.

### Minutes:

Attachment 1

Chairman Keiser: Opens the hearing on SB 2118.

**Chrystal Bartuska~Product Filing Division Director-ND Insurance Department:**  
Attachment 1.

**4:15**

**Rep Laning:** You mentioned the consumer risk but it seems this would be very high risk for the insurance company as well. Are these extremely high cost policies?

**Chrystal Bartuska:** It depends on the benefits & they are not major medical & comprehensive coverage. They are cheaper than a major medical policy, they are very limited but reasonable.

**Chairman Keiser:** How does the department deal with national ads?

**Chrystal Bartuska:** Right now, we can't do anything, but if you pass this law, they will have to have those marketing materials approved by the department.

**Chairman Keiser:** What is the penalty?

**Chrystal Bartuska:** If they would advertise something that wasn't approved, we have 26.1, the regulatory frame work, to take action. Right now we don't.

**Chairman Keiser:** What is to preclude me for taking it out for 12 months, waiting a week & going to a second company & purchasing. It doesn't follow the individual, it follows the plan?

**Chrystal Bartuska:** There is nothing from preventing the consumer from doing that. However, they have to go through underwriting again with company B.

**Rep Schauer:** Hanging on to the phone calls for a year, what is the thought process behind that? How tactical is that?

**Chrystal Bartuska:** When we get complaints, the phone calls, we can vet better on what they said.

**Rep Bosch:** Are we putting them out of business? Who records the calls?

**Chrystal Bartuska:** It's as simple as downloading an app & hitting record. Then you upload to a drive or cloud.

**Megan Houn~Director of Government Relations-BCBS:** We support this bill. The short term limited duration plans are not designed to be long term health insurance. We fully support the backstops to educate the consumer beforehand when they are taking these policies out.

**10:22**

**Rep Bosch:** If they have a BCBS plan, they drop it & then they take out one of these plans. They are on it for a year & then they want to go back to the coverage they had before. Do they have to go through underwriting again?

**Megan Houn:** They have to go through underwriting again.

**Chairman Keiser:** Are there differences in requiring underwriting? If I move to company B, there's portability for that move. Now you can still underwrite me at that point?

**Megan Houn:** Yes. Companies have their own underwriting.

**Chairman Keiser:** The underwriting is different in the limited duration. They move to a full insurance plan, that's not portable. You get the underwriting, regardless, correct?

**Megan Houn:** Correct.

**Chairman Keiser:** There may be some underwriting not occurring in moving from A to B but in this case, there will be underwriting?

**Megan Houn:** The insurance company wants to get a landscape of the consumer of what we are walking into.

**Chairman Keiser:** I think that's the key point. If I have a limited duration plan & a preexisting condition occurs. When I move to the fully insured plan, that now can be underwritten? That's the risk.

**Chairman Keiser:** Anyone else here to testify on SB 2118 in support, opposition, neutral. Closes the hearing. What are the wishes of the committee?

**Vice Chairman Lefor:** Moves a Do Pass.

**Rep Schauer:** Second.

**Chairman Keiser:** Further discussion?

**Vice Chairman Lefor:** The telephone records, those are quite easy to do.

**Chairman Keiser:** Short-term limited-duration health insurance plans. Anytime I call, in the case of a warranty call, I always told this is recorded.

**Roll call was taken on SB 2118 for a Do Pass with 11 yes, 0 no, 3 absent & Rep Schauer is the carrier.**

Date: Mar 5, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 2118

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions     Reconsider     \_\_\_\_\_

Motion Made by Rep Lefor    Seconded By Rep Schauer

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	Ab	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep D Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	Ab		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	Ab	

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Schauer

**REPORT OF STANDING COMMITTEE**

**SB 2118: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).  
SB 2118 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2118**

SENATE BILL NO. 2118

**Presented by:** Chrystal Bartuska  
Product Filing Division Director  
North Dakota Insurance Department

**Before:** Senate Industry, Business and Labor  
Senator Jerry Klein, Chairman

**Date:** January 7, 2018

TESTIMONY

Good Afternoon Chairman Klein and members of the committee. My name is Chrystal Bartuska and I am the Product Filing Division Director for the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2118.

This bill would create a new section in chapter 26.1 for Short Term limited duration plans. It creates more of a regulatory framework for these types of plans sold to consumers in North Dakota. Currently these types of policies default to the standard health laws, but lack consumer protections that apply to longer duration health insurance coverage.

