

**SURVEY ON STATE AUTHORITY TO ENFORCE PPACA IMMEDIATE IMPLEMENTATION PROVISIONS**

8/5/10

STATE	DOES YOUR STATE HAVE ENFORCEMENT AUTHORITY?	DOES YOUR STATE HAVE SUFFICIENT RESOURCES TO SUBSTANTIALLY ENFORCE IMMEDIATE IMPLEMENTATION PROVISIONS?	DOES YOUR STATE HAVE SUFFICIENT LEGAL AUTHORITY TO CONDUCT POLICY FORM REFORMS?	DOES YOUR STATE HAVE SUFFICIENT LEGAL AUTHORITY TO INVESTIGATE COMPLAINTS?	DOES YOUR STATE HAVE SUFFICIENT LEGAL AUTHORITY TO CONDUCT MARKET CONDUCT EXAMS REGARDING FAILURE TO COMPLY?
AL	No, the AL DOI does not have general authority to enforce federal laws. We are considering legislation to permit this.	No, but we have applied for the premium review grant to help with this.	No, but we will review forms for compliance and request companies to make any changes as required by PPACA.	No, but we would investigate any complaint and request the company to comply with PPACA requirements.	No, but we would conduct any necessary examination and make recommendations to the company to comply with PPACA.
AK	No, we do not have specific authority to enforce federal laws. We have successfully required insurers to comply with the federal laws by questioning compliance in the form review process. We will likely propose legislation next year to make the necessary changes to our statutes.	Yes	Yes	Yes	Yes

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AZ	No, in light of our state’s participation in the multi-state lawsuit over the PPACA, it seems unlikely that Arizona will pass legislation expressly authorizing any agency to enforce the PPACA in the near future. Also, in 2009, Governor Brewer instituted an indefinite rule-making moratorium so we have no plans to adopt rules related to PPACA enforcement.	ADOI will use its existing resources to address PPACA implementation issues. Assuming that PPACA implementation issues place new demands on existing resources, it is not likely that those resources will be sufficient.	ADOI has the authority to review policy forms under ARS Sections 20-1110(A), ARS 20-826(A) and ARS 20-1057(D) and the authority to disapprove policy forms for reasons set forth in ARS Sections 20-1111 and ARS 20-1057(G). The reasons for disapproval do not appear to include failure to comply with federal law. We have implemented a practice of notifying insurers if we see a policy provision that does not comply with PPACA and asking the insurer to correct it.	ADOI has the authority to investigate complaints regarding failure to comply with immediate implementation provisions of PPACA, but not necessarily the authority to require compliance.	ADOI has the authority to conduct market conduct examinations regarding failure to comply with immediate implementation provisions of PPACA, but not necessarily the authority to require compliance.
AR	No, no specific authority to enforce federal law, but will enforce based on form filing requirements.	Yes	No, no specific authority to enforce federal law, but will enforce based on form filing requirements.	Yes	Yes

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CA	No, our legislature is considering several bills that may provide us with authority that PPACA makes available to the states.				
CO	No, the Commissioner's general duties are located at CRS 10-1-108 and specifically "(7) It is the duty and responsibility of the commissioner to supervise the business of insurance in this state to assure that it is conducted <u>in accordance with the laws of this state</u> and in such a manner as to protect policyholders and the general public."	NR	Yes, Colorado law requires that rates are not excessive, inadequate or unfairly discriminatory, §10-16-107, C.R.S. Policy forms or rates that do not comply with the provisions of federal and state law and regulation may be found to be in violation of §10-16-107, C.R.S.	NR	NR

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CT	<p>Yes, CT does not believe it needs specific authority adopting the federal laws to be able to enforce them. We can use the general powers of the commissioner. The general powers of the commissioner in 38a-8 (a) &amp; (c) as follows: (a) The commissioner shall see that all laws respecting insurance companies and health care centers are faithfully executed and shall administer and enforce the provisions of this title. The commissioner has all powers specifically granted, and all further powers that are reasonable and necessary to enable the commissioner to protect the public interest in accordance with the duties imposed by this title. (c) In addition to the specific regulations which the commissioner is required to adopt, the commissioner may adopt such further regulations as are reasonable and necessary to implement the provisions of this title.</p>	<p>The resources are available but will be stressed at current levels.</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>

