

SB 6072 - S AMD 643
By Senator Keiser

ADOPTED 02/12/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 50B.04
4 RCW to read as follows:

5 (1) Beginning July 1, 2026, an employee or self-employed person,
6 who has elected coverage under RCW 50B.04.090, who relocates outside
7 of Washington may elect to continue participation in the program if:

8 (a) The employee or self-employed person has been assessed
9 premiums by the employment security department for at least three
10 years in which the employee or self-employed person has worked at
11 least 1,000 hours in each of those years in Washington; and

12 (b) The employee or self-employed person notifies the employment
13 security department within one year of establishing a primary
14 residence outside of Washington that the employee or self-employed
15 person is no longer a resident of Washington and elects to continue
16 participation in the program.

17 (2) Out-of-state participants under subsection (1) of this
18 section must report their wages or self-employment earnings to the
19 employment security department according to standards for manner and
20 timing of reporting and documentation submission, as adopted by rule
21 by the employment security department. An out-of-state participant
22 must submit documentation to the employment security department
23 whether or not the out-of-state participant earned wages or self-
24 employment earnings, as applicable, during the applicable reporting
25 period. When an out-of-state participant reaches the age of 67, the
26 participant is no longer required to provide the documentation of
27 their wages or self-employment earnings, but if the participant earns
28 wages or self-employment earnings, the participant must submit
29 reports of those wages or self-employment earnings and remit the
30 required premiums.

31 (3) Out-of-state participants under subsection (1) of this
32 section must provide documentation of wages and self-employment

1 earnings earned at the time that they report their wages or self-
2 employment earnings to the employment security department.

3 (4) The employment security department may cancel elective
4 coverage if the out-of-state participant fails to make required
5 payments or submit reports. The employment security department may
6 collect due and unpaid premiums and may levy an additional premium
7 for the remainder of the period of coverage. The cancellation must be
8 effective no later than 30 days from the date of the notice in
9 writing advising the out-of-state participant of the cancellation.

10 (5) The employment security department shall:

11 (a) Adopt standards by rule for the manner and timing of
12 reporting and documentation submission for out-of-state participants.
13 The employment security department must consider user experience with
14 the wage and self-employment earnings reporting process and the
15 document submission process and regularly update the standards to
16 minimize the procedural burden on out-of-state participants and
17 support the accurate reporting of wages and self-employment earnings
18 at the time of the payment of premiums;

19 (b) Collect premiums from out-of-state participants as provided
20 in RCW 50B.04.080, as relevant to out-of-state participants; and

21 (c) Verify the wages or self-employment earnings as reported by
22 an out-of-state participant.

23 (6) For the purposes of this section, "wages" includes
24 remuneration for services performed within or without or both within
25 and without this state.

26 **Sec. 2.** RCW 50B.04.010 and 2021 c 113 s 1 are each amended to
27 read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) "Account" means the long-term services and supports trust
31 account created in RCW 50B.04.100.

32 (2) "Approved service" means long-term services and supports
33 including, but not limited to:

34 (a) Adult day services;

35 (b) Care transition coordination;

36 (c) Memory care;

37 (d) Adaptive equipment and technology;

38 (e) Environmental modification;

39 (f) Personal emergency response system;

1 (g) Home safety evaluation;
2 (h) Respite for family caregivers;
3 (i) Home delivered meals;
4 (j) Transportation;
5 (k) Dementia supports;
6 (l) Education and consultation;
7 (m) Eligible relative care;
8 (n) Professional services;
9 (o) Services that assist paid and unpaid family members caring
10 for eligible individuals, including training for individuals
11 providing care who are not otherwise employed as long-term care
12 workers under RCW 74.39A.074;

13 (p) In-home personal care;
14 (q) Assisted living services;
15 (r) Adult family home services; and
16 (s) Nursing home services.

17 (3) "Benefit unit" means up to (~~one hundred dollars~~) \$100 paid
18 by the department of social and health services to a long-term
19 services and supports provider as reimbursement for approved services
20 provided to an eligible beneficiary on a specific date. The benefit
21 unit must be adjusted annually (~~at a rate no greater than the~~
22 ~~Washington state consumer price index, as determined solely by the~~
23 ~~council. Any changes adopted by the council shall be subject to~~
24 ~~revision by the legislature~~) for inflation by the consumer price
25 index. The adjusted benefit unit must be calculated to the nearest
26 cent/dollar using the consumer price index for the Seattle,
27 Washington area for urban wage earners and clerical workers, all
28 items, CPI-W, or a successor index, for the 12 months before each
29 September 1st compiled by the United States department of labor's
30 bureau of labor statistics. Each adjusted benefit unit calculated
31 under this subsection takes effect on the following January 1st.

32 (4) "Commission" means the long-term services and supports trust
33 commission established in RCW 50B.04.030.

34 (5) (~~"Council" means the long-term services and supports trust~~
35 ~~council established in RCW 50B.04.040.~~

36 (~~6~~) "Eligible beneficiary" means a qualified individual who is
37 age (~~eighteen~~) 18 or older, (~~residing in the state of~~
38 ~~Washington,~~) has been determined to meet the minimum level of
39 assistance with activities of daily living necessary to receive
40 benefits through the trust program, as (~~established in this~~

1 ~~chapter~~) provided in RCW 50B.04.060, and has not exhausted the
2 lifetime limit of benefit units.

3 ~~((7))~~ (6) "Employee" has the meaning provided in RCW
4 50A.05.010.

5 ~~((8))~~ (7) "Employer" has the meaning provided in RCW
6 50A.05.010.

7 ~~((9))~~ (8) "Employment" has the meaning provided in RCW
8 50A.05.010.

9 ~~((10))~~ (9) "Exempt employee" means a person who has been
10 granted a premium assessment exemption by the employment security
11 department.

12 ~~((11))~~ (10) "Long-term services and supports provider" means:

13 (a) For entities providing services to an eligible beneficiary in
14 Washington, an entity that meets the qualifications applicable in law
15 to the approved service they provide, including a qualified or
16 certified home care aide, licensed assisted living facility, licensed
17 adult family home, licensed nursing home, licensed in-home services
18 agency, adult day services program, vendor, instructor, qualified
19 family member, or other entities as registered by the department of
20 social and health services; and

21 (b) For entities providing services to an eligible beneficiary
22 outside Washington, an entity that meets minimum standards for care
23 provision and program administration, as established by the
24 department of social and health services, and that is appropriately
25 credentialed in the jurisdiction in which the services are being
26 provided as established by the department of social and health
27 services.

28 ~~((12))~~ (11) "Premium" or "premiums" means the payments required
29 by RCW 50B.04.080 and paid to the employment security department for
30 deposit in the account created in RCW 50B.04.100.

31 ~~((13))~~ (12) "Program" means the long-term services and supports
32 trust program established in this chapter.

33 ~~((14))~~ (13) "Qualified family member" means a relative of an
34 eligible beneficiary qualified to meet requirements established ~~((in~~
35 ~~state law))~~ by the department of social and health services for the
36 approved service they provide ~~((that would be required of any other~~
37 ~~long-term services and supports provider to receive payments from the~~
38 ~~state))~~.

1 (~~(15)~~) (14) "Qualified individual" means an individual who
2 meets the duration of payment requirements, as established in this
3 chapter.

4 (~~(16)~~) (15) "State actuary" means the office of the state
5 actuary created in RCW 44.44.010.

6 (~~(17)~~) (16) "Wage or wages" means all remuneration paid by an
7 employer to an employee. Remuneration has the meaning provided in RCW
8 50A.05.010. All wages are subject to a premium assessment and not
9 limited by the commissioner of the employment security department, as
10 provided under RCW 50A.10.030(4).

11 **Sec. 3.** RCW 50B.04.020 and 2022 c 1 s 1 are each amended to read
12 as follows:

13 (1) The health care authority, the department of social and
14 health services, the office of the state actuary, and the employment
15 security department each have distinct responsibilities in the
16 implementation and administration of the program. In the performance
17 of their activities, they shall actively collaborate to realize
18 program efficiencies and provide persons served by the program with a
19 well-coordinated experience.

20 (2) The health care authority shall:

21 (a) Track the use of lifetime benefit units to verify the
22 individual's status as an eligible beneficiary as determined by the
23 department of social and health services;

24 (b) Ensure approved services are provided through audits or
25 service verification processes within the service provider payment
26 system for registered long-term services and supports providers and
27 recoup any inappropriate payments;

28 (c) Establish criteria for the payment of benefits to
29 (~~registered~~) long-term services and supports providers under RCW
30 50B.04.070;

31 (d) Establish rules and procedures for benefit coordination when
32 the eligible beneficiary is also funded for medicaid and other long-
33 term services and supports, including medicare, coverage through the
34 department of labor and industries, and private long-term care
35 coverage; (~~and~~)

36 (e) Assist the department of social and health services with the
37 leveraging of existing payment systems for the provision of approved
38 services to beneficiaries under RCW 50B.04.070; and

1 (f) Adopt rules and procedures necessary to implement and
2 administer the activities specified in this section related to the
3 program.

4 (3) The department of social and health services shall:

5 (a) Make determinations regarding an individual's status as an
6 eligible beneficiary under RCW 50B.04.060;

7 (b) Approve long-term services and supports eligible for payment
8 as approved services under the program, as informed by the
9 commission;

10 (c) Register long-term services and supports providers that meet
11 minimum qualifications;

12 (d) Discontinue the registration of long-term services and
13 supports providers that: (i) Fail to meet the minimum qualifications
14 applicable in law to the approved service that they provide; or (ii)
15 violate the operational standards of the program;

16 (e) Disburse payments of benefits to (~~registered~~) long-term
17 services and supports providers, utilizing and leveraging existing
18 payment systems for the provision of approved services to eligible
19 beneficiaries under RCW 50B.04.070;

20 (f) Prepare and distribute written or electronic materials to
21 qualified individuals, eligible beneficiaries, and the public as
22 deemed necessary by the commission to inform them of program design
23 and updates;

24 (g) Provide customer service and address questions and
25 complaints, including referring individuals to other appropriate
26 agencies;

27 (h) Provide administrative and operational support to the
28 commission;

29 (i) Track data useful in monitoring and informing the program, as
30 identified by the commission; and

31 (j) Adopt rules and procedures necessary to implement and
32 administer the activities specified in this section related to the
33 program.

