

REFERENCE TITLE: health insurance; purchase outside state.

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1287

Introduced by
Senators Klein, Bundgaard, Pearce R, Reagan: Allen, Antenori, Biggs,
Crandall, Gould, Gray, Melvin, Meza, Shooter, Smith, Yarbrough;
Representative Harper

AN ACT

AMENDING SECTIONS 20-115, 20-206, 20-215, 20-217, 20-220, 20-230 AND
20-401.01, ARIZONA REVISED STATUTES; RELATING TO PURCHASE OF HEALTH OR
SICKNESS INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-115, Arizona Revised Statutes, is amended to
3 read:

4 20-115. Department jurisdiction over certain health care
5 providers; exception; examination; disclosure

6 A. Any person or other entity, including a provider sponsored
7 organization that operates under the Medicare-plus-choice program established
8 under the balanced budget act of 1997 (42 United States Code sections
9 1395w-21 through 1395w-28 and title XVIII, part C of the social security act,
10 sections 1851 through 1859), that provides coverage in this state for
11 medical, surgical, chiropractic, naturopathic medicine, occupational
12 therapy, physical therapy, speech pathology, audiology, professional mental
13 health, dental, hospital or optometric expenses, whether the coverage is by
14 direct payment, reimbursement or otherwise, is presumed to be subject to the
15 jurisdiction of the department unless the person or other entity shows that
16 while providing coverage it is subject to the jurisdiction of another agency
17 of this state, any political subdivision of this or any other state or the
18 federal government OR, IN THE CASE OF INSURERS OF THE SAME TYPE AS THOSE
19 SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE
20 POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE, THAT ARE
21 DOMICILED OUTSIDE OF THIS STATE AND THAT TRANSACT HEALTH OR SICKNESS
22 INSURANCE IN THIS STATE, IF THE INSURER PROVIDES EVIDENCE TO THE DIRECTOR
23 THAT WHILE PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS SUBJECT TO
24 THE JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT.

25 B. A person or entity that provides coverage for services identified
26 in subsection A OF THIS SECTION may show that it is subject to the
27 jurisdiction of another agency of this state, any political subdivision of
28 this or any other state or the federal government by providing to the
29 director the appropriate certificate, license or other document that is
30 issued by the other governmental agency and that permits or qualifies it to
31 provide those services.

32 C. Any person or entity that provides coverage in this state for
33 services described in subsection A OF THIS SECTION and THAT is unable to show
34 it is subject to the jurisdiction of another agency of this state, any
35 political subdivision of this or any other state or the federal government:

36 1. Shall submit to an examination by the director to determine the
37 organization and solvency of the person or the entity and to determine
38 whether or not the person or entity is in compliance with the applicable
39 provisions of this title.

40 2. Is subject to all appropriate provisions of this title regarding
41 the conduct of its business.

42 D. Any production agency or administrator which advertises, sells,
43 transacts or administers coverage in this state for services described in
44 subsection A OF THIS SECTION which is provided by any person or entity
45 described in subsection C OF THIS SECTION, if that coverage is not fully

1 insured or otherwise fully covered by an admitted life or disability insurer,
2 nonprofit hospital service plan or nonprofit health care plan, shall advise
3 any purchaser, prospective purchaser or covered person of the lack of
4 insurance or other coverage.

5 E. Any administrator which advertises or administers coverage in this
6 state for services described in subsection A OF THIS SECTION which is
7 provided by any person or entity described in subsection C OF THIS SECTION
8 shall advise any production agency of the elements of the coverage including
9 the amount of stop-loss insurance in effect.

10 F. This section does not apply to or prohibit a self-insured program
11 operated by a single employer for the benefit of its employees or the
12 employees of a wholly-owned subsidiary.

13 Sec. 2. Section 20-206, Arizona Revised Statutes, is amended to read:

14 20-206. Authority to transact insurance

15 A. No person shall act as an insurer and no insurer shall transact
16 insurance in this state except as authorized by a subsisting authority
17 granted to it by the director, except as to such transactions as are
18 expressly otherwise provided for in this title. No such authority shall be
19 required for an insurer, formerly so authorized, to enable it to investigate
20 and settle losses under its policies lawfully written in this state, or to
21 liquidate such assets and liabilities of the insurer, other than collection
22 of new premiums, as has resulted from its former authorized operations in
23 this state.

24 B. An insurer not transacting new insurance business in this state but
25 continuing collection of premiums on and servicing of policies remaining in
26 force as to residents of or risks located in this state, is transacting
27 insurance in this state for the purpose of premium tax requirements only and
28 is not required to have a certificate of authority ~~therefor~~. This subsection
29 shall not apply to insurers which have withdrawn from this state ~~prior to~~
30 ~~BEFORE~~ January 1, 1955.

