

# BGA LEGISLATIVE UPDATE



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## Obama creates White House Office of Health Reform

The Washington Post reported, “One month after its director began work, President Obama made it official: There’s a new White House Office of Health Reform.. Obama signed an executive order formally creating the new office assigned the task of pressing his goal of expanding and improving health coverage in America.” The President named Nancy-Ann DeParle head of the office in March. She “will have wide latitude in the job and unlike cabinet secretaries, she won’t be required to testify on Capitol Hill.”

CNN adds that the executive “order also directs the Department of Health and Human Services to establish its own office of health reform to work closely with the new White House health reform operation. ...” Kansas Gov. Kathleen Sebelius, Obama’s nominee to head HHS, is yet to be confirmed by the Senate.

## “Public” Option Health Insurance Plan

Nancy Ann DeParle, head of the new White House Office of Health Reform, is actively meeting with members of Congress to push for a “public” option health insurance plan. Ms. DeParle, was recently quoted “In general, however, substantial reductions in administrative costs would probably require the **role of insurance agents and brokers** in marketing and selling policies to be **sharply curtailed and the services they provide to be rendered unnecessary.**”

Supporters of the public plan option imply that a government run plan eliminating the role of the agent will lower administrative costs. But, administrative costs are the conglomeration of a variety of factors, changing only the marketing/administration will not significantly impact costs.

## Healthcare Reform Legislation

Democratic leaders may attempt to use the budget reconciliation process as a means to quickly pass healthcare reform legislation. This strategy, used in the Senate, allows for limited debate and prevents the possibility of a filibuster. The Senate would need only a 51 vote simple majority for passage. Traditional Senate rules mandate 60 votes for passage. Reconciliation is rarely used for the major or controversial issues. The importance of healthcare should deem the traditional rules (60 votes) essential. The Republican leaders and key Democrats are denouncing this move because it gives healthcare reform a partisan tone. This, after the president, promised during his campaign bipartisan cooperation.

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## Healthy Workforce Act

Introduced on April 2, the Healthy Workforce Act would provide a tax credit to employers to help establish wellness programs and also establish education and outreach programs for employers.

## The 2009 Bean-Royce OFC Bill

Melissa Bean (D-IL) and Ed Royce (R-CA) introduced the “National Insurance Consumer Protection Act”. Also introduced National Insurance Consumer Protection Act (NICPA) was introduced on April 2, 2009. NICPA would continue to allow for an optional federal charter for insurance agents and companies, but adds provisions for enhanced consumer protections and the establishment of a new Financial Service Coordinating Council, including the new National Insurance Commissioner, to serve in an advisory capacity to a new systemic risk regulator.

Here are some of the highlights of the current bill:

- **New Federal Regulator**—The bill would establish the new and unprecedented Office of National Insurance (ONI), which would be contained within the Department of Treasury and directed by the National Insurance Commissioner. The commissioner would be appointed by the President and serve five year terms. The ONI would have the authority to grant charters to insurers and to insurance agencies for property and casualty insurance, life insurance (which is now defined to include certain supplemental health insurance products), and reinsurance of p/c and life insurance. The commissioner is authorized to borrow any necessary start-up funds from the Treasury Secretary, but the ONI’s expenses would ultimately be financed through annual assessments imposed on regulated entities.
- **An Optional System for Insurers**—The bill provides insurers and, ostensibly, insurance agencies with the option of being regulated by the newly established ONI or remaining in the existing state system, thus allowing entities to select who their regulator will be. This would allow the same type of forum shopping and regulatory arbitrage that has been the subject of recent high-profile criticism by policymakers, and it would siphon finite resources and expertise away from the current state system.
- **New Requirements for Agents**—Any agent who obtains a federal license would be required to satisfy unspecified examination and education requirements and comply with new federal marketplace requirements, and any federally chartered agency must also appoint a consumer liaison to “serve consumers and address complaints and disputes” and establish an independent audit committee. Many agents will find themselves operating in both the state and federal systems, and these new mandates will only add to the compliance challenges and burdens of most agents.
- **Broad Preemption**—A federally chartered entity would not be subject to “any form of licensing, examination, reporting, regulation, or supervision by a State relating to [its] insurance operations.” This broad preemption would eviscerate state requirements relating to the establishment of a rate or form, the sale or underwriting of a policy, marketing and sales activities, claims practices, financial solvency, corporate governance, and more.
- **Division of Consumer Affairs**—The National Insurance Commissioner would be required to establish a Division of consumer Affairs and open a consumer affairs office in every state. This redundant, costly, and impractical mandate is intended to suggest that the bill is more consumer-friendly than previous versions.

## House Passes Health Insurance Transparency Bill

“The House has passed a bill requiring health insurers to inform purchasers about coverage exclusions or hidden limitations at the point-of-sale. Called the ‘Health Insurance source of Injury Clarification Act,’ the bill makes a technical change to the Health Insurance Portability and Accountability Act (HIPAA) instructing health plans to disclose limitations to individuals and employers when they sign up for coverage.”

The House passed the bill (HR 1253), which “would require that people signing up for a health plan receive in writing an explanation of treatment limits or non-covered conditions, along with other plan restrictions, ‘in a form that is easily understandable.’ All group health plans would be covered by the bill, and health plans would be required to provide the information before customers sign up.”

## Coming Soon

On April 21, both Senate committees drafting healthcare reform bills told President Obama that they would finish writing legislation by early June to provide coverage to all Americans. This commitment came from Senators Max Baucus and Edward M. Kennedy.