
HOUSE BILL 2585

State of Washington

61st Legislature

2010 Regular Session

By Representatives Kelley, Kirby, and Moeller; by request of Insurance Commissioner

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1 AN ACT Relating to insurance; amending RCW 48.02.060, 48.38.010,
2 48.66.045, 48.155.010, 4.28.080, 48.05.200, 48.05.215, 48.10.170,
3 48.15.150, 48.17.380, 48.36A.350, 48.94.010, 48.102.011, 48.102.021,
4 48.110.030, 48.110.055, and 48.155.020; adding a new section to chapter
5 48.02 RCW; and repealing RCW 48.05.210.

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

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

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

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

13 (3) The commissioner may:

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

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

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

4 (4) When the governor proclaims a state of emergency under RCW
5 43.06.010(12), the commissioner may issue an order that addresses any
6 or all of the following matters related to insurance policies issued in
7 this state:

8 (a) Reporting requirements for claims;

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

11 (c) Temporary postponement of cancellations and ~~((renewals))~~
12 nonrenewals; and

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

14 (5) An order by the commissioner under subsection (4) of this
15 section may remain effective for not more than sixty days unless the
16 commissioner extends the termination date for the order for an
17 additional period of not more than thirty days. The commissioner may
18 extend the order if, in the commissioner's judgment, the circumstances
19 warrant an extension. An order of the commissioner under subsection
20 (4) of this section is not effective after the related state of
21 emergency is terminated by proclamation of the governor under RCW
22 43.06.210. The order must specify, by line of insurance:

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

28 (b) The date on which the order becomes effective and the date on
29 which the order terminates.

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

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

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

3 The commissioner may grant a certificate of exemption to any
4 insurer or educational, religious, charitable, or scientific
5 institution conducting a charitable gift annuity business:

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

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

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

16 (4) Which appoints the insurance commissioner as its true and
17 lawful attorney upon whom may be served lawful process in any action,
18 suit, or proceeding in any court, which appointment (~~((shall be))~~) is
19 irrevocable, (~~((shall))~~) binds the insurer or institution or any
20 successor in interest, (~~((shall))~~) remains in effect as long as there is
21 in force in this state any contract made or issued by the insurer or
22 institution, or any obligation arising therefrom, and (~~((shall))~~) must be
23 processed in accordance with (~~((RCW 48.05.210))~~) section 6 of this act;

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

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

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

34 (a) Its name, location, and organization date;

35 (b) The kinds of charitable annuities it proposes to offer;

36 (c) A statement of the financial condition, management, and affairs
37 of the organization and any affiliate thereof, as that term is defined

1 in RCW 48.31B.005, on a form satisfactory to, or furnished by the
2 insurance commissioner;

3 (d) (~~Such~~) Other documents, stipulations, or information as the
4 insurance commissioner may reasonably require to evidence compliance
5 with the provisions of this chapter;

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

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

15 (10) Which:

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

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

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

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

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

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

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

18 (b) Unless otherwise provided for in RCW 48.66.055, issue coverage
19 under its standardized plans A, H, I, and J without evidence of
20 insurability to any resident of this state who is eligible for both
21 medicare hospital and physician services by reason of age or by reason
22 of disability or end-stage renal disease, if the medicare supplement
23 policy replaces another medicare supplement policy or certificate which
24 is the same standardized plan as the replaced policy. After December
25 31, 2005, plans H, I, and J may be replaced only by the same plan if
26 that plan has been modified to remove outpatient prescription drug
27 coverage.

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

1 (b) Unless otherwise provided for in RCW 48.66.055, issue coverage
2 under its standardized plan A without evidence of insurability to any
3 resident of this state who is eligible for both medicare hospital and
4 physician services by reason of age or by reason of disability or end-
5 stage renal disease, if the medicare supplement policy or certificate
6 replaces another standardized plan A medicare supplement policy or
7 certificate.

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

- 18 (a) Age; or
- 19 (b) Disability or end-stage renal disease.

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

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

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

27 (2) "Commissioner" means the Washington state insurance
28 commissioner.

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

36 (b) Control exists when any person, directly or indirectly, owns,
37 controls, holds with the power to vote, or holds proxies representing

1 ten percent or more of the voting securities of any other person. A
2 presumption of control may be rebutted by a showing made in the manner
3 provided by RCW 48.31B.005(2) and 48.31B.025(11) that control does not
4 exist in fact. The commissioner may determine, after furnishing all
5 persons in interest notice and opportunity to be heard and making
6 specific findings of fact to support the determination, that control
7 exists in fact, notwithstanding the absence of a presumption to that
8 effect.

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

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

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

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

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

18 or

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

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

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

31 (i) Pharmacy benefit managers;

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

35 (iii) Marketers who market the discount plans of discount plan
36 organizations which are licensed under (~~to~~) this chapter as long as
37 all written communications of the marketer in connection with a

1 discount plan clearly identify the licensed discount plan organization
2 as the responsible entity; or

3 (iv) Health carriers, if the discount on health care services is
4 offered by a health carrier authorized under chapter 48.20, 48.21,
5 48.44, or 48.46 RCW.

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

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

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

15 (9) "Health care services" has the same meaning as in RCW
16 48.43.005(17).

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

19 (11) "Marketer" means a person or entity that markets, promotes,
20 sells, or distributes a discount plan, including a contracted marketing
21 organization and a private label entity that places its name on and
22 markets or distributes a discount plan pursuant to a marketing
23 agreement with a discount plan organization.

24 (12) "Medicare prescription drug plan" means a plan that provides
25 a medicare part D prescription drug benefit in accordance with the
26 requirements of the federal medicare prescription drug improvement and
27 modernization act of 2003.

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

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

37 (15) "Person" means an individual, a corporation, a governmental

1 entity, a partnership, an association, a joint venture, a joint stock
2 company, a trust, an unincorporated organization, any similar entity,
3 or any combination of the persons listed in this subsection.

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

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

14 **Sec. 5.** RCW 4.28.080 and 1997 c 380 s 1 are each amended to read
15 as follows:

16 Service made in the modes provided in this section (~~(shall be)~~) are
17 taken and held to be personal service. The summons (~~(shall)~~) must be
18 served by delivering a copy thereof, as follows:

19 (1) If the action be against any county in this state, to the
20 county auditor or, during normal office hours, to the deputy auditor,
21 or in the case of a charter county, summons may be served upon the
22 agent, if any, designated by the legislative authority.

23 (2) If against any town or incorporated city in the state, to the
24 mayor, city manager, or, during normal office hours, to the mayor's or
25 city manager's designated agent or the city clerk thereof.

