

HOUSE BILL NO. HB0128

Health insurance-interstate purchase.

Sponsored by: Representative(s) Simpson, Buchanan, Cohee, Goggles, Hammons, Illoway, Lubnau, Millin, Pedersen, Quarberg and Teeters and Senator(s) Coe and Peterson

A BILL

for

1 AN ACT relating to health insurance; authorizing the sale
2 in Wyoming of health insurance by out-of-state insurers as
3 specified; providing for more limited regulation of
4 policies; providing for oversight by the insurance
5 commissioner; providing for cooperation by the insurance
6 commissioner with other states with consistent insurance
7 laws to allow multi-state sales without duplicate
8 regulation; specifying legislative intent to pursue a
9 multi-state consortium to enter into reciprocal agreements
10 to reduce health insurance costs through removal of
11 duplicative regulation; prescribing required disclaimers;
12 granting rulemaking authority; and providing for an
13 effective date.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** The legislature recognizes the need of
3 individuals seeking medical and surgical health insurance
4 coverage in this state to have the opportunity to choose
5 among competitive medical and surgical health insurance
6 plans that are affordable and flexible. Therefore, the
7 legislature seeks to increase the competitive availability
8 of medical and surgical health insurance coverage by
9 allowing insurers authorized to engage in the business of
10 insurance in this state who are also authorized to engage
11 in the business of insurance in selected other states to
12 issue individual medical and surgical health policies in
13 Wyoming based upon their policy approval in the other
14 selected states. In addition, the legislature seeks to
15 initiate cooperation of like-minded states to create a
16 multi-state consortium with reciprocity agreements for
17 approval, offer, sale, rating, including medical
18 underwriting, renewal and issuance of individual medical
19 and surgical health insurance policies. By creating a
20 consortium of states with reciprocity agreements, the
21 larger population of several states with a single approval
22 for sale in multiple states will be attractive to insurers
23 to develop and rapidly introduce lower cost effective
24 products to Wyoming residents.

1

2 **Section 2.** W.S. 26-18-201 through 26-18-210 are
3 created to read:

4

5

ARTICLE 2

6

MULTI-STATE COOPERATION

7

8

26-18-201. Definitions.

9

10 (a) As used in this article:

11

12 (i) "Comprehensive individual medical and
13 surgical insurance policy" shall have the same meaning as
14 "health benefit plan" as that term is defined in W.S.
15 26-19-302(a)(xii), including, at a minimum, comprehensive
16 major medical coverage for medical and surgical benefits;

17

18 (ii) "Health insurance," "health benefit plan"
19 and "health benefit policy" mean a health benefit plan as
20 defined by W.S. 26-19-302(a)(xii);

21

22 (iii) "High deductible health plan" means
23 accident and sickness insurance plans sold or maintained

1 under the applicable provisions of section 223 of the
2 Internal Revenue Code;

3

4 (iv) "Primary state" means the state designated
5 by the issuer as the state whose covered laws shall govern
6 the health insurance issuer in the sale of such coverage;

7

8 (v) "Secondary state" means any state that is
9 not the primary state.

10

11 **26-18-202. Sale of medical and surgical insurance**
12 **policies approved in identified other states.**

13

14 In accordance with the provisions of this article, the
15 commissioner shall identify at least five (5) states with
16 insurance laws sufficiently consistent with Wyoming laws.

17 The commissioner shall approve for sale in Wyoming selected
18 comprehensive individual medical and surgical insurance
19 policies that have been approved for issuance in those

20 other states where the insurer is authorized to engage in
21 the business of insurance so long as the insurer is also
22 authorized to engage in the business of insurance in this

23 state and provided that any such policy meets the
24 requirements set forth in this article. High deductible

1 health plans that meet national standards for comprehensive
2 medical and surgical coverage shall be among the policies
3 automatically approved in Wyoming if approved in the states
4 identified as acceptable by the commissioner.

5

6 **26-18-203. Approval of policies.**

7

8 A policy approved and issued pursuant to this article shall
9 be treated as if it were issued by an insurer domiciled in
10 Wyoming regardless of such insurer's actual domiciliary.