34 (4) The employment security department shall:

35 (a) Collect and assess (~~employee~~) premiums as provided in (~~RCW~~
36 ~~50B.04.080~~) this chapter;

37 (b) Assist the commission(~~,—council,~~) and state actuary in
38 monitoring the solvency and financial status of the program;

39 (c) Perform investigations to determine the compliance of premium
40 payments in RCW 50B.04.080 and 50B.04.090 and section 1 of this act

1 in coordination with the same activities conducted under the family
2 and medical leave act, Title 50A RCW, to the extent possible;

3 (d) Make determinations regarding an individual's status as a
4 qualified individual under RCW 50B.04.050, including criteria to
5 determine the status of persons receiving partial benefit units under
6 RCW 50B.04.050(2) and out-of-state participants under section 1 of
7 this act; and

8 (e) Adopt rules and procedures necessary to implement and
9 administer the activities specified in this section related to the
10 program.

11 (5) The office of the state actuary shall:

12 (a) Beginning July 1, 2025, and biennially thereafter, perform an
13 actuarial audit and valuation of the long-term services and supports
14 trust fund. Additional or more frequent actuarial audits and
15 valuations may be performed at the request of the (~~council~~)
16 commission;

17 (b) Make recommendations to the (~~council~~) commission and the
18 legislature on actions necessary to maintain trust solvency. The
19 recommendations must include options to redesign or reduce benefit
20 units, approved services, or both, to prevent or eliminate any
21 unfunded actuarially accrued liability in the trust or to maintain
22 solvency; and

23 (c) Select and contract for such actuarial, research, technical,
24 and other consultants as the actuary deems necessary to perform its
25 duties under chapter 363, Laws of 2019.

26 (6) By October 1, 2021, the employment security department and
27 the department of social and health services shall jointly conduct
28 outreach to provide employers with educational materials to ensure
29 employees are aware of the program and that the premium assessments
30 will begin on July 1, 2023. In conducting the outreach, the
31 employment security department and the department of social and
32 health services shall provide on a public website information that
33 explains the program and premium assessment in an easy to understand
34 format. Outreach information must be available in English and other
35 primary languages as defined in RCW 74.04.025.

36 **Sec. 4.** RCW 50B.04.030 and 2022 c 1 s 2 are each amended to read
37 as follows:

38 (1) The long-term services and supports trust commission is
39 established. The commission's recommendations and decisions must be

1 guided by the joint goals of maintaining benefit adequacy and
2 maintaining fund solvency and sustainability.

3 (2) The commission includes:

4 (a) Two members from each of the two largest caucuses of the
5 house of representatives, appointed by the speaker of the house of
6 representatives;

7 (b) Two members from each of the two largest caucuses of the
8 senate, appointed by the president of the senate;

9 (c) The commissioner of the employment security department, or
10 the commissioner's designee;

11 (d) The secretary of the department of social and health
12 services, or the secretary's designee;

13 (e) The director of the health care authority, or the director's
14 designee, who shall serve as a nonvoting member;

15 (f) One representative of the organization representing the area
16 agencies on aging;

17 (g) One representative of a home care association that represents
18 caregivers who provide services to private pay and medicaid clients;

19 (h) One representative of a union representing long-term care
20 workers;

21 (i) One representative of an organization representing retired
22 persons;

23 (j) One representative of an association representing skilled
24 nursing facilities and assisted living providers;

25 (k) One representative of an association representing adult
26 family home providers;

27 (l) Two individuals receiving long-term services and supports, or
28 their designees, or representatives of consumers receiving long-term
29 services and supports under the program;

30 (m) One member who is a worker who is, or will likely be, paying
31 the premium established in RCW 50B.04.080 and who is not employed by
32 a long-term services and supports provider; and

33 (n) One representative of an organization of employers whose
34 members collect, or will likely be collecting, the premium
35 established in RCW 50B.04.080.

36 (3) (a) Other than the legislators and agency heads identified in
37 subsection (2) of this section, members of the commission are
38 appointed by the governor for terms of two years, except that the
39 governor shall appoint the initial members identified in subsection

1 (2)(f) through (n) of this section to staggered terms not to exceed
2 four years.

3 (b) The secretary of the department of social and health
4 services, or the secretary's designee, shall serve as chair of the
5 commission. Meetings of the commission are at the call of the chair.
6 A majority of the voting members of the commission shall constitute a
7 quorum for any votes of the commission. Approval of ~~((sixty))~~ 60
8 percent of those voting members of the commission who are in
9 attendance is required for the passage of any vote.

10 (c) Members of the commission and the subcommittee established in
11 subsection (6) of this section must be compensated in accordance with
12 RCW 43.03.250 and must be reimbursed for their travel expenses while
13 on official business in accordance with RCW 43.03.050 and 43.03.060.

14 (4) Beginning January 1, 2021, the commission shall propose
15 recommendations to the appropriate executive agency or the
16 legislature regarding:

17 (a) The establishment of criteria for determining that an
18 individual has met the requirements to be a qualified individual as
19 established in RCW 50B.04.050 or an eligible beneficiary as
20 established in RCW 50B.04.060;

21 (b) The establishment of criteria for minimum qualifications for
22 the registration of long-term services and supports providers who
23 provide approved services to eligible beneficiaries;

24 (c) The establishment of payment maximums for approved services
25 consistent with actuarial soundness which shall not be lower than
26 medicaid payments for comparable services. A service or supply may be
27 limited by dollar amount, duration, or number of visits. The
28 commission shall engage affected stakeholders to develop this
29 recommendation;

30 (d) Changes to rules or policies to improve the operation of the
31 program;

32 (e) ~~((Providing a recommendation to the council for the annual
33 adjustment of the benefit unit in accordance with RCW 50B.04.010 and
34 50B.04.040;~~

35 ~~(f))~~ A refund of premiums for a deceased qualified individual
36 with a dependent who is an individual with a developmental disability
37 who is dependent for support from a qualified individual. The
38 qualified individual must not have been determined to be an eligible
39 beneficiary by the department of social and health services. The
40 refund shall be deposited into an individual trust account within the

1 developmental disabilities endowment trust fund for the benefit of
2 the dependent with a developmental disability. The commission shall
3 consider:

4 (i) The value of the refund to be (~~(one hundred)~~) 100 percent of
5 the current value of the qualified individual's lifetime premium
6 payments at the time that certification of death of the qualified
7 individual is submitted, less any administrative process fees; and

8 (ii) The criteria for determining whether the individual is
9 developmentally disabled. The determination shall not be based on
10 whether or not the individual with a developmental disability is
11 receiving services under Title 71A RCW, or another state or local
12 program; and

13 (~~(g)~~) (f) Assisting the state actuary with the preparation of
14 regular actuarial reports on the solvency and financial status of the
15 program and advising the legislature on actions necessary to maintain
16 trust solvency. The commission shall provide the office of the state
17 actuary with all actuarial reports for review. The office of the
18 state actuary shall provide any recommendations to the commission and
19 the legislature on actions necessary to maintain trust solvency(~~(g~~

20 ~~(h) For the January 1, 2021, report only, recommendations on~~
21 ~~whether and how to extend coverage to individuals who became disabled~~
22 ~~before the age of eighteen, including the impact on the financial~~
23 ~~status and solvency of the trust. The commission shall engage~~
24 ~~affected stakeholders to develop this recommendation; and~~

25 ~~(i) For the January 1, 2021, report only, the commission shall~~
26 ~~consult with the office of the state actuary on the development of an~~
27 ~~actuarial report of the projected solvency and financial status of~~
28 ~~the program. The office of the state actuary shall provide any~~
29 ~~recommendations to the commission and the legislature on actions~~
30 ~~necessary to achieve trust solvency)).~~

31 (5) The commission shall monitor agency administrative expenses
32 over time. Beginning November 15, 2020, the commission must annually
33 report to the governor and the fiscal committees of the legislature
34 on agency spending for administrative expenses and anticipated
35 administrative expenses as the program shifts into different phases
36 of implementation and operation. The November 15, 2027, report must
37 include recommendations for a method of calculating future agency
38 administrative expenses to limit administrative expenses while
39 providing sufficient funds to adequately operate the program. The
40 agency heads identified in subsection (2) of this section may advise

1 the commission on the reports prepared under this subsection, but
2 must recuse themselves from the commission's process for review,
3 approval, and submission to the legislature.

4 (6) The commission shall establish an investment strategy
5 subcommittee consisting of the members identified in subsection
6 (2)(a) through (d) of this section as voting members of the
7 subcommittee. In addition, four members appointed by the governor who
8 are considered experienced and qualified in the field of investment
9 shall serve as nonvoting members. The subcommittee shall provide
10 guidance and advice to the state investment board on investment
11 strategies for the account, including seeking counsel and advice on
12 the types of investments that are constitutionally permitted.

13 (7) The commission shall work with insurers to develop long-term
14 care insurance products that supplement the program's benefit.

15 **Sec. 5.** RCW 50B.04.050 and 2022 c 2 s 3 and 2022 c 1 s 3 are
16 each reenacted and amended to read as follows:

17 (1) Except as provided in subsection (2) of this section, the
18 employment security department shall deem a person to be a qualified
19 individual as provided in this chapter if the person has paid the
20 long-term services and supports premiums required by RCW 50B.04.080
21 for the equivalent of either:

22 (a) A total of ten years (~~without interruption of five or more~~
23 ~~consecutive years~~); or

24 (b) Three years within the last six years from the date of
25 application for benefits.