26 (3) If against a school or fire district, to the superintendent or
27 commissioner thereof or by leaving the same in his or her office with
28 an assistant superintendent, deputy commissioner, or business manager
29 during normal business hours.

30 (4) If against a railroad corporation, to any station, freight,
31 ticket or other agent thereof within this state.

32 (5) If against a corporation owning or operating sleeping cars, or
33 hotel cars, to any person having charge of any of its cars or any agent
34 found within the state.

35 (6) If against a domestic insurance company, to any agent
36 authorized by such company to solicit insurance within this state.

1 (7)(a) If against ((a)) an authorized foreign or alien insurance
2 company, as provided in ((chapter 48.05)) RCW 48.05.200.

3 (b) If against an unauthorized insurer, as provided in RCW
4 48.05.215 and 48.15.150.

5 (c) If against a reciprocal insurer, as provided in RCW 48.10.170.

6 (d) If against a nonresident surplus line broker, as provided in
7 RCW 48.15.073.

8 (e) If against a nonresident insurance producer or title insurance
9 agent, as provided in RCW 48.17.173.

10 (f) If against a nonresident adjuster, as provided in RCW
11 48.17.380.

12 (g) If against a fraternal benefit society, as provided in RCW
13 48.36A.350.

14 (h) If against a nonresident reinsurance intermediary, as provided
15 in RCW 48.94.010.

16 (i) If against a nonresident life settlement provider, as provided
17 in RCW 48.102.011.

18 (j) If against a nonresident life settlement broker, as provided in
19 RCW 48.102.021.

20 (k) If against a service contract provider, as provided in RCW
21 48.110.030.

22 (l) If against a protection product guarantee provider, as provided
23 in RCW 48.110.055.

24 (m) If against a discount plan organization, as provided in RCW
25 48.155.020.

26 (8) If against a company or corporation doing any express business,
27 to any agent authorized by said company or corporation to receive and
28 deliver express matters and collect pay therefor within this state.

29 (9) If the suit be against a company or corporation other than
30 those designated in ((the preceding subdivisions)) subsections (1)
31 through (8) of this section, to the president or other head of the
32 company or corporation, the registered agent, secretary, cashier or
33 managing agent thereof or to the secretary, stenographer or office
34 assistant of the president or other head of the company or corporation,
35 registered agent, secretary, cashier or managing agent.

36 (10) If the suit be against a foreign corporation or nonresident
37 joint stock company, partnership or association doing business within
38 this state, to any agent, cashier or secretary thereof.

1 (11) If against a minor under the age of fourteen years, to
2 ((such)) the minor personally, and also to his or her father, mother,
3 guardian, or if there be none within this state, then to any person
4 having the care or control of ((such)) the minor, or with whom he or
5 she resides, or in whose service he or she is employed, if such there
6 be.

7 (12) If against any person for whom a guardian has been appointed
8 for any cause, then to ((such)) the guardian.

9 (13) If against a foreign or alien steamship company or steamship
10 charterer, to any agent authorized by ((such)) the company or charterer
11 to solicit cargo or passengers for transportation to or from ports in
12 the state of Washington.

13 (14) If against a self-insurance program regulated by chapter 48.62
14 RCW, as provided in chapter 48.62 RCW.

15 (15) In all other cases, to the defendant personally, or by leaving
16 a copy of the summons at the house of his or her usual abode with some
17 person of suitable age and discretion then resident therein.

18 (16) In lieu of service under subsection (15) of this section,
19 where the person cannot with reasonable diligence be served as
20 described, the summons may be served as provided in this subsection,
21 and ((shall be)) are deemed complete on the tenth day after the
22 required mailing: By leaving a copy at his or her usual mailing
23 address with a person of suitable age and discretion who is a resident,
24 proprietor, or agent thereof, and by thereafter mailing a copy by
25 first-class mail, postage prepaid, to the person to be served at his or
26 her usual mailing address. For the purposes of this subsection, "usual
27 mailing address" ((shall)) does not include a United States postal
28 service post office box or the person's place of employment.

29 NEW SECTION. Sec. 6. A new section is added to chapter 48.02 RCW
30 to read as follows:

31 (1) Legal process against a person: (a) For whom the commissioner
32 has been appointed attorney for service of process, or (b) who may be
33 served by service of process upon the commissioner, must be served upon
34 the commissioner either by a person competent to serve a summons, or by
35 registered mail. At the time of service the plaintiff must pay to the
36 commissioner ten dollars, taxable as costs in the action.

1 (2) As soon as practicable, the commissioner must send by mail,
2 electronic means, or other means reasonably calculated to give notice
3 a copy of the process to the person on whose behalf he or she has been
4 served.

5 (3) The commissioner must keep a record of the day and hour of
6 service upon him or her of all legal process.

7 (4) Proceedings must not be had against the person, and the person
8 must not be required to appear, plead, or answer until the expiration
9 of forty days after the date of service upon the commissioner.

10 (5) The commissioner may adopt rules to implement this section.

11 **Sec. 7.** RCW 48.05.200 and 1985 c 264 s 3 are each amended to read
12 as follows:

13 (1) Each authorized foreign or alien insurer (~~shall~~) must appoint
14 the commissioner as its attorney to receive service of, and upon whom
15 (~~shall~~) must be served, all legal process issued against it in this
16 state upon causes of action arising within this state. Service upon
17 the commissioner as attorney (~~shall~~) constitutes service upon the
18 insurer. Service of legal process against (~~such~~) the insurer can be
19 had only by service upon the commissioner, except actions upon
20 contractor bonds pursuant to RCW 18.27.040, where service may be upon
21 the department of labor and industries.

22 (2) With the appointment the insurer (~~shall~~) must designate (~~by~~
23 ~~name and address~~) the person to whom the commissioner (~~shall~~) must
24 forward legal process so served upon him or her. The insurer may
25 change (~~such~~) the person by filing a new designation.

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

31 (4) The service of process must be accomplished and processed in
32 the manner prescribed under section 6 of this act.

33 **Sec. 8.** RCW 48.05.215 and 1981 c 339 s 4 are each amended to read
34 as follows:

35 (1) Any foreign or alien insurer not (~~thereunto~~) authorized by
36 the commissioner, whether it be a surplus lines insurer operating under

1 chapter 48.15 RCW or not, who, by mail or otherwise, solicits insurance
2 business in this state or transacts insurance business in this state as
3 defined by RCW 48.01.060, thereby submits itself to the jurisdiction of
4 the courts of this state in any action, suit or proceeding instituted
5 by or on behalf of an insured, beneficiary or the commissioner arising
6 out of ((such)) the unauthorized solicitation of insurance business,
7 including, but not limited to, an action for injunctive relief by the
8 commissioner.

