

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2585

61st Legislature
2010 Regular Session

Passed by the House January 1, 0001
Yeas 0 Nays 0

Speaker of the House of Representatives

Passed by the Senate January 1, 0001
Yeas 0 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2585** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2585

Passed Legislature - 2010 Regular Session

State of Washington

61st Legislature

2010 Regular Session

By House Financial Institutions & Insurance (originally sponsored by Representatives Kelley, Kirby, and Moeller; by request of Insurance Commissioner)

READ FIRST TIME 01/21/10.

1 AN ACT Relating to insurance; and amending RCW 48.02.060,
2 48.38.010, 48.66.045, 48.155.010, 48.102.011, and 48.155.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.02.060 and 2009 c 335 s 1 are each amended to read
5 as follows:

6 (1) The commissioner has the authority expressly conferred upon him
7 or her by or reasonably implied from the provisions of this code.

8 (2) The commissioner (~~shall~~) must execute his or her duties and
9 (~~shall~~) must enforce the provisions of this code.

10 (3) The commissioner may:

11 (a) Make reasonable rules for effectuating any provision of this
12 code, except those relating to his or her election, qualifications, or
13 compensation. Rules are not effective prior to their being filed for
14 public inspection in the commissioner's office.

15 (b) Conduct investigations to determine whether any person has
16 violated any provision of this code.

17 (c) Conduct examinations, investigations, hearings, in addition to
18 those specifically provided for, useful and proper for the efficient
19 administration of any provision of this code.

1 (4) When the governor proclaims a state of emergency under RCW
2 43.06.010(12), the commissioner may issue an order that addresses any
3 or all of the following matters related to insurance policies issued in
4 this state:

5 (a) Reporting requirements for claims;

6 (b) Grace periods for payment of insurance premiums and performance
7 of other duties by insureds;

8 (c) Temporary postponement of cancellations and ~~((renewals))~~
9 nonrenewals; and

10 (d) Medical coverage to ensure access to care.

11 (5) An order by the commissioner under subsection (4) of this
12 section may remain effective for not more than sixty days unless the
13 commissioner extends the termination date for the order for an
14 additional period of not more than thirty days. The commissioner may
15 extend the order if, in the commissioner's judgment, the circumstances
16 warrant an extension. An order of the commissioner under subsection
17 (4) of this section is not effective after the related state of
18 emergency is terminated by proclamation of the governor under RCW
19 43.06.210. The order must specify, by line of insurance:

20 (a) The geographic areas in which the order applies, which must be
21 within but may be less extensive than the geographic area specified in
22 the governor's proclamation of a state of emergency and must be
23 specific according to an appropriate means of delineation, such as the
24 United States postal service zip codes or other appropriate means; and

25 (b) The date on which the order becomes effective and the date on
26 which the order terminates.

27 (6) The commissioner may adopt rules that establish general
28 criteria for orders issued under subsection (4) of this section and may
29 adopt emergency rules applicable to a specific proclamation of a state
30 of emergency by the governor.

31 (7) The rule-making authority set forth in subsection (6) of this
32 section does not limit or affect the rule-making authority otherwise
33 granted to the commissioner by law.

34 **Sec. 2.** RCW 48.38.010 and 1998 c 284 s 1 are each amended to read
35 as follows:

36 The commissioner may grant a certificate of exemption to any

1 insurer or educational, religious, charitable, or scientific
2 institution conducting a charitable gift annuity business:

3 (1) Which is organized and operated exclusively as, or for the
4 purpose of aiding, an educational, religious, charitable, or scientific
5 institution which is organized as a nonprofit organization without
6 profit to any person, firm, partnership, association, corporation, or
7 other entity;

8 (2) Which possesses a current tax exempt status under the laws of
9 the United States;

10 (3) Which serves such purpose by issuing charitable gift annuity
11 contracts only for the benefit of such educational, religious,
12 charitable, or scientific institution;