31 C. As to an insurance coverage on a subject of insurance not resident,
32 located, or expressly to be performed in this state at time of issuance, and
33 solicited, written and delivered outside the state, no such authority shall
34 be required of an insurer as to subsequent transactions in this state on
35 account thereof.

36 D. NOTWITHSTANDING THIS SECTION, INSURERS OF THE SAME TYPE AS THOSE
37 SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE
38 POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE AND THAT ARE
39 DOMICILED OUTSIDE OF THIS STATE MAY TRANSACT HEALTH OR SICKNESS INSURANCE IN
40 THIS STATE IF THE INSURER PROVIDES EVIDENCE TO THE DIRECTOR THAT WHILE
41 PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS SUBJECT TO THE
42 JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT.

1 SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE
2 POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE, THAT ARE
3 DOMICILED OUTSIDE OF THIS STATE AND THAT TRANSACT HEALTH OR SICKNESS
4 INSURANCE IN THIS STATE IF THE INSURER PROVIDES EVIDENCE TO THE DIRECTOR THAT
5 WHILE PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS SUBJECT TO THE
6 JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT.

7 B. A certificate of authority remains in effect until terminated at
8 the request of the insurer or suspended or revoked by the director.

9 C. A certificate of authority remains the property of this state. ~~Upon~~
10 ON termination at the request of the insurer or revocation by the director,
11 the insurer shall immediately deliver the certificate of authority to the
12 director.

13 D. The director shall not grant the request of an insurer to terminate
14 its certificate of authority if the insurer has any outstanding obligations
15 under a policy of insurance to policyholders or claimants who are residents
16 of this state. This subsection does not apply if the insurer has deposited
17 with the state treasurer securities acceptable to the director in an amount
18 equal to its liabilities, as computed by the director, including its reserves
19 as required by this title in respect to its business in this state for the
20 sole benefit of its policyholders and creditors who are residents of this
21 state. The state treasurer shall hold and administer the deposits pursuant
22 to chapter 3, article 3 of this title. This subsection does not apply if the
23 insurer has fully reinsured such outstanding obligations with a reinsurer
24 under an agreement filed with and approved in writing by the director
25 pursuant to section 20-261. This subsection does not apply when the
26 termination of the insurer's certificate of authority is the result of a
27 merger or consolidation if the emerging or surviving insurer is or becomes
28 authorized to transact business in this state and assumes such outstanding
29 obligations of the terminating insurer.

30 E. The certificate of authority shall be suspended or revoked if the
31 insurer fails to pay the annual certificate of authority fee denominated a
32 renewal fee in section 20-167 at the time provided in section 20-223.

33 Sec. 5. Section 20-220, Arizona Revised Statutes, is amended to read:
34 20-220. Certificate of authority; refusal to renew; revocation
35 or suspension; civil penalty

36 A. The director ~~may~~ after a hearing MAY refuse to renew or may revoke
37 or suspend an insurer's certificate of authority, in addition to other
38 grounds therefor in this title, if the insurer:

39 1. Violates any provision of this title other than a provision as to
40 which refusal, suspension or revocation is mandatory.

41 2. Knowingly fails to comply with any lawful rule or order of the
42 director.

43 3. Is found by the director to be in unsound condition or in such
44 condition as to render its further transaction of insurance in this state
45 hazardous to its policyholders or to the people of this state.

1 4. Usually compels claimants under its policies to accept less than
2 the amount due them or to bring suit against it to secure full payment
3 thereof.

4 5. Refuses to be examined or to produce its accounts, records and
5 files for examination by the director when required.

6 6. Fails to pay any final judgment rendered against it in this state
7 within thirty days after the judgment becomes final.

8 7. Is affiliated with and under the same general management or
9 interlocking directorate or ownership as another insurer which transacts
10 direct insurance in this state without having a certificate of authority
11 therefor, except as permitted to a surplus lines insurer under article 5 of
12 this chapter.

13 B. If after a hearing the director finds grounds pursuant to
14 subsection A **OF THIS SECTION** to suspend or revoke an insurer's certificate of
15 authority, the director may impose, in lieu of or in addition to such
16 suspension or revocation, the following civil penalties:

17 1. A penalty not to exceed one thousand dollars for each violation and
18 not to exceed an aggregate of ten thousand dollars within any six-month
19 period with respect to unintentional violations.

20 2. A penalty not to exceed five thousand dollars for each violation
21 and not to exceed an aggregate of fifty thousand dollars within any six-month
22 period with respect to intentional violations. The insurer shall pay the
23 civil penalty to the director who shall deposit it, pursuant to sections
24 35-146 and 35-147, in the state general fund. The civil penalty is in
25 addition to any other penalty imposed by law.

