



Patty Kuderer - Insurance Commissioner

As required by

The Washington State Administrative Procedure Act

Chapter 34.05 RCW

Matter No. **R 2025-06**

CONCISE EXPLANATORY STATEMENT; RESPONSIVENESS SUMMARY; RULE
DEVELOPMENT PROCESS; AND IMPLEMENTATION PLAN

Relating to the adoption of

Implementation of ESSB 5291 (Chapter 380, Laws of 2025), Supplemental Long-Term
Care Insurance

February 4, 2026

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Section 1: Introduction

Revised Code of Washington (RCW) 34.05.325(6) requires the Office of Insurance Commissioner (“OIC”) to prepare a “concise explanatory statement” (“CES”) prior to filing a rule for permanent adoption. The CES shall:

1. Identify the Insurance Commissioner’s (“Commissioner’s”) reasons for adopting the rule;
2. Describe differences between the proposed rule and the final rule and the reasons for the differences;
3. Summarize and respond to all comments received regarding the proposed rule during the official public comment period, indicating whether or not the comment resulted in a change to the final rule, or the Commissioner’s reasoning in not incorporating the change requested by the comment; and
4. Be distributed to all persons who commented on the rule during the official public comment period and to any person who requests it.

Section 2: Reasons for Adopting the Rule

Engrossed Substitute Senate Bill 5291 (Chapter 380, Laws of 2025) was signed into law on May 20, 2025. The bill creates a new chapter under Title 48 RCW concerning supplemental long-term care insurance. Supplemental long-term care insurance is a new product designed to provide coverage once WA Cares benefits under Chapter 50B.04 RCW have been exhausted. Because it is a new insurance product, there are currently no rules regulating supplemental long-term care insurance. The Commissioner is adopting this rule to ensure affected parties understand their rights and obligations under the new law.

Section 3: Rule Development Process

The Commissioner filed the CR-101 for this rulemaking with the Washington State Register on June 29, 2025 (WSR 25-14-069). The comment period for the CR-101 began on June 29, 2025 and closed on July 30, 2025. The OIC received three comment letters on the CR-101.

The Commissioner released an initial prepublication draft on August 13, 2025. The comment period for this draft opened on August 13, 2025 and closed on August 27, 2025. The OIC received no comment letters on the first prepublication draft.

The Commissioner held a public interested parties meeting regarding the first prepublication draft on August 26, 2025, in which 14 individuals participated.

The Commissioner released a second prepublication draft on October 1, 2025. The comment period for this draft opened on October 1, 2025 and closed on October 22, 2025. The OIC received three comment letters on the second prepublication draft.

The Commissioner filed the proposed rule (CR-102) on November 19, 2025 (WSR 25-23-116). The comment period for the CR-102 began on November 19, 2025 and closed on January 7, 2026. The OIC received three comment letters on the CR-102.

The OIC held a public hearing on the proposed rule text on January 6, 2026. The hearing was administered by Tyler Langford, Policy Analyst, as a virtual meeting. Testimony was presented by Joy Grant.

OIC filed the final rule (CR-103) with the Code Reviser on February 4, 2026, and the rule will become effective on March 7, 2026.

Section 4: Differences Between Proposed and Final Rule

The following non-substantive changes were made from the proposed to adopted version of the rule, in response to comments received on the proposed rule:

WAC 284-212-005: Amended to make grammatical corrections to subsection 2 regarding federally tax qualified supplemental long-term care insurance policies. In subsection 3, prior references to “supplemental long-term care services” changed to “long-term care services” for clarity.

WAC 284-212-020: In subsection (5)(b), prior references to “supplemental long-term care services” were changed to “long-term care services” for clarity.

WAC 284-212-050: Amended subsection (1)(j) to clarify that supplemental long-term care contracts may not exclude coverage for qualified family members as defined in RCW 50B.04.010.

