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.

(a) In General.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.), as amended by sections 2, 6, and 8, is further amended by adding at the end the following:

“SEC. 719. CONTINUITY OF CARE.

“(a) Ensuring Continuity of Care With Respect to Terminations of Certain Contractual Relationships Resulting in Changes in Provider Network Status.—

“(1) In General.—In the case of an individual with benefits under a group health plan or health insurance coverage offered by a health insurance issuer in connection with a group health plan and with respect to a health care provider or facility that has a contractual relationship with such plan or such issuer (as applicable) for furnishing items and services under such plan or such coverage, if, while
such individual is a continuing care patient (as defined in subsection (b)) with respect to such provider or facility—

“(A) such contractual relationship is terminated (as defined in paragraph (b));

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

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

the plan or issuer, respectively, shall meet the requirements of paragraph (2) with respect to such individual.

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

“(A) notify each individual enrolled under such plan or coverage who is a continuing care patient with respect to a provider or facility at
the time of a termination described in paragraph (1) affecting such provider or facility on a timely basis of such termination and such individual’s right to elect continued transitional care from such provider or facility under this section;

“(B) provide such individual with an opportunity to notify the plan or issuer of the individual’s need for transitional care; and

“(C) permit the patient to elect to continue to have benefits provided under such plan or such coverage, under the same terms and conditions as would have applied and with respect to such items and services as would have been covered under such plan or coverage had such termination not occurred, with respect to the course of treatment furnished by such provider or facility relating to such individual’s status as a continuing care patient during the period beginning on the date on which the notice under subparagraph (A) is provided and ending on the earlier of—

“(i) the 90-day period beginning on such date; or
“(ii) the date on which such individual is no longer a continuing care patient with respect to such provider or facility.

“(b) DEFINITIONS.—In this section:

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

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

“(B) is undergoing a course of institutional or inpatient care from the provider or facility;

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

“(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider or facility; or

“(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) and is receiving treatment for such illness from such provider or facility.
“(2) SERIOUS AND COMPLEX CONDITION.—The term ‘serious and complex condition’ means, with respect to a participant, beneficiary, or enrollee under a group health plan or health insurance coverage—

“(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

“(B) in the case of a chronic illness or condition, a condition that—

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

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

“(3) TERMINATED.—The term ‘terminated’ includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.”.

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

“Sec. 719. Continuity of care.”.
(c) **Effective Date.**—The amendment made by subsection (a) shall apply with respect to plan years beginning on or after January 1, 2021.