DRAFT ONLY
NOT APPROVED FOR INTRODUCTION

HOUSE BILL NO.

Wyoming limited and catastrophic medical coverage pool.

Sponsored by: Representative(s) Larsen, L

A BILL

for

AN ACT relating to health care coverage; creating the Wyoming limited and catastrophic medical coverage pool; creating administrative and enrollment requirements for the pool; providing specified health care coverage for members of the pool; providing for immunity from suit for board members, the pool and the pool administrator as specified; providing a tax exemption for the pool; providing definitions; providing appropriations; requiring rulemaking; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

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STAFF COMMENT

This bill draft is loosely based off of the Wyoming Health Insurance Pool Act (see W.S. 26-43-101 through 26-43-114). One notable difference is that this bill draft does not require the pooling of funds by health insurance companies doing business within the state. Instead, funds for the program are provided, at least initially, through Rural Health Transformation Program funds.

The Task Force will need to determine whether the Department of Insurance, as stated below, or another agency such as the Department of Health should administer this program.

Also, as this bill draft went through review, there were concerns that this concept may violate Article 16, Section 6(a)(i) of the Wyoming Constitution, which reads:

Article 16, Section 6 Loan of credit; donations prohibited; works of internal improvement.

(a) Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall:

(i) Loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor;

As it is currently drafted, this bill draft provides medical coverage for persons from any income bracket, rather than just "the poor". Initially, the Wyoming Limited and Catastrophic Medical Coverage Pool will be funded from the RHT Program and premiums from pool members won't cover all of the expenses. Given that, there is a possibility that Article 16, Section 6 is violated. However, because pool members will be paying premiums in order to participate in the pool, it could be argued that the medical coverage and the associated costs are not "donated".

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Section 1. W.S. 26-43-401 through 26-43-409 are created to read:

ARTICLE 4 – LIMITED AND CATASTROPHIC MEDICAL COVERAGE

26-43-401. Definitions.

(a) As used in this act:

(i) "Administrator" means the third party administrator or administrators selected pursuant to W.S. 26-43-404 to administer the pool;

(ii) "Board" means the board of directors of the pool;

(iii) "Commissioner" means the insurance commissioner;

(iv) "Department" means the department of insurance;

(v) "Health insurance" means any public health benefit plan, private health benefit plan, hospital and medical expense incurred policy, Medicare supplement policy, nonprofit health care service plan contract and health maintenance organization subscriber contract. The term does not include any hospital or medical service plan that by contract or product design is intended to provide coverage for six (6) months or less, fixed indemnity, limited benefit or credit insurance, coverage issued as a supplement to liability insurance, insurance arising from a workers' compensation or similar law, automobile medical payment insurance or insurance providing benefits that are payable with or without regard to fault and which benefits are statutorily required to be contained in any liability insurance policy or equivalent self-insurance;

(vi) "Hospital" means a facility licensed as a hospital by the department of health;

(vii) "Plan of operation" means the plan of operation of the pool, including articles, bylaws and operating rules adopted by the board pursuant to W.S. 26-43-402;

(viii) "Pool" means the Wyoming limited and catastrophic medical coverage pool created by W.S. 26-43-402;

(ix) "This act" means W.S. 26-43-401 through 26-43-409.

26-43-402. Wyoming limited and catastrophic medical coverage pool; board membership; board powers and duties.

(a) There is created a nonprofit entity known as the Wyoming limited and catastrophic medical coverage pool. Wyoming citizens who pay premiums and meet the requirements of this act shall be members of the pool. The pool shall contain all legislative appropriations and all funds received, earned or collected pursuant to this act, including premiums, which shall be credited and continuously appropriated to the pool for the purposes of this act. All claims, costs of administration and other necessary expenses incurred pursuant to this act shall be paid from the pool. Notwithstanding 9-2-1008, 9-2-1012(e) or 9-4-207, unobligated and unexpended funds within the

pool shall not lapse or revert and shall remain in the pool. All funds in the pool not immediately necessary for the purposes of this act, which amount is certified by the board to the state treasurer, shall be invested in accordance with law and any earnings earned shall be credited to the pool.

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STAFF COMMENT

As this bill draft went through review, it was noted that there are not many Wyoming nonprofits created by statute. The Task Force may wish to consider basing this pool off of an existing commission or something similar instead of creating a nonprofit entity.

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(b) The board of directors overseeing the pool shall consist of six (6) members. The commissioner shall appoint three (3) members from the health insurance industry and three (3) members from the general public. Terms of office for the appointed board members shall be four (4) years except initial terms shall be less than four (4) years and staggered as determined by the commissioner. The commissioner shall establish procedures for filling vacancies on the board.

(c) Members of the board shall serve without compensation but shall receive travel expenses and per diem from pool funds in the same manner and amount as state employees for services incurred for the board.

