

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL 478

By: Brown and Brecheen of the
Senate

and

Moore of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2011, Section 307, which relates to duties of the Insurance Commissioner; conforming language; creating the Health Care Choice Act; providing short title; declaring Legislature purpose; providing requirements for certain exemption from certain provisions of insurance code; requiring compacting out-of-state insurers to abide by certain requirements in order to offer health and accident policies; establishing conditions required for Insurance Commissioner to approve certain out-of-state insurers to sell health and accident policies in Oklahoma; authorizing Commissioner to require out-of-state insurers to reapply annually for approval; authorizing Commissioner to negotiate compacts with out-of-state insurers; establishing conditions of compact; requiring approval of compacts by Legislature; authorizing Commissioner to require certain insurers to submit market conduct examination; establishing conditions for such examination; requiring certain out-of-state insurers to abide by certain Oklahoma laws; establishing required language for certain written applications for purchase of policies; establishing required language for issuance of certain policies; requiring certain out-of-state insurers to pay applicable premium taxes; requiring certain out-of-state insurers to act as in-state

1 insurers in regards to certain legislation;
2 authorizing Commissioner to promulgate rules for the
3 implementation of this Act; and providing for
4 codification.

5
6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

20 Section 3 of this act shall be known and may be cited as the
21 "Health Care Choice Act".

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

1 A. The Oklahoma Legislature recognizes the need for purchasers
2 of health insurance coverage in this state to have the opportunity
3 to choose health insurance plans that are more affordable and
4 flexible than existing market policies offering accident and health
5 coverage. Therefore, the Oklahoma Legislature seeks to increase the
6 availability of health insurance coverage by allowing insurers
7 authorized to engage in the business of insurance in other states,
8 and not so authorized in Oklahoma, to issue accident and health
9 policies in Oklahoma by granting a limited exemption from Section
10 606 of Title 36 of the Oklahoma Statutes. Insurers authorized to
11 engage in the business of insurance in other states, and not so
12 authorized in Oklahoma, shall be subject to the following
13 requirements in order to be able to obtain an exemption to Section
14 606 of Title 36 of the Oklahoma Statutes and to issue accident and
15 health policies in Oklahoma through agents licensed in the state:

16 1. No insurer authorized to engage in the business of insurance
17 in other states that is not so licensed in Oklahoma may issue an
18 accident or a health policy pursuant to this section unless it is
19 approved to do so, in writing, by the Insurance Commissioner;

20 2. An insurer seeking to obtain the written approval described
21 in paragraph 1 of this subsection shall request such approval in the
22 manner required by the Insurance Commissioner, and shall pay any and
23 all fees associated with such application as may be required by the
24 Insurance Commissioner; and

1 3. In order to first be considered for the written approval
2 from the Insurance Commissioner, an insurer shall be domiciled in a
3 state which has a legislatively approved compact with the State of
4 Oklahoma.

5 B. Pursuant to the provisions of the Health Care Choice Act,
6 all approved insurers domiciled in a compacting state selling health
7 and accident insurance policies in Oklahoma shall:

8 1. Offer accident and health insurance policies that contain
9 all mandated health benefits that are required by Oklahoma law to be
10 included in accident or health insurance policies and Health
11 Maintenance Organization (HMO) policies issued in the state and will
12 comply with all other applicable laws pertaining to coverage and
13 coverage decisions;

14 2. Keep a full and true record of each insurance policy issued
15 to an insured in this state by or on behalf of the insurer,
16 containing such information as may be required by the Insurance
17 Commissioner, which record may be examined at any time within three
18 (3) years after issuance by the Insurance Commissioner;

19 3. File with the Insurance Commissioner, on or before April 1
20 of each year, a verified statement of all insurance transacted by
21 the insurer during the preceding calendar year in Oklahoma. The
22 statement shall be on a form prescribed and furnished by the
23 Insurance Commissioner and contain such information as required by
24 the Insurance Commissioner;

1 4. Issue an insurance policy in this state pursuant to this
2 section through an insurance agent or other person or entity that is
3 licensed in this state, as well as in a state in which the insurer
4 is licensed, to engage in the sale, solicitation or negotiation of
5 accident and/or health insurance in this state, and that is
6 appointed by the insurer for such purpose;

7 5. Appoint one or more third-party administrators that are
8 licensed in this state, and that have licensed adjusters in this
9 state, that shall be responsible for administering claims under the
10 insurance policies issued by the insurer in this state and be
11 available to answer any questions from insureds under the insurance
12 policies issued by the insurer in this state; and

13 6. Submit to the jurisdiction of this state and be subject to
14 service of legal process within this state in any action or
15 proceeding against the insurer arising out of any insurance policy
16 issued to an insured policyholder in this state and the Insurance
17 Commissioner is appointed as its exclusive agent to receive service
18 of legal process.

19 C. The Insurance Commissioner may only grant the written
20 approval described in paragraph 1 of subsection A of this section to
21 an insurer that:

22 1. Is properly licensed and has met the requirements for
23 solvency in its domiciliary state to issue accident and health
24 insurance policies;

1 2. Has met the requirements for market conduct applicable to
2 insurers domiciled in Oklahoma authorized to issue accident and
3 health insurance policies in the state set forth in Title 36 of the
4 Oklahoma Statutes; and

5 3. Has submitted the policy form that it will issue to insureds
6 in this state for a determination by the Insurance Commissioner that
7 the policy form is in compliance with all laws and regulations in
8 this state applicable to health insurance policies.

