

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 16, 2012

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 1618

By: Brown of the Senate and Mulready of the House

Title: Insurance; relating to appointment termination of insurance producers; requiring insurers to provide information to accident or health insurance providers. Effective date.

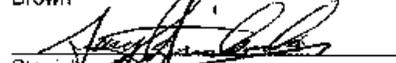
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

Co-Authored By: Remove Brown as Principal Senate Author and Substitute Stanislawski as Principal Senate Author and Retain Brown as Co-Author and Moore of the House

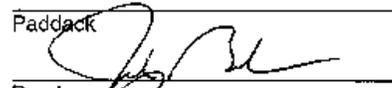
1. That the House recede from all Amendments
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:


Brown

Stanislawski

Simpson


Paddock

Brecheen

Ballenger

HOUSE CONFEREES:

Conference Committee on Insurance and Economic Development

ADOPTED & PASSED **MAY 23 2012**
Senate Action _____ Date _____ House Action _____ Date _____

epc

HOUSE CONFEREES

Dank _____

Key _____

Kirby *Dan Kirby*

McDaniel
(Randy) *Randy McDaniel*

McNiel _____

Morrisette *Richard Morissette*

Mulready *Gl Mulready*

Ortega *Chris Ortega*

Ownbey *Pat Ownbey*

Pittman _____

Shelton *Mike Shelton*

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1618

6 By: (Stanislawski) of the
7 Senate

8 and

9 Mulready and (Moore) of the
10 House

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to insurance; amending 36 O.S. 2011,
13 Section 1435.41, which relates to appointment
14 termination of insurance producers; requiring
15 insurers to provide information to certain insurance
16 providers; amending 36 O.S. 2011, Section 6515, which
17 relates to the Small Employer Health Insurance Reform
18 Act; allowing a small employer carrier to include an
19 employer's bona fide wellness program in premium rate
20 development; amending 40 O.S. 2011, Section 500,
21 which relates to conditions of employment; allowing
22 an employer to incentivize employees to participate
23 in certain wellness programs in conjunction with
24 employer provided health insurance; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.41, is
amended to read as follows:

Section 1435.41 A. An insurer shall provide to any insurance
producer authorized to sell life, accident or health insurance

1 products, whose appointment has been terminated for any reason other
2 than the reasons set forth in Section 1435.13 of ~~Title 36 of the~~
3 ~~Oklahoma Statutes and is still the agent of record or servicing~~
4 ~~agent and has not been replaced by another servicing agent upon~~
5 ~~termination~~ this title, information relating to the policy of the
6 person who purchased a product from such producer if the insured has
7 signed a form authorizing the release of the information.

8 B. The Insurance Commissioner shall prescribe the form required
9 by subsection A of this section. The form shall be in compliance
10 with federal and state laws and regulations relating to privacy.

11 C. This section shall not apply to any policy sold or serviced
12 by the insurance producer while associated with the insurer's
13 captive distribution system.

14 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6515, is
15 amended to read as follows:

16 Section 6515. A. Premium rates for health benefit plans
17 subject to the Small Employer Health Insurance Reform Act shall be
18 subject to the following provisions:

19 1. The rate manual developed for use by a small employer
20 carrier shall be filed and approved by the Insurance Commissioner
21 prior to use. Any changes to the rate manual shall be filed and
22 approved by the Insurance Commissioner prior to use. Every filing
23 shall be made not less than thirty (30) days prior to the date the
24 small employer carrier intends to implement the rates. The rate

1 manual so filed shall be deemed approved upon expiration of the
2 thirty-day waiting period unless, prior to the end of the period, it
3 has been affirmatively approved or disapproved by order of the
4 Commissioner. Approval of a rate manual by the Commissioner shall
5 constitute a waiver of any unexpired portion of the thirty-day
6 waiting period. The Commissioner may extend the period to approve
7 or disapprove a rate manual by not more than an additional thirty
8 (30) days by giving notice of such extension before expiration of
9 the initial thirty-day period. At the expiration of an extended
10 period, the rate filing shall be deemed approved unless otherwise
11 approved or disapproved by the Commissioner. The Commissioner may
12 at any time, after notice and for cause shown, withdraw approval of
13 a filed rate;

14 2. A small employer health benefit plan shall not be delivered
15 or issued for delivery unless the policy form or certificate form
16 can be expected to return to policyholders and certificate holders
17 in the form of aggregate benefits provided under the policy form or
18 certificate form at least sixty percent (60%) of the aggregate
19 amount of premiums earned. The rate of return shall be estimated
20 for the entire period for which rates are computed to provide
21 coverage. The rate of return shall be calculated on the basis of
22 incurred claims experience or incurred health care expenses where
23 coverage is provided by a health maintenance organization on a
24 service rather than reimbursement basis and earned premiums for the

1 period in accordance with accepted actuarial principles and
2 practices;

3 3. The index rate for a rating period for any class of business
4 shall not exceed the index rate for any other class of business by
5 more than twenty percent (20%);

6 4. For a class of business, the premium rates charged during a
7 rating period to small employers with similar case characteristics
8 for the same or similar coverage, or the rates that could be charged
9 to such employers under the rating system for that class of
10 business, shall not vary from the index rate by more than twenty-
11 five percent (25%) of the index rate;

12 5. The percentage increase in the premium rate charged to a
13 small employer for a new rating period may not exceed the sum of the
14 following:

