

# SENATE BILL REPORT

## SB 6440

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As Reported by Senate Committee On:  
Health & Long-Term Care, February 2, 2012

**Title:** An act relating to expanding opportunities for the purchase of health care coverage outside of state-governed health care coverage programs.

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

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

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 2/02/12 [DP-WM, w/oRec].

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Becker, Ranking Minority Member; Carrell, Frockt, Kline, Parlette and Pflug.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Conway, Vice Chair.

**Staff:** Veronica Warnock (786-7490)

**Background:** Under current law, Washington residents purchase health insurance policies from insurance carriers licensed in Washington State. Such policies must be compliant with state mandates, consumer protection laws, guaranteed issue, and community rating requirements. The federal Affordable Care Act (ACA) includes a provision allowing for two or more states to enter into an interstate health care choice compact under which individual market plans could be offered in all compacting states subject to the laws and regulation of the state where it was written or issued. Carriers would continue to be subject to the market conduct; unfair trade practices; network adequacy; consumer protection standards, including rate rules; and performance disputes laws of the state where the purchaser resides unless the carrier was licensed in the purchaser's home state. Carriers must clearly notify consumers that a policy may not be subject to all the laws and regulations of the purchaser's home state. Regulation implementing this provision of the ACA must be issued by July 1, 2013, and states may enter into compacts beginning in 2016 if they enact authorizing legislation. The

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Secretary of the federal Health and Human Services Department must approve the compact but only may do so if the compact will provide coverage that is comprehensive and affordable to a comparable number of residents as the ACA requirements and will not increase the Federal deficit or weaken enforcement of state consumer protection laws.

**Summary of Bill:** The Insurance Commissioner must identify at least five states whose insurance laws governing reserves, network adequacy, complaint resolution, consumer protection, and marketing standards meet the standards established by the National Association of Insurance Commissioners (NAIC) by at least 85 percent. No more than two of the same health insurers or their affiliate lines may operate in both Washington and the identified states. States identified must be interested in participating in a reciprocal agreement that allows for the sale of private market health plans among the consortium states. By January 2014, the Insurance Commissioner must approve health insurance policies for sale in Washington that have been approved by participating reciprocal states. Such policies must comply with the federal employee health benefit plan design and cannot be offered through Washington's Exchange.

No policy or plan that does not satisfy actuarial standards and solvency requirements set by NAIC and adopted or prescribed by the reciprocal state may be sold in Washington. The Insurance Commissioner is provided with the authority to determine whether an insurer satisfies NAIC actuarial standards and solvency requirements as prescribed by reciprocal states and to suspend or revoke sales of out-of-state policies if the laws and rules of those policies are determined to egregiously harm Washington residents.

Written applications for out-of-state health benefit plans and out-of-state benefit policies issued pursuant to a reciprocal agreement must disclose that their policy is governed by the laws of the state where the master policy is filed and that rating laws applicable to policies filed in Washington State may not apply.

The Insurance Commissioner must cooperate with other insurance commissioners in creating a consortium of like states. The consortium must establish rules of reciprocity for approval of comprehensive private market individual and small group health plans in the participating states. At a minimum the rules must require terms and conditions similar to the following: an issuer must designate one state as its primary state with respect to all coverage it offers; if an insurer is selling a policy in a secondary state, the issuer must be considered as being licensed and approved to do business in that state; the laws of the primary state are the ones that apply to coverage offered by a health insurer domiciled in that state, including all policies sold by that insurer in any secondary state; and insurers are subject to applicable taxes and assessments which are levied on insurers in the participating secondary states.

By January 2017, the Insurance Commissioner must submit a plan to the Legislature which allows for enhanced opportunities for Washington to collaborate with other states regarding the sale of health care coverage or which converts the existing reciprocal agreement to a more expansive compact. After such a compact is in place, the state may consider allowing non-admitted carriers to participate in Washington's Exchange. Prior to the creation of a compact, insurers participating in reciprocal agreements that allow for the sale of private market health plans among the consortium states are prohibited from selling policies through the Exchange.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Wyoming and Georgia already do this. This bill requires reciprocal states to be at least 85 percent consistent with NIAC providing assurances that out-of-state plans will not be barebones or underinsured. This bill makes the health insurance marketplace more competitive thereby increasing choice and lowering costs for consumers. Currently there are only three carriers in this state. Small businesses need more choice and more affordability when it comes to health coverage. The current plan choices are forcing small business to choose between providing health care and laying off workers or not providing health care. The cost of health care to small employers is unsustainable. This bill also provides a larger marketplace for Washington's providers who will be able to market their products in reciprocating states. This is an innovate idea which will help small business help their employers. The time to do this is now. The ACA has provided new options regarding how the heath care market is structured. This bill will help implement the ACA.

**Persons Testifying:** PRO: Senator Parlette, prime sponsor; Donna Stewart, Assn. of WA Businesses; Patrick Connor, National Federal of Independent Businesses; Don Conant, Valley Nut & Bolt; Carolyn Lodge, WA Food Industry Assn.; George Madsen, Madsen Roofing; Greg Luhn, Fairway Collections; Dean Hartman, Capital Business Machines; Tom Kwieciak, Building Industry Assn. of WA; Andrea Bailey, Alliance Nursing; Anne Howland, Surgical Industrial Service Inc.; Gary Smith, Independent Business Association; Ned Whitting, individual.