

# Title 284 WAC

## INSURANCE

### COMMISSIONER, OFFICE

#### OF

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**DISPOSITION OF CHAPTERS FORMERLY  
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**Chapter 284-01  
ELECTRONIC AUTHENTICATION**

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| 284-01-050 | Provisions relating to electronic authentication. [Statutory Authority: RCW 48.02.060, 98-04-063 (Matter No. R 97-6), § 284-01-050, filed 2/2/98, effective 3/5/98.] Repealed by 10-04-006 (Matter No. R 2009-02), filed 1/22/10, effective 2/22/10. Statutory Authority: RCW 48.02.060. |
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**Chapter 284-02 WAC**

**DESCRIPTION OF INSURANCE COMMISSIONER'S  
OFFICE—ORGANIZATION OPERATIONS AND  
OBTAINING INFORMATION**

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| 284-02-010 | What are the responsibilities of the insurance commissioner and the office of the insurance commissioner (OIC) staff?                           |
| 284-02-030 | How can service of process over foreign and alien insurers be made?   |
| 284-02-040 | Where can information about applying for a license as an adjuster or insurance producer, surplus line broker or title insurance agent be found? |

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| 284-02-070 | How does the OIC conduct hearings?  |

**WAC 284-02-010 What are the responsibilities of the insurance commissioner and the office of the insurance commissioner (OIC) staff?** The insurance commissioner is responsible for regulating the insurance industry and all persons or entities transacting insurance business in this state in the public interest. The position of insurance commissioner was established by the legislature as an independent, elective office in 1907. The insurance laws and the authority of the insurance commissioner are found in Title 48 RCW. The insurance commissioner's powers are set forth in chapter 48.02 RCW.

**(1) General powers and tasks.**

(a) To carry out the task of enforcing the insurance code the commissioner:

(i) May make rules and regulations governing activities under the insurance code (Title 48 RCW);

(ii) May conduct investigations to determine whether any person has violated any provision of the insurance code, including both informal and formal hearings;

(iii) May take action (including levying of fines and revocation of authority to transact business in this state) against an insurance company, fraternal benefit society, charitable gift annuity providers, health maintenance organization, health care service contractor, motor vehicle service contract provider, service contract provider, protection product guarantee providers, self-funded multiple employer welfare arrangement, and life settlement provider; and

(iv) May issue, refuse to issue or renew, place on probation, revoke, or suspend the licenses of insurance producers, title insurance agents, surplus line brokers, adjusters, insurance education providers, reinsurance intermediaries, and life settlement brokers, or may fine any of them for violations of the insurance code.

(b) All insurers and other companies regulated under the insurance code must meet financial, legal, and other requirements and must be licensed, registered, or certified by the OIC prior to the transaction of insurance in this state.

(c) The OIC is responsible for collecting a premium-based tax levied against insurers and other companies transacting insurance business in this state. The funds collected from health care companies are deposited into the state's health services account. All other taxes are deposited into the state's general fund.

(d) Any person engaged in the marketing or sale of insurance in Washington must hold a license issued by the OIC. The OIC oversees the prelicensing education, testing, licensing, continuing education, and renewal of insurance producer, surplus line broker and title insurance agent licenses.

(e) Public and independent adjusters must be licensed by the OIC. The OIC is responsible for the processing of licenses, background checks, affiliations, testing, renewals, terminations, and certificates for individuals and business entities, both resident and nonresident, who act as independent or public adjusters in Washington.

(f) The OIC assists persons who have complaints about companies, insurance producers, surplus line brokers and title

insurance agents, or other licensees of the OIC. OIC investigators follow up on consumer complaints, look into circumstances of disputes between consumers and licensees, and respond to questions.

(g) The OIC publishes and distributes consumer guides and fact sheets to help inform consumers about their choices and rights when buying and using insurance.

(2) **Orders.** The commissioner may issue a cease and desist order based on the general enforcement powers granted by RCW 48.02.080, or may bring an action in court to enjoin violations of the insurance code.

