

A bill for an act
relating to insurance; creating interstate health insurance choice; regulating
flexible benefits plans; authorizing rulemaking; proposing coding for new law in
Minnesota Statutes, chapter 62L; proposing coding for new law as Minnesota
Statutes, chapter 62V; repealing Minnesota Statutes 2008, section 62L.056.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

INTERSTATE HEALTH INSURANCE COMPETITION

Section 1. [62V.01] CITATION AND PURPOSE.

This chapter may be cited as the "Interstate Health Insurance Competition Act."

Sec. 2. [62V.02] DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to this chapter.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 3. **Covered person.** "Covered person" means an individual, whether a
policyholder, subscriber, enrollee, or member of a health plan who is entitled to health
care services provided, arranged for, paid for, or reimbursed pursuant to a health plan.

Subd. 4. **Domestic health insurer.** "Domestic health insurer" means an insurer
licensed to sell, offer, or provide health plans in Minnesota.

Subd. 5. **Hazardous financial condition.** "Hazardous financial condition" means
that, based on its present or reasonably anticipated financial condition, an out-of-state
health insurer is unlikely to be able to meet obligations to policyholders with respect to
known claims or to any other obligations in the normal course of business.

2.1 Subd. 6. **Health care provider or provider.** "Health care provider" or "provider"
2.2 means any hospital, physician, or other person authorized by statute, licensed, or certified
2.3 to furnish health care services.

2.4 Subd. 7. **Health care services.** "Health care services" means the furnishing of
2.5 services to any individual for the purpose of preventing, alleviating, curing, or healing
2.6 human illness, injury, or physical disability.

2.7 Subd. 8. **Health plan.** "Health plan" means an arrangement for the delivery of
2.8 health care, on an individual basis, in which an insurer undertakes to provide, arrange
2.9 for, pay for, or reimburse any of the costs of health care services for a covered person
2.10 that is in accordance with the laws of any state. Health plan does not include short-term
2.11 health coverage, accident only, limited or specified disease, long-term care or individual
2.12 conversion policies or contracts, or policies or contracts designed for issuance to persons
2.13 eligible for coverage under title XVIII of the federal Social Security Act, known as
2.14 Medicare, or any other similar coverage under state or federal governmental plans.

2.15 Subd. 9. **Insurer.** "Insurer" means any entity that is authorized to sell, offer, or
2.16 provide a health plan, including an entity providing a plan of health insurance, health
2.17 benefits, or health services, an accident and sickness insurance company, a health
2.18 maintenance organization, a corporation offering a health plan, a fraternal benefit society,
2.19 a community integrated service network, or any other entity that provides health plans
2.20 subject to state insurance regulation, or a health carrier described in section 62A.011,
2.21 subdivision 2.

2.22 Subd. 10. **Out-of-state health plan.** "Out-of-state health plan" means a health plan
2.23 that was filed for use in any other state.

2.24 Subd. 11. **Resident.** "Resident" means an individual whose primary residence is in
2.25 Minnesota and who is present in Minnesota for at least six months of the calendar year.

2.26 **Sec. 3. [62V.03] OUT-OF-STATE HEALTH PLANS TO MINNESOTA**
2.27 **RESIDENTS.**

2.28 Subdivision 1. **Eligibility.** (a) Notwithstanding any other law to the contrary, a
2.29 health insurer may sell, offer, or issue an out-of-state health plan to residents in Minnesota,
2.30 if the following requirements are met:

2.31 (1) the out-of-state health plan must be in compliance with all applicable Minnesota
2.32 laws that apply to the type of health plan offered;

2.33 (2) the out-of-state health plan must not be issued, nor any application, rider, or
2.34 endorsement be used in connection with the plan, until the form has received prior
2.35 approval in Minnesota;

(3) the offering insurer must have a certificate of authority to do business in Minnesota pursuant to section 60A.07; and

(4) the out-of-state health plan shall participate, on a nondiscriminatory basis, in the Minnesota Life and Health Insurance Guaranty Association created under chapter 61B.

(b) The provisions of section 62A.02, subdivision 2, shall not apply to plans issued under this section.

Subd. 2. **Minnesota laws applicable.** An out-of-state health plan sold, offered, or provided by a health insurer in Minnesota in accordance with this chapter is subject to laws applicable to the sale, offering, or provision of accident and sickness insurance or health plans including, but not limited to, requirements imposed by chapters 62A, 62E, and 62Q.

Subd. 3. **Nature of out-of-state health insurer.** The out-of-state health insurer may be a for-profit or nonprofit company.

Sec. 4. **[62V.04] CERTIFICATE OF AUTHORITY TO OFFER OUT-OF-STATE HEALTH PLANS.**

Subdivision 1. **Issuance of certificate.** A health insurer may apply for a certificate that authorizes the health insurer to offer out-of-state health insurance plans in Minnesota, using a form prescribed by the commissioner. Upon application, the commissioner shall issue a certificate to the health insurer unless the commissioner determines that the out-of-state health insurer:

(1) will not provide a health plan in compliance with this chapter;

(2) is in a hazardous financial condition, as determined by an examination by the commissioner conducted in accordance with the Financial Analysis Handbook of the National Association of Insurance Commissioners; or

(3) has not adopted procedures to ensure compliance with all applicable laws governing the confidentiality of its records with respect to providers and covered persons.

