

---

SENATE BILL 5447

---

State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Murray, Rolfes, and Kohl-Welles

Read first time 01/30/13. Referred to Committee on Health Care .

1            AN ACT Relating to unintentional lapses of long-term care insurance  
2 policies; adding a new section to chapter 48.84 RCW; adding a new  
3 section to chapter 48.83 RCW; and creating a new section.

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

5            NEW SECTION.        **Sec. 1.**        The legislature finds that persons  
6 purchasing long-term care insurance typically pay premiums for many  
7 years before receiving coverage for benefits offered under the policy.  
8 It is the intent of the legislature to protect policyholders from  
9 unfair or deceptive billing practices that result in the unintentional  
10 lapse of coverage due to nonpayment. The legislature finds that many  
11 older policies do not provide adequate consumer protections and where  
12 possible consumer protections should be added to the contract terms  
13 retroactively as well as prospectively.

14            NEW SECTION.        **Sec. 2.**        A new section is added to chapter 48.84 RCW  
15 to read as follows:

16            The purpose of this section is to protect insureds from  
17 unintentional lapse by establishing standards for notification of a  
18 designee to receive notice of lapse for nonpayment of premium at least

1 thirty days prior to the termination of coverage and to provide for a  
2 limited right to reinstatement of coverage unintentionally lapsed by a  
3 person with a cognitive impairment or loss of functional capacity, or  
4 due to lack of appropriate billing notification to the insured. These  
5 are minimum standards and do not prevent an insurer from including  
6 benefits more favorable to the insured. This section applies to every  
7 insurer providing long-term care coverage to a resident of this state,  
8 which coverage is renewed on or after January 1, 2011.

9 (1) Every insurer shall permit an insured to designate at least one  
10 additional person to receive notice of lapse or termination for  
11 nonpayment of premium, if the premium is not paid on or before its due  
12 date. The designation shall include the designee's full name and home  
13 address.

14 (a) The notice shall provide that the contract or certificate will  
15 not lapse until at least thirty days after the notice is mailed to the  
16 insured's designee.

17 (b) Where a policyholder or certificate holder pays the premium  
18 through a payroll or pension deduction plan, the insurer shall permit  
19 the insured to designate a person to receive notice of lapse or  
20 termination for nonpayment of premium within sixty days after the  
21 insured is no longer on such a premium payment plan. The application  
22 or enrollment form for contracts or certificates where the premium will  
23 be paid through a payroll or pension deduction plan shall clearly  
24 indicate the payment plan selected by the applicant.

25 (c) The insurer shall offer each insured in writing an opportunity  
26 to change the designee, or update the information concerning the  
27 designee, no less frequently than once in every twenty-four months.

28 (2) Every insurer shall provide a limited right to reinstate  
29 coverage in the event of lapse or termination for nonpayment of  
30 premium, if the insurer is provided proof of the insured's cognitive  
31 impairment or loss of functional capacity, or if the lapse was due to  
32 lack of appropriate billing notification to the insured, and  
33 reinstatement is requested within the twelve months after the policy  
34 lapsed or terminated due to nonpayment of premium.

35 (a) The standard of proof of cognitive impairment or loss of  
36 functional capacity shall be no more restrictive than the benefit  
37 eligibility criteria for cognitive impairment or loss of functional  
38 capacity contained in the contract or certificate.

1 (b) Current good health of the insured shall not be required for  
2 reinstatement if the request otherwise meets the requirements of this  
3 section.

4 (c) The insured may demonstrate the lack of appropriate billing  
5 notification when the insurer had prior knowledge of the insured's  
6 change of billing address and failed to change the billing address to  
7 reflect the new location, or the insurer should have reasonably known  
8 of the billing address change when claims have been made for care at  
9 the new residence.

10 (3) An insurer shall permit an insured to waive his or her right to  
11 designate an additional person to receive notice of lapse or  
12 termination for nonpayment of premium.

13 (a) The waiver shall be in writing, and shall be dated and signed  
14 by the applicant or insured.

15 (b) No less frequently than once in every twenty-four months, the  
16 insured shall be permitted to revoke this waiver and to name a  
17 designee.

18 (4) Designation by the insured to receive notice of lapse or  
19 termination for nonpayment of premium does not constitute acceptance of  
20 any liability on the part of the designee for services provided to the  
21 insured or applicant.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.83 RCW  
23 to read as follows:

24 The purpose of this section is to protect insureds from  
25 unintentional lapse by establishing standards for notification of a  
26 designee to receive notice of lapse for nonpayment of premium at least  
27 thirty days prior to the termination of coverage and to provide for a  
28 limited right to reinstatement of coverage unintentionally lapsed by a  
29 person with a cognitive impairment or loss of functional capacity, or  
30 due to lack of appropriate billing notification to the insured. These  
31 are minimum standards and do not prevent an insurer from including  
32 benefits more favorable to the insured. This section applies to every  
33 insurer providing long-term care coverage to a resident of this state,  
34 which coverage is issued for delivery or renewed on or after January 1,  
35 2014.

36 (1) Every insurer shall permit an insured to designate at least one  
37 additional person to receive notice of lapse or termination for

1 nonpayment of premium, if the premium is not paid on or before its due  
2 date. The designation shall include the designee's full name and home  
3 address.

4 (a) The notice shall provide that the contract or certificate will  
5 not lapse until at least thirty days after the notice is mailed to the  
6 insured's designee.

7 (b) Where a policyholder or certificate holder pays the premium  
8 through a payroll or pension deduction plan, the insurer shall permit  
9 the insured to designate a person to receive notice of lapse or  
10 termination for nonpayment of premium within sixty days after the  
11 insured is no longer on such a premium payment plan. The application  
12 or enrollment form for contracts or certificates where the premium will  
13 be paid through a payroll or pension deduction plan shall clearly  
14 indicate the payment plan selected by the applicant.

15 (c) The insurer shall offer each insured in writing an opportunity  
16 to change the designee, or update the information concerning the  
17 designee, no less frequently than once in every twenty-four months.

18 (2) Every insurer shall provide a limited right to reinstate  
19 coverage in the event of lapse or termination for nonpayment of  
20 premium, if the insurer is provided proof of the insured's cognitive  
21 impairment or loss of functional capacity, or if the lapse was due to  
22 lack of appropriate billing notification to the insured, and  
23 reinstatement is requested within the twelve months after the policy  
24 lapsed or terminated due to nonpayment of premium.

25 (a) The standard of proof of cognitive impairment or loss of  
26 functional capacity shall be no more restrictive than the benefit  
27 eligibility criteria for cognitive impairment or loss of functional  
28 capacity contained in the contract or certificate.

29 (b) Current good health of the insured shall not be required for  
30 reinstatement if the request otherwise meets the requirements of this  
31 section.

32 (c) The insured may demonstrate the lack of appropriate billing  
33 notification when the insurer had prior knowledge of the insured's  
34 change of billing address and failed to change the billing address to  
35 reflect the new location, or the insurer should have reasonably known  
36 of the billing address change when claims have been made for care at  
37 the new residence.

1           (3) An insurer shall permit an insured to waive his or her right to  
2 designate an additional person to receive notice of lapse or  
3 termination for nonpayment of premium.

4           (a) The waiver shall be in writing, and shall be dated and signed  
5 by the applicant or insured.

6           (b) No less frequently than once in every twenty-four months, the  
7 insured shall be permitted to revoke this waiver and to name a  
8 designee.

9           (4) Designation by the insured to receive notice of lapse or  
10 termination for nonpayment of premium does not constitute acceptance of  
11 any liability on the part of the designee for services provided to the  
12 insured or applicant.

--- END ---