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DE	No, in the process of working on whether to consider pursuing legislation to permit enforcement of the federal rules.				
DC	Yes, we believe we have sufficient authority under the general authority of the commissioner. Could formalize that through legislative change in the future.	Yes	Yes	Yes	Yes
FL	No	Yes	Yes and no. Carriers are submitting forms and we are reviewing them. But if a carrier does not voluntarily include the PPACA provisions, FL has no legal authority to force them to do so until FL adopts the provisions in statute.	See previous question. If the carrier violates a provision of the form, then we can go after them.	See previous question.

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HI	No	Believes has enforcement resources to enforce PPACA compliance.	HI's authority to review policy forms is quite limited— compliance with mandated benefits, Flesch reading test, font size and a few technical things, but HI does not have general authority over product design.	HI has sufficient authority to investigate complaints regarding PPACA. The issue will be if a carrier contests state jurisdiction to enforce the federal law if not in state law, then could be problematic.	HI has authority to conduct market examinations although it must be kept in mind that there are specific triggers for conducting examinations.
ID	No, no direct authority. However, the Idaho DOI would likely disapprove a policy form filing that did not comply with PPACA in reliance on language in Idaho Code § 41-1813(2) giving the director discretion to disapprove a form filing for containing “inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract, or which are unfairly prejudicial to the policy holder.”		In Bulletins 09-10, 09-11, & 09-12, the Director advised carriers that forms would be reviewed for compliance with federal acts including GINA, MIPPA, Mental Health and Addiction Equity Act, and Michelle’s Law. So these bulletins are consistent with the view that the Idaho DOI would require carriers’ forms to comply with PPACA.		

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IL	<p>Yes, the Director has the general authority to enforce the Illinois Insurance Code and related insurance laws. General authority gives the Director the authority to ensure compliance by all regulated entities with any laws governing the issuance and sale of insurance in this state, including those applicable by virtue of federal legislation.</p>	<p>Yes, anticipating a need for greater resources with respect to future implementation efforts, the Department has hired several new full-time staff since passage of PPACA, and has begun the formal hiring process for additional staff. Governor Quinn is supportive of the Department's consumer protection efforts, and the Department expects to retain the flexibility and resources needed to enforce all PPACA provisions.</p>	<p>Yes, the Director has the general authority to enforce the Illinois Insurance Code and related insurance laws. General authority gives the Director the authority to ensure compliance by all regulated entities with any laws governing the issuance and sale of insurance in this state, including those applicable by virtue of federal legislation. Separately, the Department will be seeking more specific language through the legislative process respecting federal health care initiatives.</p>	<p>Yes – see previous answer.</p>	<p>Yes – see previous answer.</p>

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IA	Yes, most likely. While our statutes generally do not provide clear and specific language giving us the authority, we think that such authority could be inferred. We would likely make it clear during the next legislative session and in the interim address any enforcement issues via rule or bulletin.	No. State budget constraints limit hiring of additional personnel.	Yes	Yes	Yes
KS	Yes. As a rule, the Commissioner insists that those licensed by the Department obey all applicable laws both state and federal. Particular regulations will impose unique questions of fact, law and policy, which will need to be reviewed under the provisions of K.S.A. Chapter 40 in order to determine if the general rule is followed or if an exception is warranted.				



