

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 636

By: Schulz

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5
6 AS INTRODUCED

7 An Act relating to insurance; creating the Vision
8 Plan Licensure Act; providing short title; providing
9 for organization of Vision Plan Organizations;
10 requiring certain licensure and providing procedures;
11 defining terms; providing for issuance of subscriber
12 contracts; specifying duties of Insurance
13 Commissioner; providing for certification of Vision
14 Plan Organizations; requiring certain fees and
15 documents; specifying conditions under which license
16 granted; specifying term of license; requiring
17 certain security on deposit with Insurance
18 Commissioner; providing for certain liens; requiring
19 statement in vision plan coverage contract; providing
20 for selection of providers and provider agreements;
21 specifying unlawful acts; providing for approval and
22 disapproval of plans; requiring certain reports;
23 allowing Insurance Commissioner to conduct
24 examination of organizations; providing for
suspension or revocation of licenses; prohibiting
certain conduct; providing penalties; authorizing
Insurance Commissioner to promulgate certain rules;
providing for codification; and providing an
effective date.

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

26 SECTION 1. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 7401 of Title 36, unless there
28 is created a duplication in numbering, reads as follows:
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1 This act shall be known and may be cited as the "Vision Plan
2 Licensure Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7402 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 Licensed insurance companies or direct care plans who hold valid
7 certificates of authority in this state and who provide a vision
8 plan or own a Vision Plan Organization existing on the effective
9 date of this act shall be exempt from the provisions of the Vision
10 Plan Licensure Act as they are presently regulated pursuant to the
11 Insurance Code, provided they meet the requirements of Sections 5, 7
12 and 9 of this act. Any other entity, including any entity licensed
13 pursuant to Section 2651 et seq. of Title 36 of the Oklahoma
14 Statutes, presently providing vision plans to the public shall,
15 within sixty (60) days of the effective date of this act, apply for
16 and obtain a license to provide such plans or be subject to
17 violation of the mandated licensure provisions of the Vision Plan
18 Licensure Act and subject to the penalties set forth herein.

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 7403 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in the Vision Plan Licensure Act:

23 1. "Subscriber" means an individual who is enrolled in an
24 individual or group vision plan as a principal subscriber, and

1 dependents who are entitled to vision services under the vision plan
2 solely because of their status as dependents of the principal
3 subscriber;

4 2. "Subscribership coverage" means any certificate or contract
5 issued to a subscriber specifying the vision coverage to which the
6 subscriber is entitled;

7 3. "Vision Plan" means any contractual arrangement whereby any
8 Vision Plan Organization undertakes to provide payment of vision
9 exams, eyeglasses, and/or contact services directly or to arrange
10 for vision exams, eyeglasses and/or contact services or to pay or
11 make reimbursement for same; and

12 4. "Vision Plan Organization" means any person or entity who
13 undertakes to conduct or operate one or more prepaid or
14 reimbursement Vision Plans.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 7404 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A Vision Plan Organization may issue contracts to its
19 subscribers only when the Insurance Commissioner has, by license,
20 authorized it to do so. For Vision Plan Organizations seeking to do
21 business in this state, an application for license shall be made on
22 forms supplied or approved by the Insurance Commissioner, containing
23 such information as he or she shall deem necessary as provided
24

1 herein. Each application for such license shall be accompanied by
2 the fee and documents required by Section 5 of this act.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7405 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Insurance Commissioner shall certify Vision Plan
7 Organizations by issuing a license, authorizing the applicant to
8 issue Vision Plan contracts to its subscribers when it is shown to
9 the satisfaction of the Commissioner that:

10 1. The applicant is established as a bona fide Vision Plan
11 Organization;

12 2. The amount of Twenty-five Thousand Dollars (\$25,000.00) of
13 required working capital of the Vision Plan Organization exists in
14 the name of the Vision Plan Organization and, if subject to
15 repayment, can be repaid only out of operating income without
16 endangering the solvency or financial strength of the Vision Plan
17 Organization; and

18 3. The Vision Plan Organization has met, or will be able to
19 meet, the requirements set forth hereinafter to protect the public
20 and the providers providing such services.

