SENATE BILL REPORT
SSB 5262

As Passed Senate, March 3, 2025

Title: An act relating to correcting obsolete or erroneous references in statutes administered by the insurance commissioner, by repealing defunct statutes and reports, aligning policy with federal law and current interpretations, making timeline adjustments, protecting patient data, and making technical corrections.

Brief Description: Correcting obsolete or erroneous references in statutes administered by the insurance commissioner.

Sponsors: Senate Committee on Business, Financial Services & Trade (originally sponsored by Senators Kauffman, Wilson, J., Nobles, Shewmake and Trudeau; by request of Insurance Commissioner).

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/30/25, 2/13/25 [DPS].

Floor Activity: Passed Senate: 3/3/25, 49-0.

Brief Summary of First Substitute Bill

- Repeals provisions in the Washington Insurance Code relating to one-time studies and reports.
- Revises various timeframes in the code.
- Revises certain accounts, and makes technical changes.
- Creates a public records exception for annual statements submitted by direct patient-provider primary care practices.
- Revises a health plan coverage mandate regarding hearing aids and associated services.
- Repeals certain annual reporting requirements for the Office of the Insurance Commissioner and for health carriers.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: That Substitute Senate Bill No. 5262 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kauffman, Chair; Cortes, Vice Chair; Dozier, Ranking Member; Fortunato, Hasegawa, Lovick, McCune, Stanford and Wilson, J..

Staff: John Kim (786-7453)

Background: The Office of the Insurance Commissioner (OIC) administers the Washington Insurance Code (code), which regulates insurance companies and insurance professionals conducting business in the state.

Individual Health Insurance Market Stability Program. In 2017, a public records exemption was created in the Public Records Act (PRA) for certain information submitted by health carriers to the Federal Government as part of a risk adjustment or reinsurance program for the purposes of developing or implementing an individual health insurance market stability program. The exemption applied to materials obtained by the OIC as of December 31, 2019, and the OIC was required to conduct a one-time study.

Direct Patient-Provider Primary Care Practices. A direct patient-provider primary care practice (direct practice) is a provider, group, or entity that furnishes primary care services through direct agreements with patients or parents or legal guardians of patients; that does not accept payment from regulated insurers or health plans; and that does not provide specified services, procedures, or supplies.

Beginning in 2007, direct practices must submit to the OIC annual statements, currently subject to public disclosure, specifying:

- the number of providers in each practice;
- total number of patients being served;
- the average direct fee being charged;
- providers' names; and
- the business address for each direct practice.

The OIC must annually report to the Legislature on direct practices, including, but not limited to, participation trends, complaints received, voluntary data reported, and any necessary modifications to current law.

Refunds by the Office of the Insurance Commissioner. Current law requires the OIC, upon written request, to refund any tax, license fee, or other charge paid in error or in excess of a legal obligation. A person may request a refund of taxes only within six years from the date the taxes are paid and may request a refund of fees or charges only within 13 months of the date the fees or charges are paid. To facilitate such refunds, the OIC may establish a revolving fund out of legislatively appropriated funds.

Motor Vehicle Insurance Rates. In making rates for motor vehicle insurance, current law requires, among other considerations, that an insurer's schedule of rates or rating plan submitted to the OIC provide for an appropriate premium reduction for older insureds completing an accident prevention course.

Fire Alarms and Smoke Detection Devices and the Impact on Residential Property Insurance Rates. A 2019 state law required insurers of dwelling units to consider the impact of fire alarms and smoke detection devices in making rates. The OIC was required to submit a one-time report to the Legislature by December 31, 2020, on any credits or discounts provided on insurance premiums for fire alarms and smoke detection devices installed in dwelling units.

Protocols for Market Conduct Actions. A 2007 state law established a market conduct oversight program within the OIC. The law required the OIC to adopt certain rules and provide a report to the Legislature in the legislative session after the rules were adopted.

