

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1059

By: Brown of the Senate

and

Moore and Mulready of the
House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to the purchase of health insurance;
12 amending 36 O.S. 2011, Section 307, which relates to
13 duties of the Insurance Commissioner; requiring the
14 Insurance Commissioner to administer and enforce
15 certain laws; creating the Health Care Choice Act;
16 providing short title; stating legislative intent;
17 authorizing the Insurance Commissioner to negotiate
18 certain compacts with other states; providing for the
19 disapproval of such compacts by the Legislature or
20 Governor; deeming approval and effectiveness of the
21 compact under certain conditions; specifying how
22 certain examination by the Insurance Commissioner
23 should be conducted; exempting certain insurers from
24 offering certain benefits; specifying exception;
authorizing certain insurers to sell certain
policies; requiring certain applications to contain
specified provisions; requiring certain health
benefit plan to contain specified provisions; making
certain insurers subject to premium taxes;
authorizing the Insurance Commissioner to promulgate
certain rules; specifying conditions that certain
foreign insurers must meet in order to sell certain
health benefit plans; providing for codification; and
providing an effective date.

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

2 SECTION 1. AMENDATORY 36 O.S. 2011, Section 307, is
3 amended to read as follows:

4 Section 307. The Insurance Commissioner shall be charged with
5 the duty of administration and enforcement of the provisions of the
6 Oklahoma Insurance Code and of any requirements placed on an
7 insurance company pursuant to ~~subsection L of section 1111 of Title~~
8 ~~47 of the Oklahoma Statutes~~ or any other law applicable within this
9 state. The ~~Insurance~~ Commissioner shall have jurisdiction over
10 complaints against all persons engaged in the business of insurance,
11 and shall hear all matters either in person, by authorized
12 disinterested employees, or by hearing examiners appointed by the
13 Commissioner for that purpose. It shall be the duty of the
14 ~~Insurance~~ Commissioner to file and safely keep all books and papers
15 required by law to be filed with the Insurance Department, and to
16 keep and preserve in permanent form a full record of proceedings,
17 including a concise statement of the conditions of such insurers and
18 other entities reported and examined by the Department and its
19 examiners. The Commissioner shall, annually, at the earliest
20 practicable date after returns are received from the several
21 authorized insurers and other organizations, make a report to the
22 Governor of the State of Oklahoma of the affairs of the Office of
23 the Insurance Commissioner, which report shall contain a tabular

1 statement and synopsis of the several statements, as accepted by the
2 ~~Insurance~~ Commissioner, which shall include with respect to each
3 insurance company the admitted assets, liabilities except capital,
4 capital and surplus, Oklahoma premium income, amount of claims paid
5 in Oklahoma, and such other matters as may be of benefit to the
6 public. The Commissioner may educate consumers and make
7 recommendations regarding the subject of insurance in this state,
8 and shall set forth in a statement the various sums received and
9 disbursed by the Department, from and to whom and for what purpose.
10 Such report shall be published by and subject to the order of the
11 ~~said Insurance~~ Commissioner. The ~~Insurance~~ Commissioner shall, upon
12 retiring from office, deliver to the qualified successor all
13 furniture, records, papers and property of the office.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4413 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 Sections 2 through 4 of this act shall be known and may be cited
18 as the "Health Care Choice Act".

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4414 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Oklahoma Legislature recognizes the need for
23 individuals, employers, and other purchasers of health insurance

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1 coverage in this state to have the opportunity to choose health
2 insurance plans that are more affordable and flexible than existing
3 market policies offering accident and health coverage. Therefore,
4 the Oklahoma Legislature seeks to increase the availability of
5 health insurance coverage by allowing insurers authorized to engage
6 in the business of insurance in other states to issue accident and
7 health policies in Oklahoma.