(3) **SHIBA.** The OIC offers assistance statewide to consumers regarding health care insurance and health care access through its statewide health insurance benefits advisors (SHIBA) "HelpLine" program. Volunteers are trained by OIC employees to provide counseling, education, and other assistance to residents of Washington. Information about SHIBA, including how to become a SHIBA volunteer, can be found on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

(4) **Publication of tables for courts and appraisers.** The insurance commissioner publishes tables showing the average expectancy of life and values of annuities and life and term estates for the use of the state courts and appraisers (RCW 48.02.160).

(5) **Copies of public documents.** Files of completed investigations, complaints against insurers or other persons or entities authorized to transact the business of insurance by the OIC, and copies of completed rate or form filings are generally available for public inspection and copying during business hours (see chapter 284-03 WAC) at the OIC's office in Tumwater, subject to other applicable law. Access by the public to information and records of the insurance commissioner is governed by chapter 284-03 WAC and the Public Records Act (chapter 42.56 RCW). Information on how to request copies of public documents is available on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

(6) **Web site.** The insurance commissioner maintains a web site at: [www.insurance.wa.gov](http://www.insurance.wa.gov). Current detailed information regarding insurance, persons and entities authorized to transact insurance business in this state, consumer tips, links to Washington's insurance laws and rules, a list of publications available to the public, and other valuable information can be found on the web site.

(7) **Toll-free consumer hotline.** Members of the OIC staff respond to inquiries of consumers who telephone the agency's toll-free consumer hotline at 1-800-562-6900.

(8) **Location of offices.** The OIC's headquarters office is located in the insurance building on the state Capitol campus in Olympia. Branch offices are located in Tumwater, Seattle and Spokane. Addresses for the office locations can be found on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)) or by calling the commissioner's consumer hotline (1-800-562-6900).

(9) **Antifraud program.** Beginning in 2007, the OIC (in partnership with the Washington state patrol, county prosecutors, and the state attorney general's office) will investigate and assist in prosecuting fraudulent activities against insurance companies. Information about this program can be found on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-02-010, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 34.05.220. 07-01-048 (Matter No.

R 2003-09), § 284-02-010, filed 12/14/06, effective 1/14/07. Statutory Authority: RCW 48.02.060 and 34.05.220 (1)(b). 96-09-038 (Matter No. R 96-3), § 284-02-010, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 48.02.060 (3)(a). 88-23-079 (Order R 88-10), § 284-02-010, filed 11/18/88; Order R-68-6, § 284-02-010, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-030 How can service of process over foreign and alien insurers be made?** (1) Although domestic insurers are served with legal process personally, the insurance commissioner is the party on whom service of process must be made on all foreign and alien insurers, whether authorized to transact business in this state or not. The exact procedures are set forth in the applicable statutes.

(a) Service of process against authorized foreign and alien insurers, other than surplus line insurers, must be made according to the requirements of RCW 48.05.200 and 48.05.210. RCW 48.05.220 specifies the proper venue for such actions.

(b) Service of process against surplus line insurers can be made on the commissioner by following the procedures set forth in RCW 48.05.215 and 48.15.150. (A surplus lines insurer markets coverage which cannot be procured in the ordinary market from authorized insurers.)

(c) Service of process against other unauthorized insurers may be made on the commissioner based on the procedures set forth in RCW 48.05.215.

(d) The commissioner is not authorized to accept service of process on domestic or foreign health care service contractors or health maintenance organizations.

(2) Where service of process against a foreign or alien insurer is made through service upon the commissioner (according to the requirements of RCW 48.05.210 or 48.05.-215), against a nonresident insurance producer, surplus line broker, title insurance agent (RCW 48.17.173, or 48.15.073) or against a life settlement provider or broker (chapter 48.102 RCW or chapter 284-97 WAC), this service must be made by personal service at, or by registered mail sent to, the Tumwater office of the insurance commissioner only, and must otherwise comply with the requirements of the applicable statute.

(3) Service upon any location other than the Tumwater office of the OIC is not permissible and will not be accepted.