11

12 **26-18-204. Financial requirements; continuing**
13 **compliance.**

14

15 (a) Any insurer selling an insurance policy pursuant
16 to this article, and any plan approved under this article,
17 shall satisfy actuarial standards and insurer solvency
18 requirements set forth by the National Association of
19 Insurance Commissioners (NAIC) and adopted by regulation
20 promulgated by the commissioner or as otherwise prescribed
21 by regulation promulgated by the commissioner so long as
22 any such regulation is not inconsistent with such NAIC
23 standards.

24

1 (b) Any policy sold in Wyoming under the coverage and
2 administrative laws and regulations of another state that
3 are not covered by a guarantee association or similar
4 association of that state shall be protected under the
5 Wyoming Life and Health Insurance Guaranty Association Act
6 under Chapter 42 of this title.

7

8 (c) The commissioner shall have the authority to
9 determine whether an insurer satisfies the standards
10 required by this section and shall not approve a policy or
11 plan that he finds not in compliance with this section. The
12 commissioner shall have the authority to determine whether
13 the policies sold pursuant to this article continue to
14 satisfy the requirements set forth in this section in the
15 same manner as he does with an individual accident and
16 sickness insurance policy approved pursuant to this code.
17 The commissioner shall have the authority to suspend or
18 revoke new sales of out-of-state policies if the laws and
19 regulations of those states are determined to egregiously
20 harm Wyoming residents. Upon such suspension or revocation,
21 the issuers of the out-of-state policies shall be required
22 to notify in writing all affected Wyoming policyholders of
23 such determination by the commissioner.

24

1 **26-18-205. Disclaimers required.**

2

3 (a) Each written application for participation in an
4 out-of-state health benefit plan under a policy or plan
5 issued pursuant to this article shall contain the following
6 language in boldface type at the beginning of the document:

7

8 **"This policy is primarily governed by the laws of (insert**
9 **state where the master policy is filed); therefore, all of**
10 **the rating laws applicable to policies filed in this state**
11 **do not apply to this policy, which may result in increases**
12 **in your premium at renewal that would not be permissible in**
13 **a Wyoming approved policy. Any purchase of individual**
14 **health insurance should be considered carefully since**
15 **future medical conditions may make it impossible to qualify**
16 **for another individual health policy. For information**
17 **concerning individual health coverage under a Wyoming**
18 **approved policy, please consult your insurance agent or the**
19 **insurance department."**

20

21 (b) Each out-of-state health benefit policy issued
22 pursuant to this article shall contain the following
23 language in boldface type at the beginning of the document:

24

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

10

11 **26-18-206. Multi-state consortium; reciprocity**
12 **requirements.**

13

14 (a) The commissioner shall cooperate with other
15 insurance commissioners in creating a consortium of like-
16 minded states in establishing rules of reciprocity for the
17 approval of comprehensive individual medical and surgical
18 health insurance policies among the participating states.

19

20 (b) At a minimum, the rules of approval for
21 reciprocity shall include terms and conditions to protect
22 Wyoming residents similar to the following:

23

1 (i) An issuer, with respect to a particular
2 policy, may only designate one (1) state as its primary
3 state with respect to all such coverage it offers. Such an
4 issuer may not change the designated primary state with
5 respect to individual health insurance coverage once the
6 policy is issued; provided, however, that such a change may
7 be made upon renewal of the policy with approval of the
8 policyholder. With respect to such designated primary
9 state, the issuer shall be licensed and approved to be
10 doing business in that state;

11

12 (ii) In the case of a health insurance issuer
13 that is selling a policy in, or to a resident of, a
14 secondary state, the issuer shall be licensed and approved
15 to be doing business in that secondary state; and

16

17 (iii) The covered laws of the primary state
18 shall apply to individual health insurance coverage offered
19 by a health insurance issuer in the primary state and
20 policies sold in any secondary state. The coverage and
21 issuer shall comply with the terms and conditions with
22 respect to the offering of coverage in Wyoming.