13 (4) Which appoints the insurance commissioner as its true and
14 lawful attorney upon whom may be served lawful process in any action,
15 suit, or proceeding in any court, which appointment (~~shall be~~) is
16 irrevocable, (~~shall~~) binds the insurer or institution or any
17 successor in interest, (~~shall~~) remains in effect as long as there is
18 in force in this state any contract made or issued by the insurer or
19 institution, or any obligation arising therefrom, and (~~shall~~) must be
20 processed in accordance with RCW 48.05.210;

21 (5) Which is fully and legally organized and qualified to do
22 business and has been actively doing business under the laws of the
23 state of its domicile for a period of at least three years prior to its
24 application for a certificate of exemption;

25 (6) Which has and maintains minimum unrestricted net assets of five
26 hundred thousand dollars. "Unrestricted net assets" means the excess
27 of total assets over total liabilities that are neither permanently
28 restricted nor temporarily restricted by donor-imposed stipulations;

29 (7) Which files with the insurance commissioner its application for
30 a certificate of exemption showing:

- 31 (a) Its name, location, and organization date;
- 32 (b) The kinds of charitable annuities it proposes to offer;
- 33 (c) A statement of the financial condition, management, and affairs
34 of the organization and any affiliate thereof, as that term is defined
35 in RCW 48.31B.005, on a form satisfactory to, or furnished by the
36 insurance commissioner;
- 37 (d) (~~Such~~) Other documents, stipulations, or information as the

1 insurance commissioner may reasonably require to evidence compliance
2 with the provisions of this chapter;

3 (8) Which subjects itself and any affiliate thereof, as that term
4 is defined in RCW 48.31B.005, to periodic examinations conducted under
5 chapter 48.03 RCW as may be deemed necessary by the insurance
6 commissioner;

7 (9) Which files with the insurance commissioner for the
8 commissioner's advance approval a copy of any policy or contract form
9 to be offered or issued to residents of this state. The grounds for
10 disapproval of the policy or contract form (~~shall be those~~) are set
11 forth in RCW 48.18.110; and

12 (10) Which:

13 (a) Files with the insurance commissioner (~~on or before March 1 of~~
14 ~~each~~) annually, within sixty days of the end of its fiscal year a
15 (~~copy of its annual statement prepared pursuant to the laws of its~~
16 ~~state of domicile~~) report of its current financial condition,
17 management, and affairs, on a form and in a manner prescribed by the
18 commissioner, as well as such other financial material as may be
19 requested, including the annual statement or other such financial
20 materials as may be requested relating to any affiliate, as that term
21 is defined in RCW 48.31B.005; (~~and~~)

22 (b) (~~Coincident with the filing of its annual statement, pays an~~
23 ~~annual filing fee of twenty five dollars plus five dollars for each~~
24 ~~charitable gift annuity contract written for residents of this state~~
25 ~~during the previous calendar year; and~~

26 (~~c~~) Which includes on or)) Attaches to the (first page of the
27 annual statement) report of its current financial condition the
28 statement of a qualified actuary setting forth the actuary's opinion
29 relating to annuity reserves and other actuarial items for the fiscal
30 year covered by the report. "Qualified actuary" as used in this
31 subsection means a member in good standing of the American academy of
32 actuaries or a person who has otherwise demonstrated actuarial
33 competence to the satisfaction of the insurance regulatory official of
34 the domiciliary state; and

35 (c) On or before March 1st of each year, pays an annual filing fee
36 of twenty-five dollars plus five dollars for each charitable gift
37 annuity contract written for residents of this state during its fiscal
38 year ending on or before December 31st of the previous calendar year.

1 **Sec. 3.** RCW 48.66.045 and 2009 c 161 s 5 are each amended to read
2 as follows:

3 (1) Every issuer of a medicare supplement insurance policy or
4 certificate providing coverage to a resident of this state issued on or
5 after January 1, 1996, and before June 1, 2010, (~~shall~~) must:

6 (a) Unless otherwise provided for in RCW 48.66.055, issue coverage
7 under its standardized benefit plans B, C, D, E, F, G, K, and L without
8 evidence of insurability to any resident of this state who is eligible
9 for both medicare hospital and physician services by reason of age or
10 by reason of disability or end-stage renal disease, if the medicare
11 supplement policy replaces another medicare supplement standardized
12 benefit plan policy or certificate B, C, D, E, F, G, K, or L, or other
13 more comprehensive coverage than the replacing policy; and