26 (2) A person born before January 1, 1968, who has not met the
27 duration requirements under subsection (1)(a) of this section may
28 become a qualified individual with fewer than the number of years
29 identified in subsection (1)(a) of this section if the person has
30 paid the long-term services and supports premiums required by RCW
31 50B.04.080 for at least one year. A person becoming a qualified
32 individual pursuant to this subsection (2) may receive one-tenth of
33 the maximum number of benefit units available under RCW
34 50B.04.060(3)(b) for each year of premium payments. In accordance
35 with RCW 50B.04.060, benefits for eligible beneficiaries in
36 Washington will not be available until July 1, 2026, and benefits for
37 out-of-state participants who become eligible beneficiaries will not
38 be available until July 1, 2030, and nothing in this section requires
39 the department of social and health services to accept applications

1 for determining an individual's status as an eligible beneficiary
2 prior to July 1, 2026. Nothing in this subsection (2) prohibits a
3 person born before January 1, 1968, who meets the conditions of
4 subsection (1)(b) of this section from receiving the maximum number
5 of benefit units available under RCW 50B.04.060(3)(b).

6 (3) When deeming a person to be a qualified individual, the
7 employment security department shall require that the person have
8 worked at least (~~five hundred~~) 1,000 hours during each of the ten
9 years in subsection (1)(a) of this section, each of the three years
10 in subsection (1)(b) of this section, or each of the years identified
11 in subsection (2) of this section.

12 (4) An exempt employee may never be deemed to be a qualified
13 individual, unless the employee's exemption was discontinued under
14 RCW 50B.04.055 or rescinded.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 50B.04
16 RCW to read as follows:

17 (1) An employee who holds a nonimmigrant visa for temporary
18 workers, as recognized by federal law, is not subject to the rights
19 and responsibilities of this title, unless the employee elects
20 coverage.

21 (2) The employment security department may adopt rules necessary
22 to implement this section.

23 **Sec. 7.** RCW 50B.04.060 and 2022 c 1 s 4 are each amended to read
24 as follows:

25 (1) Beginning July 1, 2026, approved services must be available
26 and benefits payable to a (~~registered~~) long-term services and
27 supports provider on behalf of an eligible beneficiary under this
28 section.

29 (~~Beginning~~) (a)(i) Except for qualified individuals
30 residing outside of Washington as provided in (a)(ii) of this
31 subsection, beginning July 1, 2026, a qualified individual may become
32 an eligible beneficiary by filing an application with the department
33 of social and health services and undergoing an eligibility
34 determination which includes an evaluation that the individual
35 requires assistance with at least three activities of daily
36 living((-)), as defined by the department of social and health
37 services for long-term services and supports programs, which is
38 expected to last for at least 90 days.

1 (ii) For a qualified individual residing outside of Washington,
2 beginning January 1, 2030, the out-of-state qualified individual may
3 become an eligible beneficiary by filing an application with the
4 department of social and health services and undergoing an
5 eligibility determination. The eligibility determination must include
6 an evaluation that the individual either (A) is unable to perform,
7 without substantial assistance from another individual, at least two
8 of the following activities of daily living for a period of at least
9 90 days due to a loss of functional capacity: Eating, toileting,
10 transferring, bathing, dressing, or continence, or (B) requires
11 substantial supervision to protect such individual from threats to
12 health and safety due to severe cognitive impairments.

13 (b) The department of social and health services must engage
14 sufficient qualified assessor capacity, including via contract, so
15 that the determination may be made within 45 days from receipt of a
16 request by a beneficiary to use a benefit.

17 (3) (a) An eligible beneficiary may receive approved services and
18 benefits through the program in the form of a benefit unit payable to
19 a ~~((registered))~~ long-term services and supports provider.

20 (b) Except as limited in RCW 50B.04.050(2), an eligible
21 beneficiary may not receive more than the dollar equivalent of 365
22 benefit units over the course of the eligible beneficiary's lifetime.

23 (i) If the department of social and health services reimburses a
24 long-term services and supports provider for approved services
25 provided to an eligible beneficiary and the payment is less than the
26 benefit unit, only the portion of the benefit unit that is used shall
27 be taken into consideration when calculating the person's remaining
28 lifetime limit on receipt of benefits.

29 (ii) Eligible beneficiaries may combine benefit units to receive
30 more approved services per day as long as the total number of
31 lifetime benefit units has not been exceeded.

32 **Sec. 8.** RCW 50B.04.070 and 2019 c 363 s 8 are each amended to
33 read as follows:

34 (1) (a) Benefits provided under this chapter shall be paid
35 periodically and promptly to ~~((registered))~~ long-term services and
36 supports providers ~~((-~~

37 ~~-2-))~~ who provide approved services to:

1 (i) Eligible beneficiaries in Washington if the long-term
2 services and supports provider is registered with the department of
3 social and health services; and

4 (ii) Eligible beneficiaries outside Washington if the long-term
5 services and supports providers meet minimum standards established by
6 the department.

7 (b) The department of social and health services may contract
8 with a third party to administer payments to long-term services and
9 supports providers providing services to eligible beneficiaries
10 whether inside or outside of Washington.

11 (c) Qualified family members may be paid for approved personal
12 care services in the same way as individual providers, through a
13 licensed home care agency, or through a third option if recommended
14 by the commission and adopted by the department of social and health
15 services.

16 (2) The department of social and health services shall establish
17 payment methods and procedures that are most appropriate and
18 efficient for the different categories of service providers
19 identified in subsection (1) of this section, including collaboration
20 with other agencies and contracting with third parties, as necessary.

21 **Sec. 9.** RCW 50B.04.100 and 2019 c 363 s 11 are each amended to
22 read as follows:

23 (1) The long-term services and supports trust account is created
24 in the custody of the state treasurer. All receipts from employers
25 under RCW 50B.04.080 and from out-of-state participants under section
26 1 of this act, delinquent premiums, penalties, and interest received
27 pursuant to sections 10 and 11 of this act, and any funds
28 attributable to savings derived through a waiver with the federal
29 centers for medicare and medicaid services pursuant to RCW 50B.04.130
30 must be deposited in the account. Expenditures from the account may
31 be used for the administrative activities of the department of social
32 and health services, the health care authority, and the employment
33 security department. Benefits associated with the program must be
34 disbursed from the account by the department of social and health
35 services. Only the secretary of the department of social and health
36 services or the secretary's designee may authorize disbursements from
37 the account. The account is subject to the allotment procedures under
38 chapter 43.88 RCW. An appropriation is required for administrative
39 expenses, but not for benefit payments. The account must provide

1 reimbursement of any amounts from other sources that may have been
2 used for the initial establishment of the program.

3 (2) The revenue generated pursuant to this chapter shall be
4 utilized to expand long-term care in the state. These funds may not
5 be used either in whole or in part to supplant existing state or
6 county funds for programs that meet the definition of approved
7 services.

8 (3) The moneys deposited in the account must remain in the
9 account until expended in accordance with the requirements of this
10 chapter. If moneys are appropriated for any purpose other than
11 supporting the long-term services and supports program, the
12 legislature shall notify each qualified individual by mail that the
13 person's premiums have been appropriated for an alternate use,
14 describe the alternate use, and state its plan for restoring the
15 funds so that premiums are not increased and benefits are not
16 reduced.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 50B.04
18 RCW to read as follows:

19 (1) In the form and at the times specified in this chapter and by
20 the commissioner of the employment security department, an employer
21 shall make reports, furnish information, and collect and remit
22 premiums as required by this chapter to the employment security
23 department. If the employer is a temporary help company that provides
24 employees on a temporary basis to its customers, the temporary help
25 company is considered the employer for purposes of this section.

26 (2) (a) An employer must keep at the employer's place of business
27 a record of employment, for a period of six years, from which the
28 information needed by the employment security department for purposes
29 of this chapter may be obtained. This record shall at all times be
30 open to the inspection of the commissioner of the employment security
31 department.

32 (b) Information obtained under this chapter from employer records
33 is confidential and not open to public inspection, other than to
34 public employees in the performance of their official duties. An
35 interested party, however, shall be supplied with information from
36 employer records to the extent necessary for the proper presentation
37 of the case in question. An employer may authorize inspection of the
38 employer's records by written consent.

1 (3) The requirements relating to the collection of long-term
2 services and supports trust program premiums are as provided in this
3 chapter. Before issuing a warning letter or collecting penalties, the
4 employment security department shall enforce the collection of
5 premiums through conference and conciliation. These requirements
6 apply to:

7 (a) An employer that fails under this chapter to make the
8 required reports, or fails to remit the full amount of the premiums
9 when due;

10 (b) An employer that willfully makes a false statement or
11 misrepresentation regarding a material fact, or willfully fails to
12 report a material fact, to avoid making the required reports or
13 remitting the full amount of the premiums when due under this
14 chapter;

15 (c) A successor in the manner specified in employment security
16 department rules; and

17 (d) An officer, member, or owner having control or supervision of
18 payment or reporting of long-term services and supports trust program
19 premiums, or who is charged with the responsibility for the filing of
20 returns, in the manner specified in subsection (4) of this section.

21 (4)(a) An employer who willfully fails to make the required
22 reports is subject to penalties as follows: (i) For the second
23 occurrence, the penalty is \$75; (ii) for the third occurrence, the
24 penalty is \$150; and (iii) for the fourth occurrence and for each
25 occurrence thereafter, the penalty is \$250.

26 (b) An employer who willfully fails to remit the full amount of
27 the premiums when due is liable, in addition to the full amount of
28 premiums due and amounts assessed as interest under subsection (5) of
29 this section, to a penalty equal to the premiums and interest.

30 (c) Any penalties under this section shall be deposited into the
31 account.

32 (d) For the purposes of this subsection, "willful" means a
33 knowing and intentional action that is neither accidental nor the
34 result of a bona fide dispute.

35 (e) The employment security department shall enforce the
36 collection of penalties through conference and conciliation.

37 (5) Appeals of actions under this section are governed by RCW
38 50B.04.120.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 50B.04

2 RCW to read as follows:

3 (1) At any time after the commissioner of the employment security
4 department finds that any premiums, interest, or penalties have
5 become delinquent, the commissioner of the employment security
6 department may issue an order and notice of assessment specifying the
7 amount due. The order and notice of assessment shall be served upon
8 the delinquent employer in the manner prescribed for the service of a
9 summons in a civil action, or using a method by which the mailing can
10 be tracked or the delivery can be confirmed. Failure of the employer
11 to receive the notice or order, whether served or mailed, shall not
12 release the employer from any tax, or any interest or penalties.