21 B. The Application for License shall be filed with, and
22 approved by, the Oklahoma Insurance Department and shall be
23 accompanied by the following:
24

1 1. A copy of the basic organizational document of the Applicant
2 Vision Plan Organization including, but not limited to, the Articles
3 of Incorporation, Articles of Association, Partnership Agreement,
4 Trust Agreement or other applicable documents, with all amendments
5 to such documents;

6 2. A copy of any bylaws, rules or regulations, operating
7 agreement or similar documents regulating the conduct of the
8 internal affairs of the Applicant Vision Plan Organization;

9 3. A list of the names, addresses and official positions of the
10 person responsible for the conduct of the business affairs of the
11 Applicant Vision Plan Organization including all subscribers of the
12 Board of Directors, Board of Trustees, Executive committee or other
13 governing board or committee and the principal officers in the case
14 of a corporation and the partners or subscribers names in the case
15 of a partnership or association;

16 4. A copy of any standard contract between the providers of
17 vision care services and the Applicant Vision Plan Organization;

18 5. A statement describing the Vision Plan Organization and the
19 various Vision Plans offered by the Applicant Vision Plan
20 Organization including the facilities contracted for and provider
21 personnel available including networks, if applicable;

22 6. A copy of the form of individual or group subscribership
23 coverage and a copy of the contract to be issued to the subscribers;
24

1 7. Financial statements reflecting the assets, liabilities, and
2 sources of financial support of the Applicant Vision Plan
3 Organization, and, if the Vision Plan Organization is audited, a
4 copy of its most recent audit or certified financial statement of
5 the Vision Plan Organization;

6 8. A disclosure if the Vision Plan Organization has any
7 financial interest in any entity that provides eyeglasses, eyeglass
8 material and/or contacts. Such disclosure shall be provided to the
9 Insurance Commissioner in the application and shall be on each and
10 every contract and identification card issued to a subscriber;

11 9. A Power of Attorney for Agent for Service of Process if the
12 Applicant Vision Plan Organization is not an Oklahoma domiciliary
13 entity, appointing the Insurance Commissioner as the true and lawful
14 representative for service of process for the Applicant Vision Plan
15 Organization in this state, upon whom all lawful process in any
16 legal action or proceeding on a cause of action arising in this
17 state may be served;

18 10. A fee of One Thousand Dollars (\$1,000.00) made payable to
19 the Oklahoma Insurance Department for review of the Application;

20 11. A fee of One Hundred Fifty Dollars (\$150.00) for issuance
21 of a license upon successful review and approval of the application;
22 and

23 12. Such other information as the Insurance Commissioner may
24 require.

1 C. Upon modification or amendment of any of the information
2 previously furnished as required by this section, the Vision Plan
3 Organization shall file an amended application with the Insurance
4 Commissioner within thirty (30) days of the modification or
5 amendment.

6 D. Any Vision Plan Organization or other entity providing
7 Vision Plans existing on the effective date of this act including
8 any entity licensed pursuant to Section 2651 et seq. of Title 36 of
9 the Oklahoma Statutes shall comply with the provisions of the Vision
10 Plan Licensure Act within sixty (60) days of the effective date of
11 this act and shall file an application for a license from the
12 Insurance Commissioner as set forth in the Vision Plan Licensure Act
13 in order to continue providing such vision services.

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7406 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Issuance of a license for a Vision Plan Organization shall
18 be granted if the Insurance Commissioner is satisfied that the
19 following conditions are met:

20 1. The persons responsible for conducting the business affairs
21 of the Vision Plan Organization are competent and trustworthy and
22 are professionally capable of providing or arranging for the
23 provision of services offered;
24

1 2. The Vision Plan Organization constitutes an appropriate
2 mechanism to achieve an effective Vision Plan;

3 3. Each officer responsible for conducting the business affairs
4 of the Vision Plan Organization has filed with the Insurance
5 Commissioner a fidelity bond in the amount of Fifty Thousand Dollars
6 (\$50,000.00), subject to the approval of the Insurance Commissioner;
7 and

8 4. The financial structure of the Vision Plan Organization may
9 reasonably be expected to meet obligations for payment of services
10 for subscribers and prospective subscribers. In making this
11 determination, the Insurance Commissioner may consider:

- 12 a. the financial soundness of the arrangements made
13 pursuant to the provisions of the Vision Plan
14 Organization for services and the schedule of charges
15 used,
 - 16 b. any agreement with an insurer, a hospital, a medical
17 service corporation or any other organization for
18 ensuring the payment and provision of Vision Plan
19 services,
 - 20 c. provisions in the plan for automatic coverage of
21 Vision Plans if the Vision Plan Organization is
22 discontinued, and
- 23
24

1 d. the sufficiency of the agreement for Vision Plan
2 Organizations services with providers of vision
3 services.

4 B. A Vision Plan Organization license shall expire at midnight
5 on June 30, following the date of issuance or last renewal date. If
6 the Vision Plan Organization remains in compliance with the
7 provisions of the Vision Plan Licensure Act and pays a renewal fee
8 of One Hundred Fifty Dollars (\$150.00), the license of the plan may
9 be renewed. The renewal fee shall be deposited in the Insurance
10 Commissioner Revolving Fund.