Charitable Gift Annuity Businesses. A charitable gift annuity is a contract between a donor and a charity in which the donor makes a tax-advantaged donation of cash, securities, or other assets to a single charity, which is set aside in a reserve account and invested. The donor receives a fixed month or quarterly payout, typically supported by the investment account, for the rest of the donor's life. At the end of the donor's life, the charity receives the remainder of the gift.

The OIC may grant a certificate of exemption from most provisions of the code to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business that meets specified conditions. Among such conditions are a minimum unrestricted net asset level and the annual filing with the OIC of a financial report and payment of a filing fee. The financial report is due within 60 days of the end of the business' fiscal year and the filing fee is due on or before March 1 of each year.

Report on Geographic Access to Gender-Affirming Treatment. A 2022 state law created a health plan coverage mandate for gender-affirming treatment. The OIC was required to issue a report on geographic access to gender-affirming treatment across the state by December 1, 2022, and update the report biannually, or twice a year.

Coverage of Hearing Aids by Individual and Small Employer Health Plans. Under the federal Affordable Care Act, certain benefits, items, and services called Essential Health Benefits (EHBs) must be covered by all individual and small employer health plans purchased after a certain date. A state must select its own EHB benchmark plan and use it to determine its EHBs. A state that wishes to make changes to its EHB benchmark plan must apply for federal approval.

A 2023 state law directed the OIC to review the state's EHB benchmark plan and decide

whether to request federal approval to modify the plan to include a number of benefits as EHBs, but required that hearing instruments and associated services be included as EHBs if the state plan was modified.

After completing requirements for an analysis, public meetings, and public comment, in April 2024, the OIC applied for federal approval to revise the state's EHB benchmark plan for plan years beginning on or after January 1, 2026. The application was approved by the federal government in October 2024.

Under federal regulation, annual or lifetime dollar limits cannot be applied to EHBs.

Dental-Only Plans. A health carrier offering a dental-only plan must submit an annual data statement to the OIC with specified information.

Insurance Fraud Program. A 2006 state law created an Insurance Fraud Program within the OIC and specified that the annual cost of operating the program is funded from the OIC's regulatory account, subject to legislative appropriation.

Medical Malpractice Closed Claim Reporting. A 2006 state law created closed claim reporting requirements for insuring entities or self-insurers providing medical malpractice insurance. The OIC must prepare aggregate statistical summaries of closed claims based on submitted data and submit an annual report to the Legislature by June 30th. The OIC was also required to report to the Legislature regarding model statistical reporting standards if adopted by the National Association of Insurance Commissioners.

Guaranteed Asset Protection Waivers. A guaranteed asset protection waiver (GAP waiver) is an agreement where a creditor agrees, for a charge, to cancel or waive all or part of the amounts due on a borrower's motor vehicle finance agreement with that creditor in the event of a total physical damage loss or unrecovered theft of the motor vehicle. A 2009 state law adopted a model act regulating GAP waivers. Persons selling GAP waivers must register with OIC and pay a $250 application fee, which is deposited in the guaranteed asset protection waiver account.

Natural Disaster and Resiliency Work Group. A 2019 state law created a work group to study and make recommendations on natural disaster and resiliency activities, chaired by the OIC commissioner. The work group was required to submit a preliminary report to the Legislature in 2019 and a final report by December 1, 2020.

Annual Report on Health Carrier Data. A 2006 state law required each health carrier offering a health benefit plan to annually submit to the OIC specified financial information.

Annual Report on Fixed Payment Insurance Products. A 2007 state law required the OIC to collect information from insurers offering fixed payment insurance products and annually report aggregated data including the number of groups purchasing the products, the number

of enrollees, and the number of consumer complaints filed.

Summary of First Substitute Bill: Individual Health Insurance Market Stability Program. Provisions relating to the one-time study and the associated public records exception are repealed.