14 (b) Unless otherwise provided for in RCW 48.66.055, issue coverage
15 under its standardized plans A, H, I, and J without evidence of
16 insurability to any resident of this state who is eligible for both
17 medicare hospital and physician services by reason of age or by reason
18 of disability or end-stage renal disease, if the medicare supplement
19 policy replaces another medicare supplement policy or certificate which
20 is the same standardized plan as the replaced policy. After December
21 31, 2005, plans H, I, and J may be replaced only by the same plan if
22 that plan has been modified to remove outpatient prescription drug
23 coverage.

24 (2)(a) Unless otherwise provided for in RCW 48.66.055, every issuer
25 of a medicare supplement insurance policy or certificate providing
26 coverage to a resident of this state issued on or after June 1, 2010,
27 (~~shall~~) must issue coverage under its standardized plans B, C, D,
28 (~~E~~) F, F with high deductible, G, K, L, M, or N without evidence of
29 insurability to any resident of this state who is eligible for both
30 medicare hospital and physician services by reason of age or by reason
31 of disability or end-stage renal disease, if the medicare supplement
32 policy or certificate replaces another medicare supplement policy or
33 certificate or other more comprehensive coverage; and

34 (b) Unless otherwise provided for in RCW 48.66.055, issue coverage
35 under its standardized plan A without evidence of insurability to any
36 resident of this state who is eligible for both medicare hospital and
37 physician services by reason of age or by reason of disability or end-

1 stage renal disease, if the medicare supplement policy or certificate
2 replaces another standardized plan A medicare supplement policy or
3 certificate.

4 (3) Every issuer of a medicare supplement insurance policy or
5 certificate providing coverage to a resident of this state issued on or
6 after January 1, 1996, (~~shall~~) must set rates only on a community-
7 rated basis. Premiums (~~shall~~) must be equal for all policyholders
8 and certificate holders under a standardized medicare supplement
9 benefit plan form, except that an issuer may vary premiums based on
10 spousal discounts, frequency of payment, and method of payment
11 including automatic deposit of premiums and may develop no more than
12 two rating pools that distinguish between an insured's eligibility for
13 medicare by reason of:

- 14 (a) Age; or
- 15 (b) Disability or end-stage renal disease.

16 **Sec. 4.** RCW 48.155.010 and 2009 c 175 s 3 are each amended to read
17 as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

20 (1) "Affiliate" means a person that directly, or indirectly through
21 one or more intermediaries, controls, or is controlled by, or is under
22 common control with, the person specified.

23 (2) "Commissioner" means the Washington state insurance
24 commissioner.

25 (3)(a) "Control" or "controlled by" or "under common control with"
26 means the possession, direct or indirect, of the power to direct or
27 cause the direction of the management and policies of a person, whether
28 through the ownership of voting securities, by contract other than a
29 commercial contract for goods or nonmanagement services, or otherwise,
30 unless the power is the result of an official position with or
31 corporate office held by the person.

32 (b) Control exists when any person, directly or indirectly, owns,
33 controls, holds with the power to vote, or holds proxies representing
34 ten percent or more of the voting securities of any other person. A
35 presumption of control may be rebutted by a showing made in the manner
36 provided by RCW 48.31B.005(2) and 48.31B.025(11) that control does not
37 exist in fact. The commissioner may determine, after furnishing all

1 persons in interest notice and opportunity to be heard and making
2 specific findings of fact to support the determination, that control
3 exists in fact, notwithstanding the absence of a presumption to that
4 effect.

5 (4)(a) "Discount plan" means a business arrangement or contract in
6 which a person or organization, in exchange for fees, dues, charges, or
7 other consideration, provides or purports to provide discounts to its
8 members on charges by providers for health care services.

