

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1052**

67th Legislature  
2022 Regular Session

Passed by the House January 14, 2022  
Yeas 96 Nays 0

---

**Speaker of the House of  
Representatives**

Passed by the Senate March 2, 2022  
Yeas 47 Nays 0

---

**President of the Senate**

Approved

---

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1052** as passed by the House of Representatives and the Senate on the dates hereon set forth.

---

**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

---

**SUBSTITUTE HOUSE BILL 1052**

---

Passed Legislature - 2022 Regular Session

**State of Washington                      67th Legislature                      2021 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Bateman, Cody, Kloba, and Macri)

READ FIRST TIME 01/19/21.

1            AN ACT Relating to group insurance contract performance  
2 standards; amending RCW 48.30.140 and 48.30.150; adding a new section  
3 to chapter 48.30 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 intends to align the  
6 insurance code and performance-based contracting to ensure the  
7 continued practice of using performance standards and performance  
8 guarantees in group insurance contracts, including those entered into  
9 by the health care authority.

10           NEW SECTION.    **Sec. 2.**    A new section is added to chapter 48.30  
11 RCW to read as follows:

12            (1) For purposes of this section, "performance standard" means a  
13 contractual provision in a group insurance contract that establishes  
14 a specific standard for the insurer's or health carrier's performance  
15 of an obligation in the contract, and under which the insurer or  
16 health carrier is required to remit a penalty payment, based on a  
17 percentage of the premium or a set dollar amount, to the group  
18 policyholder for the next policy term if the insurer or health  
19 carrier fails to comply with the standard. Group policyholders and  
20 insurers or health carriers may calculate the amount of the penalty

1 based on a percentage of the overall premium owed to the insurer or  
2 health carrier by the policyholder.

3 (2) Remittance of a performance payment to the group policyholder  
4 in compliance with this section does not constitute a premium under  
5 RCW 48.18.170 and 48.43.005. Nothing in this section prevents the  
6 health care authority from including performance standards in  
7 contracts.

8 (3) If a group insurance contract includes any performance  
9 standards, the insurer or health carrier must describe the  
10 performance standards in the group insurance contract and file the  
11 contract with the commissioner.

12 (4) Remittance of a performance payment to the group policyholder  
13 in compliance with this section must not be considered a return  
14 premium for purposes of RCW 48.14.020 and 48.14.0201.

15 (5) This section does not apply to small groups as defined in RCW  
16 48.43.005.

17 (6) The commissioner may adopt rules to implement this section.

18 (7) For the purposes of this section, "health carrier" has the  
19 meaning provided in RCW 48.43.005.

20 **Sec. 3.** RCW 48.30.140 and 2020 c 197 s 1 are each amended to  
21 read as follows:

22 (1) Except to the extent provided for in an applicable filing  
23 with the commissioner then in effect, no insurer, insurance producer,  
24 or title insurance agent shall, as an inducement to insurance, or  
25 after insurance has been effected, directly or indirectly, offer,  
26 promise, allow, give, set off, or pay to the insured or to any  
27 employee of the insured, any rebate, discount, abatement, or  
28 reduction of premium or any part thereof named in any insurance  
29 contract, or any commission thereon, or earnings, profits, dividends,  
30 or other benefit, or any other valuable consideration or inducement  
31 whatsoever which is not expressly provided for in the policy.

32 (2) Subsection (1) of this section shall not apply as to  
33 commissions paid to a licensed insurance producer, or title insurance  
34 agent for insurance placed on that person's own property or risks.

35 (3) This section shall not apply to the allowance by any marine  
36 insurer, or marine insurance producer, to any insured, in connection  
37 with marine insurance, of such discount as is sanctioned by custom  
38 among marine insurers as being additional to the insurance producer's  
39 commission.

1 (4) This section shall not apply to advertising or promotional  
2 programs conducted by insurers or insurance producers whereby prizes,  
3 goods, wares, gift cards, gift certificates, or merchandise, not  
4 exceeding one hundred dollars in value per person in the aggregate in  
5 any twelve-month period, are given to all insureds or prospective  
6 insureds under similar qualifying circumstances. This subsection does  
7 not apply to title insurers or title insurance agents.

8 (5) This section does not apply to an offset or reimbursement of  
9 all or part of a fee paid to an insurance producer as provided in RCW  
10 48.17.270.

11 (6) (a) Subsection (1) of this section shall not be construed to  
12 prohibit a health carrier or disability insurer from including as  
13 part of a group or individual health benefit plan or contract  
14 containing health benefits, a wellness program which meets the  
15 requirements for an exception from the prohibition against  
16 discrimination based on a health factor under the health insurance  
17 portability and accountability act (P.L. 104-191; 110 Stat. 1936) and  
18 regulations adopted pursuant to that act.