9 (2) In any ((such)) action, suit, or proceeding instituted by or on
10 behalf of an insured or beneficiary, service of legal process against
11 ((such)) the unauthorized foreign or alien insurer ((may be made by
12 service of duplicate copies of legal process on the commissioner by a
13 person competent to serve a summons or by registered mail. At the time
14 of service the plaintiff shall pay to the commissioner ten dollars,
15 taxable as costs in the action. The commissioner shall forthwith mail
16 one of the copies of the process, by registered mail with return
17 receipt requested, to the defendant at its last known principal place
18 of business)) must be accomplished and processed in the manner
19 prescribed in section 6 of this act. The defendant insurer ((shall
20 have)) has forty days from the date of the service on the commissioner
21 within which to plead, answer or otherwise defend the action.

22 (3) In any such action, suit, or proceeding by the commissioner,
23 service of legal process against ((such)) the unauthorized foreign or
24 alien insurer may be made by personal service of legal process upon any
25 officer of such insurer at its last known principal place of business
26 outside the state of Washington. The summons upon ((such)) the
27 unauthorized foreign or alien insurer ((shall)) must contain the same
28 requisites and be served in like manner as personal summons within the
29 state of Washington; except, the insurer ((shall have)) has forty days
30 from the date of ((such)) personal service within which to plead,
31 answer, or otherwise defend the action.

32 **Sec. 9.** RCW 48.10.170 and 2009 c 549 s 7042 are each amended to
33 read as follows:

34 (1) ((A certificate of authority shall not be issued to a
35 domestic)) Each authorized reciprocal insurer ((unless prior thereto
36 the attorney has executed and filed with the commissioner the insurer's

1 ~~irrevocable authorization of the commissioner to receive legal process~~
2 ~~issued in this state against the insurer upon any cause of action~~
3 ~~arising within this state.~~

4 ~~(2) The provisions of RCW 48.05.210 shall apply to service of such~~
5 ~~process upon the commissioner)) must appoint the commissioner as its~~
6 ~~attorney to receive service of, and upon whom must be served, all legal~~
7 ~~process issued against it in this state upon causes of action arising~~
8 ~~within this state. Service upon the commissioner as attorney~~
9 ~~constitutes service upon the insurer.~~

10 ~~(2) With the appointment the insurer must designate the person to~~
11 ~~whom the commissioner must forward legal process so served upon him or~~
12 ~~her.~~

13 ~~(3) The appointment of the commissioner as attorney is irrevocable,~~
14 ~~binds any successor in interest or to the assets or liabilities of the~~
15 ~~insurer, and remains in effect as long as there is in force in this~~
16 ~~state any contract made by the insurer or liabilities or duties arising~~
17 ~~therefrom.~~

18 ~~(4) The service of process must be accomplished and processed in~~
19 ~~the manner prescribed in section 6 of this act.~~

20 ~~((+3)) (5) In lieu of service on the commissioner, legal process~~
21 ~~may be served upon a domestic reciprocal insurer by serving the~~
22 ~~insurer's attorney at his or her principal offices.~~

23 ~~((+4)) (6) Any judgment against the insurer based upon legal~~
24 ~~process so served (~~shall be~~) is binding upon each of the insurer's~~
25 ~~subscribers as their respective interests may appear and in an amount~~
26 ~~not exceeding their respective contingent liabilities.~~

27 **Sec. 10.** RCW 48.15.150 and 1979 ex.s. c 199 s 4 are each amended
28 to read as follows:

29 (1) An unauthorized insurer (~~shall~~) must be sued, upon any cause
30 of action arising in this state under any contract issued by it as a
31 surplus line contract, (~~pursuant to~~) under this chapter, in the
32 superior court of the county in which the cause of action arose.

33 (2) (~~Service of legal process against the insurer may be made in~~
34 ~~any such action by service upon the commissioner of duplicate copies of~~
35 ~~such legal process either by a person competent to serve a summons or~~
36 ~~by registered mail or certified mail with return receipt requested. At~~
37 ~~the time of such service the plaintiff shall pay to the commissioner~~

1 ~~ten dollars, taxable as costs in the action. The commissioner shall~~
2 ~~forthwith mail the documents of process served, or a true copy thereof,~~
3 ~~to the insurer at its principal place of business last known to the~~
4 ~~commissioner, or to the person designated by the insurer for that~~
5 ~~purpose in the most recent document filed with the commissioner, on~~
6 ~~forms prescribed by the commissioner, by prepaid registered or~~
7 ~~certified mail with return receipt requested. The insurer shall have~~
8 ~~forty days from the date of service upon the commissioner within which~~
9 ~~to plead, answer, or otherwise defend the action. Upon service of~~
10 ~~process upon the commissioner in accordance with this provision, the~~
11 ~~court shall be deemed to have jurisdiction in personam of the insurer.~~

12 ~~(3)) An unauthorized insurer issuing ((such)) a policy ((shall~~
13 ~~be)) under this chapter is deemed thereby to have authorized service of~~
14 ~~process against it in the manner ((and to the effect as provided in~~
15 ~~this)) prescribed in section 6 of this act. Any such policy ((shall))~~
16 ~~must contain a provision designating the commissioner as the person~~
17 ~~upon whom service of process may be made.~~

18 (3) The insurer has forty days from the date of the service upon
19 the commissioner within which to plead, answer, or otherwise defend the
20 action. Upon service of process upon the commissioner in accordance
21 with this section, the court is deemed to have jurisdiction in personam
22 of the insurer.

23 **Sec. 11.** RCW 48.17.380 and 2009 c 162 s 23 are each amended to
24 read as follows:

25 (1) Application for a license to be an adjuster ((shall)) must be
26 made to the commissioner upon forms furnished by the commissioner. As
27 a part of or in connection with the application, an individual
28 applicant ((shall)) must furnish information concerning his or her
29 identity, including fingerprints for submission to the Washington state
30 patrol, the federal bureau of investigation, and any governmental
31 agency or entity authorized to receive this information for a state and
32 national criminal history background check, personal history,
33 experience, business record, purposes, and other pertinent facts, as
34 the commissioner may reasonably require. If, in the process of
35 verifying fingerprints, business records, or other information, the
36 commissioner's office incurs fees or charges from another governmental

1 agency or from a business firm, the amount of the fees or charges must
2 be paid to the commissioner's office by the applicant.

3 (2) Any person willfully misrepresenting any fact required to be
4 disclosed in any application shall be liable to penalties as provided
5 by this code.