(4) As authorized by RCW 1.12.060, whenever the use of "registered" mail is called for, "certified" mail with return receipt requested may be used.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-02-030, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 34.05.220. 07-01-048 (Matter No. R 2003-09), § 284-02-030, filed 12/14/06, effective 1/14/07. Statutory Authority: RCW 48.02.060 and 34.05.220 (1)(b). 96-09-038 (Matter No. R 96-3), § 284-02-030, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 48.02.060 (3)(a). 91-17-013 (Order R 91-5), § 284-02-030, filed 8/13/91, effective 9/13/91; 88-23-079 (Order R 88-10), § 284-02-030, filed 11/18/88; Order R-68-6, § 284-02-030, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-040 Where can information about applying for a license as an adjuster or insurance producer, surplus line broker or title insurance agent be found?** The requirements for licensing are generally found in chapter 48.17 RCW. The requirements for surplus line brokers are found in chapter 48.15 RCW.

(1) Licensing requirements and instructions for obtaining a license as an insurance adjuster or producer, a surplus

line broker, a title insurance agent, as a life settlement broker, or for any other license required for the transaction of the business of insurance under Title 48 RCW may be obtained from the OIC's licensing and education program.

(2) The OIC web site includes forms and instructions for applicants at: [www.insurance.wa.gov](http://www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-02-040, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 34.05.220. 07-01-048 (Matter No. R 2003-09), § 284-02-040, filed 12/14/06, effective 1/14/07. Statutory Authority: RCW 48.02.060 and 34.05.220 (1)(b). 96-09-038 (Matter No. R 96-3), § 284-02-040, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 48.02.060 (3)(a). 88-23-079 (Order R 88-10), § 284-02-040, filed 11/18/88; Order R-68-6, § 284-02-040, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-060 Where can information regarding filing a complaint against a company, insurance producer, surplus line broker, title insurance agent, adjuster, or other person or entity authorized by the OIC be found?** (1) A complaint or grievance against a person or entity authorized to transact the business of insurance under Title 48 RCW may be filed with the OIC. The complainant should supply as many facts as possible to assist the OIC in the investigation of the complaint. Complaints should include: The correct name of the insurance company or other entity issuing the policy or contract; the policy number; the claim number; the name of the insurance producer, surplus line broker, title insurance agent, adjuster, life settlement broker, or any other person or entity offering to sell you insurance or to settle your claim; the date of loss or the date of the company's or other licensee's action; and a complete explanation of the loss or other problem.

(2) A form that can be used to make a complaint may be requested from the OIC by telephone or can be found on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)). Use of this form may be helpful in organizing the information, but its use is not required.

(3) If personal medical information is provided to the OIC, the OIC's medical release form must be signed and submitted by the appropriate person.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-02-060, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 34.05.220. 07-01-048 (Matter No. R 2003-09), § 284-02-060, filed 12/14/06, effective 1/14/07. Statutory Authority: RCW 48.02.060 and 34.05.220 (1)(b). 96-09-038 (Matter No. R 96-3), § 284-02-060, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 48.02.060 (3)(a). 88-23-079 (Order R 88-10), § 284-02-060, filed 11/18/88; Order R-68-6, § 284-02-060, filed 8/23/68, effective 9/23/68.]

**WAC 284-02-070 How does the OIC conduct hearings?** (1) **Generally.**

(a) Hearings of the OIC are conducted according to chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). In addition to general hearings conducted pursuant to RCW 48.04.010, two specific types of hearings are conducted pursuant to the Administrative Procedure Act: Rule-making hearings and adjudicative proceedings or contested case hearings. Contested case hearings include appeals from disciplinary actions taken by the commissioner.

(b) **How to demand or request a hearing.** Under RCW 48.04.010 the commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened

act, or failure of the commissioner to act, if the failure is deemed an act under the insurance code or the Administrative Procedure Act.

(i) Hearings can be demanded by an aggrieved person based on any report, promulgation, or order of the commissioner.

(ii) Requests for hearings must be in writing and delivered to the Tumwater office of the OIC. The request must specify how the person making the demand has been aggrieved by the commissioner, and must specify the grounds to be relied upon as the basis for the relief sought.

(c) Accommodation will be made for persons needing assistance, for example, where English is not their primary language, or for hearing impaired persons.

