

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 478 By: Brown of the Senate
3 and
4 Moore of the House
5
6

7 [insurance - Health Care Choice Act - codification -
8 emergency]
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10
11 AUTHOR: Add the following Senator Coauthor: Brecheen

12 AMENDMENT NO. 1. Replace the stricken title, enacting clause and
13 entire bill and insert

14 "An Act relating to insurance; amending 36 O.S. 2011,
15 Section 307, which relates to duties of Insurance
16 Commissioner; conforming language; requiring the
17 Insurance Commissioner to administer and enforce
18 certain laws; creating the Health Care Choice Act;
19 providing short title; requiring written approval
20 for insurers from other compacted states to issue
21 plans in this state; providing requirements for
22 issuing policies; requiring certain criteria be met
23 to grant certain approval; providing for payment of
24 premium tax; providing for reapplication process;
authorizing Commissioner to impose additional
requirements; authorizing the Commissioner to
negotiate certain compacts with other states;
requiring approval of such compacts by the
Legislature; specifying how certain examination by
the Insurance Commissioner should be conducted;
requiring certain policies contain state-mandated
health benefits; requiring compliance with certain
laws; requiring certain policies to contain
specified provisions; requiring certain health

1 benefit plan to contain specified provisions; making
2 certain insurers subject to premium taxes;
3 authorizing the Insurance Commissioner to promulgate
4 certain rules; and providing for codification.

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

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

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

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

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

19 Sections 2 and 3 of this act shall be known and may be cited as
20 the "Health Care Choice Act".

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

24

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 and contain
23 such information as required by the Insurance Commissioner;

24

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 adjusters with offices 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 in its domiciliary state to issue
23 accident and health insurance policies;

24

1 2. Has met the requirements for financial solvency and market
2 conduct applicable to insurers domiciled in Oklahoma authorized to
3 issue accident and health insurance policies in the state set forth
4 in Title 36 of the 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 premium tax described in subsection M of this section
10 shall be collected and paid by the insurance agent or other properly
11 licensed and appointed person or entity through which the applicable
12 insurance policy is issued in accordance with paragraph 4 of
13 subsection B of this section.

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

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

23 G. The Insurance Commissioner may negotiate one or more
24 compacts with other states to allow insurers domiciled in such

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

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

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

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 insurer. For information concerning health insurance
3 coverage under a policy issued by an Oklahoma insurer, please
4 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, must
12 include the Oklahoma state-mandated benefits, including coverage of
13 services, coverage decisions and financial solvency, and must comply
14 with all other applicable Oklahoma and federal laws. This policy
15 may not be subject to the protection of any guaranty association in
16 the event of liquidation or receivership of the insurer. Please
17 consult with your insurance agent to determine which health benefits
18 are included or excluded under this policy."

19 M. Approved insurers domiciled in a compacting state selling
20 health and accident insurance policies in Oklahoma shall be subject
21 to payment of any applicable premium taxes pursuant to Section 624
22 of Title 36 of the Oklahoma Statutes, which taxes shall be collected
23 and paid by the insurance agent or other properly licensed and
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1 ENGROSSED SENATE
2 BILL NO. 478

By: Brown of the Senate

3 and

4 Moore of the House

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6 [insurance - Health Care Choice Act - codification -
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

13 Section 307. The Insurance Commissioner shall be charged with
14 the duty of administration and enforcement of the provisions of the
15 Oklahoma Insurance Code and of any requirements placed on an
16 insurance company pursuant to ~~subsection 1 of section 1111 of Title~~
17 ~~47 of the Oklahoma Statutes.~~ The Insurance Commissioner shall have
18 jurisdiction over complaints against all persons engaged in the
19 business of insurance, and shall hear all matters either in person,
20 by authorized disinterested employees, or by hearing examiners
21 appointed by the Commissioner for that purpose. It shall be the
22 duty of the Insurance Commissioner to file and safely keep all books
23 and papers required by law to be filed with the Insurance
24 Department, and to keep and preserve in permanent form a full record

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

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4413 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

24

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

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4414 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Legislature recognizes the need for
7 individuals, employers, and other purchasers of health insurance
8 coverage in this state to have the opportunity to choose health
9 insurance plans that are more affordable and flexible than existing
10 market policies offering accident and health coverage. Therefore,
11 the Oklahoma Legislature seeks to increase the availability of
12 health insurance coverage by allowing insurers authorized to engage
13 in the business of insurance in other states to issue accident and
14 health policies in Oklahoma.

15 B. The Insurance Commissioner may negotiate one or more
16 compacts with other states to allow insurers domiciled in such
17 compacting state to sell specified lines of coverage in Oklahoma
18 without being granted a certificate of authority by Oklahoma. Such
19 compacts shall provide for appropriate protection of Oklahoma
20 consumers by allowing the Commissioner to regulate the market
21 conduct and financial solvency of the nonadmitted insurers pursuant
22 to compact provisions. The terms of any such compact shall be
23 presumed a valid exercise of the discretionary authority of the
24 Commissioner. The compact shall be required to be approved by the

1 Legislature by adoption of a joint resolution, provided that such
2 joint resolution becomes law in accordance with Section 11 of
3 Article VI of the Oklahoma Constitution. Joint resolutions
4 introduced for such purpose shall not be subject to regular
5 legislative deadlines and shall be limited to such provisions as may
6 be necessary for approval of a 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 plants 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 E. Domestic insurers authorized to sell specified lines of
17 coverage in Oklahoma may sell policies that are substantially
18 comparable to policies sold by out-of-state insurers pursuant to
19 this section. Domestic insurers selling policies pursuant to this
20 section shall be required to comply with the provisions of this
21 section.

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

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

12 G. Each out-of-state health benefit plan shall contain the
13 following language in boldface type at the beginning of the
14 document:

15 "The benefits of this policy providing your coverage are
16 governed primarily by the law of a state other than Oklahoma. While
17 this health benefit plan may provide you a more affordable health
18 insurance policy; it may also provide fewer health benefits than
19 those normally included as state-mandated health benefits in
20 policies in Oklahoma. Please consult with your insurance agent to
21 determine which Oklahoma state-mandated health benefits are excluded
22 under this policy."

23 H. Nonadmitted, out-of-state insurers selling specified lines
24 of coverage in Oklahoma pursuant to the provisions of the Health

1 Care Choice Act shall be subject to payment of any applicable
2 premium taxes pursuant to Section 624 of Title 36 of the Oklahoma
3 Statutes.

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

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 4416 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

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

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

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

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

20 4. Participates on a nondiscriminatory basis and in the same
21 manner as admitted, participating insurers to the Health Insurance
22 High Risk Pool.

23 ~~SECTION 7. It being immediately necessary for the preservation~~
24 ~~of the public peace, health or safety, an emergency is hereby~~

1 ~~declared to exist, by reason whereof this act shall take effect and~~
2 ~~be in full force from and after its passage and approval.~~

3 Passed the Senate the 23rd day of March, 2017.

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Presiding Officer of the Senate

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7 Passed the House of Representatives the ____ day of _____,
8 2017.

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Presiding Officer of the House
of Representatives

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