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**SUBSTITUTE HOUSE BILL 3015**

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**State of Washington                      61st Legislature                      2010 Regular Session**

**By House Health Care & Wellness (originally sponsored by Representatives Cody, Ericksen, Eddy, Morrell, Campbell, and Wallace)**

READ FIRST TIME 02/03/10.

1            AN ACT Relating to establishing an interstate compact for the sale  
2 and issue of health benefit plans; adding a new chapter to Title 48  
3 RCW; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that national  
6 reform of our health care delivery and coverage system is progressing  
7 and will soon restructure health care coverage throughout the states.  
8 The legislature further finds that the substantial revisions  
9 contemplated at the federal level will require several years of  
10 preparation before full implementation, leaving many of the uninsured  
11 without access to affordable coverage for several more years. The  
12 legislature recognizes that, during this time, unique solutions must be  
13 developed by Washington state to expand coverage to the uninsured and  
14 provide more affordable options to those struggling to purchase  
15 coverage. Therefore, it is the legislature's intent to expand  
16 flexibility provided in current law to increase the availability of  
17 affordable health care coverage options for the citizens of the state.

18            (2) Under the terms and conditions of this chapter, the state of  
19 Washington seeks to join with other states to establish a compact

1 governing the sale of private health benefit plans approved as to form  
2 and rate by member admitted states in the state that are members of the  
3 compact. The legislature designates the insurance commissioner for the  
4 state of Washington to serve as the representative of this state for  
5 the compact. The purposes of the compact under this chapter are,  
6 through the means of joint and cooperative action among the compacting  
7 states:

8 (a) To promote and protect the interest of consumers of health  
9 benefit plans in the small group market;

10 (b) To develop uniform standards for insurance products covered  
11 under the compact;

12 (c) To establish an agreed method of confirming that health benefit  
13 plans issued in the state of Washington qualify under the requirements  
14 of Title 48 RCW or the requirements of one or more of the compacting  
15 states;

16 (d) To improve coordination of regulatory resources and expertise  
17 between state insurance departments regarding the setting of uniform  
18 standards and review of insurance products covered under the compact;  
19 and

20 (e) To perform these and other related functions, consistent with  
21 the state regulation of the business of insurance and health benefit  
22 plans or policies.

23 (3) The legislature intends to establish a mechanism permitting one  
24 or more qualified health plans to be offered in participating states  
25 subject to the laws and regulations of the state in which the plan was  
26 written or issued, provided that the issuer of any qualified health  
27 plan is subject to the market conduct, unfair trade practices, network  
28 adequacy, and consumer protection standards, including addressing  
29 disputes as to the performance of the contract, of the state in which  
30 the purchaser resides.

31 NEW SECTION. **Sec. 2.** The definitions in this section apply  
32 throughout this chapter unless the context clearly requires otherwise.

33 (1) "Bylaws" means bylaws established by the compact's governing  
34 body for its governance or for directing or controlling the governing  
35 body's actions or conduct.

36 (2) "Commissioner" means the chief regulatory official of a state  
37 who has authority to regulate the health benefit market and the

1 companies doing business in that market, including but not limited to  
2 the state's insurance commissioner, superintendent, director, or  
3 administrator.

4 (3) "Compact" means the compact set forth in this chapter.

5 (4) "Compacting state" means any state which has enacted the  
6 compact and which has not withdrawn or been terminated from the  
7 compact.

8 (5) "Domiciliary state" means the state in which an insurer is  
9 incorporated or organized or, in the case of an alien insurer, its  
10 state of entry.

11 (6) "Insurer" means any entity licensed by a state to issue  
12 contracts of insurance or health benefit plan or policy for any of the  
13 lines of insurance covered by the compact.

14 (7) "Member" means the person chosen by a compact state as its  
15 representative to the governing body or their designee.

16 (8) "Operating procedure" means procedures adopted by the governing  
17 body implementing a rule, uniform standard, or a provision of the  
18 compact.

19 (9) "Qualifying plan" means a private health benefit plan or policy  
20 offered and issued in a compacting state to that state's residents that  
21 complies with its state of origin's requirements as to rate and form,  
22 and has been approved by that state's insurance regulator to be offered  
23 and issued. It includes the form of a policy or contract, including  
24 any application, endorsement, or related form that is attached to and  
25 made part of the policy or contract, and any evidence of coverage or  
26 certificate that the insurer issues. A qualifying plan may not be a  
27 plan offered to supplement medicare coverage.