WAC 284-212-110: Amended subsection (2)(d)(i) to clarify that verification of an applicant’s status as a qualified individual under RCW 50B.04.050(1)(a) or (2) or premium payment status under RCW 50B.04.080 can be verified by the producer through the applicant’s attestation in the “supplemental long-term care insurance personal worksheet” provided for in WAC 284-212-170.

WAC 284-212-135: Amended to make grammatical corrections to subsection (6) regarding disclosure of the process to appealing and resolving benefit determinations and utilizing the independent third party review process required by RCW 48.212.090(2).

WAC 284-212-405: Amended to make grammatical corrections to subsection (1) regarding supplemental long-term care insurance policies that are federally tax qualified and meet the requirements to participate in the state long-term care partnership program.

Section 5: Responsiveness Summary

The OIC received a total of nine comments regarding R 2025-06 inclusive of the CR-101, first and second prepublication drafts, and CR-102. The following section of this CES summarizes the comments by WAC section and additional general comments. It then provides the Commissioner’s responses to the comments and whether changes were made in the rule language at any point in the rulemaking process.

The OIC received comments from:

- The National Multiple Sclerosis Society (“MS Society”)
- The American Council of Life Insurers (“ACLI”)
- Long Term Care Associates (“LTC Associates”)
- Steve Schoonveld
- Sapper Insurance
- Genworth
- Nikki Candelaria
- Kitty Candelaria

Comment	Response
General comments	
Regarding the CR-101, ACLI commended the state of Washington for educating consumers about long-term care risks and how to both plan and pay for long-term care needs. The commenter also expressed appreciation for the opportunity to provide comments.	The Commissioner appreciates this comment and did not make any changes in the final rule.
Regarding the CR-101, the MS Society noted that section 22 of ESSB 5291, dealing with preexisting condition restrictions, will have limited benefits for people living with Multiple Sclerosis. The commenter encouraged the OIC to write clear rules around preexisting conditions and to look for ways to prevent preexisting conditions from being barriers to coverage.	RCW 48.212.050(4) permits supplemental long-term care issuers to use an application form designed to elicit the complete health history of an applicant and underwrite in accordance with that issuer’s established underwriting standards, based on the answers on that application. Because medical underwriting is explicitly permitted by statute, the Commissioner does not have authority to adopt rules that would prohibit or limit supplemental long-term care issuers from denying coverage to an applicant based on their health history. The Commissioner will, however, continue to explore ways to prevent preexisting conditions from becoming coverage barriers.
Regarding the CR-101, LTC Associates noted: <i>“Regarding Section 25(c) (of ESSB 5291) where six specific disclosures required in an Outline of</i>	RCW 48.212.080(1)(c) requires that issuers provide an outline of coverage to consumers as part of a direct response solicitation and that the

<p><i>Coverage are also required 'in any marketing materials,' I'd recommend interpreting this generously. As it is, some of these disclosures aren't even true for all cases, which would lead to confusion."</i></p>	<p>disclosures under RCW 48.212.080(1)(a) be provided in any direct response solicitation marketing materials.</p> <p>Because the statute is clear regarding what is required in marketing materials, the Commissioner did not address this suggestion in the final rule.</p>
<p>Regarding the CR-101, LTC Associates noted that it is not clear when and how the new supplemental long-term care consumer guide will be used and whether the LTC Shopper's Guide will still be required.</p>	<p>As required by RCW 48.212.210(1)(a) the Commissioner will develop a consumer education guide specific to supplemental long-term care insurance, which will be titled: The Consumer's Guide to Supplemental Long-Term Care Insurance.</p> <p>Under the final rule (see WAC 284-212-150) issuers must provide this new Consumer's Guide to Supplemental Long-Term Care Insurance to all prospective applicants of supplemental long-term care policies or certificates.</p> <p>The Consumer's Guide to Long-Term Care Insurance is specific to traditional long-term care insurance and is wholly separate from the new Consumer's Guide to Supplemental Long-Term Care Insurance.</p>
<p>Regarding the CR-101, LTC Associates recommended publicizing which issuers offer supplemental long-term care policies and that issuers be allowed to co-brand with the WA Cares logo.</p>	<p>Publicizing which issuers offer supplemental long-term care insurance is beyond the scope of this rulemaking, so it was not addressed in the final rule.</p> <p>The final rule does not prohibit the co-branding suggested in the comment, so long as all marketing materials, policy forms, and application forms are in compliance with all relevant and applicable statutes and rules.</p>
<p>Regarding the CR-101, LTC Associates recommended that the information sharing request to consumers required by Sec. 27 of ESSB</p>	<p>The Commissioner concluded that requiring issuers to use specific language in the information sharing request is not required by statute and not necessary to carry out Chapter</p>