(d) The board shall:

(i) Select an administrator of the pool pursuant to W.S. 26-43-404;

(ii) Submit to the commissioner a plan of operation for the pool and any amendments to the plan necessary or suitable to assure the fair, reasonable and equitable administration of the pool. The commissioner shall approve the plan of operation after notice and hearing provided the commissioner initially determines that the plan is suitable to assure the fair, reasonable and equitable administration of the pool and that the plan meets the requirements of this act. The plan of operation is effective upon approval in writing by the commissioner. If the board at any time fails to submit suitable or necessary amendments to the plan, the commissioner shall

adopt reasonable rules after notice and hearing as necessary or advisable to effectuate the provisions of this act. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the board to the commissioner and approved by the commissioner;

(iii) Have the general powers, duties and authority granted under the laws of this state to insurance companies licensed to transact health insurance;

(iv) Establish appropriate premiums, premium schedules, premium adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Premiums and premium schedules may be adjusted for appropriate risk factors such as age and area variation in claim cost and shall take into consideration appropriate risk factors in accordance with established actuarial and underwriting practices;

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STAFF COMMENT

The Task Force may need to determine whether to require a flat premium amount for all covered persons or to determine premiums based on income/age/other factors.

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(v) Issue policies of limited and catastrophic medical coverage to pool members in accordance with the requirements of this act.

(e) The plan of operation required by paragraph (d)(ii) of this section shall:

(i) Identify the administrator pursuant to W.S. 26-43-404;

(ii) Establish procedures for the handling, investing and accounting of assets and monies of the pool;

(iii) Establish procedures for the collection of premiums to cover the cost of claims paid under the plan of operation and for administrative expenses incurred or estimated to be incurred;

(iv) Establish premium amounts pursuant to W.S. 26-43-406;

(v) Develop and implement a program to publicize and to maintain public awareness of the existence of the pool, the eligibility requirements and procedures for enrollment;

(vi) Establish procedures for termination of pool coverage of any person who ceases to meet the eligibility requirements provided by W.S. 26-43-403;

(vii) Provide as necessary for audits of the pool and the administration of the pool.

(f) The board may:

(i) Enter into contracts as necessary to carry out the provisions and purposes of this act, including but not limited to the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions or with persons or other

organizations for the performance of administrative functions;

(ii) Sue or be sued, including but not limited to taking any legal actions necessary or proper for recovery of any benefits provided for or on behalf of pool members;

(iii) Take legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(iv) Appoint appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the pool, plan of operation and other contract design and any other function within the authority of the board.

26-43-403. Eligibility.

(a) Except as provided in subsection (b) of this section, any person who is a resident of this state is

eligible for pool coverage if proof of one (1) or more of the following is provided:

(i) Proof that the person applied for health insurance and the offered premium exceeded the applicable pool premium for substantially similar coverage;

(ii) Proof that the person does not qualify for any health insurance coverage subsidies under the Affordable Care Act; or

(iii) Proof that the person does not qualify for health insurance coverage under the Affordable Care Act.

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STAFF COMMENT

The above criteria are placeholders. The Task Force may wish to consider adding to or removing any of the above paragraphs.

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(b) The following persons are not eligible for pool coverage:

(i) Persons who are eligible for group health insurance or a group health insurance arrangement provided in connection with a policy, plan or program sponsored by an employer and subject to regulation as a group health plan under federal or state law, unless the cost to insure the person is offered at a rate to the person or the person's employed family member exceeding the applicable pool premium for substantially similar coverage by not less than twelve and one-half percent (12.5%);

(ii) Any person who is at the time of pool application eligible for Medicare health care benefits by reason of age or Medicaid health care benefits;

(iii) Any person who previously terminated coverage in the pool unless twelve (12) or more months have elapsed from the termination date;

(iv) Inmates of penal institutions;

(v) Persons who have coverage under health insurance or a similar insurance arrangement on the issue date of pool coverage.

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STAFF COMMENT

The Task Force may wish to consider whether the maximum number of people the plan can cover or the monetary amount of claims benefits one person can incur should be capped or limited for financial purposes.

Also, for the Task Force's information, the pool created by this bill draft may attract many people who utilize or need health care services. Unless a way is found to get broad participation in the pool that includes people who use medical services less frequently or don't generally use them at all, it is likely that pool premiums will have to be very high because risk won't be spread across a large number of people.

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(c) No person shall be denied coverage under the pool solely due to the diagnosis or existence of a preexisting medical condition.

26-43-404. Administration.

(a) The board shall select a third party administrator or administrators through a competitive bidding process to administer the pool. The board shall evaluate bids based on criteria established by the board which shall include but are not limited to:

(i) The proven ability of the administrator to handle individual accident or health insurance;

(ii) The efficiency of the claim paying procedures of the administrator;

(iii) The estimate of total charges for administering the plan if the considered administrator is selected;

(iv) The ability of the administrator to administer the pool in a cost efficient manner;

(v) The ability of the administrator to perform the requirements of subsection (c) of this section.

(b) The administrator shall serve for a period determined by the board of not less than three (3) years and not more than five (5) years and is subject to removal for cause. Not less than one (1) year prior to the expiration of the period of service by the administrator, the board shall invite the submission of bids for the role of administrator for the succeeding period. Selection of

the administrator for the succeeding period shall be made not less than six (6) months prior to the end of the current period. An administrator may serve for consecutive periods if chosen to do so by the board according to the requirements of this subsection.

