

SB 6440 - H COMM AMD

By Committee on Health Care & Wellness

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 48.05.070 and 1947 c 79 s .05.07 are each amended to
4 read as follows:

5 To apply for an original certificate of authority an insurer shall:

6 (1) File with the commissioner its request therefor showing:

7 (a) Its name, home office location, type of insurer, organization
8 date, and state or country of its domicile.

9 (b) The kinds of insurance it proposes to transact.

10 (c) Additional information as the commissioner may reasonably
11 require.

12 (2) File with the commissioner:

13 (a) A copy of its charter as amended, certified, if a foreign or
14 alien insurer, by the proper public officer of the state or country of
15 domicile.

16 (b) A copy of its bylaws, certified by its proper officer.

17 (c) A statement of its financial condition, management, and affairs
18 on a form satisfactory to or furnished by the commissioner.

19 (d) If a foreign or alien insurer, or a domestic reciprocal
20 insurer, an appointment of the commissioner as its attorney to receive
21 service of legal process.

22 (e) If an alien insurer, a copy of the appointment and authority of
23 its United States manager, certified by its proper officer.

24 (f) If a foreign or alien insurer, a certificate from the proper
25 public official of its state or country of domicile showing that it is
26 duly organized and is authorized to transact the kinds of insurance
27 proposed to be transacted.

28 (g) If a domestic reciprocal insurer, the declaration required by
29 RCW 48.10.090 of this code.

1 (h) Other documents or stipulations as the commissioner may
2 reasonably require to evidence compliance with the provisions of this
3 code.

4 (3) A foreign insurer is not required to comply with subsection
5 (2)(a), (b), (c), (e), or (g) of this section if it is a qualifying
6 reciprocal plan. A qualifying reciprocal plan is a foreign insurer
7 that:

8 (a) Is authorized in a state that is a member of the consortium
9 authorized in section 5 of this act;

10 (b) Proposes to sell in Washington only a health benefit plan that:

11 (i) Has benefits substantially equivalent to the essential health
12 benefits designated in Washington under P.L. 111-148 of 2010, as
13 amended;

14 (ii) Has been approved by a state with which the commissioner has
15 a reciprocity agreement; and

16 (iii) Is not a health savings account or qualified high deductible
17 health plan; and

18 (c) Has and maintains total adjusted capital that is greater than
19 three times its authorized control level risk-based capital.

20 (4) Deposit with the commissioner the fees required by this code to
21 be paid for filing the accompanying documents, and for the certificate
22 of authority, if granted.

23 **Sec. 2.** RCW 48.21.047 and 2010 c 292 s 8 are each amended to read
24 as follows:

25 (1) An insurer may not offer any health benefit plan to any small
26 employer without complying with RCW 48.21.045(3).

27 (2) Employers purchasing health plans provided through associations
28 or through member-governed groups formed specifically for the purpose
29 of purchasing health care are not small employers and the plans are not
30 subject to RCW 48.21.045(3).

31 (3) A qualifying reciprocal plan as defined in RCW 48.05.070(3) is
32 not subject to RCW 48.21.045.

33 (4) For purposes of this section, "health benefit plan," "health
34 plan," and "small employer" mean the same as defined in RCW 48.43.005.

35 ((+4)) (5) For purposes of this section, "census date" has the
36 same meaning as defined in RCW 48.44.010.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.21 RCW
2 to read as follows:

3 (1) Each qualifying reciprocal plan issued or renewed pursuant to
4 RCW 48.05.070, 48.21.047, and sections 3 through 6 of this act must
5 contain the following declaration in bold face type at the beginning of
6 the document:

7 "The benefits in this policy do not include each of the benefits
8 required by the state of Washington. (Name of state) initially
9 approved this policy for sale, and the benefit requirements of that
10 state are reflected in the policy. The rates applied to calculate
11 premium were not approved by the state of Washington, but by (Name of
12 State). Those requirements may be different from the requirements for
13 policies approved by Washington. Please consult your insurance agent
14 or insurer to determine which health benefits are covered under the
15 policy."

16 (2) Each insurer and producer offering a qualifying reciprocal plan
17 pursuant to RCW 48.05.070, 48.21.047, and sections 3 through 6 of this
18 act must provide applicants with a written side-by-side comparison of
19 health benefits under the plan, including differences in definition of
20 each benefit between Washington law and the law of the approving state,
21 whether the benefit is required under Washington law, and the
22 difference in the premium rate due to the difference in state laws.

23 (3) An insurer offering qualifying reciprocal plans under RCW
24 48.05.070, 48.21.047, and sections 3 through 6 of this act must offer
25 the plan through producers who comply with the requirements of chapter
26 48.17 RCW. Electronic marketing and sales of out-of-state policies are
27 permitted if a producer is available in Washington with whom the
28 applicant can discuss the qualifying plan.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.21 RCW
30 to read as follows:

31 (1) A health benefit plan offered by a foreign insurer authorized
32 under RCW 48.05.070(3) is not required to include health benefit
33 mandates required under this title that are not included in the
34 qualifying reciprocal plan as defined in RCW 48.05.070(3).