13 (2) If the commissioner of the employment security department has
14 reason to believe that an employer is insolvent or if any reason
15 exists why the collection of any premiums accrued will be jeopardized
16 by delaying collection, the commissioner of the employment security
17 department may make an immediate assessment of the premiums and may
18 proceed to enforce collection immediately, but interest and penalties
19 shall not begin to accrue upon any premiums until the date when such
20 premiums would normally have become delinquent.

21 (3) If premiums are not paid on the date on which they are due
22 and payable as prescribed by the commissioner of the employment
23 security department, the whole or part thereof remaining unpaid shall
24 bear interest at the rate of one percent per month or fraction
25 thereof from and after such date until payment plus accrued interest
26 is received by the commissioner of the employment security
27 department. The date as of which payment of premiums, if mailed, is
28 deemed to have been received may be determined by such regulations as
29 the commissioner of the employment security department may prescribe.
30 Interest collected pursuant to this section shall be paid into the
31 account. Interest shall not accrue on premiums from any estate in the
32 hands of a receiver, executor, administrator, trustee in bankruptcy,
33 common law assignee, or other liquidating officer subsequent to the
34 date when such receiver, executor, administrator, trustee in
35 bankruptcy, common law assignee, or other liquidating officer
36 qualifies as such, but premiums accruing with respect to employment
37 of persons by any receiver, executor, administrator, trustee in
38 bankruptcy, common law assignee, or other liquidating officer shall
39 become due and shall draw interest in the same manner as premiums due
40 from other employers. Where adequate information has been furnished

1 to the employment security department and the employment security
2 department has failed to act or has advised the employer of no
3 liability or inability to decide the issue, interest may be waived.

4 (4) (a) If the amount of premiums, interest, or penalties assessed
5 by the commissioner of the employment security department by order
6 and notice of assessment provided in this chapter is not paid within
7 10 days after the service or mailing of the order and notice of
8 assessment, the commissioner of the employment security department or
9 a duly authorized representative may collect the amount stated in the
10 assessment by the distraint, seizure, and sale of the property,
11 goods, chattels, and effects of the delinquent employer. Goods and
12 property that are exempt from execution under the laws of this state
13 are exempt from distraint and sale under this section.

14 (b) The commissioner of the employment security department, upon
15 making a distraint, shall seize the property and shall make an
16 inventory of the distrained property, a copy of which shall be mailed
17 to the owner of the property or personally delivered to the owner,
18 and shall specify the time and place when the property shall be sold.
19 A notice specifying the property to be sold and the time and place of
20 sale shall be posted in at least two public places in the county in
21 which the seizure has been made. The time of sale shall be not less
22 than 10 nor more than 20 days from the date of posting of the
23 notices. The sale may be adjourned from time to time at the
24 discretion of the commissioner of the employment security department,
25 but not for a time to exceed a total of 60 days. The sale shall be
26 conducted by the commissioner of the employment security department
27 or a representative who shall proceed to sell the property by parcel
28 or by lot at a public auction, and who may set a minimum price to
29 include the expenses of making a levy and of advertising the sale,
30 and if the amount bid for such property at the sale is not equal to
31 the minimum price so fixed, the commissioner of the employment
32 security department or a representative may declare the property to
33 be purchased by the employment security department for the minimum
34 price. In such event the delinquent account shall be credited with
35 the amount for which the property has been sold. Property acquired by
36 the employment security department as prescribed in this subsection
37 (4) may be sold by the commissioner of the employment security
38 department or a representative at public or private sale, and the
39 amount realized shall be placed in the account. In all cases of sale
40 under this subsection (4), the commissioner of the employment

1 security department shall issue a bill of sale or a deed to the
2 purchaser and the bill of sale or deed shall be prima facie evidence
3 of the right of the commissioner of the employment security
4 department to make the sale and conclusive evidence of the regularity
5 of the commissioner of the employment security department proceeding
6 in making the sale, and shall transfer to the purchaser all right,
7 title, and interest of the delinquent employer in the property. The
8 proceeds of any sale under this subsection (4), except in those cases
9 in which the property has been acquired by the employment security
10 department, shall be first applied by the commissioner of the
11 employment security department in satisfaction of the delinquent
12 account, and out of any sum received in excess of the amount of
13 delinquent premiums, interest, and penalties the account shall be
14 reimbursed for the costs of distraint and sale. Any excess amounts
15 held by the commissioner of the employment security department shall
16 be refunded to the delinquent employer. Amounts held by the
17 commissioner of the employment security department that are
18 refundable to a delinquent employer may be subject to seizure or
19 distraint by any other taxing authority of the state or its political
20 subdivisions.

21 (5) The commissioner of the employment security department may
22 issue to any person, firm, corporation, political subdivision, or
23 department of the state, a notice and order to withhold and deliver
24 property of any kind when the commissioner of the employment security
25 department has reason to believe that there is in the possession of
26 such person, firm, corporation, political subdivision, or department,
27 property which is due, owing, or belonging to any person, firm, or
28 corporation upon whom the employment security department has served a
29 notice and order of assessment for premiums, interest, or penalties.
30 The effect of a notice to withhold and deliver shall be continuous
31 from the date the notice and order to withhold and deliver is first
32 made until the liability is satisfied or becomes unenforceable
33 because of a lapse of time. The notice and order to withhold and
34 deliver shall be served by the sheriff or the sheriff's deputy of the
35 county in which the service is made, using a method by which the
36 mailing can be tracked or the delivery can be confirmed, or by any
37 duly authorized representative of the commissioner of the employment
38 security department. Any person, firm, corporation, political
39 subdivision, or department upon whom service has been made must
40 answer the notice within 20 days exclusive of the day of service,

1 under oath and in writing, and must truthfully answer the matters
2 inquired of in the notice. In the event there is in the possession of
3 any such person, firm, corporation, political subdivision, or
4 department, any property which may be subject to the claim of the
5 employment security department of the state, the property must be
6 delivered immediately to the commissioner of the employment security
7 department or a representative upon demand to be held in trust by the
8 commissioner of the employment security department for application on
9 the indebtedness involved or for return, without interest, in
10 accordance with final determination of liability or nonliability, or
11 in the alternative, a good and sufficient bond satisfactory to the
12 commissioner of the employment security department must be provided
13 conditioned upon final determination of liability. If any person,
14 firm, or corporation fails to answer an order to withhold and deliver
15 within the time prescribed in this subsection (5), it shall be lawful
16 for the court, after the time to answer the order has expired, to
17 render judgment by default against such person, firm, or corporation
18 for the full amount claimed by the commissioner in the notice to
19 withhold and deliver, together with costs.

20 (6) Whenever any order and notice of assessment or jeopardy
21 assessment has become final in accordance with the provisions of this
22 chapter the commissioner of the employment security department may
23 file with the clerk of any county within the state a warrant in the
24 amount of the notice of assessment plus interest, penalties, and a
25 filing fee under RCW 36.18.012(10). The clerk of the county in which
26 the warrant is filed shall immediately designate a superior court
27 cause number for the warrant, and the clerk shall cause to be entered
28 in the judgment docket under the superior court cause number assigned
29 to the warrant, the name of the employer mentioned in the warrant,
30 the amount of the tax, interest, penalties, and filing fee and the
31 date when such warrant was filed. The aggregate amount of the warrant
32 as docketed shall become a lien upon the title to, and interest in
33 all real and personal property of the employer against whom the
34 warrant is issued, the same as a judgment in a civil case duly
35 docketed in the office of such clerk. The warrant so docketed shall
36 be sufficient to support the issuance of writs of execution and writs
37 of garnishment in favor of the state in the manner provided by law in
38 the case of civil judgment, wholly or partially unsatisfied. The
39 clerk of the court shall be entitled to a filing fee under RCW
40 36.18.012(10), which shall be added to the amount of the warrant, and

1 charged by the commissioner of the employment security department to
2 the employer. A copy of the warrant shall be mailed to the employer
3 using a method by which the mailing can be tracked or the delivery
4 can be confirmed within five days of filing with the clerk.

5 (7) The claim of the employment security department for any
6 premiums, interest, or penalties not paid when due, shall be a lien
7 prior to all other liens or claims and on a parity with prior tax
8 liens against all property and rights to property, whether real or
9 personal, belonging to the employer. In order to avail itself of the
10 lien hereby created, the employment security department shall file
11 with any county auditor where property of the employer is located a
12 statement and claim of lien specifying the amount of delinquent
13 premiums, interest, and penalties claimed by the employment security
14 department. From the time of filing for record, the amount required
15 to be paid shall constitute a lien upon all property and rights to
16 property, whether real or personal, in the county, owned by the
17 employer or acquired by the employer. The lien shall not be valid
18 against any purchaser, holder of a security interest, mechanic's
19 lien, or judgment lien creditor until notice thereof has been filed
20 with the county auditor. This lien shall be separate and apart from,
21 and in addition to, any other lien or claim created by, or provided
22 for in, this chapter. When any such notice of lien has been so filed,
23 the commissioner of the employment security department may release
24 the lien by filing a certificate of release when it appears that the
25 amount of delinquent premiums, interest, and penalties have been
26 paid, or when the assurance of payment shall be made as the
27 commissioner of the employment security department may deem to be
28 adequate. Fees for filing and releasing the lien provided herein may
29 be charged to the employer and may be collected from the employer
30 utilizing the remedies provided in this chapter for the collection of
31 premiums.

32 (8) In the event of any distribution of an employer's assets
33 pursuant to an order of any court, including any receivership,
34 probate, legal dissolution, or similar proceeding, or in case of any
35 assignment for the benefit of creditors, composition, or similar
36 proceeding, premiums, interest, or penalties due shall be a lien upon
37 all the assets of such employer. The lien is prior to all other liens
38 or claims except prior tax liens, other liens provided by this
39 chapter, and claims for remuneration for services of not more than
40 \$250 to each claimant earned within six months of the commencement of

1 the proceeding. The mere existence of a condition of insolvency or
2 the institution of any judicial proceeding for legal dissolution or
3 of any proceeding for distribution of assets shall cause such a lien
4 to attach without action on behalf of the commissioner of the
5 employment security department or the state. In the event of an
6 employer's adjudication in bankruptcy, judicially confirmed extension
7 proposal, or composition, under the federal bankruptcy act of 1898,
8 as amended, premiums, interest, or penalties due shall be entitled to
9 such priority as provided in that act, as amended.