These types of plans are designed to be a type of gap coverage for a person that needs some sort of basic medical coverage in the event they lose their primary comprehensive major medical coverage. These plans are not comprehensive in nature and typically have very limited benefits.

Currently our state statutes only allow these plans to be up to 6 months in duration. However, as a result of a recent federal executive order the federal government allowed states the ability to permit renewals up to 3 years. The Department feels that a three year window is not a short term, therefore this bill allows for a short term, limited duration plan to be no longer than 12 months. This would allow a consumer the ability

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to get to an open enrollment date in order to apply for comprehensive major medical insurance. We maintained the ability for the policy to be up to 6 months and then up to 12 months with any renewals or extension.

Some insurers may require the insured to go through formal underwriting and potentially be given a new rate from the insurer. In this proposed bill, we would require that the insurers allow for renewals up to the 12 months and the insured would not be subject to underwriting and would remain in the same risk class.

There is also a requirement for notice of termination 15 days prior to renewal or termination of the policy so that the insured has time to determine their next steps if they have not obtained comprehensive medical coverage.

The Insurance Department has also seen that some of these plans are marketed and sold with false and misleading information being provided to consumers in order to unfairly persuade a consumer to purchase these products. Therefore, this bill would require all marketing materials related to the sale of these policies to be filed and approved by the Insurance Department prior to use so that we can prevent consumers from being harmed by those that seek to mislead consumers into purchasing these products.

We also want to try and combat the robot calls that consumers receive to buy these policies and therefore we are proposing that the sale of these policies only be allowed through a licensed producer. A producer's signature and identification number would be required on the application.

In order to determine whether these policies are being sold fairly we are requiring that all phone calls to prospective insureds be recorded and maintained by the producer or insurer for a year after the policy is no longer in-force.

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Section 2 of the bill is our current statute and therefore we are simply editing the definitions to coincide with this new section of 26.1-36-49. There are disclosure requirements required by federal rule along with various questions and acknowledgement that we believe protects the consumer that will come later by administrative rule if this bill is passed.

In conclusion, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2118. I am happy to take any questions.

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1/7/19  
Attach. # 2  
pg. 1

SB 2118

Mr. Chairman and Members of the Committee,

My name is Kristi Schlosser Carlson and I represent Farmers Union Insurance. I'm unable to attend today's hearing in person but request that these remarks be entered into the record.

Farmers Union Insurance submits this testimony in support of the Insurance Department's efforts in this bill, and we urge a "do pass."

Farmers Union Insurance provides insurance products and services through 100-plus agents in communities throughout North Dakota and in other states. Among the many insurance products we offer, we market short term health plans.

Short term plans serve a need for consumers who need stop-gap coverage, such as folks between jobs or early retirees who are nearing Medicare. These plans present a tradeoff: they have lower premiums than comprehensive health plans but are limited in benefits and coverage. The plans are medically underwritten, which means people with pre-existing conditions are denied or, if they do get coverage, the plan will exclude benefits for the pre-existing condition. The plans cap benefit coverage amounts and don't provide coverage for certain treatments and services. Significantly, once the plan expires, the consumer can't jump to a comprehensive health plan unless it's during the once-a-year open enrollment period or on a qualifying event.

From our perspective, it's important for consumers to understand the pros and cons of these plans, but we have heard many experiences where consumers are not told the full story. Telemarketers and unscrupulous sellers have also pressured consumers to make ill-informed decisions. Consumers may end up giving up their comprehensive plan without realizing certain benefits may not be covered, or without understanding they may be left without any coverage at the end of the policy term because they can't get into a comprehensive health plan if it's outside an open enrollment period.

We have visited with the Department about our concerns with unscrupulous marketers, as well as the need to allow the consumer to extend the policy to get to an open enrollment period. While we would like to see a greater time frame for extensions to allow even more flexibility for consumers, we believe this bill goes a long way to ensure transparency for consumers and protect them from bad actors while also facilitating competitive choices in health insurance market. We understand the Department will be fleshing out more detailed protections during rulemaking, and we have committed to working with them.

Again, we urge a "do pass" on this bill.

Kristi Schlosser Carlson  
kcarlson@ndfu.org  
(701) 952-1109

**SENATE BILL NO. 2118**

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**Presented by:**      **Chrystal Bartuska**  
                             **Product Filing Division Director**  
                             **North Dakota Insurance Department**

**Before:**                **House Industry, Business and Labor**  
                             **Representative George Keiser, Chairman**

**Date:**                    **March 5, 2019**

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