35 (2) A qualifying reciprocal plan must be filed with the
36 commissioner for approval pursuant to RCW 48.18.100. The commissioner
37 must approve the plan for use in this state if the plan meets the

1 requirements in RCW 48.05.070(3), and must disapprove it if it does
2 not. The commissioner may, but is not required to, accept the
3 determination of a member consortium state as to whether or not the
4 qualifying reciprocal plan is substantially equivalent to the essential
5 health benefits in Washington.

6 (3) Other than as provided in this section, RCW 48.18.110 may not
7 be grounds for disapproval of a qualifying reciprocal plan.

8 (4) To the extent consistent with federal law, the requirements of
9 chapter 48.43 RCW do not apply to a qualifying reciprocal plan.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.21 RCW
11 to read as follows:

12 (1) Beginning July 1, 2013, the commissioner is authorized to
13 contract with other states to establish and operate a consortium
14 governing the sale to small groups of a qualifying reciprocal plan, as
15 defined in RCW 48.05.070(3), by insurers admitted to one of the states
16 in the consortium.

17 (2) By January 1, 2013, the commissioner must report to the
18 legislature which states have been identified, and include a plan for
19 seeking a reciprocity agreement with at least one state. The
20 commissioner may not enter into such an agreement until the
21 commissioner has identified a minimum of five states whose regulatory
22 requirements for the offer and issue of health benefit plans meets or
23 exceeds those of Washington in the areas of network adequacy, consumer
24 protection, marketing requirements, and claims adjudication and
25 processing. The reciprocity consortium may commence with an agreement
26 with just one of the states.

27 (3) A state may not join the consortium if it authorizes two or
28 more carriers domiciled in Washington that offer health benefit plans,
29 unless five or more other states have joined the consortium.

30 (4) The commissioner may enter into separate reciprocity
31 agreements, or one uniform agreement. Any reciprocity agreement must
32 establish rules for the management of consumer questions and complaints
33 related to health benefit plans approved by one member state but sold
34 in another. The commissioner may adopt rules to implement consortium
35 rules as necessary to comply with the consortium agreement.

36 (5) Reciprocity consortium states must agree to provide the
37 commissioner with a list of approved health benefit plans that meet the

1 standard under RCW 48.05.070, 48.21.047, and sections 3 through 6 of
2 this act, and their premium rate schedules as they are approved. If a
3 health benefit plan is disapproved or otherwise removed from the market
4 pursuant to regulatory action or order, a reciprocity consortium state
5 must notify the commissioner of this action.

6 (6) The reciprocity consortium agreement must establish a mechanism
7 for payment of premium tax pursuant to chapter 48.14 RCW, payment of
8 regulatory surcharge pursuant to RCW 48.02.190, and collection of any
9 reinsurance or risk adjustment assessments that would otherwise be
10 applicable but for the domicile of the selling insurer.

11 (7) Insurers must inform the consortium states in writing of their
12 intent to offer a qualifying reciprocal policy as set forth in RCW
13 48.05.070(3) in consortium states not less than sixty days prior to the
14 first date of offer. Reciprocity consortium member states may
15 establish their own requirements for notification and offer.

16 (8) The commissioner must report to the legislature by December 1st
17 of each year after the effective date of this section on the
18 reciprocity consortium's formation, membership, the number of health
19 benefit plans offered in Washington through the consortium, effect on
20 the marketplace in Washington, including the health benefits exchange,
21 and must recommend whether continuing reciprocity sales serves the
22 public health and welfare.

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.71 RCW
24 to read as follows:

25 A qualifying reciprocal plan offered by a foreign insurer
26 authorized under RCW 48.05.070(3) may be certified as a qualified
27 health plan through the exchange only if it, and its issuer, meet the
28 requirements of the exchange for certification as a qualified health
29 plan.

30 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act are
31 declared null and void if Title I of P.L. 111-148 of 2010, as amended,
32 is individually or as a whole found unconstitutional, or otherwise
33 repealed."

34 Correct the title.

EFFECT: Changes the date after which the Insurance Commissioner (Commissioner) must allow reciprocal policies in Washington via a consortium from January 2014 to July 1, 2013.

Provides a definition for "qualified reciprocal plans" that may be sold through the consortium. Requires such plans to have benefits substantially equivalent to Washington's essential health benefits designated under federal law. Requires qualified reciprocal plans to make certain disclosures to consumers, including a declaration and a side-by-side comparison of the health benefits in the plan. Requires qualified reciprocal plans to be sold by insurance producers (agents/brokers), but allows electronic marketing and sales as long as a producer is available in Washington with whom the applicant can discuss the plan.

Exempts qualified reciprocal plans from application requirements, rate review requirements, and other insurance regulations (including benefit mandates) to the extent that such an exemption does not conflict with federal law.

Prohibits the Commissioner from entering into an agreement with another state to sell qualified reciprocal plans in Washington until at least five states have been identified that meet or exceed Washington standards (instead of National Association of Insurance Commissioners standards) in network adequacy, consumer protection, market requirements, and claims adjudication and processing. By January 1, 2013, requires the Commissioner to report to the Legislature which states have been identified and a plan for seeking a reciprocity agreement with at least one state.

Allows states that authorize two or more carriers domiciled in Washington to join the consortium once five or more states are members of the consortium. Allows qualified reciprocal plans to be sold through the Exchange if they meet the standards for Exchange certification for qualified health plans. Specifies operating standards for the consortium.

Declares the act null and void if the federal Patient Protection and Affordable Care Act is repealed or found unconstitutional.

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