10 (9) (a) If after due notice, any employer defaults in any payment
11 of premiums, interest, or penalties, the amount due may be collected
12 by civil action in the name of the state, and the employer adjudged
13 in default shall pay the cost of such action. Any lien created by
14 this chapter may be foreclosed by decree of the court in any such
15 action. Civil actions brought under this chapter to collect premiums,
16 interest, or penalties from an employer shall be heard by the court
17 at the earliest possible date and shall be entitled to preference
18 upon the calendar of the court over all other civil actions except
19 petitions for judicial review under this chapter, cases arising under
20 the unemployment compensation laws of this state, and cases arising
21 under the industrial insurance laws of this state.

22 (b) Any employer that is not a resident of this state and that
23 exercises the privilege of having one or more individuals perform
24 service for it within this state, and any resident employer that
25 exercises that privilege and thereafter removes from this state,
26 shall be deemed thereby to appoint the secretary of state as its
27 agent and attorney for the acceptance of process in any action under
28 this chapter. In instituting such an action against any such employer
29 the commissioner of the employment security department shall cause
30 process or notice to be filed with the secretary of state and the
31 service shall be sufficient service upon the employer, and shall be
32 of the same force and validity as if served upon it personally within
33 this state: PROVIDED, That the commissioner of the employment
34 security department shall immediately send notice of the service of
35 the process or notice, together with a copy thereof, by registered
36 mail, return receipt requested, to such employer at its last known
37 address and the return receipt, the commissioner's affidavit of
38 compliance with the provisions of this section, and a copy of the
39 notice of service shall be appended to the original of the process
40 filed in the court in which such action is pending.

1 (10) Any employer who is delinquent in the payment of premiums,
2 interest, or penalties may be enjoined upon the suit of the state of
3 Washington from continuing in business in this state or employing
4 persons herein until the delinquent premiums, interest, and penalties
5 have been paid, or until the employer has furnished a good and
6 sufficient bond in a sum equal to double the amount of premiums,
7 interest, and penalties already delinquent, plus further sums as the
8 court deems adequate to protect the employment security department in
9 the collection of premiums, interest, and penalties which will become
10 due from the employer during the next ensuing calendar year, the bond
11 to be conditioned upon payment of all premiums, interest, and
12 penalties due and owing within thirty days after the expiration of
13 the next ensuing calendar year or at an earlier date as the court may
14 fix. Action under this section may be instituted in the superior
15 court of any county of the state in which the employer resides, has
16 its principal place of business, or where it has anyone performing
17 services for it, whether or not those services constitute employment.

18 (11) The commissioner of the employment security department may
19 compromise any claim for premiums, interest, or penalties due and
20 owing from an employer, and any amount owed by an individual because
21 of benefit overpayments existing or arising under this chapter in any
22 case in which collection of the full amount due and owing, whether
23 reduced to judgment or otherwise, would be against equity and good
24 conscience. Whenever a compromise is made by the commissioner of the
25 employment security department in the case of a claim for premiums,
26 interest, or penalties, whether reduced to judgment or otherwise, the
27 employment security department shall file a statement of the amount
28 of premiums, interest, and penalties imposed by law and claimed due,
29 attorneys' fees and costs, if any, a complete record of the
30 compromise agreement, and the amount actually paid in accordance with
31 the terms of the compromise agreement. If any such compromise is
32 accepted by the commissioner of the employment security department,
33 within the time stated in the compromise or agreed to, that
34 compromise shall be final and conclusive and except upon showing of
35 fraud or malfeasance or misrepresentation of a material fact the case
36 shall not be reopened as to the agreed upon matters. In any suit,
37 action, or proceeding, such agreement or any determination,
38 collection, payment, adjustment, refund, or credit made in accordance
39 therewith shall not be annulled, modified, set aside, or disregarded.

1 (12) The commissioner of the employment security department may
2 charge off as uncollectible and no longer an asset of the account,
3 any delinquent premiums, interest, penalties, credits, or benefit
4 overpayments if the commissioner of the employment security
5 department is satisfied that there are no cost-effective means of
6 collecting the premiums, interest, penalties, credits, or benefit
7 overpayments.

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 50B.04
9 RCW to read as follows:

10 (1) When a qualified individual applies for benefits as provided
11 in RCW 50B.040.060, the department of social and health services
12 must: (a) Ask whether the qualified individual has supplemental long-
13 term care insurance as provided in chapter 48.--- RCW (the new
14 chapter created in section 37 of this act); and (b) request written
15 consent and the policy issuer's contact information from the
16 qualified individual to share information with the policy issuer for
17 any potential care coordination.

18 (2) If the individual provides written consent and the policy
19 issuer's contact information, the department of social and health
20 services must notify the policy issuer that the qualified individual
21 has applied for benefits under this chapter and may share information
22 for any potential care coordination.

23 (3) Only basic demographic information that would allow a person
24 to be identified in the program may be shared if the qualified
25 individual consents to sharing information. No health information or
26 data on claims may be shared.

27 NEW SECTION. **Sec. 13.** (1) The department of social and health
28 services, the employment security department, and the health care
29 authority may design and conduct a pilot project to assess the
30 administrative processes and system capabilities for managing
31 eligibility determinations for qualified individuals and distributing
32 payments to long-term services and supports providers. The pilot
33 project may identify persons who are eligible to be qualified
34 individuals and offer them access to benefit units under the program
35 in return for their participation in the pilot project. The pilot
36 project may only be conducted between January 1, 2026, and June 30,
37 2026. The pilot project may not have more than 500 participants.

1 (2) When designing and implementing the pilot project, the
2 agencies identified in subsection (1) of this section must provide
3 regular updates to and consider recommendations from the long-term
4 services and supports trust commission. Upon completion of the pilot
5 project, the agencies must provide a summary of the pilot project,
6 including key operational challenges, to the commission. The
7 commission may include any outstanding concerns identified by the
8 pilot project that require a legislative response in the commission's
9 2027 report.

10 (3) The employment security department may adopt rules necessary
11 to implement this section.

12 (4) This section expires July 1, 2027.

13 NEW SECTION. **Sec. 14.** The intent of this chapter is to promote
14 the public interest, support the availability of supplemental long-
15 term care coverage, establish standards for supplemental long-term
16 care coverage, facilitate public understanding and comparison of
17 supplemental long-term care contract benefits, protect persons
18 insured under supplemental long-term care insurance policies and
19 certificates, protect applicants for supplemental long-term care
20 policies from unfair or deceptive sales or enrollment practices, and
21 provide for flexibility and innovation in the development of
22 supplemental long-term care insurance coverage.

23 NEW SECTION. **Sec. 15.** (1) This chapter applies to all
24 supplemental long-term care insurance policies, contracts, or riders
25 delivered or issued for delivery in this state on or after January 1,
26 2026. This chapter does not supersede the obligations of entities
27 subject to this chapter to comply with other applicable laws to the
28 extent that they do not conflict with this chapter, except that laws
29 and regulations designed and intended to apply to medicare supplement
30 insurance policies shall not be applied to supplemental long-term
31 care insurance.

32 (2) Coverage advertised, marketed, or offered as supplemental
33 long-term care insurance must comply with this chapter. Any coverage,
34 policy, or rider advertised, marketed, or offered as supplemental
35 long-term care or nursing home insurance shall comply with this
36 chapter.

37 (3) This chapter is not intended to prohibit approval of
38 supplemental long-term care funded through life insurance policies,

1 contracts, or riders, provided the policy meets the definition of
2 supplemental long-term care insurance and provides all required
3 benefits of this chapter.

4 NEW SECTION. **Sec. 16.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Applicant" means: (a) In the case of an individual
8 supplemental long-term care insurance policy, the person who seeks to
9 contract for benefits; and (b) in the case of a group supplemental
10 long-term care insurance policy, the proposed certificate holder.

11 (2) "Certificate" includes any certificate issued under a group
12 supplemental long-term care insurance policy that has been delivered
13 or issued for delivery in this state.

14 (3) "Commissioner" means the insurance commissioner of Washington
15 state.

16 (4) "Issuer" includes insurance companies, fraternal benefit
17 societies, health care service contractors, health maintenance
18 organizations, or other entity delivering or issuing for delivery any
19 supplemental long-term care insurance policy, contract, or rider.

20 (5) "Group supplemental long-term care insurance" means a
21 supplemental long-term care insurance policy or contract that is
22 delivered or issued for delivery in this state and is issued to:

23 (a) One or more employers; one or more labor organizations; or a
24 trust or the trustees of a fund established by one or more employers
25 or labor organizations for current or former employees, current or
26 former members of the labor organizations, or a combination of
27 current and former employees or members, or a combination of such
28 employers, labor organizations, trusts, or trustees; or

29 (b) A professional, trade, or occupational association for its
30 members or former or retired members, if the association:

31 (i) Is composed of persons who are or were all actively engaged
32 in the same profession, trade, or occupation; and

33 (ii) Has been maintained in good faith for purposes other than
34 obtaining insurance; or

35 (c) (i) An association, trust, or the trustees of a fund
36 established, created, or maintained for the benefit of members of one
37 or more associations. Before advertising, marketing, or offering
38 supplemental long-term care coverage in this state, the association
39 or associations, or the insurer of the association or associations,

1 must file evidence with the commissioner that the association or
2 associations have at the time of such filing at least 100 persons who
3 are members and that the association or associations have been
4 organized and maintained in good faith for purposes other than that
5 of obtaining insurance; have been in active existence for at least
6 one year; and have a constitution and bylaws that provide that:

7 (A) The association or associations hold regular meetings at
8 least annually to further the purposes of the members;

9 (B) Except for credit unions, the association or associations
10 collect dues or solicit contributions from members; and

11 (C) The members have voting privileges and representation on the
12 governing board and committees of the association.

