

Regular Session, 2010

HOUSE BILL NO. 1191

BY REPRESENTATIVE TALBOT

INSURANCE/HEALTH-ACCID: Authorizes establishment of an interstate compact governing the sale of health insurance policies and subscriber agreements across state lines

1 AN ACT

2 To enact R.S. 22:4, relative to the sale of health insurance policies and subscriber  
3 agreements; to authorize establishment of an interstate compact governing such sales  
4 across state lines; to provide for legislative delegation of the commissioner of  
5 insurance as the representative of this state for such compact; to provide for the  
6 purposes of such compact; to allow health insurance issuers and health maintenance  
7 organization to offer and issue selected individual policies and subscriber agreements  
8 in this state if such entity is licensed and in good standing in its state of origin; to  
9 establish requirements for such entities, including disclosure, membership in the  
10 Louisiana Life and Health Insurance Guaranty Association, notice of imminent  
11 insolvency, and compliance with the regulatory assessment and premium tax  
12 payment requirements of this state; to provide for a termination date; and to provide  
13 for related matters.

14 Be it enacted by the Legislature of this state:

15 Section 1. R.S. 22:4 is hereby enacted to read as follows:

16 §4. Authorization; negotiation for health insurance compact

17 A. It is the intent of the state of Louisiana to be authorized to join with other  
18 states to establish a health insurance compact governing the sale of selected  
19 individual health benefit plans in this state. The legislature designates and authorizes

1 the insurance commissioner of this state to serve as the representative of this state  
2 for such compact.

3 B. (1) The purposes of the health insurance compact, through the means of  
4 joint and cooperative action among the compacting states, shall be all of the  
5 following:

6 (a) To increase the competitive availability of health insurance.

7 (b) To develop uniform standards for selected individual health insurance  
8 products covered under the compact.

9 (c) To establish an agreed method of confirming that health insurance  
10 policies and subscriber agreements issued in this state comply with the requirements  
11 of this Title.

12 (d) To improve coordination of regulatory resources and expertise between  
13 state insurance departments regarding the setting of uniform standards and review  
14 of selected individual health insurance policies and subscriber agreements covered  
15 under the compact.

16 (2) The commissioner intends to establish a mechanism permitting selected  
17 individual policies and subscriber agreements to be offered in participating states  
18 in the compact subject to the applicable laws of this state and applicable laws of  
19 other states in which the health insurance policy or subscriber agreement was written  
20 or issued, provided that the health insurance issuer or health maintenance  
21 organization of any selected individual health insurance policy and subscriber  
22 agreement are subject to the market conduct, unfair trade practices, network  
23 adequacy, and consumer protection standards, including addressing disputes as to the  
24 performance of the contract, of the state in which the purchaser resides.

25 B. The commissioner shall have the authority to take the lead in creating a  
26 health insurance compact of like-minded states with substantially similar states and  
27 in establishing rules and standards for reciprocity agreements. The commissioner  
28 is authorized to negotiate the establishment of a compact with other states including  
29 but not limited to the following:

1           (1) The compact does not prevent the enforcement of any state law of a  
2           compacting state.

3           (2) All lawful actions of the compact, including all rules and operating  
4           procedures adopted by the compact, are binding on the compacting states.

5           (3) In the event that any provision of the health insurance compact exceeds  
6           the constitutional limits imposed on the legislature of any compacting state, the  
7           obligations, duties, powers, or jurisdiction sought to be conferred by that provision  
8           upon the health insurance compact state is ineffective as to that compacting state and  
9           those obligations, duties, powers, or jurisdiction remain with the compacting state  
10          and shall be exercised by the agency thereof to which those obligations, duties,  
11          powers, or jurisdiction are delegated by law in effect at the time the health insurance  
12          compact becomes effective.

13          (4) Health insurance issuers and health maintenance organizations offering  
14          selected individual health insurance policies and subscriber agreements shall comply  
15          with and are subject to the laws of the compacting state in which the insured or  
16          enrollee resides relating to each of the following:

17               (a) Market conduct.

18               (b) Unfair trade practices.

19               (c) Network adequacy.

20               (d) Consumer protection standards and unfair trade practices.

21               (e) Grievances and appeals.

22               (f) Fraud.

23               (g) Financial solvency requirements.

24          (5) Health insurance issuers and health maintenance organizations shall clearly  
25          notify insureds or enrollees that the policy may not be subject to all the laws and  
26          regulations of the state in which the insureds or enrollees reside.

27          (6) The commissioner of this state shall have the authority to approve or  
28          disapprove for sale any select individual health insurance policy or subscriber  
29          agreement.

1           C. (1) Health insurance issuers and health maintenance organizations may  
2           offer and issue selected individual policies and subscriber agreements in this state if  
3           the health insurance issuer or health maintenance organization is licensed and in good  
4           standing in its state of origin. Selected individual policies and subscriber agreements  
5           must be approved for offer and issue by the health insurance issuer and health  
6           maintenance organization's state of origin prior to being offered and issued in this  
7           state, including but not limited to the following:

8                   (a) The selected individual policy or subscriber agreement is approved as to  
9                   form by one of the compacting states and the commissioner of this state.