9 D. The Insurance Commissioner for the State of Oklahoma shall
10 be required to obtain verification in writing by the regulating
11 authority of the domiciliary state, certifying that the insurer has
12 met the financial solvency requirements of the insurer's domiciliary
13 state. No insurer domiciled in a compacting state may be approved
14 to sell health and accident insurance policies in Oklahoma without
15 such verification.

16 E. The Insurance Commissioner may require an insurer to reapply
17 for the written approval described in paragraph 1 of subsection A of
18 this section on an annual basis, or as often as the Insurance
19 Commissioner deems prudent. Reapplication shall be in the form and
20 manner required by the Insurance Commissioner.

21 F. The Insurance Commissioner may, as a condition to providing
22 an insurer with the written approval described in paragraph 1 of
23 subsection A of this section, impose on the insurer any additional
24 requirement that the Insurance Commissioner deems necessary.

1 G. The Insurance Commissioner may negotiate one or more
2 compacts with other states to allow insurers domiciled in such
3 compacting state that obtain the written approval from the Insurance
4 Commissioner described in paragraph 1 of subsection A of this
5 section to sell policies of accident and health insurance in
6 Oklahoma. Such compacts shall provide for appropriate protection of
7 Oklahoma consumers by requiring the Commissioner to regulate the
8 compliance to Oklahoma laws and regulations, and market conduct of
9 the insurers pursuant to compact provisions. The terms of any such
10 compact shall be presumed a valid exercise of the discretionary
11 authority of the Commissioner. The compact shall be required to be
12 approved by the Legislature by adoption of a joint resolution,
13 provided that the joint resolution becomes law in accordance with
14 Section 11 of Article VI of the Oklahoma Constitution. Joint
15 resolutions introduced for such purpose shall not be subject to
16 regular legislative deadlines and shall be limited to such
17 provisions as may be necessary for approval of a compact. The
18 Legislature retains the authority to approve or not approve a
19 compact with a state.

20 H. The Insurance Commissioner may require every approved
21 insurer to submit to a market conduct examination. Any examination
22 by the Commissioner of the regulatory compliance or market conduct
23 of any insurer domiciled in a compacting state seeking to offer
24 health benefit plans in this state, or who has been given approval

1 to offer health benefit plans in this state, shall be conducted in
2 the same manner and under the same terms and conditions as
3 examinations of companies located in this state.

4 I. An insurer domiciled in a compacting state is required to
5 provide Oklahoma state-mandated health benefits and to comply with
6 all other applicable laws that apply to Oklahoma accident and health
7 insurers including coverage of services and coverage decisions.

8 J. All approved insurers domiciled in a compacting state
9 selling health and accident insurance policies in Oklahoma must
10 comply with the Unfair Claims Settlement Practices Act, Health Care
11 Freedom of Choice Act, Genetic Nondiscrimination in Insurance Act,
12 Hospital and Medical Services Utilization Review Act and all
13 requirements found in Sections 4401 through 4411 of Title 36 of the
14 Oklahoma Statutes. All Health Maintenance Organizations shall be
15 subject to and comply with the Health Maintenance Organization Act
16 of 2003.

17 K. Each written application for purchase of a policy offered by
18 an insurer domiciled in a compacting state pursuant to the Health
19 Care Choice Act shall contain the following language in boldface
20 type at the beginning of the document:

21 "This policy may be subject, in part, to the laws of (insert
22 state where the master policy is filed); in particular, all of the
23 premium rating laws applicable to policies filed in Oklahoma do not
24 apply to this policy. This may result in increases in your premium

1 at renewal that would not be permissible in a policy that was issued
2 by an Oklahoma domestic insurer. For information concerning health
3 insurance coverage under a policy issued by an Oklahoma insurer,
4 please consult your insurance agent or the Oklahoma Department of
5 Insurance."

6 L. Each policy issued pursuant to the Health Care Choice Act by
7 an insurer domiciled in a compacting state shall contain the
8 following language in boldface type at the beginning of the
9 document:

10 "The benefits provided under this policy may be affected, in
11 part, by the laws of a state other than Oklahoma; however, they must
12 include the Oklahoma state-mandated benefits, including coverage of
13 services, and coverage decisions, and must comply with all other
14 applicable Oklahoma and federal laws. Please consult with your
15 insurance agent to determine which health benefits are included or
16 excluded under this policy."

17 M. Approved insurers domiciled in a compacting state selling
18 health and accident insurance policies in Oklahoma shall be subject
19 to payment of any applicable premium taxes pursuant to Section 624
20 of Title 36 of the Oklahoma Statutes.

21 N. Approved insurers domiciled in a compacting state selling
22 health and accident insurance policies in Oklahoma shall participate
23 on a nondiscriminatory basis and in the same manner as admitted
24

1 participating insurers in the Oklahoma Life and Health Insurance
2 Guaranty Association Act.

3 O. Approved insurers domiciled in a compacting state selling
4 health and accident insurance policies in Oklahoma shall participate
5 on a nondiscriminatory basis and in the same manner as admitted
6 participating insurers in any existing or future Health Insurance
7 High Risk Pool created by or for the State of Oklahoma.

8 P. The Commissioner shall promulgate rules necessary for the
9 administration and implementation of the Health Care Choice Act,
10 which rules shall specify how the requirements set forth in
11 subsection A of this section shall be implemented.

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