13 (ii) Thirty days after filing the evidence in accordance with
14 this section, the association or associations will be deemed to have
15 satisfied the organizational requirements, unless the commissioner
16 makes a finding that the association or associations do not satisfy
17 those organizational requirements; or

18 (d) A group other than as described in (a), (b), or (c) of this
19 subsection subject to a finding by the commissioner that:

20 (i) The issuance of the group policy is not contrary to the best
21 interest of the public;

22 (ii) The issuance of the group policy would result in economies
23 of acquisition or administration; and

24 (iii) The benefits are reasonable in relation to the premiums
25 charged.

26 (6) "Policy" includes a document such as an insurance policy,
27 contract, subscriber agreement, rider, or endorsement delivered or
28 issued for delivery in this state by an insurer, fraternal benefit
29 society, health care service contractor, health maintenance
30 organization, or any similar entity authorized by the insurance
31 commissioner to transact the business of supplemental long-term care
32 insurance.

33 (7) "Qualified supplemental long-term care insurance contract" or
34 "federally tax-qualified supplemental long-term care insurance
35 contract" means:

36 (a) An individual or group insurance contract that meets the
37 requirements of section 7702B(b) of the internal revenue code of
38 1986, as amended; or

39 (b) The portion of a life insurance contract that provides
40 supplemental long-term care insurance coverage by rider or as part of

1 the contract and that satisfies the requirements of sections 7702B(b)
2 and (e) of the internal revenue code of 1986, as amended.

3 (8) "Supplemental long-term care insurance" means an insurance
4 policy, contract, or rider that is advertised, marketed, offered, or
5 designed to provide coverage for at least 12 consecutive months for a
6 covered person after benefits provided under chapter 50B.04 RCW have
7 been exhausted. Supplemental long-term care insurance may be on an
8 expense incurred, indemnity, prepaid, or other basis, for one or more
9 necessary or medically necessary diagnostic, preventive, therapeutic,
10 rehabilitative, maintenance, or personal care services, provided in a
11 setting other than an acute care unit of a hospital. Supplemental
12 long-term care insurance includes any policy, contract, or rider that
13 provides for payment of benefits based upon cognitive impairment or
14 the loss of functional capacity that supplements benefits provided in
15 chapter 50B.04 RCW.

16 (a) Supplemental long-term care insurance includes group and
17 individual annuities and life insurance policies or riders that
18 provide directly or supplement long-term care insurance and that
19 supplements benefits provided in chapter 50B.04 RCW. However,
20 supplemental long-term care insurance does not include life insurance
21 policies that: (i) Accelerate the death benefit specifically for one
22 or more of the qualifying events of terminal illness, medical
23 conditions requiring extraordinary medical intervention, or permanent
24 institutional confinement; (ii) provide the option of a lump sum
25 payment for those benefits; and (iii) do not condition the benefits
26 or the eligibility for the benefits upon the receipt of long-term
27 care.

28 (b) Supplemental long-term care insurance also includes qualified
29 supplemental long-term care insurance contracts.

30 (c) Supplemental long-term care insurance does not include any
31 insurance policy, contract, or rider that is offered primarily to
32 provide coverage for basic medicare supplement, basic hospital
33 expense, basic medical-surgical expense, hospital confinement
34 indemnity, major medical expense, disability income, related income,
35 asset protection, accident only, specified disease, specified
36 accident, or limited benefit health. These may not be marketed to
37 consumers as providing coverage that is supplemental to the long-term
38 care benefits provided in chapter 50B.04 RCW.

1 NEW SECTION. **Sec. 17.** A group supplemental long-term care
2 insurance policy may not be offered to a resident of this state under
3 a group policy issued in another state to a group described in
4 section 16(5)(d) of this act, unless this state or another state
5 having statutory and regulatory supplemental long-term care insurance
6 requirements substantially similar to those adopted in this state has
7 made a determination that such requirements have been met.

8 NEW SECTION. **Sec. 18.** (1) A supplemental long-term care
9 insurance policy or certificate may not define "preexisting
10 condition" more restrictively than as a condition for which medical
11 advice or treatment was recommended by or received from a provider of
12 health care services, within six months preceding the effective date
13 of coverage of an insured person, unless the policy or certificate
14 applies to group supplemental long-term care insurance under section
15 16(5) (a), (b), or (c) of this act.

16 (2) A supplemental long-term care insurance policy or certificate
17 may not exclude coverage for a loss or confinement that is the result
18 of a preexisting condition unless the loss or confinement begins
19 within six months following the effective date of coverage of an
20 insured person, unless the policy or certificate applies to a group
21 as defined in section 16(5)(a) of this act.

22 (3) The commissioner may extend the limitation periods for
23 specific age group categories in specific policy forms upon finding
24 that the extension is in the best interest of the public.

25 (4) An issuer may use an application form designed to elicit the
26 complete health history of an applicant and underwrite in accordance
27 with that issuer's established underwriting standards, based on the
28 answers on that application. Unless otherwise provided in the policy
29 or certificate and regardless of whether it is disclosed on the
30 application, a preexisting condition need not be covered until the
31 waiting period expires.

32 (5) A supplemental long-term care insurance policy or certificate
33 may not exclude or use waivers or riders to exclude, limit, or reduce
34 coverage or benefits for specifically named or described preexisting
35 diseases or physical conditions beyond the waiting period.

36 NEW SECTION. **Sec. 19.** (1) No supplemental long-term care
37 insurance policy may:

1 (a) Be canceled, nonrenewed, or otherwise terminated on the
2 grounds of the age or the deterioration of the mental or physical
3 health of the insured individual or certificate holder;

4 (b) Contain a provision establishing a new waiting period in the
5 event existing coverage is converted to or replaced by a new or other
6 form within the same company, except with respect to an increase in
7 benefits voluntarily selected by the insured individual or group
8 policyholder;

9 (c) Provide coverage for skilled nursing care only or provide
10 significantly more coverage for skilled care in a facility than
11 coverage for lower levels of care;

12 (d) Condition eligibility for any benefits on a prior
13 hospitalization requirement;

14 (e) Condition eligibility for benefits provided in an
15 institutional care setting on the receipt of a higher level of
16 institutional care;

17 (f) Condition eligibility for any benefits other than waiver of
18 premium, postconfinement, postacute care, or recuperative benefits on
19 a prior institutionalization requirement;

20 (g) Include a postconfinement, postacute care, or recuperative
21 benefit unless:

22 (i) Such requirement is clearly labeled in a separate paragraph
23 of the policy or certificate entitled "Limitations or Conditions on
24 Eligibility for Benefits"; and

25 (ii) Such limitations or conditions specify any required number
26 of days of preconfinement or postconfinement;

27 (h) Condition eligibility for noninstitutional benefits on the
28 prior receipt of institutional care;

29 (i)(i) Provide for a deductible that is greater than the maximum
30 dollar equivalent provided in RCW 50B.04.060(3)(b), including
31 inflation adjustments provided in RCW 50B.04.010(3), without the
32 limitation provided in RCW 50B.04.050(2). The issuer may provide for
33 a deductible that is less than the maximum dollar equivalent provided
34 in RCW 50B.04.060(3)(b), especially for a policyholder born before
35 1968;

36 (ii) The issuer must accept notice from the department of social
37 and health services that the policyholder has exhausted the benefits
38 provided under chapter 50B.04 RCW as evidence of satisfying the
39 deductible. However, for a policyholder born before 1968, the

1 department must provide the amount of benefits paid under chapter
2 50B.04 RCW as evidence of payment toward the deductible;

3 (j) Include an elimination period of greater than 12 months. Any
4 period of time the policyholder is considered an eligible beneficiary
5 as defined in RCW 50B.04.010 must count toward any elimination period
6 in a supplemental long-term care insurance policy. If the policy
7 includes a deductible and an elimination period, the policy may
8 provide that the elimination period is satisfied after the later of
9 when the deductible or the elimination period has been met; and

10 (k) Require a policyholder to undergo a functional assessment to
11 satisfy a benefit trigger to determine that the elimination period
12 has begun or ended. However, the issuer may require the policyholder
13 to undergo a functional assessment and apply a benefit trigger for
14 purposes of approving a claim and authorizing benefits.

15 (2) A supplemental long-term care insurance policy or certificate
16 may be field-issued if the compensation to the field issuer is not
17 based on the number of policies or certificates issued. For purposes
18 of this section, "field-issued" means a policy or certificate issued
19 by a producer or a third-party administrator of the policy pursuant
20 to the underwriting authority by an issuer and using the issuer's
21 underwriting guidelines.

22 NEW SECTION. **Sec. 20.** (1) Supplemental long-term care insurance
23 applicants may return a policy or certificate for any reason within
24 30 days after its delivery and to have the premium refunded.

25 (2) All supplemental long-term care insurance policies and
26 certificates must have a notice prominently printed on or attached to
27 the first page of the policy stating that the applicant may return
28 the policy or certificate within 30 days after its delivery and to
29 have the premium refunded.

30 (3) Refunds or denials of applications must be made within 30
31 days of the return or denial.

32 (4) This section does not apply to certificates issued pursuant
33 to a policy issued to a group defined in section 16(5)(a) of this
34 act.

35 NEW SECTION. **Sec. 21.** (1) An outline of coverage must be
36 delivered to a prospective applicant for supplemental long-term care
37 insurance at the time of initial solicitation through means that

1 prominently direct the attention of the recipient to the document and
2 its purpose.

3 (a) The commissioner must prescribe a standard format, including
4 style, arrangement, overall appearance, and the content of an outline
5 of coverage. The outline of coverage must also include a disclosure:

6 (i) Of how the supplemental long-term care insurance interacts
7 with benefits provided in chapter 50B.04 RCW and any potential gaps
8 in coverage or discontinuities of care between benefits provided
9 under chapter 50B.04 RCW and the policy;

10 (ii) That the premiums may increase over time and an explanation
11 of the conditions that may result in an increase in premiums;

12 (iii) If the policyholder's circumstances change or premiums
13 increase and the policyholder is unable or unwilling to pay the
14 increased premiums, the options available to the consumer, including
15 a reduction in benefits and nonforfeiture of premiums;

16 (iv) That premiums continue after retirement; and

17 (v) When premium payments are no longer required under the
18 policy, known as a waiver of premiums.