8 B. The Insurance Commissioner may negotiate one or more
9 compacts with other states to allow insurers domiciled in such
10 compacting states to sell specified lines of coverage in Oklahoma
11 without being granted a certificate of authority by Oklahoma. Such
12 compacts shall provide for appropriate protection of Oklahoma
13 consumers by allowing the Commissioner to regulate the market
14 conduct and financial solvency of the nonadmitted insurers pursuant
15 to compact provisions. The terms of any such compact shall be
16 presumed a valid exercise of the discretionary authority of the
17 Commissioner. The compact shall be subject to disapproval by a
18 majority vote of both houses of the State Legislature, in the form
19 of a concurrent resolution, or by the Governor, in the form of an
20 executive order. Such disapproval by the Legislature or by the
21 Governor shall be done prior to the effective date of the compact,
22 if the effective date occurs while the Legislature is in session.
23 If the Legislature is not in session on the presumed effective date

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1 of the compact, the compact may be disapproved within fifteen (15)
2 days of the commencement of the next legislative session. If the
3 Legislature or the Governor does not disapprove the compact within
4 the specified time periods, the compact shall be deemed approved and
5 shall become effective upon the effective date specified in the
6 compact.

7 C. Any examination by the Commissioner of the market conduct
8 and solvency of any out-of-state companies seeking to offer health
9 benefit plans in this state, or who have been given approval to
10 offer health benefit plans in this state, shall be conducted in the
11 same manner and under the same terms and conditions as examinations
12 of companies located in this state.

13 D. The out-of-state insurers shall not be required to offer or
14 provide state-mandated health benefits required by Oklahoma law or
15 regulations in health insurance policies sold to Oklahoma residents,
16 except that coverage for the treatment of diabetes as provided in
17 Section 6060.2 of Title 36 of the Oklahoma Statutes shall be
18 required.

19 E. Domestic and foreign-admitted insurers authorized to sell
20 specified lines of coverage in Oklahoma may sell policies that are
21 substantially comparable to policies sold by out-of-state insurers
22 pursuant to this section. Domestic and foreign-admitted insurers
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1 selling policies pursuant to this section shall be required to
2 comply with the provisions of this section.

3 F. Each written application for participation in an out-of-
4 state health benefit plan shall contain the following language in
5 boldface type at the beginning of the document:

6 "This policy is primarily governed by the laws of (insert state
7 where the master policy is filed); therefore, all of the rating laws
8 applicable to policies filed in this state do not apply to this
9 policy, which may result in increases in your premium at renewal
10 that would not be permissible in an Oklahoma-approved policy. Any
11 purchase of individual health insurance should be considered
12 carefully since future medical conditions may make it impossible to
13 qualify for another individual health policy. For information
14 concerning individual health coverage under an Oklahoma-approved
15 policy, please consult your insurance agent or the Oklahoma
16 Department of Insurance."

17 G. Each out-of-state health benefit plan shall contain the
18 following language in boldface type at the beginning of the
19 document:

20 "The benefits of this policy providing your coverage are
21 governed primarily by the law of a state other than Oklahoma. While
22 this health benefit plan may provide you a more affordable health
23 insurance policy, it may also provide fewer health benefits than
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1 those normally included as state-mandated health benefits in
2 policies in Oklahoma. Please consult your insurance agent to
3 determine which Oklahoma state-mandated health benefits are excluded
4 under this policy.”

5 H. Nonadmitted, out-of-state insurers selling specified lines
6 of coverage in Oklahoma pursuant to the provisions of the Health
7 Care Choice Act shall be subject to payment of any applicable
8 premium taxes pursuant to Section 624 of Title 36 of the Oklahoma
9 Statutes.

10 I. The Commissioner may promulgate rules necessary for the
11 administration and implementation of the Health Care Choice Act.

12 SECTION 4. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4416 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 Pursuant to the provisions of the Health Care Choice Act, a
16 foreign health insurer may sell, offer and provide a health benefit
17 plan to residents in this state, if that insurer:

18 1. Offers the same health benefit plan in its domiciliary state
19 and is in compliance with all applicable laws, regulations, and
20 other requirements of its domiciliary state;

21 2. Obtains a certificate of authority to do business as a
22 foreign health insurer in the state pursuant to the provisions of
23 Section 3 of this act;

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1 3. Provides coverage for the treatment of diabetes as required
2 pursuant to Section 6060.2 of Title 36 of the Oklahoma Statutes;

3 4, Participates, on a nondiscriminatory basis, in the Oklahoma
4 Life and Health Insurance Guaranty Association Act; and

5 5. Participates on a nondiscriminatory basis and in the same
6 manner as admitted, participating insurers to the Health Insurance
7 High Risk Pool.

8 SECTION 5. This act shall become effective November 1, 2012.

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10 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/09/2012 - DO
11 PASS, As Amended.

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.