AMERICA'S AFFORDABLE HEALTH CHOICES ACT

QUALITY AFFORDABLE HEALTH CARE

KEY AMENDMENTS TO AMERICA'S AFFORDABLE HEALTH CHOICES ACT (H.R. 3200)

ADOPTED BY THE ENERGY AND COMMERCE COMMITTEE

Amendment offered by Rep. Mike Ross (D-AR) (Blue Dog Amendment – Reflecting Waxman-Blue Dog Agreement)
Adopted by a vote of 33-26 (D 33-3; R 0-23)

The Blue Dog omnibus amendment included several provisions, including the following:

- **Public Health Insurance Plan:** Provides that the public health insurance plan will negotiate rates with providers, no higher than the average of private plan rates or lower than Medicare. (Under the original bill, in the first three years, the public health insurance plan would pay rates set at those of Medicare, plus 5 percent – with the HHS Secretary having discretion in later years on how rates would be determined.) The amendment also includes further clarifications that the public health insurance plan will compete on a level playing field in the Health Insurance Exchange with private insurers.

- **Affordability Credits:** Trims the subsidies ("affordability credits") provided to households using the Health Insurance Exchange with incomes above 150% of poverty (under the bill, subsidies are provided to households from 133% of poverty to 400% of poverty). Specifically, the amendment increases from 11% to 12% the maximum portion of income spent on premiums for households at the top end of the subsidy schedule (400% of poverty), and makes sliding-scale increases in the rest of the schedule for households with incomes above 150% of poverty.

- **Small Business Exemption:** [Note: This was a key feature of the Waxman-Blue Dog Agreement, which is why it is included here. However, because it was not in the jurisdiction of the Energy and Commerce Committee, its language was not offered in the amendment offered and adopted in the Energy and Commerce markup.] Increases the small business exemption from the employer responsibility requirement from businesses with $250,000 or under in payroll in the original bill to businesses with $500,000 or under in payroll. Also, under the agreement, small businesses with payrolls between $500,000 and $750,000 pay a graduated rate if they do not provide coverage (rather than the 8 percent payroll fee large businesses pay.) Under the original bill, small businesses with payrolls between $250,000 and $400,000 paid the graduated fee.

- **Medicaid Matching:** Starting in 2015, requires states to provide a 10% match for the individuals newly made eligible for Medicaid under this legislation (which makes all individuals with incomes at or below 133% of poverty eligible for Medicaid). Under the original bill, the costs of the new Medicaid eligibles were fully federally-funded. The amendment also provides for a study and report to Congress on the current federal-state matching formula in the Medicaid program.

- **State Cooperative Health Plans:** Provides that states would be able to set up non-for-profit or cooperative health plans that could, like other insurers and the public option, compete in the Exchange. The cooperative plans would not replace the public health insurance plan.

- **Realigning Incentives:** In addition to the delivery reforms already included in the bill, establishes and funds a Center for Medicare and Medicaid Payment Innovation at the Centers for Medicare and Medicaid Services (CMS) to identify and implement payment systems that can improve quality and reduce costs for Medicare beneficiaries.

- **Insurance Agents and Brokers:** Clarifies that nothing in the legislation has any impact on the role of agents and brokers under state law, including the enrollment of individuals in private plans and the public option.

- **End-of-Life Care:** Includes clarifications regarding end-of-life care, calling for information to be provided to individuals on end-of-life planning by health insurers in the Exchange, but ensuring that such information "shall not promote suicide, assisted suicide or the active hastening of death;" and ensuring that such information "shall not presume the withdrawal of treatment and shall include end-of-life planning information that includes options to maintain all or most medical interventions."

Amendment offered by Rep. Tammy Baldwin (D-WI) (Amendment from Committee's Progressives and others)
Adopted by a vote of 32-26 (D 32-3; R 0-23)
The Baldwin amendment includes several provisions that are designed to achieve savings. The amendment stipulates that all savings achieved by these provisions will be used to reduce the financial burden of premiums for households using the Health Insurance Exchange who are eligible for subsidies ("affordability credits") – by increasing the subsidies for these families. The provisions in the amendment that are designed to achieve savings are:

- **Public Plan Formulary:** Clarifies that the HHS Secretary shall establish a drug formulary in the public plan.