9 (b) "Discount plan" does not include:

10 (i) A plan that does not charge a membership or other fee to use
11 the plan's discount card;

12 (ii) A patient access program as defined in this chapter;

13 (iii) A medicare prescription drug plan as defined in this chapter;

14 or

15 (iv) A discount plan offered by a health carrier authorized under
16 chapter 48.20, 48.21, 48.44, or 48.46 RCW.

17 (5)(a) "Discount plan organization" means a person that, in
18 exchange for fees, dues, charges, or other consideration, provides or
19 purports to provide access to discounts to its members on charges by
20 providers for health care services. "Discount plan organization" also
21 means a person or organization that contracts with providers, provider
22 networks, or other discount plan organizations to offer discounts on
23 health care services to its members. This term also includes all
24 persons that determine the charge to or other consideration paid by
25 members.

26 (b) "Discount plan organization" does not mean:

27 (i) Pharmacy benefit managers;

28 (ii) Health care provider networks, when the network's only
29 involvement in discount plans is contracting with the plan to provide
30 discounts to the plan's members;

31 (iii) Marketers who market the discount plans of discount plan
32 organizations which are licensed under (~~(to)~~) this chapter as long as
33 all written communications of the marketer in connection with a
34 discount plan clearly identify the licensed discount plan organization
35 as the responsible entity; or

36 (iv) Health carriers, if the discount on health care services is
37 offered by a health carrier authorized under chapter 48.20, 48.21,
38 48.44, or 48.46 RCW.

1 (6) "Health care facility" or "facility" has the same meaning as in
2 RCW 48.43.005(15).

3 (7) "Health care provider" or "provider" has the same meaning as in
4 RCW 48.43.005(16).

5 (8) "Health care provider network," "provider network," or
6 "network" means any network of health care providers, including any
7 person or entity that negotiates directly or indirectly with a discount
8 plan organization on behalf of more than one provider to provide health
9 care services to members.

10 (9) "Health care services" has the same meaning as in RCW
11 48.43.005(17).

12 (10) "Health carrier" or "carrier" has the same meaning as in RCW
13 48.43.005(18).

14 (11) "Marketer" means a person or entity that markets, promotes,
15 sells, or distributes a discount plan, including a contracted marketing
16 organization and a private label entity that places its name on and
17 markets or distributes a discount plan pursuant to a marketing
18 agreement with a discount plan organization.

19 (12) "Medicare prescription drug plan" means a plan that provides
20 a medicare part D prescription drug benefit in accordance with the
21 requirements of the federal medicare prescription drug improvement and
22 modernization act of 2003.

23 (13) "Member" means any individual who pays fees, dues, charges, or
24 other consideration for the right to receive the benefits of a discount
25 plan, but does not include any individual who enrolls in a patient
26 access program.

27 (14) "Patient access program" means a voluntary program sponsored
28 by a pharmaceutical manufacturer, or a consortium of pharmaceutical
29 manufacturers, that provides free or discounted health care products
30 for no additional consideration directly to low-income or uninsured
31 individuals either through a discount card or direct shipment.

32 (15) "Person" means an individual, a corporation, a governmental
33 entity, a partnership, an association, a joint venture, a joint stock
34 company, a trust, an unincorporated organization, any similar entity,
35 or any combination of the persons listed in this subsection.

36 (16)(a) "Pharmacy benefit manager" means a person that performs
37 pharmacy benefit management for a covered entity.

1 (b) For purposes of this subsection, a "covered entity" means an
2 insurer, a health care service contractor, a health maintenance
3 organization, or a multiple employer welfare arrangement licensed,
4 certified, or registered under the provisions of this title. "Covered
5 entity" also means a health program administered by the state as a
6 provider of health coverage, a single employer that provides health
7 coverage to its employees, or a labor union that provides health
8 coverage to its members as part of a collective bargaining agreement.

9 **Sec. 5.** RCW 48.102.011 and 2009 c 104 s 3 are each amended to read
10 as follows:

11 (1) A person, wherever located, (~~shall~~) may not act as a provider
12 with an owner who is a resident of this state or if there is more than
13 one owner on a single policy and one of the owners is a resident of
14 this state, without first having obtained a license from the
15 commissioner.