5291 be done using an OIC-written format, rather than each issuer having its own form.	48.212 RCW. This suggestion was not included in the final rule.
Regarding the CR-101, LTC Associates recommended that the best interest suitability standards developed pursuant to Sec. 34(2)(a) and (b) of ESSB 5291 be limited to an attestation included in the suitability worksheet/forms under development.	<p>WAC 284-212-110 of the final rule addresses suitability standards for issuers and producers. This section lays out minimum care obligations that must be included in the best interest standards developed by issuers.</p> <p>The Commissioner did not include a specific attestation in the personal worksheet outlined in WAC 284-212-170 of the final rule but did include an additional question related to current/future eligibility for benefits under the WA Cares Fund.</p>
Regarding the second prepublication draft, Sapper Insurance expressed general opposition to the WA Cares program and recommended that the program be shut down.	The Commissioner does not have authority to take the action recommended by this comment. Repealing the WA Cares program would require an act of the Legislature. This suggestion was not included in the final rule.
Regarding the second prepublication draft, ACLI requested that the Commissioner provide guidance on coordinating benefits between private long-term care insurance and the WA Cares fund, given that private policies and WA Cares will potentially have different benefit triggers.	It is unclear if the commenter is referring to traditional or supplemental long-term care policies in this comment. Rules relating to traditional long-term care policies are outside of the scope of this rulemaking. Supplemental long-term care policies provide benefits once benefits under the WA Cares fund have been exhausted, so no further guidance on benefit coordination is necessary. This suggestion was not included in the final rule.
Regarding the second prepublication draft, ACLI noted that the rule does not specify requirements for insurers when an individual who is in a stable care setting later applies for WA Cares benefits.	This comment is in reference to traditional long-term care insurance policies, which are beyond the scope of this rulemaking. Supplemental long-term care insurance will begin paying benefits only after the insured has exhausted WA Cares benefits.
Regarding the CR-102, Nikki Candelaria and Kitty Candelaria expressed general opposition to adoption of the rule.	The Commissioner appreciates these comments and did not make any changes in the final rule.
WAC 284-23-610	
Regarding the second prepublication draft, ACLI and Steve Schoonveld commented that WAC 284-23-610 appeared to not allow accelerated death benefit riders for supplemental long-term care or traditional long-term care. The	The Commissioner updated the language in the final rule to explicitly permit accelerated death benefit riders for supplemental (and traditional) long-term care insurance, in line with the original intent of the rule.