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KY	<p>Yes, Kentucky does have some general authority that could be used to enforce PPACA provisions that are not in direct conflict with current Kentucky law. This general authority is based on the Commissioner's general powers and duties (including the ability to promulgate regulations). Links to provisions: KRS 304.2-100 <a href="http://www.lrc.ky.gov/KRS/304-02/100.PDF">http://www.lrc.ky.gov/KRS/304-02/100.PDF</a> &amp; KRS 304.2-110 <a href="http://www.lrc.ky.gov/KRS/304-02/110.PDF">http://www.lrc.ky.gov/KRS/304-02/110.PDF</a>. And the ability to promulgate regulations to implement a federal mandate KRS 13A.120 <a href="http://www.lrc.ky.gov/KRS/013A00/120.PDF">http://www.lrc.ky.gov/KRS/013A00/120.PDF</a> &amp; KRS 13A.245 <a href="http://www.lrc.ky.gov/KRS/013A00/245.PDF">http://www.lrc.ky.gov/KRS/013A00/245.PDF</a>. Kentucky may consider legislation to give the Commissioner clear authority to implement PPACA, however the next session of the Kentucky General Assembly will be held in January 2011.</p>	<p>Yes, Kentucky has applied for the current rate review grant. Furthermore, Kentucky anticipates apply for any additional grants relating to PPACA and insurance regulation.</p>	Yes	Yes	Yes

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ME	<p>Yes, 24-A M.R.S.A. §212, reads as follows: Subject to the applicable requirements and procedures of the Maine APA, Title 5, chapter 375, subchapter II, the superintendent may adopt, amend and rescind reasonable rules to aid the administration or effectuation of any provisions of this Title or of any other state or federal statutes to the extent administered or enforced by the superintendent.</p> <p><a href="http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec212.html">http://www.mainelegislature.org/legis/statutes/24-A/title24-Asec212.html</a>.</p>	Yes	Yes	Yes	Yes

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MD	<p>Yes, MD included provisions in Senate Bill 57, Chapter 17, Acts of 2010, which became effective as emergency legislation April 13, 2010.</p> <p>15–135.</p> <p>(a) the provisions of title i, subtitles a and c of the federal patient protection and affordable care act, as amended by §§ 10101 and 10103 of that act and the federal health care and education reconciliation act of 2010, apply to all insurers, nonprofit health service plans, and health maintenance organizations that deliver or issue for delivery individual, group, or blanket health insurance policies or contracts in the state.</p> <p>(b) the commissioner may enforce this section under any applicable provisions of this article.</p>	Yes	Yes. Senate Bill 57, Chapter 17, Acts of 2010, gave the Insurance Commissioner the authority to enforce the provisions of Title I, Subtitles A and C of the Federal Patient Protection and Affordable Care Act, as amended by §§101010 and 10103 of that Act.	Yes. Senate Bill 57, Chapter 17, Acts of 2010, gave the Insurance Commissioner the authority to enforce the provisions of Title I, Subtitles A and C of the Federal Patient Protection and Affordable Care Act, as amended by §§101010 and 10103 of that Act.	Yes. Senate Bill 57, Chapter 17, Acts of 2010, gave the Insurance Commissioner the authority to enforce the provisions of Title I, Subtitles A and C of the Federal Patient Protection and Affordable Care Act, as amended by §§101010 and 10103 of that Act.

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MA	No, MA statutes do not provide the Division of Insurance with any specific authority to enforce federal rules. There have been no discussions at this time to provide such authority.	The MA DOI will make every effort to provide timely review of filings related to the PPACA requirements.	The MA DOI has sufficient authority to conduct policy for reviews. However, at this time, MA DOI does not have statutory authority to enforce compliance.	The MA DOI does not have statutory authority to investigate complaints related to noncompliance with PPACA provisions.	The MA DOI does not have statutory authority to conduct market conduct examinations related to noncompliance with PPACA provisions.

