

SENATE BILL 3629

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to the "Interstate Health-Care Choice Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, is amended by inserting Sections 2 through 9 of this act as a new, appropriately designated part.

SECTION 2. This part shall be known and may be cited as the "Interstate Health-Care Choice Act" or the "CHOICE Act".

SECTION 3. For the purposes of this part:

- (1) "Commissioner" means the commissioner of commerce and insurance;
- (2) "Foreign health insurer" means a foreign individual health insurer or a foreign small employer health insurer;
- (3) "Foreign individual health insurer" means a person domiciled in a state other than Tennessee who holds a valid certificate of authority to market individual health insurance plans in the state of their domicile;
- (4) "Foreign small employer health insurer" means a person domiciled in a state other than Tennessee who holds a valid certificate of authority to market small employer health insurance plans in the state of their domicile;
- (5) "Individual health benefits plan" means a benefits plan for individuals and their dependents that pays or provides for hospital and medical expense benefits for covered services;
- (6) "Small employer" has the same meaning as the term is defined in § 56-7-2203; and

(7) "Small employer health benefits plan" means a group benefits plan for individuals and their dependents that pays or provides for covered services, offered by a small employer.

SECTION 4.

(a) Notwithstanding any other law to the contrary, a foreign individual health insurer may offer and provide individual health benefits plans to residents in this state, if that insurer:

(1) Offers the same individual health benefits plans in its domiciliary state and is in compliance with all applicable laws, regulations, and other requirements of its domiciliary state;

(2) Obtains a certificate of authority to do business as a foreign health insurer in this state, pursuant to Section 5 of this act; and

(3) Participates, on a nondiscriminatory basis, in the Tennessee life and health insurance guaranty association created by § 56-12-205.

(b) Notwithstanding any other law to the contrary, a foreign small employment health insurer may offer and provide small employer health benefits plans to employers in this state, if the insurer:

(1) Offers the same small employer health benefits plans in its domiciliary state and is in compliance with all applicable laws, regulations, and other requirements of its domiciliary state;

(2) Obtains a certificate of authority to do business as a foreign health insurer in this state, pursuant to Section 5 of this act; and

(3) Participates, on a nondiscriminatory basis, in the Tennessee life and health insurance guaranty association created by § 56-12-205.

SECTION 5.

(a) A foreign health insurer may apply for a certificate of authority to do business as a foreign health insurer in this state using a form prescribed by the commissioner.

The commissioner shall issue a certificate of authority to the foreign health insurer if the insurer submits a complete application and application fee; provided, however, that no certificate shall be issued if the commissioner determines that the insurer:

(1) Will not provide health insurance services in compliance with the provisions of this part;

(2) Does not meet minimum capital, surplus, and reserve requirements established by the commissioner;

(3) Is not subject to measures of regulatory oversight that are equal to or are greater than those of Tennessee; and

(4) Has not adopted procedures to ensure compliance with all federal laws and the laws of this state governing the confidentiality of its records with respect to providers and covered persons, including but not limited, title 68, chapter 11, part 15.

(b) A certificate of authority issued pursuant to this section shall be valid for two (2) years from the date of issuance by the commissioner.

(c) The commissioner shall establish:

(1) Procedures for a foreign health insurer to renew a certificate of authority consistent with the provisions of this part; and

(2) Certificate of authority application and renewal fees to offset the administrative and enforcement provisions of this part.

SECTION 6.

(a) Each individual health benefits plan provided by a foreign individual health insurer to a resident of this state, and each application for the plan, shall disclose the following information in plain language:

(1) The differences between the coverage of certain health care services and benefits by the individual health benefits plan issued by the foreign health insurer and the coverage of such services and benefits mandated by Tennessee law using at least fourteen (14) point bold type; and

(2) An explanation of which state's laws govern the issuance of, and requirements under, the individual health benefits plan offered under this part.

(b) Each group health benefits plan provided by a foreign small employer health insurer to a small employer in Tennessee, and each application for the plan, shall disclose the following information in plain language:

(1) The differences between the small employer health benefits plan issued by the foreign health insurer and plans approved pursuant to § 56-7-2208 using at least fourteen (14) point bold type to describe the differences that relate to underwriting standards, premium rating, preexisting conditions, renewability, portability, and cancellation; and

(2) An explanation of which state's laws govern the issuance of, and requirements under, the small employer health benefits plan offered under this part.

SECTION 7.

(a) The commissioner may deny, revoke, or suspend, after notice and opportunity to be heard as provided in title 4, chapter 5, part 3, a certificate of authority issued to a foreign health insurer pursuant to this part for a violation of the provisions of this part, including any finding by the commissioner that a foreign health insurer is no

longer in compliance with any of the conditions for issuance of a certificate of authority set forth in subsection (a) of Section 5, or the rules adopted pursuant to this part.

(b) Any foreign health insurer who violates the provisions of this part shall be subject to § 56-2-305 only with respect to violations of this part.

(c) The commissioner shall establish grievance and independent claims review procedures with respect to claims by a health care provider or a covered person with which a foreign health insurer shall comply as a condition of issuing policies in Tennessee. The procedures shall be consistent with those set forth in state law for domestic insurers including §§ 56-7-109 – 110. These procedures and standards shall be applied on a nondiscriminatory basis so as not to place greater responsibilities on foreign health insurers than the responsibilities placed on other health insurers doing business in Tennessee.

SECTION 8. A foreign health insurer offering individual or small employer health benefits plans pursuant to this part shall comply with:

(1) The Unfair Trade Practices and Unfair Claims Settlement Act of 2009, compiled in chapter 8 of this title;

(2) Chapter 4, part 2, of this title relative to premium taxes, if applicable;

(3) Applicable provisions of the Tennessee life and health insurance guaranty association created by § 56-12-205; and

(3) The capital, surplus, and reserve requirements established by the commissioner.

SECTION 9. The commissioner shall promulgate rules to effectuate the provisions of this part in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, however, that except as provided in Section 8, no rule shall:

(1) Directly or indirectly require a foreign health insurer 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 law or regulations;

(2) Provide for regulatory requirements that are more stringent than those applicable to domestic carriers that are authorized by the commissioner to provide health benefit plans in this state; or

(3) Require any individual health benefits plan or small employer health benefits plan issued by the foreign health insurer to be countersigned by an insurance agent or broker residing in this state.

SECTION 10. This act shall take effect July 1, 2010, the public welfare requiring it.