<p>commenters noted that this may severely impair long-term care options available to Washingtonians.</p>	
<p>WAC 284-212-005</p>	
<p>Regarding the CR-102, Genworth noted that HIPAA does not define “supplemental long-term care” so references to “qualified supplemental long-term care insurance policies” in WAC 284-212-005(2) are undefined or unclear. Genworth also recommended that other references to “qualified supplemental long-term care insurance policies” be changed throughout the rule.</p>	<p>The Commissioner made clarifying changes in WAC 284-212-005, WAC 284-212-030, and WAC 284-212-405 to avoid inadvertent mischaracterization of federal law.</p> <p>Elsewhere in the rule, the Commissioner declined to remove references to “qualified supplemental long-term care insurance” as this is a defined term in Washington statute (RCW 48.212.020(7) and in the final rule (WAC 284-212-010(13)) making the meaning clear and consistent with state law.</p>
<p>Regarding the CR-102, Genworth recommended that the reference to “supplemental long-term care services” in WAC 284-212-005(a) and throughout the rule be changed to “long-term care services.”</p>	<p>The Commissioner agrees that this change will enhance the clarity of the rule and amended WAC 284-212-005(3) and WAC 284-212-020(5)(b) to only refer to “long-term care services.”</p>
<p>Regarding the CR-102, Genworth recommended using the conjunction “and” rather than “or” in WAC 284-212-005(3)(b).</p>	<p>The Commissioner agrees that clarification was needed in this section and removed “or supplemental long term care insurance” and “and” in subsection (3)(a) in the final rule. This change makes this section consistent with WAC 284-83-005(3)(a) and (b) for traditional long-term care, in line with the original intent for the rule.</p>
<p>Regarding the CR-102, Genworth questioned whether WAC 284-212-005(3)(c) is needed in the rule and suggested that a reference to supplemental long-term care is needed.</p>	<p>The Commissioner added clarifying language to WAC 284-212-005(3) in the final rule stating that the disability income policies must meet the definition of “supplemental long-term care” in RCW 48.212.020. This change clearly distinguishes disability income policies subject to regulation under chapter 284-83 WAC versus</p>

	those subject to regulation under chapter 284-212 WAC without substantively changing the effect of the rule.
WAC 284-212-015	
Regarding the CR-102, Genworth recommended that the definition of "approved services" in WAC 284-212-015(10) clarify that the list of "approved services" in RCW 50B.04.010 are examples of "home health care services" and not a requirement for policies to cover a list of specific services.	As written, this definition states that home health care services <i>may</i> include the approved services contained in RCW 50B.04.010 but does not mandate that these services be covered. Since the language in the proposed rule is clear and does not mandate that these services be covered, the Commissioner did not make the recommended change in the final rule.
WAC 284-212-050	
Regarding the CR-102, Genworth expressed concern that, in the context of required coverage, the term "family care providers" is not defined which "could hinder an insurer's ability to understand the risks of and price a supplemental long term care insurance policy."	The Commissioner removed the reference to "family care providers" and added a reference to "qualified family members" as defined in RCW 50B.04.010 to provide additional clarity in the final rule, in line with the original intent.
WAC 284-212-055	
Regarding the second prepublication draft, ACLI recommended that the Commissioner align the minimum inflation protection offer required in WAC 284-212-055 with the inflation rate used for WA Cares benefits rather than 3%.	The Commissioner revised the rule to permit inflation protection to be offered at either 3% or the change in the consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, or a successor index. This change aligns the required inflation protection offer for supplemental long-term care policies with the inflation index for WA Cares benefits.
WAC 284-212-110	
Regarding the second prepublication draft, ACLI recommended that the Commissioner specify requirements for due diligence, documentation, and consumer information exchange needed to meet the best interest standard across different distribution methods.	The Commissioner revised the final rule to add requirements that producers/insurers identify and avoid conflicts of interest and disclose the scope and terms of the producer's relationship with the applicant upon request.