Direct Patient-Provider Primary Care Practices. The bill creates a public records exception for annual statements submitted by direct practices and the data reported in them. Such information is confidential and exempt from public disclosure under the PRA.

The OIC's annual report to the Legislature and the data in it must be in aggregate form that does not permit the identification of individual direct practices.

Refunds by the Office of the Insurance Commissioner. A person requesting a refund of taxes to the OIC must do so within six years of the end of the calendar year for which the taxes are owed, rather than six years from the date the taxes were paid.

The bill repeals the authority for the OIC to establish a revolving fund, out of legislatively appropriated funds, to facilitate refunds.

Motor Vehicle Insurance Rates. The bill specifies that the premium reduction for older insureds completing an accident prevention course applies to personal auto insurance only.

Fire Alarms and Smoke Detection Devices and Impact on Residential Property Insurance Rates. The bill repeals a provision relating to the one-time study due in 2020.

Protocols for Market Conduct Actions. The bill repeals a provision relating to a one-time report regarding adopted rules.

Charitable Gift Annuity Businesses. The bill revises the name of a term unrestricted net assets to net assets without donor restrictions.

The annual filing fee for charitable gift annuity businesses is due within 60 days of the end of its fiscal year rather than on March 1.

The changes take effect January 1, 2026.

Report on Geographic Access to Gender-Affirming Treatment. The OIC is required to update its report biennially, or every other year, rather than biannually, or twice a year.

Coverage of Hearing Aids by Individual and Small Employer Health Plans. For health plans issued or renewed on or after January 1, 2026, a health carrier must cover hearing instruments every 36 months per ear with hearing loss and may not establish any lifetime or annual dollar limit on coverage for associated services for any individual, whether provided

in-network or out-of-network.

A health carrier may require prior authorization or adopt other appropriate utilization controls in approving coverage for medically necessary hearing instruments.

Dental-Only Plans. The bill specifies that the annual data statement is limited to dental-only plans in Washington and to Washington-specific data.

It specifies the OIC must make reported information available on its website, rather than in a format that allows comparison among carriers through a searchable public website.

Insurance Fraud Program. The bill revises the account funding the Insurance Fraud Program from the OIC's regulatory account to its fraud account.

Medical Malpractice Closed Claim Reporting. The bill repeals a requirement for the OIC to prepare aggregate statistical summaries of closed claims and provides that the OIC must complete its annual report by September 1 rather than June 30.

Provisions regarding the one-time report on model statistical reporting standards are repealed.

Guaranteed Asset Protection Waivers. The bill revises the account in which application fees are deposited from the guaranteed asset protection waiver account to the General Fund.

The guaranteed asset protection waiver account is repealed.

Natural Disaster and Resiliency Work Group. Provisions regarding the work group and one-time study are repealed.

Annual Report on Health Carrier Data. The bill repeals the requirement for health carriers to annually submit specific financial information to the OIC.

Annual Report on Fixed Payment Insurance Products. The bill repeals the requirement for the OIC to annually report on fixed payment insurance products.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a*

different version of the bill than what was heard. PRO: This bill focuses on modernizing insurance regulations, improving consumer protections, and ensuring fairness and equity in the insurance market. The updates are fundamental to ensuring our insurance regulatory framework remains efficient, adaptable, and beneficial for our consumers, our businesses, and our regulators. The bill removes outdated language and corrects errors but also makes maintenance-type changes, including, for example, aligning the statute for hearing aid benefits with federal requirements; treating direct medical practice data with similar data protections as the Legislature recently prescribed for other data provided to the OIC; striking outdated rating discounts for nearly universal vehicle technology such as lights and seat belts; and clarifying when requests for refunds must be made. Other than the one reference for hearing aids to align with treatment under federal law, nothing in the bill expands benefits paid by insurance or changes the regulatory authority of the OIC.

Persons Testifying: PRO: Senator Claudia Kauffman, Prime Sponsor; Rory Paine-Donovan, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: No one.