

ESHB 2875 - S COMM AMD

By Committee on Health & Long-Term Care

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that national
4 reform of our health care delivery and coverage system is progressing
5 and will soon restructure health care coverage throughout the states.
6 The legislature further finds that the substantial revisions
7 contemplated at the federal level will require several years of
8 preparation before full implementation, leaving many of the uninsured
9 without access to affordable coverage for several more years. The
10 legislature recognizes that, during this time, unique solutions must be
11 developed by Washington state to expand coverage to the uninsured and
12 provide more affordable options to those struggling to purchase
13 coverage. Therefore, it is the legislature's intent to expand
14 flexibility provided in current law to increase the availability of
15 affordable health care coverage options for the citizens of the state.

16 (2) Under the terms and conditions of this chapter, the state of
17 Washington seeks to join with other states to establish a compact
18 governing the sale of private health benefit plans approved as to form
19 and rate by member admitted states in the state that are members of the
20 compact. The legislature designates the insurance commissioner for the
21 state of Washington to serve as the representative of this state for
22 the compact. The purposes of the compact under this chapter are,
23 through the means of joint and cooperative action among the compacting
24 states:

25 (a) To promote and protect the interest of consumers of health
26 benefit plans in the small group market;

27 (b) To develop uniform standards for insurance products covered
28 under the compact;

29 (c) To establish an agreed method of confirming that health benefit

1 plans issued in the state of Washington qualify under the requirements
2 of Title 48 RCW or the requirements of one or more of the compacting
3 states;

4 (d) To improve coordination of regulatory resources and expertise
5 between state insurance departments regarding the setting of uniform
6 standards and review of insurance products covered under the compact;
7 and

8 (e) To perform these and other related functions, consistent with
9 the state regulation of the business of insurance and health benefit
10 plans or policies.

11 (3) The legislature intends to establish a mechanism permitting one
12 or more qualified health plans to be offered in participating states
13 subject to the laws and regulations of the state in which the plan was
14 written or issued, provided that the issuer of any qualified health
15 plan is subject to the market conduct, unfair trade practices, network
16 adequacy, and consumer protection standards, including addressing
17 disputes as to the performance of the contract, of the state in which
18 the purchaser resides.

19 NEW SECTION. **Sec. 2.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Bylaws" means bylaws established by the compact's governing
22 body for its governance or for directing or controlling the governing
23 body's actions or conduct.

24 (2) "Commissioner" means the chief regulatory official of a state
25 who has authority to regulate the health benefit market and the
26 companies doing business in that market, including but not limited to
27 the state's insurance commissioner, superintendent, director, or
28 administrator.

29 (3) "Compact" means the compact set forth in this chapter.

30 (4) "Compacting state" means any state which has enacted the
31 compact and which has not withdrawn or been terminated from the
32 compact.

33 (5) "Domiciliary state" means the state in which an insurer is
34 incorporated or organized or, in the case of an alien insurer, its
35 state of entry.

36 (6) "Insurer" means any entity licensed by a state to issue

1 contracts of insurance or health benefit plan or policy for any of the
2 lines of insurance covered by the compact.

3 (7) "Member" means the person chosen by a compact state as its
4 representative to the governing body or their designee.

5 (8) "Operating procedure" means procedures adopted by the governing
6 body implementing a rule, uniform standard, or a provision of the
7 compact.

8 (9) "Qualifying plan" means a private health benefit plan or policy
9 offered and issued in a compacting state to that state's residents that
10 complies with its state of origin's requirements as to rate and form,
11 and has been approved by that state's insurance regulator to be offered
12 and issued. It includes the form of a policy or contract, including
13 any application, endorsement, or related form that is attached to and
14 made part of the policy or contract, and any evidence of coverage or
15 certificate that the insurer issues. A qualifying plan may not be a
16 plan offered to supplement medicare coverage.

17 (10) "Rule" means a statement of general or particular
18 applicability and future effect adopted by the governing body, designed
19 to implement, interpret, or prescribe law or policy or describing the
20 organization, procedure, or practice requirements of the governing
21 body, that has the force and effect of law in the compacting states.

22 (11) "State" means any state, district, or territory of the United
23 States of America.

24 (12) "State of origin" means the compacting state in which an
25 insurer is admitted or licensed under the insurance laws of that state.