11 C. A risk-based Vision Plan Organization shall keep on deposit
12 with the Insurance Commissioner cash or certificates of deposit
13 issued by solvent insured banks and trust companies in this state or
14 a combination of cash, certificates or securities eligible for
15 investment which have been approved by the Commissioner in the
16 following amounts:

17	Number of Subscribers	Deposit
18	1,000 or less	\$1,000.00
19	1,001 to 2,000	\$2,000.00
20	2,001 to 3,000	\$3,000.00
21	3,001 to 4,000	\$4,000.00
22	4,001 to 5,000	\$5,000.00
23	5,001 to 10,000	\$10,000.00
24	10,001 to 15,000	\$15,000.00

1 H. Upon liquidation or dissolution of a Vision Plan
2 Organization and the satisfaction of all debts and liabilities of
3 the organization, any balance remaining of the cash or securities
4 deposit as prescribed in subsection C of this section, together with
5 any other assets of the Vision Plan Organization, shall be returned
6 by the Insurance Commissioner to the Vision Plan Organization.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 7407 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Every subscriber of a Vision Plan Organization shall have
11 access to a Vision Plan coverage contract.

12 B. No Vision Plan coverage contract or amendment thereto shall
13 be issued or delivered to any person in this state until a copy of
14 the Vision Plan coverage contract or amendment has been filed with
15 and approved by the Insurance Commissioner.

16 C. A Vision Plan coverage contract shall contain a statement
17 of:

18 1. The vision services or other benefits to which the
19 subscriber is entitled under the Vision Plan;

20 2. Any limitations of the services or benefits to be provided
21 including any deductible or co-payment feature;

22 3. Information as to how services may be obtained; and

23 4. The obligation of the subscriber for charges for the Vision
24 Plan Organization.

1 D. Any subscriber in a Vision Plan shall be free to select any
2 licensed physician to provide vision services and prepayment or
3 reimbursement determinations shall be made based upon whether the
4 provider is a contracted provider of the plan. A detailed policy
5 regarding in-network coverage versus out-of-network coverage shall
6 be printed on the explanation for subscribership coverage.

7 E. Subscribership coverage shall contain no provisions or
8 statements which are unjust, unfair, untrue, inequitable,
9 misleading, deceptive or which encourage misrepresentation, as
10 determined by the Insurance Commissioner.

11 F. The Insurance Commissioner shall approve any policy of
12 subscribership coverage if the requirements of this section are
13 complied with and the Vision Plan Organization, in the judgment of
14 the Commissioner, is able to meet its financial obligations for the
15 subscribership coverage. It shall be unlawful for a Vision Plan
16 Organization to issue a Vision Plan until the Vision Plan providing
17 the coverage is approved. If the Commissioner does not disapprove
18 any such Vision Plan within thirty (30) days after filing, said
19 Vision Plan shall be deemed approved. If the Commissioner
20 disapproves a Vision Plan, the Insurance Commissioner shall notify
21 the Vision Plan Organization, specifying the reasons for
22 disapproval. The Commissioner shall grant a hearing on such
23 disapproval within thirty (30) days after a request in writing for a
24 hearing is received by the Commissioner from the Vision Plan

1 Organization provided the request in writing for a hearing is made
2 within twenty (20) days of the disapproval notice.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7408 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Each year on or before March 1, every Vision Plan
7 Organization shall file with the Insurance Commissioner a report of
8 the business activities of the Organization for the preceding
9 calendar year. This report shall be signed by at least two
10 principal officers of the corporation and the signatures shall be
11 notarized.

12 B. The reports required pursuant to subsection A of this
13 section shall be on forms prescribed by the Insurance Commissioner
14 and shall include:

15 1. A financial statement of the organization including a copy
16 of the balance sheet and receipts and disbursements of the Vision
17 Plan Organization for the preceding year, certified by an
18 independent certified public accountant. The Insurance Commissioner
19 may accept a full report of the most recent examination of a foreign
20 Vision Plan Organization, certified to by the appropriate examining
21 official of another state;

22 2. Any material changes in the information required to be
23 provided pursuant to Section 5 of this act;

1 3. The number of persons who have become subscribers during the
2 preceding year, the total number of subscribers in the plan as of
3 the end of the year, and the number of subscriber contracts or
4 certificates terminated during the year;

5 4. The costs of all care provided and the number of subscribers
6 who received care pursuant to the provisions of the Vision Plan
7 Organization; and

8 5. Any other information relating to the performance of the
9 Vision Plan Organization the Insurance Commissioner deems necessary
10 to enable the Commissioner to carry out the duties prescribed by the
11 Vision Plan Licensure Act.