16 (2) An application for a provider license (~~shall~~) must be made to
17 the commissioner by the applicant on a form prescribed by the
18 commissioner, and the application (~~shall~~) must be accompanied by a
19 licensing fee in the amount of two hundred fifty dollars(~~, which shall~~
20 ~~be deposited to the insurance commissioner's regulatory account under~~
21 ~~RCW 48.02.190~~) for deposit into the general fund.

22 (3) All provider licenses (~~shall~~) continue in force until
23 suspended, revoked, or not renewed. A license (~~shall be~~) is subject
24 to renewal annually on the first day of July upon application of the
25 provider and payment of a renewal fee of two hundred fifty dollars(~~, which shall~~
26 ~~be deposited to the insurance commissioner's regulatory~~
27 ~~account under RCW 48.02.190~~) for deposit into the general fund. If
28 not so renewed, the license (~~shall~~) automatically expires on the
29 renewal date.

30 (a) If the renewal fee is not received by the commissioner prior to
31 the expiration date, the provider (~~shall~~) must pay to the
32 commissioner in addition to the renewal fee, a surcharge as follows:

33 (i) For the first thirty days or part thereof delinquency the
34 surcharge is fifty percent of the renewal fee;

35 (ii) For the next thirty days or part thereof delinquency the
36 surcharge is one hundred percent of the renewal fee;

1 (b) If the renewal fee is not received by the commissioner after
2 sixty days but prior to twelve months after the expiration date the
3 payment of the renewal fee (~~(shall be)~~) is for reinstatement of the
4 license and the provider (~~(shall)~~) must pay to the commissioner the
5 renewal fee and a surcharge of two hundred percent.

6 (4) Subsection (3)(a) and (b) of this section does not exempt any
7 person from any penalty provided by law for transacting a life
8 settlement business without a valid and subsisting license.

9 (5) The applicant (~~(shall)~~) must provide (~~(such)~~) information as
10 the commissioner may require on forms prescribed by the commissioner.
11 The commissioner has the authority, at any time, to require (~~(such)~~) an
12 applicant to fully disclose the identity of its stockholders, partners,
13 officers, and employees, and the commissioner may, in the exercise of
14 the commissioner's sole discretion, refuse to issue (~~(such)~~) a license
15 in the name of any person if not satisfied that any officer, employee,
16 stockholder, or partner thereof who may materially influence the
17 applicant's conduct meets the standards of this chapter.

18 (6) A license issued to a partnership, corporation, or other entity
19 authorizes all members, officers, and designated employees to act as a
20 licensee under the license, if those persons are named in the
21 application and any supplements to the application.

22 (7) Upon the filing of an application for a provider's license and
23 the payment of the license fee, the commissioner (~~(shall)~~) must make an
24 investigation of each applicant and may issue a license if the
25 commissioner finds that the applicant:

26 (a) Has provided a detailed plan of operation;

27 (b) Is competent and trustworthy and intends to transact its
28 business in good faith;

29 (c) Has a good business reputation and has had experience,
30 training, or education so as to be qualified in the business for which
31 the license is applied;

32 (d)(i) Has demonstrated evidence of financial responsibility in a
33 form and in an amount prescribed by the commissioner by rule.

34 (ii) The commissioner may ask for evidence of financial
35 responsibility at any time the commissioner deems necessary;

36 (e) If the applicant is a legal entity, is formed or organized
37 pursuant to the laws of this state, is a foreign legal entity

1 authorized to transact business in this state, or provides a
2 certificate of good standing from the state of its domicile; and

3 (f) Has provided to the commissioner an antifraud plan that meets
4 the requirements of RCW 48.102.140 and includes:

5 (i) A description of the procedures for detecting and investigating
6 possible fraudulent acts and procedures for resolving material
7 inconsistencies between medical records and insurance applications;

8 (ii) A description of the procedures for reporting fraudulent
9 insurance acts to the commissioner;

10 (iii) A description of the plan for antifraud education and
11 training of its underwriters and other personnel; and

12 (iv) A written description or chart outlining the arrangement of
13 the antifraud personnel who are responsible for the investigation and
14 reporting of possible fraudulent insurance acts and investigating
15 unresolved material inconsistencies between medical records and
16 insurance applications.