28 (10) "Rule" means a statement of general or particular  
29 applicability and future effect adopted by the governing body, designed  
30 to implement, interpret, or prescribe law or policy or describing the  
31 organization, procedure, or practice requirements of the governing  
32 body, that has the force and effect of law in the compacting states.

33 (11) "State" means any state, district, or territory of the United  
34 States of America.

35 (12) "State of origin" means the compacting state in which an  
36 insurer is admitted or licensed under the insurance laws of that state.

1        NEW SECTION.    **Sec. 3.**    (1) The compacting states hereby create and  
2 establish a joint public body known as the interstate health insurance  
3 compact. The compact is established as a body corporate and politic,  
4 and an instrumentality of the compacting states, and is solely  
5 responsible for its liabilities except as otherwise specifically  
6 provided in the compact agreement.

7        (2) Venue is proper and judicial proceedings by or against the  
8 compact must be brought in the state of Washington.

9        (3) The compacting states agree that the state of Washington is the  
10 primary member for purposes of establishing the principal office of the  
11 compact and administering the compact's activities.

12        (4) The governing body of the compact shall be the commissioners of  
13 the member states or their designees. Each compacting state may use  
14 state insurance department staff to support the work of the compact.  
15 The state of Washington is the primary member for purposes of  
16 organizing and administering the compact, responding to states seeking  
17 membership in the compact and leading meetings of the compact.

18        NEW SECTION.    **Sec. 4.**    The compact has the following powers:

19        (1) To adopt rules that have the force and effect of law and are  
20 binding in the compacting states to the extent and in the manner  
21 provided in the compact;

22        (2) To exercise its rule-making authority and establish reasonable  
23 standards for the sale and issue of qualifying plans in member states;

24        (3) To adopt operating procedures that are binding in the  
25 compacting states to the extent and in the manner provided in the  
26 compact;

27        (4) To bring and prosecute legal proceedings or actions in its name  
28 as the compact. The standing of any state insurance department to sue  
29 or be sued under applicable law is not affected;

30        (5) To issue subpoenas requiring the attendance and testimony of  
31 witnesses and the production of evidence;

32        (6) To establish and maintain offices;

33        (7) To borrow, accept, or contract for services of personnel,  
34 including but not limited to employees of a compacting state;

35        (8) To advise compacting states on issues relating to insurers  
36 domiciled or doing business in noncompacting jurisdictions, consistent  
37 with the purposes of the compact;

1 (9) To provide and receive information from, and to cooperate with  
2 law enforcement agencies and the national association of insurance  
3 commissioners; and

4 (10) To perform such other functions as may be necessary or  
5 appropriate to achieve the purposes of the compact consistent with the  
6 state regulation of the business of insurance and health benefit plans.

7 NEW SECTION. **Sec. 5.** (1) Each compacting state must have and be  
8 limited to one member who is the official responsible for regulating  
9 the business of insurance in that state. If health benefit plans and  
10 the health benefit market are not regulated by the same official  
11 charged with regulating the business of insurance, the member may be  
12 the official responsible for regulating the health benefit market in  
13 that state. Each member must be qualified to serve in that capacity  
14 under the applicable law of the compacting state. Each compacting  
15 state continues to determine the election or appointment and  
16 qualification of its own member.

17 (2) Each compact member is entitled to one vote and shall have an  
18 opportunity to participate in the governance of the compact in  
19 accordance with the bylaws.

20 (3) The compact must establish and adopt bylaws to govern its  
21 conduct as may be necessary or appropriate to carry out the purposes,  
22 and to exercise the powers, of the compact, including but not limited  
23 to:

- 24 (a) Establishing the fiscal year of the compact;
- 25 (b) Providing reasonable procedures for holding meetings;
- 26 (c) Organizing or establishing committees to accomplish the work of  
27 the compact necessary to carry out its purpose; and
- 28 (d) Providing a mechanism for winding up the operation of the  
29 compact or transferring its activities as required by federal law or a  
30 vote of the members.

31 (4) The primary member of the compact is responsible for managing  
32 the affairs of the compact in a manner consistent with the bylaws and  
33 purposes of the compact, including but not limited to planning,  
34 implementing, and coordinating communications and activities with other  
35 state, federal, and local government organizations, in order to advance  
36 the goals of the compact.