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MI	<p>No, Commissioner does not currently have clear authority to enforce the federal rules which are to be promulgated under the PPACA). Our establishment and authority section of the Insurance Code provides: “There is hereby established a separate and distinct state department which shall be especially charged with the execution of <b>the laws in relation to insurance and surety business</b> and to perform such other duties as may be required by law . . .” (Emphasis added). (MCL 500.200).                      Our regulatory powers section of the Insurance Codes provides that the Commissioner only has the power to “promulgate rules and regulations . . . necessary to effectuate the purposes and to execute and enforce the provisions of <b>the insurance laws of this state.</b>” (Emphasis added). (MCL 500.210).</p>	NR	<p>Yes, the Michigan Office of Financial and Insurance Regulation (OFIR) has sufficient legal authority to conduct policy form reviews to ensure compliance with PPACA pursuant to the following statutory provisions:                      MCL 550.1607(4)(b)- Form review and approval authority of non-profit health care corporation policy forms. MCL 500.3523 and 500.3525- Form review and approval authority of health maintenance organization policy forms. MCL 500.2236(1)- Form review and approval authority of commercial insurers’ general disability policy forms. MCL 500.2236(5)- Authority to disapprove and withdraw approval of general disability policy forms. MCL 500.2242- Form review and approval authority of commercial insurers’ group disability policy forms.</p>	NR	<p>Yes, OFIR has sufficient legal authority to conduct market conduct examinations and investigate complaints regarding failure to comply with PPACA pursuant to the following provisions: MCL 500.222- Examination and investigation authority of any insurer doing insurance business in Michigan. MCL 500.438(2)-Examination and investigation authority of any insurer doing insurance business in Michigan. MCL 500.2028-Examination and investigation authority of insurers regarding unfair trade practices. MCL 550.1607- Examination and investigation authority of non-profit health care corporation.</p>

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MS	Yes, we believe that we have adequate authority to implement PPACA reforms under our general statutes establishing our authority to regulate the insurance industry, however, it may be necessary for us to seek legislation specific to PPACA as the regulations are adopted by HHS.	No, but we are currently working on adding staff in order to properly enforce PPACA immediate provisions. MS plans to assess its capabilities and request additional staff positions from the legislature as needed.	Yes	Yes	Yes

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MO	Yes, generally. Missouri is considering exercising authority under sections such as 376.405 (for group health insurance - similar provisions in MO law relating to individual, HMOs and HSCs), which requires DIFP to approve only those policies which are in the best interest of consumers. It would not be in the best interest of consumers to approve a policy that clearly fails to address the new federal reform provisions.	Yes	We are reviewing policy forms for approval, based upon general policy approval authority. We are monitoring the completion of the PPACA checklist that SERFF developed and which is incorporated into every health insurance policy form filing that goes into the SERFF system.	We have general authority to investigate insurance complaints.	We have general authority to conduct market conduct exams under specified conditions.
MT	Yes, Montana has authority to enforce in the area of form approval, market conduct, general investigative authority, and consumer complaint review.	Yes	Yes	Yes. We will investigate complaints concerning PPACA provisions, and we will advise companies when we believe they are out of compliance with the federal law. However, we could not take a legal action unless there is a coexisting state law.	Yes. However, our punitive authority will be somewhat limited if minimum PPACA reforms are not incorporated into Montana law.

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NE	No, no specific authority. We do not have specific authority under our Unfair Practices Act, other than a citation to McCarran, to enforcement of federal law. We have taken actions against agents who have violated federal guidelines for marketing of Medicare Advantage products by piggybacking the violation on the insurance producers act.	While budgets are extremely tight, the Nebraska Department is using the existing resources appropriated to it to enforce PPACA.	The existing review process of insurer contracts gives the Department significant existing authority; the Department does not believe that an insurer would deliberately make a filing that would conflict with federal law. Specific legal authority to require implementation of PPACA standards is unclear. The Department would be challenged to find specific authority to order compliance with federal law in the face of absolute refusal to comply.	Yes. The Department currently can investigate complaints regarding alleged violations of contract violations, whether or not the underlying contractual provision is explicitly based upon statute. The existence of the contract is sufficient to trigger an investigation into compliance with its' terms by the insurer. Contractual provisions based on PPACA mandates would be no different.	The Department currently can, in the course of a market conduct examination, investigate whether the insurer is violating contracts with its' insureds. To the extent that insurer contracts include provisions required by federal law, the Department would have such authority.
NV	Yes, the Nevada Division of Insurance currently has the authority to enforce the federal rules based on several statutes: NRS 679A.140, NRS 679A.150, NRS 679B.120, NRS 679B.130, NRS 686A.010, NRS 686A.015, NRS 686A.160, and NRS 686A.170.	Yes, with the exception of rate authority for group PPOs, both large and small. All HMO products whether individual or group must have their rates approved by the Commissioner. All forms for all types of plans must receive prior approval.	Yes	Yes	Yes



