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February 16, 2012

SENATE BILL NO. 1059

By: Brown of the Senate

and

Moore of the House

An Act relating to the purchase of health insurance; amending 36 O.S. 2011, Section 307, which relates to duties of the Insurance Commissioner; requiring the Insurance Commissioner to administer and enforce certain laws; creating the Health Care Choice Act; providing short title; stating Legislative intent; authorizing the Insurance Commissioner to negotiate certain compacts with other states; providing for the disapproval of such compacts by the Legislature or Governor; deeming approval and effectiveness of the compact under certain conditions; specifying how certain examination by the Insurance Commissioner should be conducted; exempting certain insurers from offering certain benefits; authorizing domestic 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.

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

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

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

1 in Oklahoma, and such other matters as may be of benefit to the
2 public. The Commissioner may educate consumers and make
3 recommendations regarding the subject of insurance in this state,
4 and shall set forth in a statement the various sums received and
5 disbursed by the Department, from and to whom and for what purpose.
6 Such report shall be published by and subject to the order of the
7 ~~said Insurance~~ Commissioner. The ~~Insurance~~ Commissioner shall, upon
8 retiring from office, deliver to the qualified successor all
9 furniture, records, papers and property of the office.

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

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

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

18 A. The Oklahoma Legislature recognizes the need for
19 individuals, employers, and other purchasers of health insurance
20 coverage in this state to have the opportunity to choose health
21 insurance plans that are more affordable and flexible than existing
22 market policies offering accident and health coverage. Therefore,
23 the Oklahoma Legislature seeks to increase the availability of
24 health insurance coverage by allowing insurers authorized to engage

1 in the business of insurance in other states to issue accident and
2 health policies in Oklahoma.

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

1 C. Any examination by the Commissioner of the market conduct
2 and solvency of any out-of-state companies seeking to offer health
3 benefit plans in this state, or who have been given approval to
4 offer health benefit plans in this state, shall be conducted in the
5 same manner and under the same terms and conditions as examinations
6 of companies located in this state.

7 D. The out-of-state insurers shall not be required to offer or
8 provide state-mandated health benefits required by Oklahoma law or
9 regulations in health insurance policies sold to Oklahoma residents.

10 E. Domestic insurers authorized to sell specified lines of
11 coverage in Oklahoma may sell policies that are substantially
12 comparable to policies sold by out-of-state insurers pursuant to
13 this section. Domestic insurers selling policies pursuant to this
14 section shall be required to comply with the provisions of this
15 section.

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

19 "This policy is primarily governed by the laws of (insert state
20 where the master policy is filed); therefore, all of the rating laws
21 applicable to policies filed in this state do not apply to this
22 policy, which may result in increases in your premium at renewal
23 that would not be permissible in an Oklahoma-approved policy. Any
24 purchase of individual health insurance should be considered

1 carefully since future medical conditions may make it impossible to
2 qualify for another individual health policy. For information
3 concerning individual health coverage under an Oklahoma-approved
4 policy, please consult your insurance agent or the Oklahoma
5 Department of Insurance."

6 G. Each out-of-state health benefit plan shall contain the
7 following language in boldface type at the beginning of the
8 document:

9 "The benefits of this policy providing your coverage are
10 governed primarily by the law of a state other than Oklahoma. While
11 this health benefit plan may provide you a more affordable health
12 insurance policy, it may also provide fewer health benefits than
13 those normally included as state-mandated health benefits in
14 policies in Oklahoma. Please consult your insurance agent to
15 determine which Oklahoma state-mandated health benefits are excluded
16 under this policy."

17 H. Nonadmitted, out-of-state insurers selling specified lines
18 of coverage in Oklahoma pursuant to the provisions of the Health
19 Care Choice Act shall be subject to payment of any applicable
20 premium taxes pursuant to Section 624 of Title 36 of the Oklahoma
21 Statutes.

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

24

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

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

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

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

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

15 4. Participates on a nondiscriminatory basis and in the same
16 manner as admitted, participating insurers to the Health Insurance
17 High Risk Pool.

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

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
20 2-9-12 - DO PASS, As Coauthored.