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SENATE BILL 6440

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Parlette, Keiser, and Becker

Read first time 01/23/12. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to expanding opportunities for the purchase of  
2 health care coverage outside of state-governed health care coverage  
3 programs; adding new sections to chapter 48.05 RCW; and creating a new  
4 section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes the need for  
7 individuals and small employers to have multiple options for health  
8 insurance coverage to meet their personal and financial needs.  
9 Washington currently has a limited market within which consumers are  
10 unable to find true choice among health plans and health insurers. The  
11 ability to choose among competitive health plans and insurers will be  
12 essential to ensuring individuals and small employers have access to  
13 affordable, quality coverage.

14 (2) The federal patient protection and affordable care act provides  
15 certain consistencies that make it easier and more desirable to develop  
16 new options for consumers.

17 (3) As the state moves forward to develop the federally required  
18 state-based health exchange, small employers and individuals unable to  
19 take advantage of tax credits and subsidies are still in need of

1 affordable coverage and should not be ignored during this time of  
2 implementation. Providing additional options for these purchasers is  
3 essential to ensuring they are able to maintain coverage and are  
4 receiving true value from the coverage they choose.

5 (4) The legislature therefore intends to expand affordable coverage  
6 to individuals and small employers that will improve the variety of  
7 health plan designs and price points, as well as increase the number of  
8 insurers competing for consumer dollars within our state.

9 NEW SECTION. **Sec. 2.** (1) By January 2014, the insurance  
10 commissioner shall identify at least five states within which eighty-  
11 five percent of those state's insurance laws governing reserves,  
12 network adequacy, complaint resolution, consumer protection, and  
13 marketing standards either meet or exceed standards established by the  
14 national association of insurance commissioners, and that have no more  
15 than two of the same health insurers or their affiliate lines of  
16 business providing coverage in that state's small group and individual  
17 markets that are also providing coverage in Washington's small group  
18 and individual markets, and are interested in joining in a licensing  
19 reciprocal agreement that allows for the sale of private market health  
20 plans among the consortium states. The commissioner shall approve for  
21 sale in Washington the private market individual and small group  
22 policies that have been approved for issuance in the participating  
23 reciprocity states, so long as the policies comply with the federal  
24 employee health benefit plan design. Such policies are prohibited from  
25 being sold in the state-based exchange in accordance with section 6 of  
26 this act.

27 (2) A policy approved and issued pursuant to this section must be  
28 treated as if it were issued by an insurer domiciled in Washington,  
29 regardless of the insurer's domiciliary state.

30 NEW SECTION. **Sec. 3.** (1) Any insurer selling an insurance policy  
31 pursuant to this section, and any plan approved under this section,  
32 must satisfy actuarial standards and insurer solvency requirements in  
33 accordance with the national association of insurance commissioners and  
34 adopted in the reciprocal state or as otherwise prescribed by similar  
35 rule adopted in the reciprocal state so long as any such rule is not

1 inconsistent with the national association of insurance commissioners  
2 standards.

3 (2) The commissioner has the authority to determine whether an  
4 insurer satisfies the standards required by this section and may not  
5 approve a policy or plan that he or she finds not in compliance with  
6 this section. The commissioner has the authority to determine whether  
7 the policies sold pursuant to this section continue to satisfy the  
8 requirements of this section in the same manner as he or she does with  
9 a policy issued by an insurer domiciled in the state. The commissioner  
10 has the authority to suspend or revoke new sales of out-of-state  
11 policies if the laws and rules of those states are determined to  
12 egregiously harm Washington residents. Upon such suspension or  
13 revocation, the issuers of the out-of-state policies are required to  
14 notify in writing all affected Washington policyholders.

15 NEW SECTION. **Sec. 4.** (1) Each written application for  
16 participation in an out-of-state health benefit plan under this section  
17 or plan issued pursuant to this chapter must contain the following  
18 language in boldface type at the beginning of the document:

19 "This policy is primarily governed by the laws of (insert state  
20 where the master policy is filed); therefore, all of the rating laws  
21 applicable to policies filed in this state may not apply to this  
22 policy, which may result in increases in your premium at renewal that  
23 would be different than increases experienced by residents purchasing  
24 coverage from insurers domiciled in the state of Washington. For  
25 information concerning individual or small group health coverage under  
26 a Washington approved policy, please consult your insurance agent or  
27 the office of the insurance commissioner."

28 (2) Each out-of-state health benefit policy issued pursuant to this  
29 chapter must contain the following language in boldface type at the  
30 beginning of the document:

31 "The benefits of this policy providing your coverage are governed  
32 by the laws of a state OTHER than Washington. While this health  
33 benefit plan includes the federally required essential health benefits,  
34 it may provide fewer health benefits than those normally included as a  
35 state-mandated health benefit in Washington state. Please consult your  
36 insurance agent to determine which state mandated health benefits are  
37 excluded under this policy."

1        NEW SECTION.    **Sec. 5.**    The commissioner shall cooperate with other  
2 insurance commissioners in creating a consortium of like-states.    The  
3 consortium shall establish rules of reciprocity for the approval of  
4 comprehensive private market individual and small group health plans in  
5 the participating states.    At a minimum, the rules of approval for  
6 reciprocity must include the terms and conditions to protect Washington  
7 residents similar to the following:

8        (1) An issuer, with respect to a particular insurer, may only  
9 designate one state as its primary state with respect to all such  
10 coverage it offers.    Such an issuer may not change the designated  
11 primary state with respect to individual or small group health coverage  
12 within three years of selecting its state of designation;

13        (2) In the case of an insurer that is selling a policy in, or to a  
14 resident of, a secondary state, the issuer must be considered as being  
15 licensed and approved to do business in the secondary state;

16        (3) The covered laws of the primary state apply to individual and  
17 small group coverage offered by a health insurer domiciled in the  
18 primary state and all policies sold by that insurer in any secondary  
19 state; and

20        (4) Insurers participating in the sale of health plans in secondary  
21 states are subject to payment on a nondiscriminatory basis of  
22 applicable premium and other taxes, including high risk pool  
23 assessments and other assessments which are levied on insurers in the  
24 participant states.    The assessments must be based on the number of  
25 lives covered in the secondary state in which the assessment applies.

26        NEW SECTION.    **Sec. 6.**    By January 2017, the commissioner shall  
27 present to the legislature a plan to either establish a separate  
28 compact that will allow for more enhanced opportunities for Washington  
29 to collaborate with states on the sale of health care coverage; or to  
30 convert the existing reciprocal agreement into a more expansive  
31 compact.    After such a compact is in place, the state may consider  
32 options for allowing carriers not fully admitted in the state of  
33 Washington to participate in Washington's state-based health exchange.  
34 Before the existence of a governing compact, insurers participating in  
35 reciprocal agreements with participating states are prohibited from  
36 selling policies through Washington's state-based exchange until such  
37 time as that insurer becomes a fully admitted carrier in Washington.

1        NEW SECTION.    **Sec. 7.**    Sections 2 through 6 of this act are each  
2    added to chapter 48.05 RCW.

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