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NH	Yes, NH enacted SB 455 giving it specific authority to enforce PPACA.				
NJ	Yes, we do not believe we require additional authority to enforce those Federal rules that apply to insured products in New Jersey. Some of the requirements of the Federal law are mirrored in NJ State law, so no separate authority is required.	Yes	Some of the requirements go to the specific terms of the health insurance contracts. Most of these contracts include a conformity with law provision, under which provisions of the contract that are inconsistent with state or Federal law are deemed changed as required to meet the legal requirement. The Department of Banking and Insurance also has the authority to approve or disapprove contract forms, and may withdraw approval of previously approved forms.	Yes	Yes

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NM	<p>No, No statutory authority that explicitly allows the Superintendent of Insurance to enforce federal legislation. NM’s “general powers” section of our Insurance Code specifically limits the Superintendent’s powers “as may be provided by other laws <i>of this state.</i>” (emphasis added). In the past, when the state has been unable to pass legislation prior to the effective date of a federal mandate, the state goes ahead with requesting insurers to comply with the federal mandate. We then try to get the state to pass conforming legislation as soon as possible to allow for enforcement of the federal law.</p>				

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NY	Yes	Yes, the Department's existing staff of attorneys, examiners and actuaries will be able to assume the additional responsibility of enforcing the immediate implementation provisions of PPACA as they relate to health insurance policies.	Yes. Insurance Law sections 3201(b)(1) and 4308(a) provide that in order for a policy form to be issued in NY, it must have been filed with and approved by the Superintendent as conforming to the requirements of the law and not inconsistent with any other provision of law applicable thereto. The law gives NY the authority to require that the policy forms comply with the requirements of the PPACA that apply to health insurance policies. NY has met with industry reps and has developed model language to be added to health insurance policies to comply with the Sept. 23 immediate reforms. NY will also be using a modified version of the PPACA Compliance checklist that was developed by the NAIC for use with PPACA policy form and rate filings.	Yes. Insurance Law Section 308 gives the Superintendent the authority to address to any HMO or any authorized insurer any inquiry in relation to its transactions or condition or any matter connected therewith.	Yes. In addition to Section 308 of the Insurance Law referenced in question number (3) above, Section 309 of the Insurance Law gives the Superintendent the authority to examine any insurer doing or authorized to do insurance business in this state. Section 4409 of the Public Health Law and Subpart 98-1.17 of Part 98 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR 98-1.17) provides direct examination authority to the Superintendent of Insurance and indirect authority, as an assigned representative of the Commissioner of Health, in regard to managed care organizations (e.g. HMOs).

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NC	Yes, the NC General Assembly gave NCDOI specific authority to enforce federal healthcare reform as it relates to insurance: G.S. 58-2-40 is amended by adding a new subdivision to read: "(10) Administer and enforce the provisions of the federal Patient Protection and Affordable Care Act (Public Law 111-148) and the provisions of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) to the extent that the provisions apply to persons subject to the Commissioner's jurisdiction and to the extent that the provisions are not under the exclusive jurisdiction of any federal agency."	No, but we have applied for the premium review grant to help with implementation and review of the MLR aspects. We also will be applying for any other available grants that may be available for other aspects of PPACA implementation.	Yes	Yes	Yes
ND	Yes	Yes, but the additional filings may result in a slow down of products reaching the marketplace.	Yes	Yes	Yes