23

1 (c) Except as provided in this section, a health
2 insurance issuer with respect to its offer, sale, rating
3 (including medical underwriting), renewal and issuance of
4 comprehensive individual medical and surgical health
5 insurance coverage in Wyoming is exempt from any covered
6 laws of Wyoming as the secondary state and any rules,
7 regulations, agreements or orders sought or issued by the
8 commissioner under or related to such covered laws to the
9 extent that such laws would:

10
11 (i) Make unlawful or regulate, directly or
12 indirectly, the operation of the health insurance issuer
13 operating in Wyoming as a secondary state, except that the
14 commissioner may require such an issuer:

15
16 (A) To pay on a nondiscriminatory basis
17 applicable premium and other taxes, including high risk
18 pool assessments and other assessments which are levied on
19 insurers and surplus lines insurers, brokers or
20 policyholders under the laws of Wyoming;

21
22 (B) To register with and designate the
23 commissioner as its agent solely for the purpose of
24 receiving service of legal documents or process;

1

2 (C) To submit to an examination of its
3 financial condition by a state insurance commissioner in
4 any state in which the issuer is doing business to
5 determine the issuer's financial condition, if the state
6 insurance commissioner of the primary state has not done an
7 examination within the period recommended by the National
8 Association of Insurance Commissioners; and any such
9 examination is conducted in accordance with the examiners'
10 handbook of the National Association of Insurance
11 Commissioners and is coordinated to avoid unjustified
12 duplication and unjustified repetition;

13

14 (D) To comply with a lawful order issued in
15 a proceeding commenced by the commissioner pursuant to
16 chapter 28 or 48 of this code or W.S. 26-34-122 and
17 26-34-123;

18

19 (E) To comply with an injunction issued by
20 a court of competent jurisdiction, upon a petition by the
21 commissioner acting pursuant to chapters 28 of this code,
22 chapter 48 of this code or W.S. 26-34-122 or 26-34-123;

23

1 (F) To participate, on a nondiscriminatory
2 basis, in any insurance insolvency guaranty association or
3 similar association to which a health insurance issuer in
4 the state is required to belong;

5

6 (G) To comply with any state law regarding
7 fraud and abuse, except that if the state seeks an
8 injunction regarding the conduct described in this
9 subparagraph, such injunction shall be obtained from a
10 court of competent jurisdiction;

11

12 (H) To comply with any state law regarding
13 unfair claims settlement practices; and

14

15 (J) To comply with the applicable
16 requirements for external review procedures with respect to
17 coverage offered in the state.

18

19 (ii) Discriminate against the issuer issuing
20 insurance in both the primary state and in any secondary
21 state.

22

23 (d) A health insurance issuer shall provide the
24 following notice, in 12-point bold face type, in any

1 insurance coverage offered in Wyoming by such a health
2 insurance issuer and at any renewal of the policy, with the
3 blank spaces being appropriately filled with the name of
4 the health insurance issuer, the name of the primary state,
5 and the name of the secondary state, respectively, for the
6 coverage concerned:

7
8 **"Notice: This policy is issued by (insert state name) and**
9 **is governed by the laws and regulations of the State of**
10 **(insert state name), and it has met all the laws of that**
11 **state as determined by that state's department of**
12 **insurance. This policy may be less expensive than others**
13 **because it is not subject to all of the insurance laws and**
14 **regulations of Wyoming, including coverage of some services**
15 **or benefits mandated by the laws of Wyoming. Additionally,**
16 **this policy is not subject to all of the consumer**
17 **protection laws or restrictions on rate changes of Wyoming.**
18 **As with all insurance products, before purchasing this**
19 **policy, you should carefully review the policy and**
20 **determine what health care services the policy covers and**
21 **what benefits it provides, including any exclusions,**
22 **limitations, or conditions for such services or benefits."**

23

1 (e) A health insurance issuer that provides
2 individual health insurance coverage in a primary or
3 secondary state shall not upon renewal:

4

5 (i) Move or reclassify the individual insured
6 under the health insurance coverage from the class such
7 individual is in at the time of issue of the contract based
8 on the health-status related factors of the individual;

9

10 (ii) Increase the premiums assessed the
11 individual for such coverage based on a health status-
12 related factor or change of a health status-related factors
13 not defined at the issuance of the policy; or

14

15 (iii) Increase premiums assessed the individual
16 for past or prospective claims experience of the insured
17 individual.