1 (5) Compact members and their staff, employees, and representatives  
2 are immune from suit and liability, either personally or in their  
3 official capacity, for any claim for damage to or loss of property or  
4 personal injury or other civil liability caused by or arising out of  
5 any actual or alleged act, error, or omission that occurred, or that  
6 the person against whom the claim is made had a reasonable basis for  
7 believing occurred within the scope of compact employment, duties, or  
8 responsibilities, unless such damage, loss, injury, or liability was  
9 caused by the intention or willful and wanton misconduct of that  
10 person.

11 (6) Each compacting state shall defend, indemnify, and hold  
12 harmless its compact member or his or her staff, employees, or  
13 representative in any civil action seeking to impose liability arising  
14 out of any actual or alleged act, error, or omission that occurred  
15 within the scope of carrying out the activities, duties, or  
16 responsibilities of the compact. The duty to indemnify and hold  
17 harmless does not apply if the actual or alleged act, error, or  
18 omission resulted from the intentional or willful and wanton misconduct  
19 of that person.

20 NEW SECTION. **Sec. 6.** The compact must meet at least once during  
21 each calendar year. Additional meetings must be held as set forth in  
22 the bylaws.

23 NEW SECTION. **Sec. 7.** Any state is eligible to become a compacting  
24 state if approved by the primary member of the compact. The compact  
25 becomes effective and binding upon legislative enactment of the compact  
26 into law by two compacting states, and the approval of the primary  
27 member of the compact. Amendments to the compact terms and conditions,  
28 governance, or purpose, as set forth in this chapter, must be approved  
29 by the legislature of each compacting state.

30 NEW SECTION. **Sec. 8.** (1) Once effective, the compact continues in  
31 force and remains binding upon each compacting state. However, a  
32 compacting state may withdraw from the compact by enacting a statute  
33 specifically repealing the statute that enacted the compact into law.

34 (2) The commissioner of the withdrawing state must immediately

1 notify the primary member, in writing, upon the introduction of  
2 legislation repealing the compact in the withdrawing state.

3 (3) The primary member must notify the other compacting states of  
4 the introduction of such legislation within ten days after its receipt  
5 of notice.

6 (4) The withdrawing state is responsible for all obligations,  
7 duties, and liabilities incurred through the effective date of  
8 withdrawal, and the performance of obligations to consumers or the  
9 compact extending beyond the effective date of withdrawal, unless they  
10 have been released or relinquished by mutual agreement of the compact  
11 and the withdrawing state. At the time of withdrawal, the withdrawing  
12 state must provide notice to all admitted insurers offering qualifying  
13 plans in compacting states of its intent to withdraw. Upon the  
14 effective date of withdrawal, qualifying plans may no longer be offered  
15 or issued in compacting states unless the insurer has otherwise  
16 obtained approval as to rate and form from those compacting states  
17 under the laws of each compacting state.

18 (5) The primary member may terminate a compacting state's  
19 membership if the state does not conform to the requirements of the  
20 compact regarding the provision of information to the primary member,  
21 does not responsively assist other compacting states in enforcement or  
22 consumer protection activity related to insurers admitted in the  
23 compacting state, or if the compacting state fails to attend required  
24 meetings of the compact or does not follow the bylaws of the compact.

25 (6) The compact dissolves upon the date of the withdrawal or  
26 default of the compacting state that reduces membership in the compact  
27 to one compacting state.

28 NEW SECTION. **Sec. 9.** (1) The compact does not prevent the  
29 enforcement of any state law of a compacting state that does not  
30 conflict with a rule or operating procedure or bylaw of the compact.

31 (2) All lawful actions of the compact including all rules and  
32 operating procedures adopted by the compact are binding on the  
33 compacting states.

34 (3) In the event any provision of the compact exceeds the  
35 constitutional limits imposed on the legislature of any compacting  
36 state, the obligations, duties, powers, or jurisdiction sought to be  
37 conferred by that provision upon the commission is ineffective as to

1 that compacting state and those obligations, duties, powers, or  
2 jurisdiction remains the compacting state and shall be exercised by the  
3 agency thereof to which those obligations, duties, powers, or  
4 jurisdiction are delegated by law in effect at the time the compact  
5 becomes effective.

6 (4) Insurers offering qualifying plans must comply with and are  
7 subject to the laws of the compacting state in which the purchaser  
8 resides relating to:

- 9 (a) Market conduct;
- 10 (b) Unfair trade practices;
- 11 (c) Network adequacy;
- 12 (d) Consumer protection standards and unfair trade practices;
- 13 (e) Grievance and appeals; and
- 14 (f) Fraud.

