

105TH CONGRESS  
1ST SESSION

# H. R. 2960

To amend title I of the Employee Retirement Income Security Act of 1974 to clarify the preemption of State law by such title with respect to causes of action for damages for personal or financial injury or wrongful death resulting from failures to provide benefits under employee welfare benefit plans providing health care benefits.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 1997

Mr. NORWOOD (for himself, Mr. GANSKE, Mr. SESSIONS, Mr. EDWARDS, Mr. PAUL, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to clarify the preemption of State law by such title with respect to causes of action for damages for personal or financial injury or wrongful death resulting from failures to provide benefits under employee welfare benefit plans providing health care benefits.

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       The Act may be cited as the “Responsibility in Man-  
5       aged Care Act of 1997”.

1 **SEC. 2. PRESERVATION AGAINST ERISA PREEMPTION OF**  
2 **CERTAIN STATE CAUSES OF ACTION.**

3 (a) IN GENERAL.—Section 514(b) of the Employee  
4 Retirement Income Security Act of 1974 (29 U.S.C.  
5 1144(b)) is amended—

6 (1) by redesignating paragraph (9) as para-  
7 graph (10); and

8 (2) by inserting after paragraph (8) the follow-  
9 ing new paragraph:

10 “(9)(A) Subsection (a) shall not apply to any cause  
11 of action to recover damages for personal or financial in-  
12 jury or wrongful death against any person that provides  
13 insurance or administrative services to or for an employee  
14 welfare benefit plan maintained to provide health care ben-  
15 efits.

16 “(B) Subparagraph (A) shall not apply to any cause  
17 of action against an employer or other plan sponsor un-  
18 less—

19 “(i) the employer or other plan sponsor exer-  
20 cised discretionary authority to review and make de-  
21 cisions on claims for plan benefits, and

22 “(ii) the exercise by such employer or other  
23 plan sponsor of such authority resulted in personal  
24 or financial injury or wrongful death.

25 “(C) A person that provides insurance or administra-  
26 tive services to or for an employee welfare benefit plan

1 shall not have a right of recovery or indemnity against  
2 an employer or other plan sponsor for damages recovered  
3 pursuant to a cause of action referred to in subparagraph  
4 (A).”.

5 (b) **EFFECTIVE DATE.**—The amendments made by  
6 subsection (a) shall apply to causes of action arising on  
7 or after the date of the enactment of this Act.

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