19 (b) When an insurance producer makes a solicitation in person,
20 the insurance producer must deliver an outline of coverage before
21 presenting an application or enrollment form.

22 (c) In a direct response solicitation, the outline of coverage
23 must be presented with an application or enrollment form. The
24 disclosures required under (a) of this subsection are required in any
25 marketing materials.

26 (d) If a policy is issued to a group as defined in section
27 16(5)(a) of this act, an outline of coverage is not required to be
28 delivered, if the information that the commissioner requires to be
29 included in the outline of coverage is in other materials relating to
30 enrollment. Upon request, any such materials must be made available
31 to the commissioner.

32 (2) If an issuer approves an application for a supplemental long-
33 term care insurance contract or certificate, the issuer must deliver
34 the contract or certificate of insurance to the applicant within 30
35 days after the date of approval. A policy summary must be delivered
36 with an individual life insurance policy that provides supplemental
37 long-term care benefits within the policy or by rider. In a direct
38 response solicitation, the issuer must deliver the policy summary,
39 upon request, before delivery of the policy, if the applicant
40 requests a summary.

- 1 (a) The policy summary must include:
- 2 (i) An explanation of how the supplemental long-term care benefit
3 interacts with other components of the policy, including deductions
4 from any applicable death benefits;
- 5 (ii) An illustration of the amount of benefits, the length of
6 benefits, and the guaranteed lifetime benefits if any, for each
7 covered person;
- 8 (iii) Any exclusions, reductions, and limitations on benefits of
9 supplemental long-term care;
- 10 (iv) A statement that any supplemental long-term care inflation
11 protection option required by section 27 of this act is not available
12 under this policy unless the policy or rider provides for such
13 inflation protections; and
- 14 (v) If applicable to the policy type, the summary must also
15 include:
- 16 (A) A disclosure of the effects of exercising other rights under
17 the policy;
- 18 (B) A disclosure of guarantees related to long-term care costs of
19 insurance charges; and
- 20 (C) Current and projected maximum lifetime benefits.
- 21 (b) The provisions of the policy summary may be incorporated into
22 a basic illustration required under chapter 48.23A RCW, or into the
23 policy summary which is required under rules adopted by the
24 commissioner.

25 NEW SECTION. **Sec. 22.** A supplemental long-term care insurance
26 policy, contract, or rider must:

27 (1) Allow the policyholder options for reduction of benefits or
28 nonforfeiture of premiums as provided in section 28 of this act if
29 the premiums increase or the policyholder's circumstances change and
30 the policyholder is unable or unwilling to pay the increased
31 premiums;

32 (2) Allow for continuity of coverage of care settings and
33 providers, including family providers, that the policyholder was
34 receiving as benefits under the program provided in chapter 50B.04
35 RCW unless there is substantial clinical or other information showing
36 that the current care setting or provider cannot meet the care and
37 safety needs of the policyholder. If the issuer makes a determination
38 that the care setting or providers are not suited to meeting the care
39 and safety needs of the policyholder, the issuer may require a change

1 of care setting or provider under the policy, effective 90 days after
2 the transition from the benefits provided under chapter 50B.04 RCW.
3 The policyholder may appeal the determination through an independent
4 third-party review as tracked by the commissioner. The issuer may
5 audit for fraudulent claims where the care being claimed is not being
6 provided; and

7 (3) Cover family providers, provided they are suited to meet the
8 care and safety needs of the policyholder.

9 NEW SECTION. **Sec. 23.** (1) When a policyholder purchases a
10 supplemental long-term care insurance policy, the issuer must request
11 written consent from the policyholder to share information with the
12 department of social and health services. If the policyholder
13 provides written consent, the issuer must inform the department of
14 social and health services that the policyholder has purchased a
15 supplemental long-term care insurance policy and share any
16 information with the department for the purposes of any potential
17 care coordination.

18 (2) Only basic demographic information that would allow a person
19 to be identified in the program provided in chapter 50B.04 RCW may be
20 shared if the individual consents to sharing information. No health
21 care information as defined in RCW 70.02.010 or data on claims may be
22 shared.

23 NEW SECTION. **Sec. 24.** If a supplemental long-term care benefit
24 funded through a life insurance policy by the acceleration of the
25 death benefit is in benefit payment status, a monthly report must be
26 provided to the policyholder. The report must include:

27 (1) A record of all supplemental long-term care benefits paid out
28 during the month;

29 (2) An explanation of any changes in the policy resulting from
30 paying the supplemental long-term care benefits, such as a change in
31 the death benefit or cash values; and

32 (3) The amount of supplemental long-term care benefits that
33 remain to be paid.

34 NEW SECTION. **Sec. 25.** (1) Within 30 calendar days after receipt
35 of a written claim for benefits under a policy made by a policyholder
36 or certificate holder, or the policyholder's representative, an
37 insurer must:

1 (a) Pay benefits pursuant to the terms of the policy or
2 certificate;

3 (b) Request additional information; or

4 (c) Deny the claim.

5 (2) Within 30 calendar days after receipt of all the additional
6 information requested as provided in subsection (1)(b) of this
7 section, an insurer must pay a claim for benefits pursuant to the
8 terms of the policy or certificate or deny the claim.

9 (3) All denials of supplemental long-term care claims by the
10 issuer must provide a written explanation of the reasons for the
11 denial and make available to the policyholder or certificate holder
12 all information directly related to the denial.

13 NEW SECTION. **Sec. 26.** (1) An issuer may rescind a supplemental
14 long-term care insurance policy or certificate or deny an otherwise
15 valid supplemental long-term care insurance claim if:

16 (a) A policy or certificate has been in force for less than six
17 months and upon a showing of misrepresentation that is material to
18 the acceptance for coverage; or

19 (b) A policy or certificate has been in force for at least six
20 months but less than two years, upon a showing of misrepresentation
21 that is both material to the acceptance for coverage and that
22 pertains to the condition for which benefits are sought.

23 (2) After a policy or certificate has been in force for two years
24 it is not contestable upon the grounds of misrepresentation alone.
25 Such a policy or certificate may be contested only upon a showing
26 that the insured knowingly and intentionally misrepresented relevant
27 facts relating to the insured's health.

28 (3) An issuer's payments for benefits under a supplemental long-
29 term care insurance policy or certificate may not be recovered by the
30 issuer if the policy or certificate is rescinded.

31 (4) This section does not apply to the remaining death benefit of
32 a life insurance policy that accelerates benefits for supplemental
33 long-term care that are governed by RCW 48.23.050 the state's life
34 insurance incontestability clause. In all other situations, this
35 section applies to life insurance policies that accelerate benefits
36 for supplemental long-term care.

37 NEW SECTION. **Sec. 27.** (1) The commissioner must establish
38 minimum standards for inflation protection features.

1 (2) An issuer must comply with the rules adopted by the
2 commissioner that establish minimum standards for inflation
3 protection features.

4 (3) In addition to complying with the rules adopted under this
5 section, no issuer may offer a supplemental long-term care insurance
6 policy in this state unless the issuer also offers to the
7 policyholder, in addition to any other inflation protection, the
8 option to purchase a policy that provides for benefit levels to
9 increase by at least three percent annually.

10 (4) The inflation protections provided in this section do not
11 apply to an individual life insurance policy that provides
12 supplemental long-term care benefits within the policy or by rider.
13 However, an insurer may provide inflation protections in an
14 individual life insurance policy that provides supplemental long-term
15 care benefits within the policy or by rider.

16 NEW SECTION. **Sec. 28.** (1) Except as provided by this section, a
17 supplemental long-term care insurance policy may not be delivered or
18 issued for delivery in this state unless the policyholder or
19 certificate holder has been offered the option of purchasing a policy
20 or certificate that includes a nonforfeiture benefit. The offer of a
21 nonforfeiture benefit may be in the form of a rider that is attached
22 to the policy. If a policyholder or certificate holder declines the
23 nonforfeiture benefit, the issuer must provide a contingent benefit
24 upon lapse that is available for a specified period of time following
25 a substantial increase in premium rates.

26 (2) If a group supplemental long-term care insurance policy is
27 issued, the offer required in subsection (1) of this section must be
28 made to the group policyholder. However, if the policy is issued as
29 group supplemental long-term care insurance as defined in section
30 16(5)(d) of this act other than to a continuing care retirement
31 community or other similar entity, the offering must be made to each
32 proposed certificate holder.

33 (3) The commissioner must adopt rules specifying the type or
34 types of nonforfeiture benefits to be offered as part of supplemental
35 long-term care insurance policies and certificates, the standards for
36 nonforfeiture benefits, and the rules regarding contingent benefit
37 upon lapse, including a determination of the specified period of time
38 during which a contingent benefit upon lapse will be available and

1 the substantial premium rate increase that triggers a contingent
2 benefit upon lapse.

3 NEW SECTION. **Sec. 29.** A person may not sell, solicit, or
4 negotiate supplemental long-term care insurance unless the person is
5 appropriately licensed as an insurance producer and has successfully
6 completed supplemental long-term care coverage education that meets
7 the requirements of this section.

8 (1) All supplemental long-term care education required by this
9 chapter must meet the requirements of chapter 48.17 RCW and rules
10 adopted by the commissioner.

11 (2)(a) Before soliciting, selling, or negotiating supplemental
12 long-term care insurance coverage, an insurance producer must
13 successfully complete a one-time education course consisting of no
14 fewer than eight hours on long-term care coverage, the provisions of
15 chapter 50B.04 RCW and any rules adopted to implement the program,
16 long-term care services, other state and federal regulations and
17 requirements for long-term care and qualified long-term care
18 insurance coverage, changes or improvements in long-term care
19 services or providers, alternatives to the purchase of long-term care
20 insurance coverage, the effect of inflation on benefits and the
21 importance of inflation protection, and consumer suitability
22 standards and guidelines.

