
SUBSTITUTE HOUSE BILL 2222

State of Washington 65th Legislature 2017 3rd Special Session

**By House Health Care & Wellness (originally sponsored by
Representatives Cody and Manweller; by request of Insurance
Commissioner)**

1 AN ACT Relating to protection of information obtained to develop
2 or implement an individual health insurance market stability program;
3 reenacting and amending RCW 42.56.400; adding a new section to
4 chapter 48.02 RCW; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.02
7 RCW to read as follows:

8 (1) For the purposes of developing or implementing an individual
9 health insurance market stability program, any reports, data,
10 documents, or materials that health carriers submit to or receive
11 from the United States department of health and human services as
12 part of any health and human services operated risk adjustment or
13 reinsurance program, or that the Washington state health insurance
14 pool, established under chapter 48.41 RCW, prepares for purposes of
15 this section that are obtained by, disclosed to, or in the custody of
16 the commissioner, regardless of the form or medium, are confidential
17 and are not subject to public disclosure under chapter 42.56 RCW. The
18 commissioner shall not disclose these reports, data, documents, or
19 materials except in the furtherance of developing and implementing an
20 individual health insurance market stability program.

21 (2) For the purposes of this section:

1 (a) A health and human services operated risk adjustment or
2 reinsurance program is any of the health insurance risk adjustment or
3 reinsurance programs established under 42 U.S.C. Secs. 18061 and
4 18063. The reports, data, documents, and materials that are
5 confidential under this section include all data and information
6 carriers are required to provide to health and human services through
7 the dedicated data environments required by 45 C.F.R. Sec. 153.700 et
8 seq. for all health carriers participating in any health and human
9 services health insurance risk adjustment or reinsurance program; and

10 (b) "Health carrier" has the same meaning as in RCW 48.43.005.

11 (3) The commissioner may:

12 (a) Share documents, materials, or other information, including
13 the confidential documents, materials, or information subject to
14 subsection (1) of this section, with contractors conducting
15 actuarial, economic, or other analyses necessary to develop or
16 implement an individual health insurance market stability program.

17 (b) Enter into agreements governing the sharing and use of
18 information consistent with this subsection.

19 (4) No waiver of an existing claim of confidentiality or
20 privilege in the documents, materials, or information may occur as a
21 result of disclosure to the commissioner under this section or as a
22 result of sharing as authorized in subsection (3) of this section.

23 (5) Nothing in this section may be construed to authorize the
24 commissioner to submit a final application to the federal government
25 for a waiver of any provision of the federal patient protection and
26 affordable care act, P.L. 111-148, as amended by the federal health
27 care and education reconciliation act, P.L. 111-152, or federal
28 regulations or guidance issued under the affordable care act.

29 (6) Reports, data, documents, and materials subject to this
30 section are those obtained by the commissioner as of December 31,
31 2019.

32 **Sec. 2.** RCW 42.56.400 and 2016 c 142 s 20, 2016 c 142 s 19, and
33 2016 c 122 s 4 are each reenacted and amended to read as follows:

34 The following information relating to insurance and financial
35 institutions is exempt from disclosure under this chapter:

36 (1) Records maintained by the board of industrial insurance
37 appeals that are related to appeals of crime victims' compensation
38 claims filed with the board under RCW 7.68.110;

1 (2) Information obtained and exempted or withheld from public
2 inspection by the health care authority under RCW 41.05.026, whether
3 retained by the authority, transferred to another state purchased
4 health care program by the authority, or transferred by the authority
5 to a technical review committee created to facilitate the
6 development, acquisition, or implementation of state purchased health
7 care under chapter 41.05 RCW;

8 (3) The names and individual identification data of either all
9 owners or all insureds, or both, received by the insurance
10 commissioner under chapter 48.102 RCW;

11 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

12 (5) Information provided under RCW 48.05.510 through 48.05.535,
13 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
14 48.46.600 through 48.46.625;

15 (6) Examination reports and information obtained by the
16 department of financial institutions from banks under RCW 30A.04.075,
17 from savings banks under RCW 32.04.220, from savings and loan
18 associations under RCW 33.04.110, from credit unions under RCW
19 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
20 from securities brokers and investment advisers under RCW 21.20.100,
21 all of which is confidential and privileged information;

22 (7) Information provided to the insurance commissioner under RCW
23 48.110.040(3);

24 (8) Documents, materials, or information obtained by the
25 insurance commissioner under RCW 48.02.065, all of which are
26 confidential and privileged;

27 (9) Documents, materials, or information obtained by the
28 insurance commissioner under RCW 48.31B.015(2) (l) and (m),
29 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
30 and privileged;

31 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
32 7.70.140 that, alone or in combination with any other data, may
33 reveal the identity of a claimant, health care provider, health care
34 facility, insuring entity, or self-insurer involved in a particular
35 claim or a collection of claims. For the purposes of this subsection:

36 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

37 (b) "Health care facility" has the same meaning as in RCW
38 48.140.010(6).

39 (c) "Health care provider" has the same meaning as in RCW
40 48.140.010(7).

1 (d) "Insuring entity" has the same meaning as in RCW
2 48.140.010(8).

3 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

4 (11) Documents, materials, or information obtained by the
5 insurance commissioner under RCW 48.135.060;

6 (12) Documents, materials, or information obtained by the
7 insurance commissioner under RCW 48.37.060;

8 (13) Confidential and privileged documents obtained or produced
9 by the insurance commissioner and identified in RCW 48.37.080;

10 (14) Documents, materials, or information obtained by the
11 insurance commissioner under RCW 48.37.140;

12 (15) Documents, materials, or information obtained by the
13 insurance commissioner under RCW 48.17.595;

14 (16) Documents, materials, or information obtained by the
15 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
16 (7)(a)(ii);

17 (17) Documents, materials, or information obtained by the
18 insurance commissioner in the commissioner's capacity as receiver
19 under RCW 48.31.025 and 48.99.017, which are records under the
20 jurisdiction and control of the receivership court. The commissioner
21 is not required to search for, log, produce, or otherwise comply with
22 the public records act for any records that the commissioner obtains
23 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
24 a receiver, except as directed by the receivership court;

25 (18) Documents, materials, or information obtained by the
26 insurance commissioner under RCW 48.13.151;

27 (19) Data, information, and documents provided by a carrier
28 pursuant to section 1, chapter 172, Laws of 2010;

29 (20) Information in a filing of usage-based insurance about the
30 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

31 (21) Data, information, and documents, other than those described
32 in RCW 48.02.210(2), that are submitted to the office of the
33 insurance commissioner by an entity providing health care coverage
34 pursuant to RCW 28A.400.275 and 48.02.210;

35 (22) Data, information, and documents obtained by the insurance
36 commissioner under RCW 48.29.017;

37 (23) Information not subject to public inspection or public
38 disclosure under RCW 48.43.730(5);

39 (24) Documents, materials, or information obtained by the
40 insurance commissioner under chapter 48.05A RCW; (~~and~~)

1 (25) Documents, materials, or information obtained by the
2 insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6),
3 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents,
4 materials, or information independently qualify for exemption from
5 disclosure as documents, materials, or information in possession of
6 the commissioner pursuant to a financial conduct examination and
7 exempt from disclosure under RCW 48.02.065; and

8 (26) Data, information, and documents obtained by the insurance
9 commissioner under section 1 of this act.

10 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of
12 the state government and its existing public institutions, and takes
13 effect immediately.

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