17 (8)(a) A nonresident provider (~~shall~~) must appoint the
18 commissioner as its attorney to receive service of, and upon whom
19 (~~shall~~) must be served, all legal process issued against it in this
20 state upon causes of action arising within this state. Service upon
21 the commissioner as attorney (~~shall~~) constitutes service upon the
22 provider. Service of legal process against the provider can be had
23 only by service upon the commissioner.

24 (b) With the appointment the provider (~~shall~~) must designate the
25 person to whom the commissioner (~~shall~~) must forward legal process so
26 served upon him or her. The provider may change the person by filing
27 a new designation.

28 (c) The appointment of the commissioner as attorney (~~shall be~~) is
29 irrevocable, (~~shall~~) binds any successor in interest or to the assets
30 or liabilities of the provider, and (~~shall~~) remains in effect as long
31 as there is in this state any contract made by the provider or
32 liabilities or duties arising therefrom.

33 (d) Duplicate copies of legal process against a provider for whom
34 the commissioner is attorney shall be served upon him or her either by
35 a person competent to serve summons, or by registered mail. At the
36 time of service the plaintiff shall pay to the commissioner ten
37 dollars, taxable as costs in the action.

1 (e) The commissioner shall immediately send one of the copies of
2 the process, by registered mail with return receipt requested, to the
3 person designated for the purpose by the provider in its most recent
4 designation filed with the commissioner.

5 (f) The commissioner shall keep a record of the day and hour of
6 service upon him or her of all legal process. Proceedings shall not be
7 had against the provider, and the provider shall not be required to
8 appear, plead, or answer until the expiration of forty days after the
9 date of service upon the commissioner.

10 (9) A provider may not use any person to perform the functions of
11 a broker unless the person is authorized to act as a broker under this
12 chapter.

13 (10) A provider (~~shall~~) must provide to the commissioner new or
14 revised information about officers, stockholders, partners, directors,
15 members, or designated employees within thirty days of the change.

16 **Sec. 6.** RCW 48.155.020 and 2009 c 175 s 5 are each amended to read
17 as follows:

18 (1) Before conducting discount plan business to which this chapter
19 applies, a person (~~shall~~) must obtain a license from the commissioner
20 to operate as a discount plan organization.

21 (2) Except as provided in subsection (3) of this section, each
22 application for a license to operate as a discount plan organization:

23 (a) Must be in a form prescribed by the commissioner and verified
24 by an officer or authorized representative of the applicant; and

25 (b) Must demonstrate, set forth, or be accompanied by the
26 following:

27 (i) The two hundred fifty dollar application fee, which must be
28 deposited into the general fund;

29 (ii) A copy of the organization documents of the applicant, such as
30 the articles of incorporation, including all amendments;

31 (iii) A copy of the applicant's bylaws or other enabling documents
32 that establish organizational structure;

33 (iv) The applicant's federal identification number, business
34 address, and mailing address;

35 (v)(A) A list of names, addresses, official positions, and
36 biographical information of the individuals who are responsible for
37 conducting the applicant's affairs, including all members of the board

1 of directors, board of trustees, executive committee, or other
2 governing board or committee, the officers, contracted management
3 company personnel, and any person or entity owning or having the right
4 to acquire ten percent or more of the voting securities of the
5 applicant; and

6 (B) A disclosure in the listing of the extent and nature of any
7 contracts or arrangements between any individual who is responsible for
8 conducting the applicant's affairs and the discount plan organization,
9 including all possible conflicts of interest;

10 (vi) A complete biographical statement, on forms prescribed by the
11 commissioner, with respect to each individual identified under (b)(v)
12 of this subsection;

13 (vii) A statement generally describing the applicant, its
14 facilities and personnel, and the health care services for which a
15 discount will be made available under the discount plan;

16 (viii) A copy of the form of all contracts made or to be made
17 between the applicant and any health care providers or health care
18 provider networks regarding the provision of health care services to
19 members and discounts to be made available to members;

