

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 478

By: Brown of the Senate

and

Moore of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance; amending 36 O.S. 2011,
11 Section 307, which relates to duties of Insurance
12 Commissioner; conforming language; requiring the
13 Insurance Commissioner to administer and enforce
14 certain laws; creating the Health Care Choice Act;
15 providing short title; authorizing the Insurance
16 Commissioner to negotiate certain compacts with other
17 states; requiring approval of such compacts by the
18 Legislature; specifying how certain examination by
19 the Insurance Commissioner should be conducted;
20 exempting certain insurers from offering state-
21 mandated health benefits; requiring compliance with
22 certain laws; requiring certain applications to
23 contain specified provisions; requiring certain
24 health benefit plan to contain specified provisions;
making certain insurers subject to premium taxes;
authorizing the Insurance Commissioner to promulgate
certain rules; directing Commissioner to require
certain filings; specifying conditions that certain
foreign insurers must meet in order to sell certain
health benefit plans; and providing for codification.

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

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

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

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

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

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

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

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

1 allowing insurers authorized to engage in the business of insurance
2 in other states to issue accident and 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 state to sell policies of accident and health insurance
6 in Oklahoma. Such compacts shall provide for appropriate protection
7 of Oklahoma consumers by allowing the Commissioner to regulate the
8 market conduct and financial solvency of the insurers pursuant to
9 compact provisions. The terms of any such compact shall be presumed
10 a valid exercise of the discretionary authority of the Commissioner.
11 The compact shall be required to be approved by the Legislature by
12 adoption of a joint resolution, provided that such joint resolution
13 becomes law in accordance with Section 11 of Article VI of the
14 Oklahoma Constitution. Joint resolutions introduced for such
15 purpose shall not be subject to regular legislative deadlines and
16 shall be limited to such provisions as may be necessary for approval
17 of a compact.

18 C. Any examination by the Commissioner of the market conduct
19 and solvency of any insurer domiciled in a compacting state seeking
20 to offer health benefit plans in this state, or who has been given
21 approval to offer health benefit plans in this state, shall be
22 conducted in the same manner and under the same terms and conditions
23 as examinations of companies located in this state.

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1 D. An insurer domiciled in a compacting state shall not be
2 required to offer or provide Oklahoma state-mandated health
3 benefits. All insurers must comply with the Unfair Claims
4 Settlement Practices Act, Health Care Freedom of Choice Act, Genetic
5 Nondiscrimination in Insurance Act, Hospital and Medical Services
6 Utilization Review Act and all requirements found in Sections 4401
7 through 4411 of Title 36 of the Oklahoma Statutes. All Health
8 Maintenance Organizations shall be subject to and comply with the
9 Health Maintenance Organization Act of 2003.

10 E. Each written application for purchase of a policy offered by
11 an insurer domiciled in a compacting state pursuant to the Health
12 Care Choice Act shall contain the following language in boldface
13 type at the beginning of the document:

14 "This policy is primarily governed by the laws of (insert state
15 where the master policy is filed); therefore, all of the rating laws
16 applicable to policies filed in this state do not apply to this
17 policy, which may result in increases in your premium at renewal
18 that would not be permissible in an Oklahoma-approved policy. For
19 information concerning individual health coverage under an Oklahoma-
20 approved policy, please consult your insurance agent or the Oklahoma
21 Department of Insurance."

22 F. Each policy issued pursuant to the Health Care Choice Act by
23 an insurer domiciled in a compacting state shall contain the
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1 following language in boldface type at the beginning of the
2 document:

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

11 G. Insurers domiciled in a compacting state selling health and
12 accident insurance policies in Oklahoma pursuant to the provisions
13 of the Health Care Choice Act shall be subject to payment of any
14 applicable premium taxes pursuant to Section 624 of Title 36 of the
15 Oklahoma Statutes.

16 H. The Commissioner may promulgate rules necessary for the
17 administration and implementation of the Health Care Choice Act.
18 The Commissioners shall promulgate rules to require insurers
19 domiciled in a compacting state to file with the Insurance
20 Department the plans offered in Oklahoma and a disclosure of the
21 list of Oklahoma state mandates not in the plan.

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

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

4 1. Offers the same health benefits plan in its domiciliary
5 state and is in compliance with all applicable laws, regulations and
6 other requirements of its domiciliary state;

7 2. Obtains a certificate of authority to do business as a
8 foreign health insurer in this state pursuant to Section 2516 of
9 Title 36 of the Oklahoma Statutes;

10 3. Participates on a nondiscriminatory basis in the Oklahoma
11 Life and Health Insurance Guaranty Association Act;

12 4. Participates on a nondiscriminatory basis and in the same
13 manner as admitted participating insurers in any existing or future
14 Health Insurance High Risk Pool created by or for the State of
15 Oklahoma; and

16 5. Complies with Oklahoma requirements related to network
17 adequacy to ensure access to health care services in this state.

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