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## Health Care & Wellness Committee

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### SB 6440

**Brief Description:** Providing health care purchasing options for individuals and small employers.

**Sponsors:** Senators Parlette, Keiser and Becker.

#### Brief Summary of Bill

- Allows the Insurance Commissioner to enter into reciprocal agreements to allow health insurance policies to be sold across state lines.
- Requires the Insurance Commissioner to submit a plan to the Legislature to establish an interstate compact that will allow health insurance policies to be sold across state lines.

**Hearing Date:** 2/16/12

**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, as amended by the Health Care and Education Reconciliation Act of 2010 (ACA), states are authorized to enter into compacts allowing carriers to sell health insurance across state lines.

Under the ACA, 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.

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- 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.

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 ACA;
- will provide coverage to at least a comparable number of residents as the provisions of the ACA;
- 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:**

By January 2014, the Insurance Commissioner (Commissioner) must identify at least five states that:

- have insurance laws, 85 percent of which governing reserves, network adequacy, complaint resolution, consumer protection, and marketing standards either meet or exceed standards established by the National Association of Insurance Commissioners (NAIC);
- have no more than two of the same carriers, or their affiliates, providing individual or small group coverage in the state that are also providing coverage in Washington; and
- are interested in joining a licensing reciprocal agreement that allows for the sale of private market health plans among consortium states.

A carrier in a reciprocal state may sell health policies in Washington as long as the policies comply with the federal employee health benefit plan design. Policies offered by out-of-state carriers must be treated as if the carrier is domiciled in Washington and may not be offered in the Washington Health Benefit Exchange.

An out-of-state carrier and its policies must satisfy any NAIC actuarial standards and insurer solvency requirements that are adopted or prescribed by the reciprocal state. The Commissioner is authorized to determine whether a carrier satisfies the requirements in the same manner he or she regulates carriers in Washington. The Commissioner may not approve a plan that is not in compliance with the requirements. The Commissioner may suspend or revoke new sales of out-of-state policies if the laws and rules of the policies' home states are determined to egregiously harm Washington residents. Out-of-state carriers must notify affected Washington policyholders in writing of any suspensions or revocations.

Written applications for out-of-state policies must contain the following language in boldface type at the beginning of the application:

"This policy is primarily governed by the laws of (insert state where the master policy is filed); therefore, all of the rating laws applicable to policies filed in this state may not

apply to this policy, which may result in increases in your premium at renewal that would be different than increases experienced by residents purchasing coverage from insurers domiciled in the state of Washington. For information concerning individual or small group health coverage under a Washington approved policy, please consult your insurance agent or the office of the insurance commissioner."

Out-of-state policies must contain the following language in boldface type at the beginning of the policy:

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

The Commissioner must cooperate with other insurance commissioners to create a consortium of like-states. The consortium must establish rules of reciprocity for the approval of individual and small market health plans that include terms and conditions to protect Washington residents. The rules must be similar to the following:

- A carrier may only designate one state as its primary state and may not change the designated primary state for three years.
- A carrier selling a policy in a secondary state must be considered as being licensed and approved to do business in the secondary state.
- The covered laws of the primary state apply to all policies sold in both the primary state and secondary states.
- A carrier is subject to applicable premium and other taxes in a secondary state, including high risk pool assessments. The assessments must be based on the number of lives in the secondary state in which the assessment applies.

By January 2017, the Commissioner must present the Legislature with a plan to either establish a separate compact that allows for more enhanced opportunities for Washington to collaborate with states on the sale of health coverage or to convert the existing reciprocal agreement into a more expansive compact. Once the compact is in place, Washington may consider options for allowing out-of-state carriers to participate in the Washington Health Benefit Exchange.

**Appropriation:** None.

**Fiscal Note:** Available.

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