6 (3) The commissioner (~~shall~~) licenses as an adjuster only an
7 individual or business entity which has otherwise complied with this
8 code therefor and the individual or responsible officer of the business
9 entity has furnished evidence satisfactory to the commissioner that the
10 individual or responsible officer of the business entity is qualified
11 as follows:

12 (a) Is eighteen or more years of age;

13 (b) Is a bona fide resident of this state, or is a resident of a
14 state which will permit residents of this state to act as adjusters in
15 such other state;

16 (c) Is a trustworthy person;

17 (d) Has had experience or special education or training with
18 reference to the handling of loss claims under insurance contracts, of
19 sufficient duration and extent reasonably to make the individual or
20 responsible officer of the business entity competent to fulfill the
21 responsibilities of an adjuster;

22 (e) Has successfully passed any examination as required under this
23 chapter;

24 (f) If for a public adjuster's license, has filed the bond required
25 by RCW 48.17.430;

26 (g) If a nonresident business entity, it has designated an
27 individual licensed adjuster responsible for the business entity's
28 compliance with the insurance laws and rules of this state.

29 (4)(a) Each licensed nonresident adjuster, by application for and
30 issuance of a license, is deemed to have appointed the commissioner as
31 the adjuster's attorney to receive service of legal process against the
32 adjuster in this state upon causes of action arising within this state.
33 Service upon the commissioner as attorney constitutes effective legal
34 service on the adjuster.

35 (b) The appointment of the commissioner as attorney is irrevocable,
36 binds any successor in interest or to the assets or liabilities of the
37 adjuster, and remains in effect for as long as there could be any cause
38 of action against the adjuster arising out of the adjuster's

1 transactions in this state. The service of process must be
2 accomplished and processed in the manner prescribed in section 6 of
3 this act.

4 (5) The commissioner may require any documents reasonably necessary
5 to verify the information contained in an application and may, from
6 time to time, require any licensed adjuster to produce the information
7 called for in an application for a license.

8 **Sec. 12.** RCW 48.36A.350 and 1987 c 366 s 35 are each amended to
9 read as follows:

10 (1) Every society authorized to do business in this state (~~shall~~

11 ~~(a) Appoint in writing the commissioner and each successor in~~
12 ~~office to be its true and lawful attorney upon whom all lawful process~~
13 ~~in any action or proceeding against it shall be served;~~

14 ~~(b) Agree in writing that any lawful process against it which is~~
15 ~~served on the commissioner shall be of the same legal force and~~
16 ~~validity as if served upon the society; and~~

17 ~~(c) Agree that the authority shall continue in force so long as any~~
18 ~~liability remains outstanding in this state.~~

19 ~~Copies of such appointment, certified by said commissioner, shall~~
20 ~~be deemed sufficient evidence thereof and shall be admitted in evidence~~
21 ~~with the same force and effect as the original.~~

22 ~~(2) Service shall only be made upon the commissioner, or if absent,~~
23 ~~upon the person in charge of the commissioner's office. It shall be~~
24 ~~made in duplicate and shall constitute sufficient service upon the~~
25 ~~society. When legal process against a society is served upon the~~
26 ~~commissioner, the commissioner shall forward one of the duplicate~~
27 ~~copies by registered mail, prepaid, directed to the secretary or~~
28 ~~corresponding officer. No service shall require a society to file its~~
29 ~~answer, pleading, or defense in less than forty days from the date of~~
30 ~~mailing the copy of the service to a society. Legal process shall not~~
31 ~~be served upon a society except in the manner provided in this section.~~
32 ~~At the time of serving any process upon the commissioner, the plaintiff~~
33 ~~or complainant in the action shall pay to the commissioner the fee~~
34 ~~established pursuant to RCW 48.05.210)) must appoint the commissioner~~
35 ~~as its attorney to receive service of, and upon whom must be served,~~
36 ~~all legal process issued against it in this state upon causes of action~~

1 arising within this state. Service upon the commissioner as attorney
2 constitutes service upon the society.

3 (2) With the appointment the society must designate the person to
4 whom the commissioner must forward legal process so served upon him or
5 her.

6 (3) The appointment of the commissioner as attorney is irrevocable,
7 binds any successor in interest or to the assets or liabilities of the
8 society, and remains in effect as long as there is in force in this
9 state any contract made by the society or liabilities or duties arising
10 therefrom.

11 (4) The service of process must be accomplished and processed in
12 the manner prescribed in section 6 of this act.

13 **Sec. 13.** RCW 48.94.010 and 2005 c 274 s 317 are each amended to
14 read as follows:

15 (1) No person, firm, association, or corporation may act as a
16 reinsurance intermediary-broker in this state if the person, firm,
17 association, or corporation maintains an office either directly or as
18 a member or employee of a firm or association, or an officer, director,
19 or employee of a corporation:

20 (a) In this state, unless the person, firm, association, or
21 corporation is a licensed reinsurance intermediary-broker in this
22 state; or

23 (b) In another state, unless the person, firm, association, or
24 corporation is a licensed reinsurance intermediary-broker in this state
25 or another state having a regulatory scheme substantially similar to
26 this chapter.

27 (2) No person, firm, association, or corporation may act as a
28 reinsurance intermediary-manager:

29 (a) For a reinsurer domiciled in this state, unless the person,
30 firm, association, or corporation is a licensed reinsurance
31 intermediary-manager in this state;

32 (b) In this state, if the person, firm, association, or corporation
33 maintains an office either directly or as a member or employee of a
34 firm or association, or an officer, director, or employee of a
35 corporation in this state, unless the person, firm, association, or
36 corporation is a licensed reinsurance intermediary-manager in this
37 state;

1 (c) In another state for a nondomestic reinsurer, unless the
2 person, firm, association, or corporation is a licensed reinsurance
3 intermediary-manager in this state or another state having a
4 substantially similar regulatory scheme.

5 (3) The commissioner may require a reinsurance intermediary-manager
6 subject to subsection (2) of this section to:

7 (a) File a bond in an amount and from an insurer acceptable to the
8 commissioner for the protection of the reinsurer; and

9 (b) Maintain an errors and omissions policy in an amount acceptable
10 to the commissioner.

11 (4)((~~a~~)) The commissioner may issue a reinsurance intermediary
12 license to a person, firm, association, or corporation who has complied
13 with the requirements of this chapter. Any such license issued to a
14 firm or association authorizes all the members of the firm or
15 association and any designated employees to act as reinsurance
16 intermediaries under the license, and all such persons may be named in
17 the application and any supplements to it. Any such license issued to
18 a corporation authorizes all of the officers, and any designated
19 employees and directors of it, to act as reinsurance intermediaries on
20 behalf of the corporation, and all such persons must be named in the
21 application and any supplements to it.