10                   (b) The health insurance issuer's or health maintenance organization's rating  
11                   schedule for the selected individual policy or subscriber agreement is approved by its  
12                   state of origin.

13                   (c) The health insurance issuer or health maintenance organization reports to  
14                   the commissioner of this state the amount of premium sold in each compacting state  
15                   and provides such other data as the commissioner may require by rule.

16                   (d) The health insurance issuer and the health maintenance organization  
17                   comply with the requirements of the health insurance compact and of this Section.

18           (2) If a state of origin determines that a selected individual policy or  
19           subscriber agreement is not in compliance for any reason, the state of origin must  
20           notify the department of this state of the plan's change in status. The health insurance  
21           issuer or health maintenance organization must immediately cease offering and  
22           issuing the qualifying plan until the state of origin has confirmed to the health  
23           insurance issuer or health maintenance organization and to the department of this state  
24           in writing that the qualifying plan is again in compliance.

25           D. Health insurance issuers or health maintenance organizations offering and  
26           issuing select individual health insurance policies or subscriber agreements in this  
27           state shall file with the commissioner of this state and provide insureds or enrollees  
28           residing in this state with a written disclosure containing a side-by-side comparison  
29           that explains the differences between each select individual health insurance policies'

1 or subscriber agreements' requirements, conditions, and benefits compared to the  
2 requirements for health insurance policies or subscriber agreements offered or issued  
3 in this state, including but not limited to the following:

4 (1) Claims payment.

5 (2) Coinsurance, copayments, and deductibles.

6 (3) Preexisting condition limitations.

7 (4) Mandated benefits.

8 (5) Guaranteed issue.

9 (6) Use of discretionary clauses.

10 (7) Out-of-pocket and lifetime limits.

11 (8) Method of calculating rates or premium.

12 (9) Health underwriting practices.

13 E. Each select individual health insurance policy or subscriber agreement  
14 issued in this state shall prominently display the legal name of the issuing health  
15 insurance issuer or health maintenance organization, its business address, its website,  
16 its telephone number, and any other information necessary to assist residents of this  
17 state in contacting the health insurance issuer or health maintenance organization or  
18 its administrator.

19 F. (1) Health insurance issuers or health maintenance organizations offering  
20 select individual health insurance policies or subscriber agreements in this state shall  
21 be members of the Louisiana Life and Health Insurance Guaranty Association and  
22 are subject to the requirements of Part II of Chapter 10 of this Title for their covered  
23 insureds or enrollees who are residents of this state.

24 (2) States of origin shall provide notice to the department of insurance of this  
25 state whenever the state of origin comes into possession of any data or information  
26 relative to an health insurance issuer or health maintenance organization offering  
27 select individual health insurance policies or subscriber agreements indicating that  
28 such health insurance issuer or health maintenance organization is in or is  
29 approaching a condition of impaired assets, imminent insolvency, or insolvency. If

1 the state of origin takes any formal action against a health insurance issuer or health  
 2 maintenance organization offering select individual health insurance policies or  
 3 subscriber agreements, the compacting state must notify the department of this state  
 4 of the action and require the health insurance issuer or health maintenance  
 5 organization to cease offering or issuing select individual health insurance policies or  
 6 subscriber agreements. The commissioner of this state shall be authorized to take any  
 7 legal or administrative action to protect insureds or enrollees residing in this state.

8 G. Health insurance issuers or health maintenance organizations offering and  
 9 issuing select individual health insurance policies or subscriber agreements in this  
 10 state shall comply with the regulatory assessment and premium tax payment  
 11 requirements of this state as if they were admitted health insurance issuers or health  
 12 maintenance organizations in this state.

13 H. The provisions of this Section shall be null and void and cease to be  
 14 effective on January 1, 2015.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Talbot

HB No. 1191

**Abstract:** Authorizes the state of Louisiana to be authorized to join with other states to establish a health insurance compact governing the sale of selected individual health benefit plans in this state.

Proposed law states that it is the intent of the state of Louisiana to be authorized to join with other states to establish a health insurance compact governing the sale of selected individual health benefit plans in this state. Further states that the legislature designates and authorizes the insurance commissioner of this state to serve as the state's representative for such compact. Otherwise provides with respect to such compact as follows:

- (1) Provides the purposes of the compact as:
  - (a) Increasing the competitive availability of health insurance.
  - (b) Developing uniform standards for selected individual health insurance products covered under the compact.
  - (c) Establishing an agreed method of confirming that health insurance policies and subscriber agreements issued in this state comply with the requirements of present law, the Insurance Code.
  - (d) Improving coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of selected individual health insurance policies and subscriber agreements.