15 (5) Insurers must clearly notify applicants and purchasers that the  
16 policy may not be subject to all the laws and regulations of the state  
17 in which the purchaser resides.

18 NEW SECTION. **Sec. 10.** (1) Insurers may offer and issue qualifying  
19 plans in compacting states if:

20 (a) The insurer is licensed and in good standing in its state of  
21 origin. Qualifying plans must be approved for offer and issue by the  
22 insurer's state of origin prior to being offered and issued in a  
23 compacting state;

24 (b) The qualifying plan is approved as to form by one of the  
25 compacting states;

26 (c) The insurer's rating schedule for the qualifying plan is  
27 approved by its state of origin;

28 (d) The insurer reports to the primary member the amount of premium  
29 sold in each compacting state and provides such other data as the  
30 primary member requires by rule;

31 (e) The insurer complies with the requirements of the compact and  
32 of this chapter.

33 (2) If a state of origin determines that a qualifying plan is not  
34 in compliance for any reason, the state of origin must notify other  
35 compact members of the plan's change in status. The insurer must  
36 immediately cease offering and issuing the qualifying plan until the



1 state of origin has confirmed to the insurer and to compact members in  
2 writing that the qualifying plan is again in compliance.

3 NEW SECTION. **Sec. 11.** Insurers offering and issuing qualifying  
4 plans must file with each compacting state and provide applicants  
5 resident in the compacting state with a written disclosure containing  
6 a side-by-side comparison that explains the differences between each  
7 qualifying plan's requirements, conditions, and benefits compared to  
8 the requirements for health benefit plans for that compacting state,  
9 including but not limited to:

- 10 (1) Claim payment;
- 11 (2) Coinsurance, copayment, and deductibles;
- 12 (3) Preexisting condition limitation;
- 13 (4) Mandated benefits;
- 14 (5) Guaranteed issue;
- 15 (6) Use of discretionary clauses;
- 16 (7) Out-of-pocket and lifetime limits;
- 17 (8) Method of calculating rates or premium; and
- 18 (9) Health underwriting practices.

19 NEW SECTION. **Sec. 12.** (1) Insurers offering or issuing qualifying  
20 plans in the state of Washington must comply with chapter 48.41 RCW to  
21 the extent required by the commissioner. Insurers offering and issuing  
22 qualifying plans in Washington are subject to the terms and conditions  
23 of chapter 48.41 RCW and must participate in the pool as set forth in  
24 RCW 48.41.090.

25 (2) The commissioner of each compacting state shall adopt rules to  
26 implement and administer this section.

27 NEW SECTION. **Sec. 13.** Each qualifying policy issued in the state  
28 of Washington must prominently display the legal name of the issuing  
29 insurer, its business address, its web site, its telephone number, and  
30 any other information necessary to assist Washington residents in  
31 contacting the issuer or its administrator.

32 NEW SECTION. **Sec. 14.** (1) Insurers offering qualifying plans in  
33 Washington are member insurers of the Washington life and disability

1 insurance guaranty association as established in RCW 48.32A.055, and  
2 are subject to the requirements of chapter 48.32A RCW for their covered  
3 enrollees or members who are Washington state residents.

4 (2) States of origin must provide notice to other compact states  
5 whenever the member or his or her staff comes into possession of any  
6 data or information relative to an insurer offering qualifying plans  
7 indicating that such insurer is in or is approaching a condition of  
8 impaired assets, imminent insolvency, or insolvency. If the state of  
9 origin takes any formal action against an insurer offering qualifying  
10 plans, the member must notify the other compact states of the action  
11 and require the insurer to cease offering or issuing qualifying plans.

12 NEW SECTION. **Sec. 15.** Insurers offering and issuing qualifying  
13 plans in compacting states must comply with the regulatory assessment  
14 and premium tax payment requirements of each compacting state as if  
15 they were admitted insurers in each compact state.

16 NEW SECTION. **Sec. 16.** The commissioner may adopt rules to  
17 implement and administer this chapter.

18 NEW SECTION. **Sec. 17.** A state may not enter into an agreement  
19 with the commissioner under this chapter unless the state enacts a law  
20 after the effective date of this act that specifically authorizes the  
21 state to enter into such agreements through the compact structure set  
22 forth in this chapter.

23 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act  
24 constitute a new chapter in Title 48 RCW.

25 NEW SECTION. **Sec. 19.** This act expires January 1, 2015.

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