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OH	<p>Yes. When considered together, the statutes below give the Director the power to enforce both state and federal rules and legislation that relate to insurance: (1) R.C. 3901.011 does not restrict the authority to state laws specifically; (2) R.C. 3901.04 allows the Superintendent to exercise the delineated powers if she believes the exercise of such powers is in the best interest of the people of the state.; (3) R.C. 3901.041 provides the Superintendent with Rule making authority to discharge the Superintendents duties (R.C. 3901.011) and powers (R.C. 3901.04) while specifically stating that it is not limited to Chapters 1751 and 1753 or Title XXXIX.</p>	<p>Yes, we believe we do. It is unknown exactly how many resources will be required, but, we intend to enforce the PPACA. Additionally, we have applied for the premium rate review grant to enhance our existing resources.</p>	<p>Yes, - R.C. 3923.02 and 1751.11 require carriers to file policy forms with the Department prior to use in this state. The Department may reject a form filing if it contains misleading or deceptive information. Policy forms that do not include benefits or terms required by federal law are unfair and deceptive and will be rejected by the Department.</p>	<p>Yes, the Department of Insurance reviews consumer complaints, investigates those complaints, and can take action if a violation of the PPACA has occurred.</p>	<p>Yes, the Department of Insurance has legal authority to conduct market conduct examinations of insurance carriers to determine if they are complying with the provisions of the PPACA and may take action if a violation has occurred.</p>

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OK	No. The Oklahoma Insurance Department does not currently have general authority to enforce federal rules. We may have some authority under the Unfair Trade Practices Act to enforce some of PPACA'S provisions, but we have not substantively reviewed that question.	OID has sufficient resources to undertake the current responsibilities arising out of PPACA. As PPACA's provisions continue to be implemented, resources will become more challenging. At some point, additional full time employees will be required. The most recent budget allocation to OID did not include any additional funding for this effort.	Policy form review, 36 O.S. § 3610 requires all forms to be approved prior to use; although Insurance Commissioner does not have explicit authority to enforce federal law, if the language necessary to comply with PPACA is not contained within the form, Rate and Form Compliance Division will not approve the form and will discuss the issue with the insurer. To date, no insurer has refused to include language addressing PPACA implementation in a form.	OID has no explicit legal authority to implement PPACA; however, OID has jurisdiction to hear complaints regarding health insurance (36 O.S. § 307). Further, the Unfair Trade Practices Act (36 O.S. § 1201 et seq.) authorizes the Insurance Commissioner to determine whether a practice constitutes an unfair or deceptive act or practice and to prohibit the trade practices so defined or determined.	OID has the authority under 36 O.S. §§ 309.1 through 309.7, to conduct a market conduct examinations. The Market Regulation Handbook states that a goal of market regulation is to provide a framework for collaboration among the states and with federal regulators regarding identification of market conduct issues and market regulation and instructs examiners to be aware of benefits mandated under federal law and if state laws or regulations meet the minimum requirements established under federal law. The Handbook defines a confirmed complaint as a complaint in which the department of insurance determines that the insurer committed any violation of a federal requirement that the state department of insurance has the authority to enforce.

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OR	Yes. The Oregon Legislative Assembly's House Health Care Committee has requested Oregon's Office of Legislative Counsel to draft legislation for the 2011 session to incorporate the federal requirements into Oregon law. In addition, the Division has drafted legislative concepts that if enacted would give the Division authority to enforce federal law. The 2011 legislative session begins on January 10, 2011.	Yes, with the assistance of grant funds we are confident we have sufficient resources to enforce the immediate PPACA reforms related to the commercial market.	The Insurance Division does not have specific authority to enforce federal law; however, we do have authority under <a href="#">ORS 742.003 and ORS 742.005</a> to deny approval for or require withdrawal of policy forms that "do not comply with the law" or that are prejudicial to policyholders. Accordingly, we have taken the position that insurers must ensure that policy forms comply with the federal requirements.	Yes, under <a href="#">ORS 731.304</a> .	Yes, under <a href="#">ORS 731.296, 731.300, and 731.304</a> .
PA	PA has numerous laws dealing with consumer protection authority including the Unfair Insurance Practices Act and the Exam Law. There is general but not explicit authority to enforce PPACA provisions. PA is considering seeking additional explicit legislation.	PA believes we have sufficient resources at this time. In addition, PA has applied for the premium review grant and anticipates applying for any additional grants relating to PPACA and insurance regulation.	PA has authority to approve individual policy forms and some group forms. In addition, PA issued Notice 2010-07 seeking certification by insurers that all their policy forms comply with the immediate PPACA market reform requirements.	There is general authority to investigate the actions of our licensees including complaint investigations. PA is considering seeking additional explicit legislation to enforce PPACA reforms.	PA has authority to call market conduct exams under our Exam Law. Failure to comply with PPACA may be enforced through those exams insofar as the failure violates PA law, including the general insurance consumer protection laws.