26 C. The director may adopt rules to provide the criteria to be used for
27 identifying insurers who are found to be in a condition that would render the
28 continuance of their business hazardous to their policyholders or the people
29 of this state.

30 **D. THIS SECTION DOES NOT APPLY TO INSURERS OF THE SAME TYPE AS THOSE**
31 **SUBJECT TO SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE**
32 **POLICIES, CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE, THAT ARE**
33 **DOMICILED OUTSIDE OF THIS STATE AND THAT TRANSACT HEALTH OR SICKNESS**
34 **INSURANCE IN THIS STATE IF THE INSURER PROVIDES EVIDENCE TO THE DIRECTOR THAT**
35 **WHILE PROVIDING HEALTH OR SICKNESS INSURANCE THE INSURER IS SUBJECT TO THE**
36 **JURISDICTION OF ANOTHER STATE'S INSURANCE DEPARTMENT.**

37 Sec. 6. Section 20-230, Arizona Revised Statutes, is amended to read:
38 20-230. Retaliation

39 A. When by or pursuant to the laws of any other state or foreign
40 country any premium or income or other taxes, or any fees, fines, penalties,
41 licenses, deposit requirements or other material obligations, prohibitions or
42 restrictions are imposed upon insurers of this state doing business, or that
43 might seek to do business in such other state or country, or upon the agents
44 of such insurers, which in the aggregate are in excess of such taxes, fees,
45 fines, penalties, licenses, deposit requirements or other obligations,

1 prohibitions or restrictions directly imposed upon similar insurers of such
2 other state or foreign country under the statutes of this state, ~~so~~ AS long
3 as such laws continue in force or are so applied, the same obligations,
4 prohibitions and restrictions of whatever kind shall be imposed upon similar
5 insurers of such other state or foreign country doing business in
6 Arizona. Any tax, license or other obligation imposed by any city, county or
7 other political subdivision of a state or foreign country on insurers of this
8 state or their agents shall be deemed to be imposed by such state or foreign
9 country within the meaning of this section. For the purpose of this section,
10 the director shall compute the burden of any tax, license or other obligation
11 imposed by any city, county or other political subdivision of a state or
12 foreign country on insurers of this state or their agents on an aggregate
13 statewide or foreign countrywide basis as an addition to the rate of tax
14 payable by Arizona insurers in such state or foreign country. The addition
15 to the rate of tax payable by Arizona life insurers shall be calculated
16 separately from the addition to the rate of tax payable by other Arizona
17 insurers. In each case, the addition to the rate of tax payable by Arizona
18 insurers shall be calculated by dividing the aggregate of the tax obligations
19 paid by Arizona insurers to any such city, county or other political
20 subdivision of such state or foreign country by the aggregate of their
21 taxable premiums under the premium taxing statute of such state or foreign
22 country. The director may issue rules to carry out the purpose of this
23 section. ~~The provisions of~~ This section ~~shall~~ DOES not apply to ad valorem
24 taxes on real or personal property or to personal income taxes or to
25 assessments on or credits to insurers for the payment of claims of
26 policyholders of insolvent insurers. **THE RETALIATORY TAX IMPOSED BY THIS
27 SUBSECTION DOES NOT APPLY TO INSURERS OF THE SAME TYPE AS THOSE SUBJECT TO
28 SECTION 20-826, 20-1057, 20-1342, 20-1402 OR 20-1404 THAT ISSUE POLICIES,
29 CONTRACTS, PLANS, COVERAGES OR EVIDENCES OF COVERAGE, THAT ARE DOMICILED
30 OUTSIDE OF THIS STATE AND THAT TRANSACT HEALTH OR SICKNESS INSURANCE IN THIS
31 STATE IF THE INSURER PROVIDES EVIDENCE TO THE DIRECTOR THAT WHILE PROVIDING
32 HEALTH OR SICKNESS INSURANCE THE INSURER IS SUBJECT TO THE JURISDICTION OF
33 ANOTHER STATE'S INSURANCE DEPARTMENT.**

34 B. If an insurer domiciled in this state is refused authority to
35 transact **INSURANCE** in another state ~~insurance~~ upon a plan and in a manner
36 which is permitted for domestic insurers of such other state, notwithstanding
37 that the insurer of this state is fully qualified for such authority in
38 accordance with the applicable laws of such other state, and if such refusal
39 is not accompanied by a written statement of the grounds therefor, then and
40 thereafter, and for ~~so~~ AS long as such refusal shall continue, the director
41 may refuse to grant an initial certificate of authority, but not a renewal of
42 an existing certificate of authority, to any insurer domiciled in such other
43 state which may seek to transact in this state a like kind or kinds of
44 insurance.