22 (~~(b) If the applicant for a reinsurance intermediary license is a~~
23 ~~nonresident, the applicant, as a condition precedent to receiving or~~
24 ~~holding a license, shall designate the commissioner as agent for~~
25 ~~service of process in the manner, and with the same legal effect,~~
26 ~~provided for by this title for designation of service of process upon~~
27 ~~unauthorized insurers, and also shall furnish the commissioner with the~~
28 ~~name and address of a resident of this state upon whom notices or~~
29 ~~orders of the commissioner or process affecting the nonresident~~
30 ~~reinsurance intermediary may be served. The licensee shall promptly~~
31 ~~notify the commissioner in writing of every change in its designated~~
32 ~~agent for service of process, but the change does not become effective~~
33 ~~until acknowledged by the commissioner.))~~

34 (5)(a) Each licensed nonresident reinsurance intermediary must
35 appoint the commissioner as the reinsurance intermediary's attorney to
36 receive service of legal process issued against the reinsurance
37 intermediary in this state upon causes of action arising within this

1 state. Service upon the commissioner as attorney constitutes effective
2 legal service upon the reinsurance intermediary.

3 (b) With the appointment the reinsurance intermediary must
4 designate the person to whom the commissioner must forward legal
5 process so served upon him or her.

6 (c) The appointment is irrevocable, binds any successor in interest
7 or to the assets or liabilities of the reinsurance intermediary, and
8 remains in effect for as long as there could be any cause of action
9 against the reinsurance intermediary arising out of the reinsurance
10 intermediary's insurance transactions in this state.

11 (d) The service of process must be accomplished and processed in
12 the manner prescribed in section 6 of this act.

13 (6) The commissioner may refuse to issue a reinsurance intermediary
14 license if, in his or her judgment, the applicant, anyone named on the
15 application, or a member, principal, officer, or director of the
16 applicant, is not trustworthy, or that a controlling person of the
17 applicant is not trustworthy to act as a reinsurance intermediary, or
18 that any of the foregoing has given cause for revocation or suspension
19 of the license, or has failed to comply with a prerequisite for the
20 issuance of such license. Upon written request, the commissioner will
21 furnish a summary of the basis for refusal to issue a license, which
22 document is privileged and not subject to chapter 42.56 RCW.

23 ~~((+6))~~ (7) Licensed attorneys-at-law of this state when acting in
24 their professional capacity as such are exempt from this section.

25 **Sec. 14.** RCW 48.102.011 and 2009 c 104 s 3 are each amended to
26 read as follows:

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

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

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

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

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

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

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

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

24 (5) The applicant (~~shall~~) must provide (~~such~~) information as
25 the commissioner may require on forms prescribed by the commissioner.
26 The commissioner has the authority, at any time, to require (~~such~~) an
27 applicant to fully disclose the identity of its stockholders, partners,
28 officers, and employees, and the commissioner may, in the exercise of
29 the commissioner's sole discretion, refuse to issue (~~such~~) a license
30 in the name of any person if not satisfied that any officer, employee,
31 stockholder, or partner thereof who may materially influence the
32 applicant's conduct meets the standards of this chapter.

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

37 (7) Upon the filing of an application for a provider's license and

1 the payment of the license fee, the commissioner (~~shall~~) must make an
2 investigation of each applicant and may issue a license if the
3 commissioner finds that the applicant:

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

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

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

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

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

14 (e) If the applicant is a legal entity, is formed or organized
15 pursuant to the laws of this state, is a foreign legal entity
16 authorized to transact business in this state, or provides a
17 certificate of good standing from the state of its domicile; and

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

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

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

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

27 (iv) A written description or chart outlining the arrangement of
28 the antifraud personnel who are responsible for the investigation and
29 reporting of possible fraudulent insurance acts and investigating
30 unresolved material inconsistencies between medical records and
31 insurance applications.

32 (8)(a) A nonresident provider (~~shall~~) must appoint the
33 commissioner as its attorney to receive service of, and upon whom
34 (~~shall~~) must be served, all legal process issued against it in this
35 state upon causes of action arising within this state. Service upon
36 the commissioner as attorney (~~shall~~) constitutes service upon the
37 provider. Service of legal process against the provider can be had
38 only by service upon the commissioner.

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

5 (c) The appointment of the commissioner as attorney (~~shall be~~) is
6 irrevocable, (~~shall~~) binds any successor in interest or to the assets
7 or liabilities of the provider, and (~~shall~~) remain in effect as long
8 as there is in this state any contract made by the provider or
9 liabilities or duties arising therefrom.

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

15 ~~(e) The commissioner shall immediately send one of the copies of
16 the process, by registered mail with return receipt requested, to the
17 person designated for the purpose by the provider in its most recent
18 designation filed with the commissioner.~~

19 ~~(f) The commissioner shall keep a record of the day and hour of
20 service upon him or her of all legal process. Proceedings shall not be
21 had against the provider, and the provider shall not be required to
22 appear, plead, or answer until the expiration of forty days after the
23 date of service upon the commissioner.)~~ The service of process must be
24 accomplished and processed in the manner prescribed in section 6 of
25 this act.

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

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

32 **Sec. 15.** RCW 48.102.021 and 2009 c 104 s 4 are each amended to
33 read as follows:

34 (1) Only a life insurance producer who has been duly licensed as a
35 resident insurance producer with a lifeline of authority in this state
36 or his or her home state for at least one year and is licensed as a
37 nonresident producer in this state is permitted to operate as a broker.

1 (2) Not later than thirty days from the first day of operating as
2 a broker, the life insurance producer (~~shall~~) must notify the
3 commissioner that he or she intends acting as a broker on a form
4 prescribed by the commissioner, pay a fee of one hundred dollars, and
5 if a nonresident producer appoint the commissioner as attorney for
6 service of process under subsection (6) of this section. Notification
7 (~~shall~~) must include an acknowledgement by the life insurance
8 producer that he or she will operate as a broker in accordance with
9 this chapter.

10 (3) A person licensed as an attorney, certified public accountant,
11 or financial planner accredited by a nationally recognized
12 accreditation agency, who is retained to represent the owner, whose
13 compensation is not paid directly or indirectly by the provider or
14 purchaser, may negotiate life settlement contracts on behalf of the
15 owner without having to obtain a license as a broker.

16 (4) The authority to act as a broker (~~shall~~) continues in force
17 until suspended, revoked, or not renewed. The authority to act as a
18 broker (~~shall~~) automatically expires if not timely renewed. The
19 authority to act as a broker (~~shall be~~) is valid for a time period
20 coincident with the expiration date of the broker's insurance producer
21 license. The authority to act as a broker is renewable at that time,
22 upon payment of a renewal fee in the amount of one hundred dollars and
23 if the payment is received by the commissioner prior to the expiration
24 date, the broker's authority to act as a broker continues in effect.