- (2) States that the commissioner intends to establish a mechanism permitting selected individual policies and subscriber agreements to be offered in participating states in the compact subject to the applicable laws of this state and applicable laws of other states in which the health insurance policy or subscriber agreement was written or issued, provided that the health insurance issuer or HMO of any selected individual health insurance policy and subscriber agreement are subject to the market conduct, unfair trade practices, network adequacy, and consumer protection standards, including addressing disputes as to the performance of the contract, of the state in which the purchaser resides.
- (3) Authorizes the commissioner to take the lead in creating a health insurance compact of like-minded states with substantially similar states and in establishing rules and standards for reciprocity agreements. Further authorizes him to negotiate the establishment of a compact with other states including but not limited to the following:
- (a) The compact does not prevent the enforcement of any state law of a compacting state.
  - (b) All lawful actions of the compact, including all rules and operating procedures adopted by the compact, are binding on the compacting states.
  - (c) In the event that any provision of the health insurance compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the health insurance compact state are ineffective as to that compacting state and those obligations, duties, powers, or jurisdiction remain with the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time the health insurance compact becomes effective.
- (4) Requires health insurance issuers and health maintenance organizations (HMOs) offering selected individual health insurance policies and subscriber agreements to comply with and be subject to the laws of the compacting state in which the insured or enrollee resides relating to each of the following:
- (a) Market conduct.
  - (b) Unfair trade practices.
  - (c) Network adequacy.
  - (d) Consumer protection standards and unfair trade practices.
  - (e) Grievances and appeals.
  - (f) Fraud.
  - (g) Financial solvency requirements.
- (5) Requires health insurance issuers and HMOs to clearly notify insureds or enrollees that the policy may not be subject to all the laws and regulations of the state in which the insureds or enrollees reside.
- (6) Authorizes the commissioner of this state to approve or disapprove for sale any select individual health insurance policy or subscriber agreement.
- (7) Authorizes health insurance issuers and HMOs to offer and issue selected individual policies and subscriber agreements in this state if the health insurance issuer or HMO is licensed and in good standing in its state of origin. Requires that selected individual policies and subscriber agreements be approved for offer and issue by the health insurance issuer and HMO's state of origin prior to being offered and issued in this state, including but not limited to the following:
- (a) The selected individual policy or subscriber agreement is approved as to form by one of the compacting states and the commissioner of this state.

- (b) The health insurance issuer's or HMO's rating schedule for the selected individual policy or subscriber agreement is approved by its state of origin.
  - (c) The health insurance issuer or HMO reports to the commissioner the amount of premium sold in each compacting state and provides such other data as the commissioner may require by rule.
  - (d) The health insurance issuer and the HMO comply with the requirements of the health insurance compact and of proposed law.
- (8) Provides that if a state of origin determines that a selected individual policy or subscriber agreement is not in compliance for any reason, the state of origin must notify the department of this state of the plan's change in status. Requires the health insurance issuer or HMO to immediately cease offering and issuing the qualifying plan until the state of origin has confirmed to the health insurance issuer or HMO and to the department of this state in writing that the qualifying plan is again in compliance.
- (9) Requires health insurance issuers or HMOs offering and issuing select individual health insurance policies or subscriber agreements in this state to file with the commissioner of this state and provide insureds or enrollees residing in this state with a written disclosure containing a side-by-side comparison that explains the differences between each select individual health insurance policies' or subscriber agreements' requirements, conditions, and benefits compared to the requirements for health insurance policies or subscriber agreements offered or issued in this state, including but not limited to the following:
- (a) Claims payment.
  - (b) Coinsurance, copayments, and deductibles.
  - (c) Preexisting condition limitations.
  - (d) Mandated benefits.
  - (e) Guaranteed issue.
  - (f) Use of discretionary clauses.
  - (g) Out-of-pocket and lifetime limits.
  - (h) Method of calculating rates or premium.
  - (i) Health underwriting practices.
- (10) Requires that each select individual health insurance policy or subscriber agreement issued in this state shall prominently display the legal name of the issuing health insurance issuer or HMO, its business address, its website, its telephone number, and any other information necessary to assist residents of this state in contacting the health insurance issuer or HMO or its administrator.
- (11) Requires health insurance issuers or HMOs offering select individual health insurance policies or subscriber agreements in this state to be members of the La. Life and Health Insurance Guaranty Association and subject to the requirements of present law relative to such association for their covered insureds or enrollees who are residents of this state.
- (12) Requires states of origin to provide notice to the department of insurance of this state whenever the state of origin comes into possession of any data or information relative to an health insurance issuer or HMO offering select individual health insurance policies or subscriber agreements indicating that such health insurance issuer or HMO is in or is approaching a condition of impaired assets, imminent insolvency, or insolvency. Further provides that if the state of origin takes any formal action against a health insurance issuer or HMO offering select individual health insurance policies or subscriber agreements, the compacting state must notify the department of this state of the action and require the health insurance issuer or HMO to cease offering or issuing select individual health insurance policies or subscriber agreements.



Authorizes the commissioner of this state to take any legal or administrative action to protect insureds or enrollees of this state.

- (13) Requires that health insurance issuers or HMOs offering and issuing select individual health insurance policies or subscriber agreements in this state comply with the regulatory assessment and premium tax payment requirements of this state as if they were admitted health insurance issuers or HMOs in this state.
- (14) Provides that proposed law shall be null and void and shall terminate on January 1, 2015.

(Adds R.S. 22:4)