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PR	No	No	Yes	Once the law has been amended to include new provisions, we would have the legal authority to investigate complaints.	Once the law has been amended to include new provisions, we would have the legal authority to conduct Market Conduct Exams.
RI	Yes, we have limited authority. Our initial interpretation of statute is that RI can enforce compliance of forms from insurers with Federal Regulations. But RI has no other enforcement authority for Federal Regulations under state statute.	No, even if statutory authority was established, staff resources for thorough forms review, consumer protection, complaint investigation and financial monitoring are not in place.	Yes – through an “in the public interest” standard for forms review.	Yes, only in so far as the complaints are determined to be based on a failure to comply with previously approved forms.	Market conduct examinations can be called under current legal authority. However, any subsequent findings and orders are limited to areas of existing statutory authority, which are more limited than Federal regulations.



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SC	<p>Yes, the Director has the general authority to supervise and regulate the service of every insurer doing business in this State and fix just and reasonable standards, classifications, regulations, practices, and measurements of service to be observed and followed by every insurer in this state. Also, it is unlawful for an insurer doing business in this state to issue or sell any policy, contract, or certificate until it has been filed with and approved by the director or his designee. See e.g., S.C. Code Section 38-61-20(A)</p>	<p>SC has applied for a grant to enhance its rate review process</p>	<p>The director or his designee may disapprove the form if it (1) does not meet the requirements of law, (2) contains any provisions which are unfair, deceptive, ambiguous, misleading or unfairly discriminatory, or (3) is going to be solicited by advertisement, dissemination, communication, is deceptive or misleading. The Director may also withdraw approval of a form that does not meet the requirements of law. See e.g., Section 38-61-20(B).</p>	<p>Sections 38-57-200 and 38-57-230 give the Director the ability to investigate and order an insurer to cease and desist from any practice that he determines is unfair or deceptive. Also, the director has the ability to investigate a carrier and its agents under section 38-13-70.</p>	<p>The Department has and will continue to conduct market conduct examinations as deemed necessary to protect the citizens of this state and policyholders. The director also has the ability to examine any insurer about its practices or the business transacted in South Carolina. See S.C. Code Ann. Section 38-13-160.</p>

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SD	<p>Yes. we have sufficient rulemaking authority to promulgate those reforms into our administrative rules. Here are our individual and group rulemaking statutes that provide us with that authority:  <a href="http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&amp;Statute=58-17-87">http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&amp;Statute=58-17-87</a>  <a href="http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&amp;Statute=58-18-79">http://legis.state.sd.us/statutes/DisplayStatute.aspx?Type=Statute&amp;Statute=58-18-79</a></p>	<p>SD has completed its assessment of those portions of PPACA commencing on Sept. 23, as well as the regulations that have been issued to date. In some instances, SD has already addressed the applicable PPACA provision. In a number of other areas, SD has determined administrative rules will need to be adopted to provide the authority necessary to enforce those reforms. The work to implement those administrative rules has already begun.</p>	<p>SD has the administrative capability to approve policy form filings necessary for health issuers to adopt the Sept. 23 consumer protections on an expedited basis.</p>	<p>SD has ample authority to investigate complaints and complete market conduct examinations as needed.</p>	<p>SD has ample authority to investigate complaints and complete market conduct examinations as needed</p>