25 (a) If the renewal fee is not received by the commissioner prior to
26 the expiration date, the broker (~~shall~~) must pay to the commissioner
27 in addition to the renewal fee, a surcharge as follows:

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

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

32 (b) If the payment of the renewal fee is not received by the
33 commissioner after sixty days the surcharge is two hundred percent of
34 the renewal fee.

35 (5) Subsection (4)(a) of this section does not exempt any person
36 from any penalty provided by law for transacting life settlement
37 business without the valid authority to act as a broker.

1 (6)(a) A nonresident broker (~~(shall)~~) must appoint the commissioner
2 as its attorney to receive service of, and upon whom (~~(shall)~~) must be
3 served, all legal process issued against it in this state upon causes
4 of action arising within this state. Service upon the commissioner as
5 attorney (~~(shall)~~) constitutes service upon the broker. Service of
6 legal process against the broker can be had only by service upon the
7 commissioner.

8 ~~(b) ((With the appointment the broker shall designate the person to
9 whom the commissioner shall forward legal process so served upon him or
10 her. The broker may change the person by filing a new designation.~~

11 ~~(c))~~ The appointment of the commissioner as attorney (~~(shall be)~~)
12 is irrevocable, (~~(shall)~~) binds any successor in interest or to the
13 assets or liabilities of the broker, and (~~(shall)~~) remains in effect as
14 long as there is in this state any contract made by the broker or
15 liabilities or duties arising therefrom.

16 ~~((d) Duplicate copies of legal process against a broker for whom
17 the commissioner is attorney shall be served upon him or her either by
18 a person competent to serve summons, or by registered mail. At the
19 time of service the plaintiff shall pay to the commissioner ten
20 dollars, taxable as costs in the action.~~

21 ~~(e) The commissioner shall immediately send one of the copies of
22 the process, by registered mail with return receipt requested, to the
23 person designated for the purpose by the broker in its most recent
24 designation filed with the commissioner.~~

25 ~~(f) The commissioner shall keep a record of the day and hour of
26 service upon him or her of all legal process. Proceedings shall not be
27 had against the broker, and the broker shall not be required to appear,
28 plead, or answer until the expiration of forty days after the date of
29 service upon the commissioner)) (c) The service of process must be
30 accomplished and processed in the manner prescribed in section 6 of
31 this act.~~

32 (7) A broker may not use any person to perform the functions of a
33 provider unless such a person holds a current, valid license as a
34 provider, and as provided in this chapter.

35 **Sec. 16.** RCW 48.110.030 and 2006 c 274 s 4 are each amended to
36 read as follows:

37 (1) A person may not act as, or offer to act as, or hold himself or

1 herself out to be a service contract provider in this state, nor may a
2 service contract be sold to a consumer in this state, unless the
3 service contract provider has a valid registration as a service
4 contract provider issued by the commissioner.

5 (2) Applicants to be a service contract provider must make an
6 application to the commissioner upon a form to be furnished by the
7 commissioner. The application must include or be accompanied by the
8 following information and documents:

9 (a) All basic organizational documents of the service contract
10 provider, including any articles of incorporation, articles of
11 association, partnership agreement, trade name certificate, trust
12 agreement, shareholder agreement, bylaws, and other applicable
13 documents, and all amendments to those documents;

14 (b) The identities of the service contract provider's executive
15 officer or officers directly responsible for the service contract
16 provider's service contract business, and, if more than fifty percent
17 of the service contract provider's gross revenue is derived from the
18 sale of service contracts, the identities of the service contract
19 provider's directors and stockholders having beneficial ownership of
20 ten percent or more of any class of securities;

21 (c) Audited annual financial statements or other financial reports
22 acceptable to the commissioner for the two most recent years which
23 prove that the applicant is solvent and any information the
24 commissioner may require in order to review the current financial
25 condition of the applicant. If the service contract provider is
26 relying on RCW 48.110.050(2)(c) to assure the faithful performance of
27 its obligations to service contract holders, then the audited financial
28 statements of the service contract provider's parent company must also
29 be filed;

30 (d) An application fee of two hundred fifty dollars, which
31 (~~shall~~) must be deposited into the general fund; and

32 (e) Any other pertinent information required by the commissioner.

33 (3) (~~The applicant shall appoint the commissioner as its attorney
34 to receive service of legal process in any action, suit, or proceeding
35 in any court. This appointment is irrevocable and shall bind the
36 service contract provider or any successor in interest, shall remain in
37 effect as long as there is in force in this state any contract or any
38 obligation arising therefrom related to residents of this state, and~~

1 ~~shall be processed in accordance with RCW 48.05.210))~~ Each registered
2 service contract provider must appoint the commissioner as the service
3 contract provider's attorney to receive service of legal process issued
4 against the service contract provider in this state upon causes of
5 action arising within this state. Service upon the commissioner as
6 attorney constitutes effective legal service upon the service contract
7 provider.

8 (a) With the appointment the service contract provider must
9 designate the person to whom the commissioner must forward legal
10 process so served upon him or her.

11 (b) The appointment is irrevocable, binds any successor in interest
12 or to the assets or liabilities of the service contract provider, and
13 remains in effect for as long as there could be any cause of action
14 against the service contract provider arising out of any of the service
15 contract provider's contracts or obligations in this state.

16 (c) The service of process must be accomplished and processed in
17 the manner prescribed in section 6 of this act.

18 (4) The commissioner may refuse to issue a registration if the
19 commissioner determines that the service contract provider, or any
20 individual responsible for the conduct of the affairs of the service
21 contract provider under subsection (2)(b) of this section, is not
22 competent, trustworthy, financially responsible, or has had a license
23 as a service contract provider or similar license denied or revoked for
24 cause by any state.

25 (5) A registration issued under this section is valid, unless
26 surrendered, suspended, or revoked by the commissioner, or not renewed
27 for so long as the service contract provider continues in business in
28 this state and remains in compliance with this chapter. A registration
29 is subject to renewal annually on the first day of July upon
30 application of the service contract provider and payment of a fee of
31 two hundred dollars, which (~~shall~~) must be deposited into the general
32 fund. If not so renewed, the registration expires on the June 30th
33 next preceding.

34 (6) A service contract provider (~~shall~~) must keep current the
35 information required to be disclosed in its registration under this
36 section by reporting all material changes or additions within thirty
37 days after the end of the month in which the change or addition occurs.

1 **Sec. 17.** RCW 48.110.055 and 2006 c 274 s 17 are each amended to
2 read as follows:

3 (1) This section applies to protection product guarantee providers.