18

19 (f) Nothing in this section shall be construed to
20 prohibit a health insurance issuer:

21

22 (i) From terminating or discontinuing coverage
23 or a class of coverage in accordance with the laws of the
24 primary state;

1

2 (ii) From raising premium rates for all
3 policyholders within a class based on claims experience;

4

5 (iii) From changing premiums or offering
6 discounted premiums to individuals who engage in wellness
7 activities at intervals prescribed by the issuer, if such
8 premium changes or incentives:

9

10 (A) Are disclosed to the consumer in the
11 insurance contract;

12

13 (B) Are based on specific wellness
14 activities that are not applicable to all individuals; and

15

16 (C) Are not obtainable by all individuals
17 to whom coverage is offered.

18

19 (iv) From reinstating lapsed coverage; or

20

21 (v) From retroactively adjusting the rates
22 charged an insured individual if the initial rates were set
23 based on material misrepresentation by the individual at
24 the time of issue.

1

2 (g) A health insurance issuer may not offer for sale
3 individual health insurance coverage in Wyoming unless that
4 coverage is currently offered for sale in the primary
5 state.

6

7 (h) A person acting, or offering to act, as an agent
8 or broker for a health insurance issuer with respect to the
9 offering of individual health insurance coverage shall
10 obtain a license from Wyoming, with commissions or other
11 compensation subject to the provisions of the laws of
12 Wyoming, except that Wyoming may not impose any
13 qualification or requirement which discriminates against a
14 nonresident agent or broker.

15

16 (j) Each health insurance issuer issuing individual
17 health insurance coverage in both primary and secondary
18 states shall submit to the insurance commissioner of each
19 state in which it intends to offer such coverage before it
20 may offer individual health insurance coverage in such
21 state:

22

23 (i) A copy of the plan of operation or
24 feasibility study or any similar statement of the policy

1 being offered and its coverage which shall include the name
2 of its primary state and its principal place of business;

3

4 (ii) Written notice of any change in its
5 designation of its primary state; and

6

7 (iii) Written notice from the issuer of the
8 issuer's compliance with all the laws of the primary state;
9 and

10

11 (iv) To the insurance commissioner of each
12 secondary state in which it offers individual health
13 insurance coverage, a copy of the issuer's quarterly
14 financial statement submitted to the primary state, which
15 statement shall be certified by an independent public
16 accountant and contain a statement of opinion on loss and
17 loss adjustment expense reserves made by a member of the
18 American Academy of Actuaries; or a qualified loss reserve
19 specialist.

20

21 (k) Nothing in this section shall be construed to
22 affect the authority of any federal or state court to
23 enjoin:

24

1 (i) The solicitation or sale of individual
2 health insurance coverage by a health insurance issuer to
3 any person or group who is not eligible for such insurance;
4 or

5

6 (ii) The solicitation or sale of individual
7 health insurance coverage that violates the requirements of
8 the law of a secondary state.

9

10 (m) Nothing in this article shall be construed to
11 affect the authority of any state to enjoin conduct in
12 violation of that state's laws.

13

14 **26-18-207. Claims under health benefit plans.**

15

16 (a) All claims under health benefit plans sold to
17 Wyoming residents by out-of-state companies shall be
18 subject to the provisions of W.S. 26-34-112, and no out-of-
19 state company seeking to offer health benefit plans in this
20 state shall receive approval to offer health benefit plans
21 in this state unless such company agrees to comply with
22 this section.

23

1 (b) Out-of-state companies offering health benefit
2 plans under this article shall be subject to regulation by
3 the commissioner with regard to enforcement of the
4 contractual benefits under the health benefit plan,
5 including the requirements regarding prompt payment of
6 claims for benefits pursuant to W.S. 26-13-124 and
7 26-15-124.

8

9 **26-18-208. Rules and regulations.**

10

11 (a) The commissioner shall adopt rules and
12 regulations necessary to implement this article but shall
13 be under no obligation to draft such rules and regulations
14 until after March 15, 2011.

15

16 (b) Any dispute resolution mechanism or provision for
17 notice and hearing in this title shall apply to insurers
18 issuing and delivering plans pursuant to this article.

19

20 **26-18-209. Conflict with other code provisions.**

21

22 If the provisions of this article conflict with any other
23 provision of this code, the provisions of this article
24 shall control.

1

2 **26-18-210. Authorization date.**

3

4 No policy shall be issued or delivered for issuance in this
5 state pursuant to the provisions of this article before
6 July 1, 2011.

7

8 **Section 2.** This act is effective July 1, 2010.

9

10

(END)