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## Health Care & Wellness Committee

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### 2SSB 5540

**Brief Description:** Expanding opportunities to purchase health care coverage from out-of-state carriers.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Schlicher, Becker, Bailey, Dammeier, Keiser, Rolfes and Frockt).

<p style="text-align: center;"><b>Brief Summary of Second Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Allows the Insurance Commissioner to enter into reciprocal agreements to allow health insurance policies to be sold across state lines.</li></ul>
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**Hearing Date:** 3/19/13

**Staff:** Jim Morishima (786-7191).

**Background:**

In order to sell insurance to Washington residents, a carrier must be licensed by the state and comply with a variety of requirements such as rate review, modified community rating, and mandated benefits. Under the federal Patient Protection and Affordable Care Act (PPACA), states are authorized to enter into compacts allowing carriers to sell health insurance across state lines.

Under the PPACA, a carrier selling health insurance across state lines must comply with insurance regulations in the state where the policy is issued, except:

- the carrier would be subject to the following regulations of the state where the consumer resides: market conduct, unfair trade practices, network adequacy, and consumer protection, including addressing disputes in the performance of the contract;
- the carrier would be either (a) licensed in each state in which it offers a plan or (b) submit to the jurisdiction of the state in which the consumer resides; and
- the carrier must clearly notify consumers that it may not be subject to all of the laws and regulations of the state in which the consumer resides.

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To enter into a compact with another state, a state must first enact a law that authorizes such agreements. All compacts are subject to approval of the federal Department of Health and Human Services, which must approve all compacts that:

- cover the essential health benefits;
- will provide coverage and cost sharing protections against excessive out-of-pocket spending comparable to those in the PPACA;
- will provide coverage to at least a comparable number of residents as the provisions of the PPACA;
- will not increase the federal deficit; and
- will not weaken state laws regarding market conduct, unfair trade practices, network adequacy, and consumer protection.

No compact may be effective prior to January 1, 2016.

### **Summary of Bill:**

Beginning July 1, 2014, the Insurance Commissioner (Commissioner) is authorized to contract with other states to establish and operate a consortium governing the sale of "qualifying reciprocal plans" in the small group market. A qualifying reciprocal plan is an out-of-state insurance plan that:

- is authorized to be sold in the consortium;
- proposes to sell a plan in Washington that:
  - has benefits substantially equivalent to the essential health benefits established under federal law in Washington;
  - has been approved by a state with a reciprocity agreement with the Commissioner;
  - is not a health savings account or a qualified high deductible health plan; and
  - follows state market rules for individual and small group plans offered inside and outside Washington's health benefit exchange; and
- has and maintains total adjusted capital that is greater than three times its authorized control level risk-based capital.

A qualifying reciprocal plan is exempt from certain state insurance requirements, including mandates that are not a part of the qualifying reciprocal plan and requirements relating to health plans offered to small businesses. A qualifying reciprocal plan may be offered through Washington's health benefit exchange if it meets the exchange's certification requirements and follows state market rules applicable to individual and small group plans.

Qualifying reciprocal plans must be filed with the Commissioner, who must approve the plan if it meets the definition of a qualifying reciprocal plan. The Commissioner may accept the determination from a consortium state as to whether the plan is substantially equivalent to the essential health benefits in Washington.

Qualifying reciprocal plans must contain a declaration in bold face type at the beginning of the document:

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

The qualifying reciprocal plan must also provide applicants with a written side-by-side comparison of the health benefits under the plan, including differences in definition of each benefit between Washington law of the law and the approving state, whether the benefit is required under Washington law, and the difference in the premium rate due to the difference in state laws. An insurer offering a qualifying reciprocal plan must offer the plan through agents/brokers licensed in Washington. The insurer may electronically market plans, but an agent/broker must be available to discuss the plan with consumers.

By January 1, 2014, the Commissioner must provide the Legislature with a list of states that have been identified and include a plan for entering into a reciprocity agreement with at least one state. The Commissioner may not enter into a reciprocity agreement until he or she has identified at least five states whose regulatory requirements meet or exceed Washington's standards for network adequacy, consumer protection, market requirements, and claims adjudication/processing. The reciprocity consortium may begin with an agreement with just one state. Until at least five states have joined, a state may not join the consortium if it authorizes two or more carriers domiciled in Washington to offer health plans.

The Commissioner may enter into separate agreements or one uniform agreement. A reciprocity agreement must establish rules for the management of consumer questions and complaints related to health benefit plans approved by one member state but sold in another. The agreement must also establish a mechanism for the payment of premium tax and collection of any reinsurance or risk adjustment assessments that would be applicable in Washington.

Reciprocity states must agree to provide the Commissioner with a list of approved qualifying reciprocal plans and their premium rate schedules as they are approved. The reciprocity states must notify the Commissioner if a plan is disapproved or otherwise removed from the market.

Insurers must inform consortium states in writing of their intent to offer a qualifying reciprocal plan at least 60 days prior to the first date of offer. Consortium states may establish their own requirements for notification and offer.

The Commissioner must report to the Legislature by December 1 of each year on the reciprocity consortium's formation, membership, the number of plans offered in Washington through the consortium, the effect on the marketplace in Washington, and recommendations on whether continuing reciprocity sales serves the public health and welfare.

**Appropriation:** None.

**Fiscal Note:** Requested on March 15, 2013.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.