23 (b) In addition to the one-time education and training
24 requirement set forth in (a) of this subsection, insurance producers
25 who engage in the solicitation, sale, or negotiation of supplemental
26 long-term care insurance coverage must successfully complete no fewer
27 than four hours every 24 months of continuing education specific to
28 supplemental long-term care insurance coverage and issues.
29 Supplemental long-term care insurance coverage continuing education
30 must consist of topics related to long-term care insurance, long-term
31 care services, and, if applicable, qualified state long-term care
32 insurance partnership programs, including, but not limited to, the
33 following:

34 (i) State and federal regulations and requirements and the
35 relationship between benefits offered under chapter 50B.04 RCW,
36 qualified state long-term care insurance partnership programs, and
37 other public and private coverage of long-term care services,
38 including medicaid;

39 (ii) Available long-term care services and providers;

1 (iii) Changes or improvements in long-term care services or
2 providers;

3 (iv) Alternatives to the purchase of private long-term care
4 insurance;

5 (v) The effect of inflation on benefits and the importance of
6 inflation protection;

7 (vi) This chapter and chapters 48.84 and 48.85 RCW; and

8 (vii) Consumer suitability standards and guidelines.

9 (3) The insurance producer education required by this section may
10 not include training that is issuer or company product-specific or
11 that includes any sales or marketing information, materials, or
12 training, other than those required by state or federal law.

13 (4) Issuers must obtain verification that an insurance producer
14 receives training required by this section before that producer is
15 permitted to sell, solicit, or otherwise negotiate the issuer's
16 supplemental long-term care insurance products.

17 (5) Issuers must maintain records subject to the state's record
18 retention requirements and make evidence of that verification
19 available to the commissioner upon request.

20 (6) (a) Issuers must maintain records with respect to the training
21 of its producers concerning the distribution of its long-term care
22 partnership policies that will allow the commissioner to provide
23 assurance to the state department of social and health services,
24 medicaid division, that insurance producers engaged in the sale of
25 supplemental long-term care insurance contracts have received the
26 training required by this section and any rules adopted by the
27 commissioner, and that producers have demonstrated an understanding
28 of the partnership policies and their relationship to benefits
29 offered under chapter 50B.04 RCW and public and private coverage of
30 long-term care, including medicaid, in this state.

31 (b) These records must be maintained in accordance with the
32 state's record retention requirements and be made available to the
33 commissioner upon request.

34 NEW SECTION. **Sec. 30.** (1) Issuers and their agents, if any,
35 must determine whether issuing supplemental long-term care insurance
36 coverage to a particular person is appropriate, except in the case of
37 a life insurance policy that accelerates benefits for supplemental
38 long-term care.

39 (2) An issuer must:

1 (a) Develop and use suitability standards to determine whether
2 the purchase or replacement of supplemental long-term care coverage
3 is appropriate for the needs of the applicant or insured, using a
4 best interest standard. The issuers and their agents must act in the
5 best interests of the applicant or policyholder under the
6 circumstances known at the time the recommendation is made, without
7 putting the issuer or agent's financial interests ahead of the
8 interests of the applicant or policyholder;

9 (b) Train its agents in the use of the issuer's suitability
10 standards; and

11 (c) Maintain a copy of its suitability standards and make the
12 standards available for inspection, upon request.

13 (3) The following must be considered when determining whether the
14 applicant meets the issuer's suitability standards:

15 (a) The ability of the applicant to pay for the proposed coverage
16 and any other relevant financial information related to the purchase
17 of or payment for coverage;

18 (b) The applicant's goals and needs with respect to supplemental
19 long-term care and the advantages and disadvantages of supplemental
20 long-term care coverage to meet those goals or needs; and

21 (c) The values, benefits, and costs of the applicant's existing
22 health or long-term care coverage, if any, when compared to the
23 values, benefits, and costs of the recommended purchase or
24 replacement.

25 (4) The sale or transfer of any suitability information provided
26 to the issuer or agent by the applicant to any other person or
27 business entity is prohibited.

28 (5)(a) The commissioner must adopt rules on forms of consumer-
29 friendly personal worksheets that issuers and their agents must use
30 for applications for supplemental long-term care coverage.

31 (b) The commissioner may require each issuer to file its current
32 forms of suitability standards and personal worksheets with the
33 commissioner.

34 NEW SECTION. **Sec. 31.** A person engaged in the issuance or
35 solicitation of supplemental long-term care coverage may not engage
36 in unfair methods of competition or unfair or deceptive acts or
37 practices, as such methods, acts, or practices are defined in chapter
38 48.30 RCW, or as defined by the commissioner.

1 NEW SECTION. **Sec. 32.** An issuer or an insurance producer who
2 violates a law or rule relating to the regulation of supplemental
3 long-term care insurance or its marketing is subject to a fine of up
4 to three times the amount of the commission paid for each policy
5 involved in the violation or up to \$10,000, whichever is greater.

6 NEW SECTION. **Sec. 33.** (1) The commissioner must adopt rules
7 that include standards for full and fair disclosure setting forth the
8 manner, content, and required disclosures for the sale of
9 supplemental long-term care insurance policies, terms of
10 renewability, initial and subsequent conditions of eligibility,
11 nonduplication of coverage provisions, coverage of dependents,
12 preexisting conditions, termination of insurance, continuation or
13 conversion, probationary periods, limitations, exceptions,
14 reductions, elimination periods, requirements for replacement,
15 recurrent conditions, and definitions of terms. The commissioner must
16 adopt rules establishing loss ratio standards for supplemental long-
17 term care insurance policies. The commissioner must adopt rules to
18 promote premium adequacy and to protect policyholders in the event of
19 proposed substantial rate increases, and to establish minimum
20 standards for producer education, marketing practices, producer
21 compensation, producer testing, penalties, and reporting practices
22 for supplemental long-term care insurance.

23 (2) The commissioner must adopt rules establishing standards
24 protecting patient privacy rights, rights to receive confidential
25 health care services, and standards for an issuer's timely review of
26 a claim denial upon request of a covered person.

27 (3) The commissioner must adopt by rule prompt payment
28 requirements for supplemental long-term care insurance. The rules
29 must include a definition of a "claim" and a definition of "clean
30 claim." In adopting the rules, the commissioner must consider the
31 prompt payment requirements in long-term care insurance model acts
32 developed by the national association of insurance commissioners.

33 (4) The commissioner may adopt reasonable rules to carry out this
34 chapter.

35 NEW SECTION. **Sec. 34.** (1) The commissioner must:

36 (a) Develop a consumer education guide designed to educate
37 consumers and help them make informed decisions as to the purchase of

1 supplemental long-term care insurance policies provided under this
2 chapter; and

3 (b) Expand programs to educate consumers as to the supplemental
4 long-term care insurance policies provided under this chapter, with a
5 focus on the middle-income market. If allowable under federal law,
6 the commissioner must expand the statewide health insurance benefits
7 advisor program to provide the consumer education.

8 (2) The guide and programs should:

9 (a) Provide additional information and counseling for consumers
10 born before 1968. This information and counseling should educate
11 these consumers as to potential out-of-pocket costs they may be
12 subject to before supplemental long-term care insurance will begin
13 paying claims and strategies for managing the gap between benefits
14 payable under chapter 50B.04 RCW and coverage under supplemental
15 long-term care insurance.

16 (b) Support consumers in assessing the tradeoffs between various
17 elimination period options and premium rates.

18 (c) Educate consumers on budgeting any benefits available under
19 chapter 50B.04 RCW carefully to reduce the likelihood and size of any
20 potential gap between those benefits and the supplemental long-term
21 care insurance.

22 NEW SECTION. **Sec. 35.** A new section is added to chapter 48.83
23 RCW to read as follows:

24 This chapter does not apply to supplemental long-term care
25 insurance as defined in section 16 of this act.

26 NEW SECTION. **Sec. 36.** RCW 50B.04.040 (Long-term services and
27 supports council—Benefit unit adjustment) and 2019 c 363 s 5 are each
28 repealed.

29 NEW SECTION. **Sec. 37.** Sections 14 through 34 of this act
30 constitute a new chapter in Title 48 RCW.

31 NEW SECTION. **Sec. 38.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 39.** This act takes effect January 1, 2025."

ADOPTED 02/12/2024

1 On page 1, line 2 of the title, after "commission;" strike the
2 remainder of the title and insert "amending RCW 50B.04.010,
3 50B.04.020, 50B.04.030, 50B.04.060, 50B.04.070, and 50B.04.100;
4 reenacting and amending RCW 50B.04.050; adding new sections to
5 chapter 50B.04 RCW; adding a new section to chapter 48.83 RCW; adding
6 a new chapter to Title 48 RCW; creating a new section; repealing RCW
7 50B.04.040; providing an effective date; and providing an expiration
8 date."

EFFECT: Removes the provision that an out-of-state participant electing coverage may not withdraw from coverage. Modifies collection of premiums to premiums as provided in the LTSS program chapter, rather than specified statutes and the new portability section.

Removes the provisions that a nonimmigrant visa holder for temporary workers is subject to the LTSS program after becoming a permanent resident and modifies how the employee may be subject to the program by electing coverage, rather than by notifying their employer.

Removes the changes to RCW 50B.04.055 related to certain voluntary exemptions and discontinuation of exemptions in RCW 50B.04.055.

Removes the changes to RCW 50B.04.080, reinstating provisions in RCW 50B.04.080 providing that the LTSS program laws do not require reopening negotiations of collective bargaining agreements in existence on October 19, 2017, or the application of the LTSS program unless and until an agreement is reopened or renegotiated by the parties or expires.

Removes the changes in RCW 50B.04.085 related to individuals who applied for an exemption because they had long-term care insurance before November 1, 2021.

Removes language allowing individuals who do not meet the LTSS program duration requirements in the pilot program.

Clarifies inflation protection options and policy summary requirements for an individual life insurance policy that provides supplemental long-term care benefits within the policy or by rider.

Modifies requirements for approval or denial of claims for benefits under supplemental long-term care insurance policies, including the insurers' ability to request additional information for claims.

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