4 (2) A person (~~shall~~) may not act as, or offer to act as, or hold
5 himself or herself out to be a protection product guarantee provider in
6 this state, nor may a protection product be sold to a consumer in this
7 state, unless the protection product guarantee provider has:

8 (a) A valid registration as a protection product guarantee provider
9 issued by the commissioner; and

10 (b) Either demonstrated its financial responsibility or assured the
11 faithful performance of the protection product guarantee provider's
12 obligations to its protection product guarantee holders by insuring all
13 protection product guarantees under a reimbursement insurance policy
14 issued by an insurer holding a certificate of authority from the
15 commissioner or a risk retention group, as defined in 15 U.S.C. Sec.
16 3901(a)(4), as long as that risk retention group is in full compliance
17 with the federal liability risk retention act of 1986 (15 U.S.C. Sec.
18 3901 et seq.), is in good standing in its domiciliary jurisdiction, and
19 properly registered with the commissioner under chapter 48.92 RCW. The
20 insurance required by this subsection must meet the following
21 requirements:

22 (i) The insurer or risk retention group must, at the time the
23 policy is filed with the commissioner, and continuously thereafter,
24 maintain surplus as to policyholders and paid-in capital of at least
25 fifteen million dollars and annually file audited financial statements
26 with the commissioner; and

27 (ii) The commissioner may authorize an insurer or risk retention
28 group that has surplus as to policyholders and paid-in capital of less
29 than fifteen million dollars, but at least equal to ten million
30 dollars, to issue the insurance required by this subsection if the
31 insurer or risk retention group demonstrates to the satisfaction of the
32 commissioner that the company maintains a ratio of direct written
33 premiums, wherever written, to surplus as to policyholders and paid-in
34 capital of not more than three to one.

35 (3) Applicants to be a protection product guarantee provider
36 (~~shall~~) must make an application to the commissioner upon a form to
37 be furnished by the commissioner. The application (~~shall~~) must
38 include or be accompanied by the following information and documents:

1 (a) The names of the protection product guarantee provider's
2 executive officer or officers directly responsible for the protection
3 product guarantee provider's protection product guarantee business and
4 their biographical affidavits on a form prescribed by the commissioner;

5 (b) The name, address, and telephone number of any administrators
6 designated by the protection product guarantee provider to be
7 responsible for the administration of protection product guarantees in
8 this state;

9 (c) A copy of the protection product guarantee reimbursement
10 insurance policy or policies;

11 (d) A copy of each protection product guarantee the protection
12 product guarantee provider proposes to use in this state;

13 (e) Any other pertinent information required by the commissioner;
14 and

15 (f) A nonrefundable application fee of two hundred fifty dollars.

16 (4) ~~((The applicant shall appoint the commissioner as its attorney
17 to receive service of legal process in any action, suit, or proceeding
18 in any court. This appointment is irrevocable and shall bind the
19 protection product guarantee provider or any successor in interest,
20 shall remain in effect as long as there is in force in this state any
21 protection product guarantee or any obligation arising therefrom
22 related to residents of this state, and shall be processed in
23 accordance with RCW 48.05.210))~~ Each registered protection product
24 guarantee provider must appoint the commissioner as the protection
25 product guarantee provider's attorney to receive service of legal
26 process issued against the protection product guarantee provider in
27 this state upon causes of action arising within this state. Service
28 upon the commissioner as attorney constitutes effective legal service
29 upon the protection product guarantee provider.

30 (a) With the appointment the protection product guarantee provider
31 must designate the person to whom the commissioner must forward legal
32 process so served upon him or her.

33 (b) The appointment is irrevocable, binds any successor in interest
34 or to the assets or liabilities of the protection product guarantee
35 provider, and remains in effect for as long as there could be any cause
36 of action against the protection product guarantee provider arising out
37 of any of the protection product guarantee provider's contracts or
38 obligations in this state.

1 (c) The service of process must be accomplished and processed in
2 the manner prescribed in section 6 of this act.

3 (5) The commissioner may refuse to issue a registration if the
4 commissioner determines that the protection product guarantee provider,
5 or any individual responsible for the conduct of the affairs of the
6 protection product guarantee provider under subsection (3)(a) of this
7 section, is not competent, trustworthy, financially responsible, or has
8 had a license as a protection product guarantee provider or similar
9 license denied or revoked for cause by any state.

10 (6) A registration issued under this section is valid, unless
11 surrendered, suspended, or revoked by the commissioner, or not renewed
12 for so long as the protection product guarantee provider continues in
13 business in this state and remains in compliance with this chapter. A
14 registration is subject to renewal annually on the first day of July
15 upon application of the protection product guarantee provider and
16 payment of a fee of two hundred fifty dollars. If not so renewed, the
17 registration expires on the June 30th next preceding.

18 (7) A protection product guarantee provider (~~shall~~) must keep
19 current the information required to be disclosed in its registration
20 under this section by reporting all material changes or additions
21 within thirty days after the end of the month in which the change or
22 addition occurs.

23 **Sec. 18.** RCW 48.155.020 and 2009 c 175 s 5 are each amended to
24 read as follows:

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

28 (2) Except as provided in subsection (~~(+3)~~) (4) of this section,
29 each application for a license to operate as a discount plan
30 organization:

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

33 (b) Must demonstrate, set forth, or be accompanied by the
34 following:

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

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

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

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

7 (v)(A) A list of names, addresses, official positions, and
8 biographical information of the individuals who are responsible for
9 conducting the applicant's affairs, including all members of the board
10 of directors, board of trustees, executive committee, or other
11 governing board or committee, the officers, contracted management
12 company personnel, and any person or entity owning or having the right
13 to acquire ten percent or more of the voting securities of the
14 applicant; and

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

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

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

25 (viii) A copy of the form of all contracts made or to be made
26 between the applicant and any health care providers or health care
27 provider networks regarding the provision of health care services to
28 members and discounts to be made available to members;

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

32 (x) A list identifying by name, address, telephone number, and e-
33 mail address all persons who will market each discount plan offered by
34 the applicant. If the person who will market a discount plan is an
35 entity, only the entity must be identified. This list must be
36 maintained and updated within sixty days of any change in the
37 information. An updated list must be sent to the commissioner as part

1 of the discount plan organization's renewal application under (b)(vii)
2 of this subsection;

3 (xi) A copy of the form of any contract made or to be made between
4 the applicant and any person, corporation, partnership, or other entity
5 for the performance on the applicant's behalf of any function,
6 including marketing, administration, enrollment, and subcontracting for
7 the provision of health care services to members and discounts to be
8 made available to members;

9 (xii) A copy of the applicant's most recent financial statements
10 audited by an independent certified public accountant, except that,
11 subject to the approval of the commissioner, an applicant that is an
12 affiliate of a parent entity that is publicly traded and that prepares
13 audited financial statements reflecting the consolidated operations of
14 the parent entity may submit the audited financial statement of the
15 parent entity and a written guaranty that the minimum capital
16 requirements required under RCW 48.155.030 will be met by the parent
17 entity instead of the audited financial statement of the applicant;

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

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

24 (xv) If domiciled in this state, the name and address of the
25 applicant's Washington statutory agent for service of process, notice,
26 or demand ((or, if not domiciled in this state, a power of attorney
27 duly executed by the applicant, appointing the commissioner and duly
28 authorized deputies as the true and lawful attorney of the applicant in
29 and for this state upon whom all law process in any legal action or
30 proceeding against the discount plan organization on a cause of action
31 arising in this state may be served)); and

32 (xvi) Any other information the commissioner may reasonably
33 require.