26 NEW SECTION. **Sec. 3.** (1) The compacting states hereby create and
27 establish a joint public body known as the interstate health insurance
28 compact. The compact is established as a body corporate and politic,
29 and an instrumentality of the compacting states, and is solely
30 responsible for its liabilities except as otherwise specifically
31 provided in the compact agreement.

32 (2) Venue is proper and judicial proceedings by or against the
33 compact must be brought in the state of Washington.

34 (3) The compacting states agree that the state of Washington is the
35 primary member for purposes of establishing the principal office of the
36 compact and administering the compact's activities.

1 (4) The governing body of the compact shall be the commissioners of
2 the member states or their designees. Each compacting state may use
3 state insurance department staff to support the work of the compact.
4 The state of Washington is the primary member for purposes of
5 organizing and administering the compact, responding to states seeking
6 membership in the compact and leading meetings of the compact.

7 NEW SECTION. **Sec. 4.** The compact has the following powers:

8 (1) To adopt rules that have the force and effect of law and are
9 binding in the compacting states to the extent and in the manner
10 provided in the compact;

11 (2) To exercise its rule-making authority and establish reasonable
12 standards for the sale and issue of qualifying plans in member states;

13 (3) To adopt operating procedures that are binding in the
14 compacting states to the extent and in the manner provided in the
15 compact;

16 (4) To bring and prosecute legal proceedings or actions in its name
17 as the compact. The standing of any state insurance department to sue
18 or be sued under applicable law is not affected;

19 (5) To issue subpoenas requiring the attendance and testimony of
20 witnesses and the production of evidence;

21 (6) To establish and maintain offices;

22 (7) To borrow, accept, or contract for services of personnel,
23 including but not limited to employees of a compacting state;

24 (8) To advise compacting states on issues relating to insurers
25 domiciled or doing business in noncompacting jurisdictions, consistent
26 with the purposes of the compact;

27 (9) To provide and receive information from, and to cooperate with
28 law enforcement agencies and the national association of insurance
29 commissioners; and

30 (10) To perform such other functions as may be necessary or
31 appropriate to achieve the purposes of the compact consistent with the
32 state regulation of the business of insurance and health benefit plans.

33 NEW SECTION. **Sec. 5.** (1) Each compacting state must have and be
34 limited to one member who is the official responsible for regulating
35 the business of insurance in that state. If health benefit plans and
36 the health benefit market are not regulated by the same official

1 charged with regulating the business of insurance, the member may be
2 the official responsible for regulating the health benefit market in
3 that state. Each member must be qualified to serve in that capacity
4 under the applicable law of the compacting state. Each compacting
5 state continues to determine the election or appointment and
6 qualification of its own member.

7 (2) Each compact member is entitled to one vote and shall have an
8 opportunity to participate in the governance of the compact in
9 accordance with the bylaws.

10 (3) The compact must establish and adopt bylaws to govern its
11 conduct as may be necessary or appropriate to carry out the purposes,
12 and to exercise the powers, of the compact, including but not limited
13 to:

14 (a) Establishing the fiscal year of the compact;

15 (b) Providing reasonable procedures for holding meetings;

16 (c) Organizing or establishing committees to accomplish the work of
17 the compact necessary to carry out its purpose; and

18 (d) Providing a mechanism for winding up the operation of the
19 compact or transferring its activities as required by federal law or a
20 vote of the members.

21 (4) The primary member of the compact is responsible for managing
22 the affairs of the compact in a manner consistent with the bylaws and
23 purposes of the compact, including but not limited to planning,
24 implementing, and coordinating communications and activities with other
25 state, federal, and local government organizations, in order to advance
26 the goals of the compact.

27 (5) Compact members and their staff, employees, and representatives
28 are immune from suit and liability, either personally or in their
29 official capacity, for any claim for damage to or loss of property or
30 personal injury or other civil liability caused by or arising out of
31 any actual or alleged act, error, or omission that occurred, or that
32 the person against whom the claim is made had a reasonable basis for
33 believing occurred within the scope of compact employment, duties, or
34 responsibilities, unless such damage, loss, injury, or liability was
35 caused by the intention or willful and wanton misconduct of that
36 person.