<p>Regarding the second prepublication draft, ACLI requested clarification regarding whether the new supplemental long-term care consumer guide will replace the existing traditional long-term care consumer guide.</p>	<p>The new supplemental long-term care consumer guide is separate and distinct from the existing consumer guide for traditional long-term care. The new guide must be provided to prospective applicants for supplemental long-term care insurance. The existing guide must continue to be provided to prospective applicants for traditional long-term care insurance.</p>
<p>Regarding the CR-102, Genworth noted that it is not clear how an insurer will verify that an applicant has met the criteria to become a qualified individual under the WA Cares program, or is currently paying premiums as required by RCW 50B.04.080.</p>	<p>The Commissioner amended this section to clarify that the applicant's attestation in the suitability worksheet provided for in WAC 284-212-170 will serve as verification that the applicant is a qualified individual or currently paying premiums.</p>
<p>WAC 284-212-135</p>	
<p>Regarding the CR-102, Genworth noted that the third party review process required by RCW 48.212.090(2) and WAC 284-212-053 only applies to continuity of care and not benefit determinations more broadly, and suggested additional language to make this clear.</p>	<p>The Commissioner agrees with this comment and amended this section in the final rule to better distinguish between the process for appealing benefit determinations and the third party review process when an issuer makes a determination that a policyholder's care and safety needs are not being met by the policyholder's current care setting upon transition from the benefits provided under chapter 50B.04 RCW.</p>
<p>WAC 284-212-145</p>	
<p>Regarding the CR-102, Genworth noted that they do not understand the reference to "retirement" in the context of the rule's requirement that the outline of coverage notify consumers that premiums continue after retirement, and that this would be unusual for a standalone long-term care insurance policy and potentially confusing for consumers.</p>	<p>This disclosure must be included in the outline of coverage as required by RCW 48.212.080(1)(a)(iv) and (v). The Commissioner does not have the authority to write rules that conflict with statute, so the OIC did not make any changes to this section in the final rule.</p>
<p>WAC 284-212-210 & -230</p>	
<p>Regarding the CR-102, Genworth recommended removing the loss ratio standards in WAC 284-212-210 and WAC 284-212-230 from the final rule.</p>	<p>RCW 48.212.200(1) requires the Commissioner to write rules establishing loss ratio standards for supplemental long-term care insurance policies. Given this explicit directive from the Legislature, the Commissioner did not make any changes to this section in the final rule.</p>

Section 6: Implementation Plan

A. Implementation and enforcement of the rule.

Implementation will be carried out by OIC's Rates, Forms, and Provider Networks, Consumer Protection, and Company Supervision divisions. Enforcement of the rule will be carried out by OIC's Legal Affairs division.

B. How the Agency intends to inform and educate affected persons about the rule.

OIC Policy staff will distribute the final rule and this CES to all interested parties by posting and sharing the documents through the OIC's standard rulemaking listserv. The OIC Policy Division will post the CR-103 documents on the OIC's website.

Type of Inquiry	Division
Consumer assistance	Consumer Protection Division
Rule content	Policy Division
Authority for rules	Policy Division
Enforcement of rule	Legal Affairs Division
Market Compliance	Company Supervision Division

C. How the Agency intends to promote and assist voluntary compliance for this rule.

Policy staff will distribute copies of the final rule and the CES to all interested parties through the state's GovDelivery electronic mail system. The CR-103 documents and adopted rule will be posted on the OIC's website.

D. How the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted.

The Commissioner will monitor compliance with the WAC sections created by this rulemaking. OIC staff will field questions from interested parties who seek clarification on the requirements of the rule.

Appendix A CR-102 Hearing Summary

Summarizing Memorandum

**To: Patty Kuderer
Insurance Commissioner**

**From: Tyler Langford
Presiding Official, Hearing on rulemaking**

Matter No. R 2025-06

Topic of rulemaking:

This memorandum summarizes the hearing on the above-named rule making, held virtually via Zoom on January 6, 2026 over which I presided in your stead.

The following agency personnel were present:

- Ryan Bowen
- Sharon Daniel
- David Hippen
- Dawn Krech
- Remy McKnight
- Jeff Oberle
- Ron Pastuch
- Mary Kay Schaefer
- Shannon Skye
- Robert Solano
- Michael Walker
- Donna Wells

In attendance and testifying:

Testified: Joy Grant

Attended:

- Michelle Ransom
- Stephen Forman
- Kasandra Wilson
- Felicia Spivack
- Teresa Shibuya
- Amanda Herrington
- Seth Greiner
- Jerry Cornfield
- J Levesque
- Kelly Blyth
- Kent Cashman

Contents of the presentations made at hearing:

Joy Grant testified with concerns regarding the required premium payments for the WA Cares fund.

The hearing was adjourned.

SIGNED this 6 day of January, 2026

Tyler Langford
Presiding Official