

# SENATE BILL REPORT

## SHB 1052

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As Passed Senate, March 2, 2022

**Title:** An act relating to group insurance contract performance standards.

**Brief Description:** Concerning group insurance contract performance standards.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Bateman, Cody, Kloba and Macri).

**Brief History:** Passed House: 1/14/22, 96-0.

**Committee Activity:** Health & Long Term Care: 3/12/21, 3/15/21 [DP]; 2/16/22, 2/16/22 [DP].

**Floor Activity:** Passed Senate: 3/2/22, 47-0.

### Brief Summary of Bill

- Requires performance standards included in group insurance contracts to be explained in the contract and filed with the Insurance Commissioner.
- Exempts performance payments to group policyholders required by contract from the definition of a premium and return of a premium for purposes of premium taxes.
- Specifies that the prohibitions on rebates, discounts, and reductions in premiums and inducements to insureds do not apply to the use of performance standards.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass.

Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Muzzall, Ranking Member; Conway, Holy, Keiser, Padden, Randall, Robinson, Sefzik and Van De Wege.

**Staff:** Greg Attanasio (786-7410)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Rebating. Insurers are limited in the non-contractual benefits they may offer insureds or prospective insureds. No insurer may, as an inducement for the sale of insurance, offer or pay to the insured or the insured's employee, any rebate, reduction of premium, commission, or any other valuable consideration not expressly provided in the policy.

Illegal Inducements. No insurer, insurance producer, title insurance agent, or other person, as an inducement for the sale of insurance, may provide, sell, buy, offer, or promise the insured or prospective insured any shares of stock or other securities; certain contracts or other agreements; or any prizes, goods, wares, or merchandise exceeding \$100 in value.

Insurance Premiums Tax. The net premiums collected or received by authorized insurers, except title insurers and fraternal benefit societies, are subject to an insurance premium tax. This includes private insurers, health maintenance organizations, health care service contractors, and self-funded multiple employer welfare arrangements, if not preempted by the Employee Retirement Income Act of 1974.

**Summary of Bill:** "Performance standard" is defined as a contractual provision in a group insurance contract that establishes a specific standard for the insurer's or health carrier's performance of an obligation in the contract, and under which the insurer or health carrier is required to remit a penalty payment, based on a percentage of the premium or a set dollar amount, to the group policyholder for the next policy term if the insurer or health carrier fails to comply with the standard.

The amount of the penalty may be based on a percentage of the overall premium owed to the insurer or health carrier by the policyholder. If a group insurance contract includes performance standards, the standards must be described in the group insurance contract and filed with the Insurance Commissioner. Remittance of a performance payment to the group policyholder as required by a performance standard does not constitute a premium or a return of a premium for purposes of insurance premium taxes and health insurance premium taxes.

The prohibitions on an insurer offering, promising, giving, or paying the insured any rebate, discount, or reduction of premium and the prohibition on an insurer selling, buying, or offering the insured any stocks or other securities, any contract promising any profits or special returns or dividends, or any prizes, goods, or gift certificates over \$100 do not apply to performance standards that comply with these requirements.

The provisions relating to the use of performance standards do not apply to small group health plans.

The Insurance Commissioner may adopt rules to implement these provisions on performance standards.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Regular Session 2022):** PRO: Currently state contracting practices are in violation of the insurance code. This bill will align the law with existing practice.

**Persons Testifying:** PRO: David Iseminger, Washington State Authority; Rory Paine-Donovan, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** No one.