19 (b) For purposes of this subsection: (i) "Health carrier" and  
20 "health benefit plan" have the same meaning as provided in RCW  
21 48.43.005; and (ii) "wellness program" has the same meaning as  
22 provided in 45 C.F.R. 146.121(f).

23 (7) Subsection (1) of this section does not apply to a payment by  
24 an insurer to offset documented expenses incurred by a group  
25 policyholder in changing coverages from one insurer to another.  
26 Insurers shall describe any such payment in the group insurance  
27 policy or in an applicable filing with the commissioner. If an  
28 implementation credit is given to a group, the implementation credit  
29 is part of the premium for the purposes of RCW 48.14.020 and  
30 48.14.0201. This exception to subsection (1) of this section does not  
31 apply to "medicare supplemental insurance" or "medicare supplemental  
32 insurance policies" as defined in chapter 48.66 RCW.

33 (8) Subsection (7) of this section does not apply to small groups  
34 as defined in RCW 48.43.005.

35 (9) Subsection (1) of this section does not apply to products or  
36 services related to any policy of life insurance that are intended to  
37 incent behavioral changes that improve the health and reduce the risk  
38 of death of the insured.

1       (10) Subsection (1) of this section does not apply to a  
2 performance standard offered or provided in compliance with section 2  
3 of this act.

4       **Sec. 4.** RCW 48.30.150 and 2020 c 197 s 2 are each amended to  
5 read as follows:

6       (1) No insurer, insurance producer, title insurance agent, or  
7 other person shall, as an inducement to insurance, or in connection  
8 with any insurance transaction, provide in any policy for, or offer,  
9 or sell, buy, or offer or promise to buy or give, or promise, or  
10 allow to, or on behalf of, the insured or prospective insured in any  
11 manner whatsoever:

12       (a) Any shares of stock or other securities issued or at any time  
13 to be issued on any interest therein or rights thereto; or

14       (b) Any special advisory board contract, or other contract,  
15 agreement, or understanding of any kind, offering, providing for, or  
16 promising any profits or special returns or special dividends; or

17       (c) Any prizes, goods, wares, gift cards, gift certificates, or  
18 merchandise of an aggregate value in excess of one hundred dollars  
19 per person in the aggregate in any consecutive twelve-month period.  
20 This subsection (1)(c) does not apply to title insurers or title  
21 insurance agents.

22       (2) Subsection (1) of this section shall not be deemed to  
23 prohibit the sale or purchase of securities as a condition to or in  
24 connection with surety insurance insuring the performance of an  
25 obligation as part of a plan of financing found by the commissioner  
26 to be designed and operated in good faith primarily for the purpose  
27 of such financing, nor shall it be deemed to prohibit the sale of  
28 redeemable securities of a registered investment company in the same  
29 transaction in which life insurance is sold.

30       (3)(a) Subsection (1) of this section shall not be deemed to  
31 prohibit a health carrier or disability insurer from including as  
32 part of a group or individual health benefit plan or contract  
33 providing health benefits, a wellness program which meets the  
34 requirements for an exception from the prohibition against  
35 discrimination based on a health factor under the health insurance  
36 portability and accountability act (P.L. 104-191; 110 Stat. 1936) and  
37 regulations adopted pursuant to that act.

38       (b) For purposes of this subsection: (i) "Health carrier" and  
39 "health benefit plan" have the same meaning as provided in RCW

1 48.43.005; and (ii) "wellness program" has the same meaning as  
2 provided in 45 C.F.R. 146.121(f).

3 (4) Subsection (1) of this section does not prohibit an insurer  
4 from issuing any payment to offset documented expenses incurred by a  
5 group policyholder in changing coverages from one insurer to another  
6 as provided in RCW 48.30.140. If an implementation credit is given to  
7 a group, the implementation credit is part of the premium for the  
8 purposes of RCW 48.14.020 and 48.14.0201. This exception to  
9 subsection (1) of this section does not apply to "medicare  
10 supplemental insurance" or "medicare supplemental insurance policies"  
11 as defined in chapter 48.66 RCW.

12 (5) Subsection (4) of this section does not apply to small groups  
13 as defined in RCW 48.43.005.

14 (6) Subsection (1) of this section does not apply to products or  
15 services related to any policy of life insurance that are intended to  
16 incent behavioral changes that improve the health and reduce the risk  
17 of death of the insured.

18 (7) Subsection (1) of this section does not apply to a  
19 performance standard offered or provided in compliance with section 2  
20 of this act.

--- END ---