- **Pharmacy Benefit Manager (PBM) Transparency:** Requires Pharmacy Benefit Managers (PBMs) to provide basic performance information to the insurance plans that hire them, such as information on generic drug utilization rates and the spreads between PBM drug costs and the prices PBMs charge insurers and insured beneficiaries.

- **Accountable Care Organizations in Medicaid:** Requires the HHS Secretary to establish an accountable care organization pilot program in Medicaid, similar to that established under Medicare in this legislation.

- **Administrative Simplification:** Sets out new administrative simplification standards that all health plans must meet.

Amendment offered by Rep. Jan Schakowsky (D-IL) (Amendment from Committee's Progressives and others)
Adopted by a vote of 32-23 (D 32-2; R 0-21)
The Schakowsky amendment also included provisions that are designed to achieve savings. Like the Baldwin amendment, the amendment stipulates that all savings achieved by these provisions will be used to reduce the financial burden of premiums for households using the Health Insurance Exchange who are eligible for subsidies ("affordability credits") – by increasing the subsidies for these families. The provisions in the amendment that are designed to achieve savings are:

- **Prior Approval of Large Premium Increases:** Provides for prior approval of premium increases in excess of 150% of medical inflation for plans in the Health Insurance Exchange. Under the amendment, approval would be granted by states or, if the state has no such program, by the Commissioner of the Exchange.

- **Allowing Medicare Part D Drug Price Negotiation:** Authorizes the HHS Secretary to negotiate drug prices for Part D drugs in Medicare with the nation's drug companies.

Amendment offered by Rep. Anna Eshoo (D-CA)
Adopted by vote of 47-11 (D 26-10; R 21-1)
The Eshoo amendment would authorize the Food and Drug Administration to approve generic versions of costly biologic drugs derived from human proteins. (Ordinary chemical pharmaceuticals have faced generic competition for more than two decades.) The amendment grants biologics manufacturers 12 years of exclusive use of their drug before generic manufacturers could begin developing competitors.

Amendment offered by Rep. Bobby Rush (D-IL)
Adopted by voice vote
The Rush amendment would prohibit brand-name drug companies from settling patent litigation with generic competitors by paying them to delay marketing their products.

Amendment offered by Rep. Steve Buyer (R-IN)
Adopted by voice vote
The Buyer amendment clarified that nothing related to Health Insurance Exchange-eligible individuals and employers would be construed as affecting the ability of the Secretary of Defense and the Secretary of Veterans Affairs to continue to have sole authority over their respective health care systems. It also clarifies that veterans, military personnel, and their families retain the choice of keeping their respective TRICARE or VA health coverage and obtaining additional private or public health insurance.

En bloc Amendment offered by Rep. Frank Pallone (D-NJ)
Adopted by voice vote
The en bloc amendment offered by Rep. Pallone included numerous provisions from both Democrats and Republicans, including provisions to increased federal support for trauma centers, and emergency care, and programs to increase government-sponsored research into pain management and post-partum depression.

Amendment offered by Rep. Betty Sutton and Del. Donna Christensen
Adopted by a vote of 36-23 (D 36-0; R 0-23)
The Sutton-Christensen amendment authorizes $30 million a year over the next five years in grants to states, local governments, and non-profit organizations to send community health workers into “medically underserved” communities to promote positive health behaviors and provide education and information on such issues as proper nutrition, tobacco and alcohol use, and untreated mental health problems.

Amendment offered by Rep. Lois Capps (D-CA)
Adopted by a vote of 33-23 (D 31-3; R 2-20)
The Capps amendment authorizes $50 million a year over the next five years for “evidence-based” sexual education programs for teenagers.