20 (ix) A copy of the form of any contract made or arrangement to be
21 made between the applicant and any individual listed in (b)(v) of this
22 subsection;

23 (x) A list identifying by name, address, telephone number, and e-
24 mail address all persons who will market each discount plan offered by
25 the applicant. If the person who will market a discount plan is an
26 entity, only the entity must be identified. This list must be
27 maintained and updated within sixty days of any change in the
28 information. An updated list must be sent to the commissioner as part
29 of the discount plan organization's renewal application under (b)(vii)
30 of this subsection;

31 (xi) A copy of the form of any contract made or to be made between
32 the applicant and any person, corporation, partnership, or other entity
33 for the performance on the applicant's behalf of any function,
34 including marketing, administration, enrollment, and subcontracting for
35 the provision of health care services to members and discounts to be
36 made available to members;

37 (xii) A copy of the applicant's most recent financial statements
38 audited by an independent certified public accountant, except that,

1 subject to the approval of the commissioner, an applicant that is an
2 affiliate of a parent entity that is publicly traded and that prepares
3 audited financial statements reflecting the consolidated operations of
4 the parent entity may submit the audited financial statement of the
5 parent entity and a written guaranty that the minimum capital
6 requirements required under RCW 48.155.030 will be met by the parent
7 entity instead of the audited financial statement of the applicant;

8 (xiii) A description of the proposed methods of marketing
9 including, but not limited to, describing the use of marketers, use of
10 the internet, sales by telephone, electronic mail, or facsimile
11 machine, and use of salespersons to market the discount plan benefits;

12 (xiv) A description of the member complaint procedures which must
13 be established and maintained by the applicant;

14 (xv) The name and address of the applicant's Washington statutory
15 agent for service of process, notice, or demand or, if not domiciled in
16 this state, a power of attorney duly executed by the applicant,
17 appointing the commissioner and duly authorized deputies as the true
18 and lawful attorney of the applicant in and for this state upon whom
19 all law process in any legal action or proceeding against the discount
20 plan organization on a cause of action arising in this state may be
21 served; and

22 (xvi) Any other information the commissioner may reasonably
23 require.

24 (3)(a) Upon application to and approval by the commissioner and
25 payment of the applicable fees, a discount plan organization that holds
26 a current license or other form of authority from another state to
27 operate as a discount plan organization, at the commissioner's
28 discretion, may not be required to submit the information required
29 under subsection (2) of this section in order to obtain a license under
30 this section if the commissioner is satisfied that the other state's
31 requirements, at a minimum, are equivalent to those required under
32 subsection (2) of this section or the commissioner is satisfied that
33 the other state's requirements are sufficient to protect the interests
34 of the residents of this state.

35 (b) Whenever the discount plan organization loses its license or
36 other form of authority in that other state to operate as a discount
37 plan organization, or is the subject of any disciplinary administrative

1 proceeding related to the organization's operating as a discount plan
2 organization in that other state, the discount plan organization
3 (~~shall~~) must immediately notify the commissioner.

4 (4) After the receipt of an application filed under subsection (2)
5 or (3) of this section, the commissioner (~~shall~~) must review the
6 application and notify the applicant of any deficiencies in the
7 application.

8 (5)(a) Within ninety days after the date of receipt of a completed
9 application, the commissioner (~~shall~~) must:

10 (i) Issue a license if the commissioner is satisfied that the
11 applicant has met the following:

12 (A) The applicant has fulfilled the requirements of this section
13 and the minimum capital requirements in accordance with RCW 48.155.030;
14 and

15 (B) The persons who own, control, and manage the applicant are
16 competent and trustworthy and possess managerial experience that would
17 make the proposed operation of the discount plan organization
18 beneficial to discount plan members; or

19 (ii) Disapprove the application and state the grounds for
20 disapproval.