12 SECTION 9. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 7409 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Article 12 of Title 36 of the Oklahoma Statutes relating to
16 Unfair Trade Practices and Frauds shall apply to Vision Plan
17 Organizations except to the extent the Insurance Commissioner may
18 determine that particular provisions of the Article shall not apply
19 to Vision Care Plan Organizations.

20 B. The provider's written acquiescence is required for each and
21 every Vision Service Plan offered by a Vision Plan Organization and
22 no Vision Plan Organization may utilize a provider's agreement to
23 the terms of one group agreement for vision services to equal or
24

1 automatically mandate the provider's agreement to another group
2 agreement.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7410 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 The Insurance Commissioner may conduct an examination of the
7 business affairs of any Vision Care Plan Organization as often as
8 the Commissioner deems necessary for the protection of the interests
9 of the people of this state.

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 7411 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The Insurance Commissioner may suspend or revoke any license
14 issued to a Vision Plan Organization pursuant to the provisions of
15 the Vision Plan Licensure Act if the Commissioner finds that any of
16 the following conditions exist:

17 1. The Vision Plan Organization is operating contrary to the
18 basic organizational documents of the organization or is operating
19 in a manner contrary to that described in, and reasonably inferred
20 from, any other information submitted pursuant to the Vision Plan
21 Licensure Act;

22 2. The Vision Plan Organization issued subscribership coverage
23 which does not comply with the requirements of Section 7 of this
24 act;

1 3. The Vision Plan Organization does not provide or arrange for
2 basic vision services appropriate to a Vision Plan Organization;

3 4. The Vision Plan Organization can no longer be expected to
4 meet obligations to its subscribers or prospective subscribers of
5 the Vision Plan Organization;

6 5. The Vision Plan Organization or any authorized person acting
7 on behalf of the Organization has advertised or merchandised
8 services offered by the Organization in an untrue, misleading,
9 deceptive or unfair manner; or

10 6. The Vision Plan Organization has failed to substantially
11 comply with the provisions of the Vision Plan Licensure Act or any
12 rules and regulations promulgated thereunder.

13 B. A Vision Plan Organization may not exclude or limit coverage
14 for a particular illness, disease, injury or condition and shall not
15 exclude or limit particular services or procedures or provide
16 additional credentialing or additional requirements which exclude or
17 limit particular providers if such requirement or credentialing has
18 the effect of discriminating against a particular class of
19 practitioner who is licensed to provide vision services.

20 C. Any violation of this section shall result in revocation of
21 license of the Vision Plan Organization and may include a fine of
22 Five Thousand Dollars (\$5,000.00) per violation, the fine to be
23 enforced by the Insurance Commissioner.
24

1 D. When the license of a Vision Plan Organization is suspended,
2 the Organization shall not accept, during the period of such
3 suspension, any additional subscribers except newly acquired
4 dependents of existing subscribers and shall not engage in any
5 advertising or solicitation.

6 E. When the license of a Vision Plan Organization is revoked,
7 the Organization shall proceed to terminate operation of the Vision
8 Plan Organization immediately and shall conduct no further business
9 except as may be essential to the orderly conclusion of the business
10 affairs of the organization. The Insurance Commissioner, by written
11 order, may permit such further operation of the Organization as the
12 Commissioner finds to be in the best interest of subscribers of the
13 Vision Plan Organization.

14 F. If a Vision Plan Organization license is suspended or
15 revoked pursuant to the provisions of this section, the Insurance
16 Commissioner may invoke a fine not exceeding Five Thousand Dollars
17 (\$5,000.00) for each violation. The payment of the fine may be
18 enforced in the same manner as civil judgments may be enforced.

19 G. A Vision Plan Organization which has had its license denied,
20 suspended or revoked or has suffered an adverse decision by the
21 Insurance Commissioner shall be entitled to a hearing pursuant to
22 the provisions of the Administrative Procedures Act, Sections 301
23 through 326 of Title 75 of the Oklahoma Statutes.
24

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7412 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 Any rehabilitation, liquidation or conservation of a Vision Plan
5 Organization shall be conducted pursuant to the provisions for
6 rehabilitation, liquidation or conservation of an insurer provided
7 for by Articles 18 and 19 of Title 36 of the Oklahoma Statutes.

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 7413 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 The Insurance Commissioner may promulgate rules necessary for
12 the implementation and administration of the provisions of the
13 Vision Plan Licensure Act.

14 SECTION 14. This act shall become effective November 1, 2015.

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