Subd. 2. **Validity.** A certificate of authority issued pursuant to this section is valid for three years from the date of issuance by the commissioner.

Subd. 3. **Rulemaking authority.** The commissioner shall adopt rules that include:

(1) procedures for an out-of-state health insurer to renew a certificate of authority, consistent with this chapter; and

(2) a certificate of authority application and renewal fees, the amount of which must be no greater than is reasonably necessary to enable the commissioner of commerce to carry out the provisions of this chapter.

Subd. 4. **Applicability of certain statutory requirements.** A health insurer offering health plans pursuant to this chapter shall comply with:

(1) protections for covered persons from unfair trade practices applicable to accident and sickness insurance or health plans pursuant to chapter 72A;

(2) the capital and surplus requirements for licensure specified in chapter 60A, as determined applicable to out-of-state health insurers by the commissioner;

(3) applicable requirements of this chapter and sections 297I.05, subdivision 12, and 62E.11, pertaining to taxes and assessments imposed on health insurers selling individual health insurance policies in Minnesota; and

(4) applicable requirements of chapter 60A regarding the obtaining of authority to transact business in Minnesota.

Sec. 5. [62V.06] REVOCATION OF CERTIFICATE OF AUTHORITY; MARKETING MATERIALS.

Subdivision 1. **Revocation.** The commissioner may deny, revoke, or suspend, after notice and opportunity to be heard, a certificate of authority issued to a health insurer pursuant to this chapter for a violation of this chapter, including any finding by the commissioner that a health insurer is no longer in compliance with any of the conditions for issuance of a certificate of authority set forth in section 60A.07, or the administrative rules adopted pursuant to this chapter. The commissioner shall provide for an appropriate and timely right of appeal for the out-of-state health insurer whose certificate is denied, revoked, or suspended.

Subd. 2. **Fair marketing standards.** The commissioner shall establish fair marketing standards for marketing materials used by out-of-state health insurers to market health plans to residents in Minnesota, which standards must be consistent with those applicable to health plans offered by a domestic health insurer pursuant to chapter 72A.

Subd. 3. **Nondiscrimination.** The procedures and standards established under subdivision 2 must be applied on a nondiscriminatory basis so as not to place greater responsibilities on out-of-state health insurers than the responsibilities placed on domestic health insurers doing business in Minnesota.

Sec. 6. [62V.07] RULES.

The commissioner shall adopt rules to effectuate the purposes of this chapter. The rules must not:

(1) directly or indirectly require an insurer offering out-of-state health plans to, directly or indirectly, modify coverage or benefit requirements or restrict underwriting requirements or premium ratings in any way that conflicts with the insurer's domiciliary state's laws or regulations, except as necessary to comply with Minnesota law;

(2) provide for regulatory requirements that are more stringent than those applicable to carriers providing Minnesota health plans; or
(3) require any out-of-state health plan issued by the health insurer to be countersigned by an insurance agent or broker residing in Minnesota.

ARTICLE 2

FLEXIBLE BENEFITS PLANS

Section 1. [62L.0561] FLEXIBLE BENEFITS PLANS.

Subdivision 1. Definitions. For the purposes of this section, the terms used in this section have the meaning defined in section 62Q.01, except that "health plan" includes individual and group coverage.

Subd. 2. Flexible benefits plan. Notwithstanding any provision of this chapter, chapter 363A, or any other law to the contrary, a health plan company may offer, sell, issue, and renew a health plan that is a flexible benefits plan under this section if the following requirements are satisfied:

(1) the health plan must be offered in compliance with the laws of this state, except as otherwise permitted in this section;

(2) the health plan must be designed to enable covered persons to better manage costs and coverage options through the use of co-pays, deductibles, and other cost-sharing arrangements;

(3) the health plan may modify or exclude any or all coverages of benefits that would otherwise be required by law, except for maternity benefits and other benefits required under federal law;

(4) each health plan and plan's premiums must be approved by the commissioner of health or commerce, whichever is appropriate under section 62Q.01, subdivision 2, but neither commissioner may disapprove a plan on the grounds of a modification or exclusion permitted under clause (3); and

(5) prior to sale of the health plan, the purchaser must be given a written list of the coverages otherwise required by law that are modified or excluded in the health plan. The list must include a description of each coverage in the list and indicate whether the coverage is modified or excluded. If coverage is modified, the list must describe the modification. The list may, but is not required to, also list any or all coverages otherwise required by law that are included in the health plan and indicate that they are included. The health plan company must require that a copy of this written list be provided, prior to the effective date of the health plan, to each enrollee or employee who is eligible for health coverage under the plan.

6.1 Subd. 3. **Employer health plan.** An employer may provide a health plan permitted
6.2 under this section to its employees, the employees' dependents, and other persons eligible
6.3 for coverage under the employer's plan, notwithstanding chapter 363A or any other law
6.4 to the contrary.

6.5 **EFFECTIVE DATE.** This section is effective January 1, 2012.

6.6 Sec. 2. **REPEALER.**

6.7 Minnesota Statutes 2008, section 62L.056, is repealed.

6.8 **EFFECTIVE DATE.** This section is effective January 1, 2012.

APPENDIX
Article locations in H3245-1

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