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TN	Yes. The Commissioner is authorized to enforce the requirements of PPACA under her general licensing and regulatory authority.	Yes, but we anticipate that as the demands of enforcement increase, an increase in resources will be necessary. We have applied for the Premium Review Grant.	We will, with the adoption of new regulations that are currently being drafted.	We will, with the adoption of new regulations that are currently being drafted.	We will, with the adoption of new regulations that are currently being drafted.
UT	Yes, UT has general authority to allow for implementation. <b>31A-2-101. General duties.</b> The Insurance Department shall administer the Insurance Code, seeking to achieve the purposes in Section <b>31A-1-102</b> , and shall perform other duties imposed by law. We will be proposing legislation to provide more specific authority which will be similar to what was used to enforce HIPAA. <b>31A-2-212. Miscellaneous duties.</b> (5) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply with the Health Insurance Portability and Accountability Act, P.L. 104-191, pursuant to 110 Stat. 1968, Sec. 2722.	The resources of the Department will be strained to substantially enforce the immediate implementation of provisions of PPACA. Therefore, it will be necessary for the Department to triage our current functions in order to focus on the PPACA provisions.	UT will perform policy form review, as time allows, under our general authority until specific authority can be established during our next legislative session starting in January 2011.	UT believes its general authority will be sufficient for the immediate future.	UT believes its general authority will be sufficient for the immediate future.

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VT	<p>Yes, in the 2010 session, our Legislature amended 8 V.S.A. § 4062c to read: Except as otherwise provided by this title, health insurers, hospital or medical service corporations, and health maintenance organizations that issue, sell, renew, or offer health insurance coverage in Vermont shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (42 U.S.C., Chapter 6A, Subchapter XXV), and the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152. The commissioner shall enforce such requirements pursuant to his or her authority under this title.</p>	Yes	Yes	Yes	Yes

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VA	No	No, given response to question concerning general authority to enforce PPACA immediate implementation provisions.	No, given response to question concerning general authority to enforce PPACA immediate implementation provisions.	No, given response to question concerning general authority to enforce PPACA immediate implementation provisions.	No, given response to question concerning general authority to enforce PPACA immediate implementation provisions.
WA	Yes, WA believes it has sufficient authority to enforce the provisions of PPACA in this state. WA has general enforcement authority of laws relating to insurance, and has a specific regulation requiring all health carriers to comply with federal law. WA is working to determine whether there are some measures that should be specifically authorized by the legislature during our upcoming session beginning in January, 2011.	WA believes it has sufficient resources.	Yes	Yes	WA believes it has sufficient authority.

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WV	Questionable, but we will consider such a bill for our next regular legislative session beginning in mid January.	Probably sufficient resources, but immediate enforcement questionable.	Maybe, depending on the interpretation of WVC 33-6-9, which states that the Commissioner may disapprove a form "if the coverages provided therein are not sufficiently broad to be in the public interest."	Questionable in light of answer to general enforcement question.	Questionable in light of answer to general enforcement question.
WI	Yes		Wisconsin OCI has authority to promulgate rules allowing disapproval of policy forms if they are "inequitable, unfairly discriminatory, misleading or deceptive," including be cause they are in violation of federal law (s. 631.20, Wis. Stats.).In addition OCI may prohibit trade practices that violate federal law on the basis that they "are misleading, deceptive, unfairly discriminatory or restrain competition unreasonably" under s. 628.34 (12)), Wis. Stats.		

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WY	No. The Wyoming Insurance Code does not give the Department the authority to enforce federal law, but instead restricts enforcement to the laws of Wyoming and "this code". We do not believe our Unfair Trade Practices Act or other statutory authority allows us to enforce federal law.	We have sufficient resources to enforce many of the provisions if we had the authority to do so which we don't. With regard to rate review, we would have to employ actuaries as the Wyoming Department currently has no rate review authority.	We can review policy forms and we can approve those containing required insurance reform provisions because there is nothing in our code which would prevent our approval of those provisions. However, it does not appear we have authority to enforce federal law if we received complaints that such law was not being followed by insurers.	No, see the previous answers.	No, see the previous answers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, state and/or federal statutes, regulations and other resources should be consulted.