(c) The administrator shall:

(i) Perform all eligibility and administrative claims payment functions relating to the pool;

(ii) Establish a premium billing procedure for collection of premiums from members of the pool. Billings shall be made periodically as determined by the board;

(iii) Perform all necessary functions to assure timely payment of benefits to members of the pool or payment for medical services to health care providers, including but not limited to:

(A) Making available information relating to the proper manner of submitting a claim for benefits to

the pool and distributing forms upon which submission is made;

(B) Evaluating the eligibility of each claim for payment by the pool.

(iv) Submit regular reports to the board regarding the pool operation. The board shall determine the frequency, content and form of the report;

(v) In addition to the reporting requirements under paragraph (iv) of this subsection, determine net written and earned premiums, the expense of administration and the paid and incurred losses for the year and report the information to the board and the department on a form and in the manner prescribed by the commissioner;

(vi) Receive payments as provided in the plan of operation for the expenses incurred in the performance of the administrator's services;

(vii) In conjunction with the board as required by W.S. 26-43-406, determine the standard risk rate for the pool.

26-43-405. Minimum benefits; limitations.

(a) Pool coverage shall be offered to persons found eligible under W.S. 26-43-403. The following medical coverage shall be provided by the pool:

(i) Catastrophic coverage having a deductible level of twenty-five thousand dollars ($25,000.00);

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STAFF COMMENT

The Task Force will need to determine what will be covered as "catastrophic coverage" under this bill draft. As an alternative, this could be determined by the Department of Insurance through rulemaking.

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(ii) The following services:

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STAFF COMMENT

The above paragraph is left blank because the Task Force will need to determine which services are to be covered by this bill draft. For instance, preventative services, a certain number of primary care visits, prescription drugs and lab tests are services that could be covered, but this list is not exhaustive and is up to the discretion of the Task Force.

The Task Force could also create different benefit levels that coincide with higher and lower deductibles and premiums.

The coverage under paragraphs (i) and (ii) above could also be separated into different plans that people could opt into rather than having one plan that covers both.

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26-43-406. Premiums; standards risk rate.

(a) The board, in conjunction with the administrator, shall determine the standard risk rate for the pool. Initial premiums for pool coverage during the first year coverage is provided pursuant to this act shall be set to recover not less than one hundred fifty percent (150%) of the cost of covering individual standard risks. Subsequent premiums may provide for the expected costs of claims including recovery of prior losses, expenses of operation, investment income of claim reserves and any other cost factors subject to the limitations provided by this

subsection. All premiums and premium schedules shall be submitted to the commissioner for approval.

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STAFF COMMENT

The Task Force will need to determine whether to have a standard premium rate for all persons or whether the premium rate should be based on, for instance, a sliding scale according to income or coverage options. The above subsection is a placeholder.

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(b) Premiums collected pursuant to this section shall be paid to the state treasurer and credited to the pool.

26-43-407. Benefit payment reduction.

(a) Benefits otherwise payable under pool coverage shall be reduced by:

(i) All amounts paid or payable through any other health insurance or insurance arrangement;

(ii) All hospital and medical expense benefits paid or payable under any workers' compensation coverage or

automobile medical payment or liability insurance whether provided on the basis of fault or nonfault;

(iii) Any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(b) The administrator or the board has a claim against an eligible person for the recovery of the amount of benefits paid which are not for covered expenses. Benefits due from the pool may be reduced or refused as a setoff against any amount recoverable under this subsection.

26-43-408. Immunity.

The participation in the pool as members, the establishment of rates, forms or procedures or any other joint or collective action required by this act shall not be the basis of any legal action, criminal or civil liability or penalty against the board or the pool.

26-43-409. Tax exemption.

The pool established pursuant to this act is exempt from insurance premium taxes.

Section 2.

(a) There is appropriated **XXX ($XXX)** from funds provided to the state of Wyoming through the rural health transformation program to the Wyoming limited and catastrophic medical coverage pool created by this act. This appropriation shall not be transferred or expended for any other purpose. This appropriation shall not lapse or revert, notwithstanding W.S. 9-2-1008, 9-2-1012(e) and 9-4-207. It is the intent of the legislature that this appropriation not be included in the standard budget for the department of insurance for the immediately succeeding fiscal biennium.

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STAFF COMMENT

It is assumed that the Wyoming Limited and Catastrophic Medical Coverage Pool will eventually be self-sustaining through the payment of premiums. However, if the Task Force would like to continue to have regular appropriations made to the pool, that can be indicated above.

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(b) The department of insurance shall report to the joint labor, health and social services interim committee not later than October 1, 2027 and annually on or before October 1 thereafter on the creation and administration of the Wyoming limited and catastrophic medical coverage pool created by this act, the number of members served by the pool and the amount of premiums paid, the amount of monetary benefits expended by the pool and any other information deemed pertinent by the department of insurance.

Section 3. The department of insurance shall promulgate all rules necessary to implement this act.

Section 4.

(a) Except as provided by subsection (b) of this section, this act is effective July 1, 2027.

(b) Sections 2 through 4 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)