

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to health insurance; authorizing the sale in Wyoming of health insurance by out-of-state insurers as specified; providing for more limited regulation of policies; providing for oversight by the insurance commissioner; providing for cooperation by the insurance commissioner with other states with consistent insurance laws to allow multi-state sales without duplicate regulation; specifying legislative intent to pursue a multi-state consortium to enter into reciprocal agreements to reduce health insurance costs through removal of duplicative regulation; granting rulemaking authority; and providing for an effective date.

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

Section 1. The legislature recognizes the need of individuals seeking medical and surgical health insurance coverage in this state to have the opportunity to choose among competitive medical and surgical health insurance plans that are affordable and flexible. Therefore, the legislature seeks to increase the competitive availability of medical and surgical health insurance coverage by allowing insurers authorized to engage in the business of insurance in this state who are also authorized to engage in the business of insurance in selected other states to issue individual medical and surgical health policies in Wyoming based upon their policy approval in the other selected states. In addition, the legislature seeks to initiate cooperation of like-minded states to create a multi-state consortium with reciprocity agreements for approval, offer, sale, rating, including medical underwriting, renewal and issuance of individual medical and surgical health insurance policies. By creating a consortium of states with reciprocity agreements, the larger population of several states with a single approval

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

for sale in multiple states will be attractive to insurers to develop and rapidly introduce lower cost effective products to Wyoming residents.

Section 2. W.S. 26-18-201 through 26-18-208 are created to read:

ARTICLE 2
MULTI-STATE COOPERATION

26-18-201. Definitions.

(a) As used in this article:

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

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

(iii) "High deductible health plan" means accident and sickness insurance plans sold or maintained under the applicable provisions of section 223 of the Internal Revenue Code;

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

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

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

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

In accordance with the provisions of this article, the commissioner shall identify at least five (5) states with insurance laws sufficiently consistent with Wyoming laws. The commissioner may approve for sale in Wyoming selected comprehensive individual medical and surgical insurance policies that have been approved for issuance in those other states where the insurer is authorized to engage in the business of insurance so long as the insurer is also authorized to engage in the business of insurance in this state and provided that the policy meets the requirements set forth in this article. High deductible health plans that meet national standards for comprehensive medical and surgical coverage may be among the policies automatically approved in Wyoming if approved in the states identified as acceptable by the commissioner.

26-18-203. Approval of policies.

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

26-18-204. Financial requirements; continuing compliance.

(a) Any insurer selling an insurance policy pursuant to this article, and any plan approved under this article, shall satisfy actuarial standards and insurer solvency requirements set forth by the National Association of Insurance Commissioners (NAIC) and adopted by regulation promulgated by the commissioner or as otherwise prescribed

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

by regulation promulgated by the commissioner so long as the regulation is not inconsistent with NAIC standards.

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

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

26-18-205. Multi-state consortium; reciprocity requirements.

(a) The commissioner shall explore with other insurance commissioners the creation of a consortium of like-minded states that could establish rules of reciprocity for the approval of comprehensive individual medical and surgical health insurance policies among the participating states.

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

(b) The commissioner shall solicit the thoughts and report a consensus, where one exists, of the other commissioners interested in creating a consortium of like minded states in establishing rules of reciprocity for the approval of health insurance policies. Issues to be considered include but are not limited to:

(i) Whether the consortium should involve only high deductible individual policies, all comprehensive individual medical and surgical health insurance policies, both of these types of individual policies plus small group policies or all health insurance policies;

(ii) Whether insurers should be free to price differently among consortium states dependent on local health care costs and market conditions;

(iii) Whether a policy approved in a primary state shall be automatically available in all secondary states of the consortium, or available at the option of the insurer;

(iv) In areas where an associated preferred provider network is absent, whether sale of policies should be prohibited, disclaimers should be required or the sale of policies should be regulated only by market forces and conditions;

(v) The adequacy for a multi-state consortium of existing state laws on insurer financial solvency, guarantee funds and imposition and collection of premium taxes;

(vi) The authority of a secondary state to deal with customer complaints concerning a multi-state policy;

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

(vii) Whether and when an insurer selling a policy approved in a primary state must notify the commissioner of a secondary state that the insurer is marketing the policy in the secondary state;

(viii) Whether secondary state insurers, in order to sell competitive policies, may match any less restrictive primary state rules governing policies sold in the secondary state, and whether disclaimers to warn potential customers shall be required on policies and promotional materials in the secondary state;

(ix) Whether any of the issues identified in this subsection require the enactment of uniform laws in the consortium states;

(x) Estimated savings to customers from policy approval only in the primary state and from uniform or less restrictive policies across the consortium states;

(xi) Other issues deemed appropriate by the commissioners to implement a multi-state consortium.

(c) The commissioner shall make an initial proposal that Wyoming recommends the rules of approval for reciprocity should include terms and conditions to protect customers similar to the following:

(i) An issuer, with respect to a particular policy, may only designate one (1) state as its primary state with respect to all coverage it offers using that policy. An issuer may not change the designated primary state with respect to individual health insurance coverage once the policy is issued; provided, however, that a change in designation may be made upon renewal of the policy with

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

approval of the policyholder. With respect to the designated primary state, the issuer shall be licensed and approved to be doing business in that state;

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

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

(d) Except as provided in this section, a health insurance issuer with respect to its offer, sale, rating (including medical underwriting), benefit payment requirements, renewal and issuance of comprehensive individual medical and surgical health insurance coverage in Wyoming is exempt from any covered laws of Wyoming as the secondary state and any rules, regulations, agreements or orders sought or issued by the commissioner under or related to the covered laws to the extent that the laws would:

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

(A) To pay on a nondiscriminatory basis applicable premium and other taxes, including high risk pool assessments and other assessments which are levied on

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

insurers and surplus lines insurers, brokers or policyholders under the laws of Wyoming;

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

(C) To submit to examinations of its financial condition in accordance with the policies and regulations established through the national association of insurance commissioners for accreditation of states to perform these examinations;

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

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

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

(G) To comply with any state law regarding unfair claims settlement practices; and

(H) To comply with the applicable requirements for external review procedures with respect to coverage offered in the state.

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

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

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

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

(ii) From reinstating lapsed coverage; or

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

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

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

(h) Each health insurance issuer issuing individual health insurance coverage in both primary and secondary states shall submit to the insurance commissioner of each state in which it intends to offer the coverage before it

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

may offer individual health insurance coverage in the state:

(i) A copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage which shall include the name of its primary state and its principal place of business;

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

(iii) Written notice from the issuer of the issuer's compliance with all the laws of the primary state.

(j) Nothing in this section shall be construed to affect the authority of any federal or state court to enjoin the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for that insurance.

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

26-18-206. Rules and regulations.

(a) The commissioner shall draft rules and regulations necessary to implement this article but shall be under no obligation to draft rules and regulations until after March 15, 2011. The commissioner may adopt the rules provided they are consistent with the requirements of W.S. 26-18-206.

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

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

26-18-207. Conflict with other code provisions.

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

26-18-208. Authorization date.

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

ORIGINAL HOUSE
BILL NO. 0128

ENROLLED ACT NO. 61, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

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

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk