

# An Act

ENROLLED SENATE  
BILL NO. 478

By: Brown and Brecheen of the  
Senate

and

Moore of the House

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 legislative 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 insurers in regards to certain legislation; authorizing Commissioner to promulgate rules for the

implementation of this Act; and providing for codification.

SUBJECT: Insurance plan options

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:

Section 307. The Insurance Commissioner shall be charged with the duty of administration and enforcement of the provisions of the Oklahoma Insurance Code and of any requirements placed on an insurance company pursuant to ~~subsection L of section 1111 of Title 47 of~~ the Oklahoma Statutes. The ~~Insurance~~ Commissioner shall have jurisdiction over complaints against all persons engaged in the business of insurance, and shall hear all matters either in person, by authorized disinterested employees, or by hearing examiners appointed by the Commissioner for that purpose. It shall be the duty of the ~~Insurance~~ Commissioner to file and safely keep all books and papers required by law to be filed with the Insurance Department, and to keep and preserve in permanent form a full record of proceedings, including a concise statement of the conditions of such insurers and other entities reported and examined by the Department and its examiners. The Commissioner shall, annually, at the earliest practicable date after returns are received from the several authorized insurers and other organizations, make a report to the Governor of the State of Oklahoma of the affairs of the Office of the ~~Insurance~~ Commissioner, which report shall contain a tabular statement and synopsis of the several statements, as accepted by the ~~Insurance~~ Commissioner, which shall include with respect to each insurance company the admitted assets, liabilities except capital, capital and surplus, Oklahoma premium income, amount of claims paid in Oklahoma, and such other matters as may be of benefit to the public. The Commissioner may educate consumers and make recommendations regarding the subject of insurance in this state, and shall set forth in a statement the various sums received and disbursed by the Department, from and to whom and for what

purpose. Such report shall be published by and subject to the order of the ~~said Insurance~~ Commissioner. The ~~Insurance~~ Commissioner shall, upon retiring from office, deliver to the qualified successor all furniture, records, papers and property of the office.

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

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

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

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

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

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

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

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

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

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

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

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

5. Appoint one or more third-party administrators that are licensed in this state, and that have licensed adjusters in this state, that shall be responsible for administering claims under the insurance policies issued by the insurer in this state and be

available to answer any questions from insureds under the insurance policies issued by the insurer in this state; and

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

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

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

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

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

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

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

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

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

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

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

J. All approved insurers domiciled in a compacting state selling health and accident insurance policies in Oklahoma must comply with the Unfair Claims Settlement Practices Act, Health Care

Freedom of Choice Act, Genetic Nondiscrimination in Insurance Act, Hospital and Medical Services Utilization Review Act and all requirements found in Sections 4401 through 4411 of Title 36 of the Oklahoma Statutes. All Health Maintenance Organizations shall be subject to and comply with the Health Maintenance Organization Act of 2003.

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

"This policy may be subject, in part, to the laws of (insert state where the master policy is filed); in particular, all of the premium rating laws applicable to policies filed in Oklahoma do not apply to this policy. This may result in increases in your premium at renewal that would not be permissible in a policy that was issued by an Oklahoma domestic insurer. For information concerning health insurance coverage under a policy issued by an Oklahoma insurer, please consult your insurance agent or the Oklahoma Department of Insurance."

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

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

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

N. Approved insurers domiciled in a compacting state selling health and accident insurance policies in Oklahoma shall participate

on a nondiscriminatory basis and in the same manner as admitted participating insurers in the Oklahoma Life and Health Insurance Guaranty Association Act.

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

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

Passed the Senate the 18th day of May, 2017.

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Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of May, 2017.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_