21 (b) In making a determination under (a) of this subsection, the
22 commissioner may consider, for example, whether the applicant or an
23 officer or manager of the applicant: (i) Is not financially
24 responsible; (ii) does not have adequate expertise or experience to
25 operate a medical discount plan organization; or (iii) is not of good
26 character. Among the factors that the commissioner may consider in
27 making the determination is whether the applicant or an affiliate or a
28 business formerly owned or managed by the applicant or an officer or
29 manager of the applicant has had a previous application for a license,
30 or other authority, to operate as any entity regulated by the
31 commissioner denied, revoked, suspended, or terminated for cause, or is
32 under investigation for or has been found in violation of a statute or
33 regulation in another jurisdiction within the previous five years.

34 (6) Prior to licensure by the commissioner, each discount plan
35 organization (~~shall~~) must establish an internet web site in order to
36 conform to the requirements of RCW 48.155.070(2).

37 (7)(a) A license is effective for up to one year, unless prior to
38 its expiration the license is renewed in accordance with this

1 subsection or suspended or revoked in accordance with subsection (8) of
2 this section. Licenses issued or renewed on or after July 1, 2010,
3 will be subject to renewal annually on July 1st. If not so renewed,
4 the license will automatically expire on the renewal date.

5 (b) At least ninety days before a license expires, the discount
6 plan organization (~~shall~~) must submit:

7 (i) A renewal application form; and

8 (ii) A two hundred dollar renewal application fee for deposit into
9 the general fund.

10 (c) The commissioner (~~shall~~) must renew the license of each
11 holder that meets the requirements of this chapter and pays the
12 appropriate renewal fee required.

13 (8)(a) The commissioner may suspend the authority of a discount
14 plan organization to enroll new members or refuse to renew or revoke a
15 discount plan organization's license if the commissioner finds that any
16 of the following conditions exist:

17 (i) The discount plan organization is not operating in compliance
18 with this chapter;

19 (ii) The discount plan organization does not have the minimum net
20 worth as required under RCW 48.155.030;

21 (iii) The discount plan organization has advertised, merchandised,
22 or attempted to merchandise its services in such a manner as to
23 misrepresent its services or capacity for service or has engaged in
24 deceptive, misleading, or unfair practices with respect to advertising
25 or merchandising;

26 (iv) The discount plan organization is not fulfilling its
27 obligations as a discount plan organization; or

28 (v) The continued operation of the discount plan organization would
29 be hazardous to its members.

30 (b) If the commissioner has cause to believe that grounds for the
31 nonrenewal, suspension, or revocation of a license exists, the
32 commissioner (~~shall~~) must notify the discount plan organization in
33 writing specifically stating the grounds for the refusal to renew or
34 suspension or revocation and may also pursue a hearing on the matter
35 under chapter 48.04 RCW.

36 (c) When the license of a discount plan organization is nonrenewed,
37 surrendered, or revoked, the discount plan organization (~~shall~~) must
38 immediately upon the effective date of the order of revocation or, in

1 the case of a nonrenewal, the date of expiration of the license, stop
2 any further advertising, solicitation, collecting of fees, or renewal
3 of contracts, and proceed to wind up its affairs transacted under the
4 license.

5 (d)(i) When the commissioner suspends a discount plan
6 organization's authority to enroll new members, the suspension order
7 must specify the period during which the suspension is to be in effect
8 and the conditions, if any, that must be met by the discount plan
9 organization prior to reinstatement of its license to enroll members.

10 (ii) The commissioner may rescind or modify the order of suspension
11 prior to the expiration of the suspension period.

12 (iii) The license of a discount plan organization may not be
13 reinstated unless requested by the discount plan organization. The
14 commissioner (~~shall~~) may not grant the request for reinstatement if
15 the commissioner finds that the circumstances for which the suspension
16 occurred still exist or are likely to recur.

17 (9) Each licensed discount plan organization (~~shall~~) must notify
18 the commissioner immediately whenever the discount plan organization's
19 license, or other form of authority to operate as a discount plan
20 organization in another state, is suspended, revoked, or nonrenewed in
21 that state.

22 (10) A health care provider who provides discounts to his or her
23 own patients without any cost or fee of any kind to the patient is not
24 required to obtain and maintain a license under this chapter as a
25 discount plan organization.

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