34 (3)(a) If the applicant is not domiciled in this state, the
35 applicant must appoint the commissioner as the discount plan
36 organization's attorney to receive service of legal process issued
37 against the discount plan organization in this state upon causes of

1 action arising within this state. Service upon the commissioner as
2 attorney constitutes effective legal service upon the discount plan
3 organization.

4 (b) With the appointment the discount plan organization must
5 designate the person to whom the commissioner must forward legal
6 process so served upon him or her.

7 (c) The appointment is irrevocable, binds any successor in interest
8 or to the assets or liabilities of the discount plan organization, and
9 remains in effect for as long as there could be any cause of action
10 against the discount plan organization arising out of the discount plan
11 organization's transactions in this state.

12 (d) The service of process must be accomplished and processed in
13 the manner prescribed in section 6 of this act.

14 (4)(a) Upon application to and approval by the commissioner and
15 payment of the applicable fees, a discount plan organization that holds
16 a current license or other form of authority from another state to
17 operate as a discount plan organization, at the commissioner's
18 discretion, may not be required to submit the information required
19 under subsection (2) of this section in order to obtain a license under
20 this section if the commissioner is satisfied that the other state's
21 requirements, at a minimum, are equivalent to those required under
22 subsection (2) of this section or the commissioner is satisfied that
23 the other state's requirements are sufficient to protect the interests
24 of the residents of this state.

25 (b) Whenever the discount plan organization loses its license or
26 other form of authority in that other state to operate as a discount
27 plan organization, or is the subject of any disciplinary administrative
28 proceeding related to the organization's operating as a discount plan
29 organization in that other state, the discount plan organization
30 ~~((shall))~~ must immediately notify the commissioner.

31 ~~((+4))~~ (5) After the receipt of an application filed under
32 subsection (2) or ~~((+3))~~ (4) of this section, the commissioner
33 ~~((shall))~~ must review the application and notify the applicant of any
34 deficiencies in the application.

35 ~~((+5))~~ (6)(a) Within ninety days after the date of receipt of a
36 completed application, the commissioner ~~((shall))~~ must:

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

1 (A) The applicant has fulfilled the requirements of this section
2 and the minimum capital requirements in accordance with RCW 48.155.030;
3 and

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

8 (ii) Disapprove the application and state the grounds for
9 disapproval.

10 (b) In making a determination under (a) of this subsection, the
11 commissioner may consider, for example, whether the applicant or an
12 officer or manager of the applicant: (i) Is not financially
13 responsible; (ii) does not have adequate expertise or experience to
14 operate a medical discount plan organization; or (iii) is not of good
15 character. Among the factors that the commissioner may consider in
16 making the determination is whether the applicant or an affiliate or a
17 business formerly owned or managed by the applicant or an officer or
18 manager of the applicant has had a previous application for a license,
19 or other authority, to operate as any entity regulated by the
20 commissioner denied, revoked, suspended, or terminated for cause, or is
21 under investigation for or has been found in violation of a statute or
22 regulation in another jurisdiction within the previous five years.

23 ((+6+)) (7) Prior to licensure by the commissioner, each discount
24 plan organization ((shall)) must establish an internet web site in
25 order to conform to the requirements of RCW 48.155.070(2).

26 ((+7+)) (8)(a) A license is effective for up to one year, unless
27 prior to its expiration the license is renewed in accordance with this
28 subsection or suspended or revoked in accordance with subsection
29 ((+8+)) (9) of this section. Licenses issued or renewed on or after
30 July 1, 2010, will be subject to renewal annually on July 1st. If not
31 so renewed, the license will automatically expire on the renewal date.

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

34 (i) A renewal application form; and

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

37 (c) The commissioner ((shall)) must renew the license of each

1 holder that meets the requirements of this chapter and pays the
2 appropriate renewal fee required.

3 ~~((+8))~~ (9)(a) The commissioner may suspend the authority of a
4 discount plan organization to enroll new members or refuse to renew or
5 revoke a discount plan organization's license if the commissioner finds
6 that any of the following conditions exist:

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

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

11 (iii) The discount plan organization has advertised, merchandised,
12 or attempted to merchandise its services in such a manner as to
13 misrepresent its services or capacity for service or has engaged in
14 deceptive, misleading, or unfair practices with respect to advertising
15 or merchandising;

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

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

20 (b) If the commissioner has cause to believe that grounds for the
21 nonrenewal, suspension, or revocation of a license exists, the
22 commissioner ~~((shall))~~ must notify the discount plan organization in
23 writing specifically stating the grounds for the refusal to renew or
24 suspension or revocation and may also pursue a hearing on the matter
25 under chapter 48.04 RCW.

26 (c) When the license of a discount plan organization is nonrenewed,
27 surrendered, or revoked, the discount plan organization ~~((shall))~~ must
28 immediately upon the effective date of the order of revocation or, in
29 the case of a nonrenewal, the date of expiration of the license, stop
30 any further advertising, solicitation, collecting of fees, or renewal
31 of contracts, and proceed to wind up its affairs transacted under the
32 license.

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

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

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

8 (~~(+9)~~) (10) Each licensed discount plan organization (~~shall~~)
9 must notify the commissioner immediately whenever the discount plan
10 organization's license, or other form of authority to operate as a
11 discount plan organization in another state, is suspended, revoked, or
12 nonrenewed in that state.

13 (~~(+10)~~) (11) A health care provider who provides discounts to his
14 or her own patients without any cost or fee of any kind to the patient
15 is not required to obtain and maintain a license under this chapter as
16 a discount plan organization.

17 NEW SECTION. **Sec. 19.** RCW 48.05.210 (Service of process--
18 Procedure) and 2009 c 549 s 7018, 1981 c 339 s 3, & 1947 c 79 s .05.21
19 are each repealed.

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