Preemption

Provisions of PPACA will potentially preempt state laws.

Similar to HIPAA:

Nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.

PPACA §1321(d)

Exceptions:

Mandated benefits: States must cover cost of mandated benefits beyond essential benefits package.

Grandfathered plans: States may not require grandfathered plans to be pooled with post-reform plans.
Small Group Variation

Rating Band Variability:
- 13:1 or less
- 13.1:1 – 19:1
- 19.1:1 – 25:1
- 25.1:1 or greater

*Note: Michigan HMOs and Blue Cross/Blue Shield are restricted to 3.12:1 maximum variation. All others may use 3.96 maximum variation.

Individual Market Rating

Michigan Blue Cross/Blue Shield must use community rating. There is no rating structure for other carriers.
Reformed Rating Rules

- No Rating Structure
- Community Rating
- Adjusted Community Rating
- Rating Bands
- Hybrid

Michigan Blue Cross/Blue Shield must use community rating. There is no rating structure for other carriers.

Flexibility

- Exchanges
- Interstate Compacts
- Basic Health Plans
- Waivers
Exchanges

- Regional cooperation or Single state?
- Negotiated purchasing or Transparent market?
- Merged or Separate?
- Organization
- Outside market

Health Care Choice Compacts

- States may form compacts to facilitate interstate sales of non-group policies.
- Policies are only subject to laws & regulations of state where policy is issued, *EXCEPT*:
  - Market conduct
  - Unfair trade practices
  - Consumer protection standards (including rating rules)
  - Disputes relating to performance of contract.
- Insurers must be licensed in each State, or submit to each State's jurisdiction for the above items.
Implementation

- Secretary must, in consultation with the NAIC, issue regulations by July 2013
- Secretary *may* approve compacts if they:
  - Provide essential benefits
  - Meet PPACA limitations on cost-sharing
  - Meet other requirements specified by PPACA.
- Compacts become operational as early as January, 2016

Health Care Choice Compacts vs. Health Care Choice Act (Shadegg Bill)

<table>
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<th>Compacts</th>
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<td>Preserves rating rules</td>
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<tr>
<td>Less underlying variation</td>
<td>Severe risk of regulatory arbitrage</td>
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<tr>
<td>mitigates risk of regulatory arbitrage</td>
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## Health Care Choice Compacts vs. Interstate Insurance Product Regulatory Compact (IIPRC)

<table>
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<td>Cost reduction focus</td>
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## NAIC Role

- Subgroup formed. Chaired by MN Commissioner of Commerce Glenn Wilson and RI Health Insurance Commissioner Chris Koller.
- Has not yet convened.
- Will work on guidelines for compacts.
  - Will probably develop a model compact as well.
Basic Health Plans

- 100%-200% FPL
  - Funded with 95% of subsidies that would have been provided for eligible population
  - Eligible population may not purchase in Exchange
- States may contract to provide essential benefits to eligible individuals.
- May form regional compacts to offer basic health plans.

Basic Health Plans (cont.)

- Secretary may certify plan if:
  - Premiums below benchmark Exchange plan.
  - Actuarial value of
    - 90% for individuals below 150% FPL
    - 80% for all others
  - Competitive bidding process for multiple plans.
- States may form regional compacts to offer plans
Waivers

- States may apply for 5-year waivers of provisions of PPACA:
  - Qualified health plan requirements
  - Exchanges
  - Subsidies
  - Employer responsibility
  - Individual mandate
- Aggregate subsidy amounts for state used to fund
- Budget-neutral for federal government over 10 years
- Coordinated with other waiver processes

NAIC
Implementation Update

- NAIC Activities
  - Medical Loss Ratios
  - Consumer Information
  - Premium review
  - Exchanges
  - Uniform application form
  - Uniform fraud reporting form
  - Data sharing
  - Transitional reinsurance and risk adjustment
  - Medigap changes
- Enforcement
Questions?

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