37 (6) Each compacting state shall defend, indemnify, and hold
38 harmless its compact member or his or her staff, employees, or

1 representative in any civil action seeking to impose liability arising
2 out of any actual or alleged act, error, or omission that occurred
3 within the scope of carrying out the activities, duties, or
4 responsibilities of the compact. The duty to indemnify and hold
5 harmless does not apply if the actual or alleged act, error, or
6 omission resulted from the intentional or willful and wanton misconduct
7 of that person.

8 NEW SECTION. **Sec. 6.** The compact must meet at least once during
9 each calendar year. Additional meetings must be held as set forth in
10 the bylaws.

11 NEW SECTION. **Sec. 7.** Any state is eligible to become a compacting
12 state if approved by the primary member of the compact. The compact
13 becomes effective and binding upon legislative enactment of the compact
14 into law by two compacting states, and the approval of the primary
15 member of the compact. Amendments to the compact terms and conditions,
16 governance, or purpose, as set forth in this chapter, must be approved
17 by the legislature of each compacting state.

18 NEW SECTION. **Sec. 8.** (1) Once effective, the compact continues in
19 force and remains binding upon each compacting state. However, a
20 compacting state may withdraw from the compact by enacting a statute
21 specifically repealing the statute that enacted the compact into law.

22 (2) The commissioner of the withdrawing state must immediately
23 notify the primary member, in writing, upon the introduction of
24 legislation repealing the compact in the withdrawing state.

25 (3) The primary member must notify the other compacting states of
26 the introduction of such legislation within ten days after its receipt
27 of notice.

28 (4) The withdrawing state is responsible for all obligations,
29 duties, and liabilities incurred through the effective date of
30 withdrawal, and the performance of obligations to consumers or the
31 compact extending beyond the effective date of withdrawal, unless they
32 have been released or relinquished by mutual agreement of the compact
33 and the withdrawing state. At the time of withdrawal, the withdrawing
34 state must provide notice to all admitted insurers offering qualifying
35 plans in compacting states of its intent to withdraw. Upon the

1 effective date of withdrawal, qualifying plans may no longer be offered
2 or issued in compacting states unless the insurer has otherwise
3 obtained approval as to rate and form from those compacting states
4 under the laws of each compacting state.

5 (5) The primary member may terminate a compacting state's
6 membership if the state does not conform to the requirements of the
7 compact regarding the provision of information to the primary member,
8 does not responsively assist other compacting states in enforcement or
9 consumer protection activity related to insurers admitted in the
10 compacting state, or if the compacting state fails to attend required
11 meetings of the compact or does not follow the bylaws of the compact.

12 (6) The compact dissolves upon the date of the withdrawal or
13 default of the compacting state that reduces membership in the compact
14 to one compacting state.

15 NEW SECTION. **Sec. 9.** (1) The compact does not prevent the
16 enforcement of any state law of a compacting state that does not
17 conflict with a rule or operating procedure or bylaw of the compact.

18 (2) All lawful actions of the compact including all rules and
19 operating procedures adopted by the compact are binding on the
20 compacting states.

21 (3) In the event any provision of the compact exceeds the
22 constitutional limits imposed on the legislature of any compacting
23 state, the obligations, duties, powers, or jurisdiction sought to be
24 conferred by that provision upon the commission is ineffective as to
25 that compacting state and those obligations, duties, powers, or
26 jurisdiction remains the compacting state and shall be exercised by the
27 agency thereof to which those obligations, duties, powers, or
28 jurisdiction are delegated by law in effect at the time the compact
29 becomes effective.

30 (4) Insurers offering qualifying plans must comply with and are
31 subject to the laws of the compacting state in which the purchaser
32 resides relating to:

- 33 (a) Market conduct;
- 34 (b) Unfair trade practices;
- 35 (c) Network adequacy;
- 36 (d) Consumer protection standards and unfair trade practices;
- 37 (e) Grievance and appeals; and

1 (f) Fraud.

2 (5) Insurers must clearly notify applicants and purchasers that the
3 policy may not be subject to all the laws and regulations of the state
4 in which the purchaser resides.