15 a. the percentage change in the new business premium rate
16 measured from the first day of the prior rating period
17 to the first day of the new rating period. In the
18 case of a health benefit plan into which the small
19 employer carrier is no longer enrolling new small
20 employers, the small employer carrier shall use the
21 percentage change in the base premium rate, provided
22 that the change does not exceed, on a percentage
23 basis, the change in the new business premium rate for
24 the most similar health benefit plan into which the

1 small employer carrier is actively enrolling new small
2 employers,

3 b. any adjustment, not to exceed fifteen percent (15%)
4 annually and adjusted pro rata for rating periods of
5 less than one year, due to the claim experience,
6 health status or duration of coverage of the employees
7 or dependents of the small employer as determined from
8 the rate manual for the class of business of the small
9 employer carrier, and

10 c. any adjustment due to change in coverage or change in
11 the case characteristics of the small employer, as
12 determined from the rate manual for the class of
13 business of the small employer carrier;

14 6. Adjustments in rates for claim experience, health status and
15 duration of coverage shall not be charged to individual employees or
16 dependents. Any adjustment shall be applied uniformly to the rates
17 charged for all employees and dependents of the small employer;

18 7. A small employer carrier may utilize industry as a case
19 characteristic in establishing premium rates; provided, the highest
20 rate factor associated with any industry classification shall not
21 exceed the lowest rate factor associated with any industry
22 classification by more than fifteen percent (15%);

23 8. In the case of health benefit plans issued prior to the
24 effective date of the Small Employer Health Insurance Reform Act, a

1 premium rate for a rating period may exceed the ranges set forth in
2 paragraphs 3 and 4 of this subsection for a period of three (3)
3 years following the effective date of the Small Employer Health
4 Insurance Reform Act. In such case, the percentage increase in the
5 premium rate charged to a small employer for a new rating period
6 shall not exceed the sum of the following:

7 a. the percentage change in the new business premium rate
8 measured from the first day of the prior rating period
9 to the first day of the new rating period. In the
10 case of a health benefit plan into which the small
11 employer carrier is no longer enrolling new small
12 employers, the small employer carrier shall use the
13 percentage change in the base premium rate, provided
14 that the change does not exceed, on a percentage
15 basis, the change in the new business premium rate for
16 the most similar health benefit plan into which the
17 small employer carrier is actively enrolling new small
18 employers, and

19 b. any adjustment due to change in coverage or change in
20 the case characteristics of the small employer, as
21 determined from the rate manual of the carrier for the
22 class of business;

23 9. Small employer carriers shall:
24

1 a. apply rating factors, including case characteristics,
2 consistently with respect to all small employers in a
3 class of business. Rating factors shall produce
4 premiums for identical groups within the same class of
5 business which differ only by amounts attributable to
6 plan design and do not reflect differences due to
7 claims experience, health status and duration of
8 coverage, and

9 b. treat all health benefit plans issued or renewed in
10 the same calendar month as having the same rating
11 period;

12 10. For the purposes of this subsection, a health benefit plan
13 that utilizes a restricted provider network shall not be considered
14 similar coverage to a health benefit plan that does not utilize such
15 a network, provided that utilization of the restricted provider
16 network results in substantial differences in claims costs;

17 11. The Insurance Commissioner may establish rules to implement
18 the provisions of this section and to assure that rating practices
19 used by small employer carriers are consistent with the purposes of
20 the Small Employer Health Insurance Reform Act, including:

21 a. assuring that differences in rates charged for health
22 benefit plans by small employer carriers are
23 reasonable and reflect objective differences in plan
24

1 design, not including differences due to claims
2 experience, health status or duration of coverage, and

3 b. prescribing the manner in which case characteristics
4 may be used by small employer carriers.

5 B. A small employer carrier shall not transfer a small employer
6 involuntarily into or out of a class of business. A small employer
7 carrier shall not offer to transfer a small employer into or out of
8 a class of business unless the offer is made to transfer all small
9 employers in the class of business without regard to case
10 characteristics, claim experience, health status or duration of
11 coverage.

12 C. The Commissioner may suspend for a specified period the
13 application of paragraph 3 of subsection A of this section as to the
14 premium rates applicable to one or more small employers included
15 within a class of business of a small employer carrier for one or
16 more rating periods upon a filing by the small employer carrier and
17 a finding by the Commissioner either that the suspension is
18 reasonably necessary in light of the financial condition of the
19 small employer carrier or that the suspension would enhance the
20 efficiency and fairness of the marketplace for small employer health
21 insurance.

22 D. Nothing in the Small Employer Health Insurance Reform Act
23 shall prohibit a small employer carrier from including in premium
24 rate development an employer's bona fide wellness program for its

1 employees including, but not limited to, a tobacco cessation
2 program.

3 SECTION 3. AMENDATORY 40 O.S. 2011, Section 500, is
4 amended to read as follows:

5 Section 500. A. It shall be unlawful for an employer to:

6 1. Discharge any individual, or otherwise disadvantage any
7 individual, with respect to compensation, terms, conditions or
8 privileges of employment because the individual is a nonsmoker or
9 smokes or uses tobacco products during nonworking hours; or

10 2. Require as a condition of employment that any employee or
11 applicant for employment abstain from smoking or using tobacco
12 products during nonworking hours.

13 B. Nothing in this section shall prohibit an employer from
14 incentivizing an employee to participate in wellness programs,
15 including but not limited to, smoking cessation programs, in
16 conjunction with the employer providing the employee health
17 insurance coverage.

18 SECTION 4. This act shall become effective November 1, 2012.

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