

title I, §102(b)(1)(A), May 21, 2008, 122 Stat. 892, and is classified to subpart 2 (§300gg-51 et seq.) of this part.

### § 300gg-61. Enforcement

#### (a) State enforcement

##### (1) State authority

Subject to section 300gg-62 of this title, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the individual market meet the requirements established under this part with respect to such issuers.

##### (2) Failure to implement requirements

In the case of a State that fails to substantially enforce the requirements set forth in this part with respect to health insurance issuers in the State, the Secretary shall enforce the requirements of this part under subsection (b) insofar as they relate to the issuance, sale, renewal, and offering of health insurance coverage in the individual market in such State.

#### (b) Secretarial enforcement authority

The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 300gg-22(b)(2) of this title, and section 300gg-22(b)(3) of this title<sup>1</sup> with respect to violations of genetic nondiscrimination provisions, in relation to the enforcement of the provisions of part A with respect to issuers of health insurance coverage in the small group market in the State.

(July 1, 1944, ch. 373, title XXVII, §2761, formerly §2745, as added Pub. L. 104-191, title I, §111(a), Aug. 21, 1996, 110 Stat. 1986; renumbered §2761 and amended Pub. L. 104-204, title VI, §605(a)(2), (b)(2), Sept. 26, 1996, 110 Stat. 2941, 2942; Pub. L. 110-233, title I, §102(b)(2), May 21, 2008, 122 Stat. 895.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 300gg-22(b)(2) of this title, and section 300gg-22(b)(3) of this title, referred to in subsec. (b), was in the original “section 2722(b)(2), and section 2722(b)(3)” and was translated as meaning section 2723(b)(2) and section 2723(b)(3) of act July 1, 1944, to reflect the probable intent of Congress and the renumbering of section 2722 as 2723 by Pub. L. 111-148, title I, §§1001(4), 1563(c)(13)(C), formerly §1562(c)(13)(C), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 269, 911.

##### AMENDMENTS

2008—Subsec. (b). Pub. L. 110-233 amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary shall have the same authority in relation to enforcement of the provisions of this part with respect to issuers of health insurance coverage in the individual market in a State as the Secretary has under section 300gg-22(b)(2) of this title in relation to the enforcement of the provisions of part A of this subchapter with respect to issuers of health insurance coverage in the small group market in the State.”

<sup>1</sup> See References in Text note below.

1996—Subsec. (a)(1). Pub. L. 104-204 made technical amendment to reference in original act which appears in text as reference to section 300gg-62 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-233 applicable, with respect to group health plans and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is one year after May 21, 2008, and, with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market, after the date that is one year after May 21, 2008, see section 102(d)(2) of Pub. L. 110-233, set out as a note under section 300gg-21 of this title.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-204 applicable to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after Jan. 1, 1998, see section 605(c) of Pub. L. 104-204, set out as a note under section 300gg-44 of this title.

##### EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104-191, set out as a note under section 300gg-41 of this title.

### § 300gg-62. Preemption and application

#### (a) In general

Subject to subsection (b), nothing in this part (or part C insofar as it applies to this part) shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements unless such standards and requirements prevent the application of a requirement of this part.

#### (b) Rules of construction

(1) Nothing in this part (or part C insofar as it applies to this part) shall be construed to affect or modify the provisions of section 1144 of title 29.

(2) Nothing in this part (other than section 300gg-51 of this title) shall be construed as requiring health insurance coverage offered in the individual market to provide specific benefits under the terms of such coverage.

#### (c) Application of part A provisions

##### (1) In general

The provisions of part A shall apply to health insurance issuers providing health insurance coverage in the individual market in a State as provided for in such part.

##### (2) Clarification

To the extent that any provision of this part conflicts with a provision of part A with respect to health insurance issuers providing health insurance coverage in the individual market in a State, the provisions of such part A shall apply.

(July 1, 1944, ch. 373, title XXVII, §2762, formerly §2746, as added Pub. L. 104-191, title I, §111(a), Aug. 21, 1996, 110 Stat. 1987; renumbered §2762 and amended, Pub. L. 104-204, title VI, §605(a)(2), (b)(3), Sept. 26, 1996, 110 Stat. 2941, 2942; Pub. L.