5 NEW SECTION. **Sec. 10.** (1) Insurers may offer and issue qualifying
6 plans in compacting states if:

7 (a) The insurer is licensed and in good standing in its state of
8 origin. Qualifying plans must be approved for offer and issue by the
9 insurer's state of origin prior to being offered and issued in a
10 compacting state;

11 (b) The qualifying plan is approved as to form by one of the
12 compacting states;

13 (c) The insurer's rating schedule for the qualifying plan is
14 approved by its state of origin;

15 (d) The insurer reports to the primary member the amount of premium
16 sold in each compacting state and provides such other data as the
17 primary member requires by rule;

18 (e) The insurer complies with the requirements of the compact and
19 of this chapter.

20 (2) If a state of origin determines that a qualifying plan is not
21 in compliance for any reason, the state of origin must notify other
22 compact members of the plan's change in status. The insurer must
23 immediately cease offering and issuing the qualifying plan until the
24 state of origin has confirmed to the insurer and to compact members in
25 writing that the qualifying plan is again in compliance.

26 NEW SECTION. **Sec. 11.** Insurers offering and issuing qualifying
27 plans must file with each compacting state and provide applicants
28 resident in the compacting state with a written disclosure containing
29 a side-by-side comparison that explains the differences between each
30 qualifying plan's requirements, conditions, and benefits compared to
31 the requirements for health benefit plans for that compacting state,
32 including but not limited to:

33 (1) Claim payment;

34 (2) Coinsurance, copayment, and deductibles;

35 (3) Preexisting condition limitation;

36 (4) Mandated benefits;

- 1 (5) Guaranteed issue;
- 2 (6) Use of discretionary clauses;
- 3 (7) Out-of-pocket and lifetime limits;
- 4 (8) Method of calculating rates or premium; and
- 5 (9) Health underwriting practices.

6 NEW SECTION. **Sec. 12.** (1) Insurers offering or issuing qualifying
7 plans in the state of Washington must comply with chapter 48.41 RCW to
8 the extent required by the commissioner. Insurers offering and issuing
9 qualifying plans in Washington are subject to the terms and conditions
10 of chapter 48.41 RCW and must participate in the pool as set forth in
11 RCW 48.41.090.

12 (2) The commissioner of each compacting state shall adopt rules to
13 implement and administer this section.

14 NEW SECTION. **Sec. 13.** Each qualifying policy issued in the state
15 of Washington must prominently display the legal name of the issuing
16 insurer, its business address, its web site, its telephone number, and
17 any other information necessary to assist Washington residents in
18 contacting the issuer or its administrator.

19 NEW SECTION. **Sec. 14.** (1) Insurers offering qualifying plans in
20 Washington are member insurers of the Washington life and disability
21 insurance guaranty association as established in RCW 48.32A.055, and
22 are subject to the requirements of chapter 48.32A RCW for their covered
23 enrollees or members who are Washington state residents.

24 (2) States of origin must provide notice to other compact states
25 whenever the member or his or her staff comes into possession of any
26 data or information relative to an insurer offering qualifying plans
27 indicating that such insurer is in or is approaching a condition of
28 impaired assets, imminent insolvency, or insolvency. If the state of
29 origin takes any formal action against an insurer offering qualifying
30 plans, the member must notify the other compact states of the action
31 and require the insurer to cease offering or issuing qualifying plans.

32 NEW SECTION. **Sec. 15.** Insurers offering and issuing qualifying
33 plans in compacting states must comply with the regulatory assessment

1 and premium tax payment requirements of each compacting state as if
2 they were admitted insurers in each compact state.

3 NEW SECTION. **Sec. 16.** The commissioner may adopt rules to
4 implement and administer this chapter.

5 NEW SECTION. **Sec. 17.** A state may not enter into an agreement
6 with the commissioner under this chapter unless the state enacts a law
7 after the effective date of this act that specifically authorizes the
8 state to enter into such agreements through the compact structure set
9 forth in this chapter.

10 NEW SECTION. **Sec. 18.** Sections 1 through 17 of this act
11 constitute a new chapter in Title 48 RCW.

12 NEW SECTION. **Sec. 19.** This act expires January 1, 2015."

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13 On page 1, line 1 of the title, after "Relating to" strike the
14 remainder of the title and insert "establishing an interstate compact
15 for the sale and issue of health benefit plans; adding a new chapter to
16 Title 48 RCW; and providing an expiration date."

--- END ---