**(2) Proceedings for contested cases or adjudicative hearings.**

(a) Provisions specifically relating to disciplinary action taken against persons or entities authorized by the OIC to transact the business of insurance are contained in RCW 48.17.530, 48.17.540, 48.17.550, 48.17.560, chapter 48.102 RCW, and other chapters related to specific licenses. Provisions applicable to other adjudicative proceedings are contained in chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The uniform rules of practice and procedure appear in Title 10 of the Washington Administrative Code. The grounds for disciplinary action against insurance producers, title insurance agents and adjusters are contained in RCW 48.17.530; grounds for disciplinary action against surplus line brokers are contained in RCW 48.15.140; grounds for similar action against insurance companies are contained in RCW 48.05.140; grounds for actions against fraternal benefit societies are found at RCW 48.36A.300 (domestic) and RCW 48.36A.310 (foreign); grounds for actions against life settlement providers are found in chapter 48.102 RCW; grounds for actions against health care service contractors are contained in RCW 48.44.160; and grounds for action against health maintenance organizations are contained in RCW 48.46.130. Grounds for actions against other persons or entities authorized by the OIC under Title 48 RCW are found in the chapters of Title 48 RCW applicable to those licenses.

(b) The insurance commissioner may suspend or revoke any license, certificate of authority, or registration issued by the OIC. In addition, the commissioner may generally levy fines against any persons or organizations having been authorized by the OIC.

(c) Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence is not required.

(i) The insurance commissioner may delegate the authority to hear and determine the matter and enter the final order under RCW 48.02.100 and 34.05.461 to a presiding officer; or may use the services of an administrative law judge in accordance with chapter 34.12 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The initial order of an administrative law judge will not become a final order without the commissioner's review (RCW 34.05.464).

(ii) The hearing will be recorded by any method chosen by the presiding officer. Except as required by law, the OIC is not required, at its expense, to prepare a transcript. Any

party, at the party's expense, may cause a reporter approved by the presiding officer to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if, in the opinion of the presiding officer, the making of the additional recording does not cause distraction or disruption. If appeal from the insurance commissioner's order is made to the superior court, the recording of the hearing will be transcribed and certified to the court.

(iii) The insurance commissioner or the presiding officer may allow any person affected by the hearing to be present during the giving of all testimony and will allow the aggrieved person a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence. Any person heard must make full disclosure of the facts pertinent to the inquiry.

(iv) Unless a person aggrieved by an order of the insurance commissioner demands a hearing within ninety days after receiving notice of that order, or in the case of persons or entities authorized by the OIC to transact the business of insurance under Title 48 RCW, within ninety days after the order was mailed to the most recent address shown in the OIC's licensing records, the right to a hearing is conclusively deemed to have been waived (RCW 48.04.010(3)).

(v) Prehearing or other conferences for settlement or simplification of issues may be held at the discretion and direction of the presiding officer.

(d) Discovery is available in adjudicative proceedings and contested cases pursuant to Civil Rules 26 through 37 as now or hereafter amended without first obtaining the permission of the presiding officer or the administrative law judge in accordance with RCW 34.05.446(2).

(i) Civil Rules 26 through 37 are adopted and incorporated by reference in this section, with the exception of CR 26 (j) and (3) and CR 35, which are not adopted for purposes of this section.

(ii) The presiding officer or administrative law judge is authorized to make any order that a court could make under CR 37 (a) through (e), including an order awarding expenses of the motion to compel discovery or dismissal of the action.

(iii) This rule does not limit the presiding officer's or administrative law judge's discretion and authority to condition or limit discovery as set forth in RCW 34.05.446(3).

(3) **Rule-making hearings.** Rule-making hearings are conducted based on requirements found in the Administrative Procedure Act (chapter 34.05 RCW) and chapter 34.08 RCW (the State Register Act).

(a) Under applicable law all interested parties must be provided an opportunity to express their views concerning a proposed rule, either orally or in writing. The OIC will accept comments on proposed rules by mail, electronic telefacsimile transmission, or electronic mail but will not accept comments by recorded telephonic communication or voice mail (RCW 34.05.325(3)).

(b) Notice of intention of the insurance commissioner to adopt a proposed rule or amend an existing rule is published in the state register and is sent to anyone who has requested notice in advance and to persons who the OIC determines would be particularly interested in the proceeding. Persons requesting paper copies of all proposed rule-making notices of inquiry and hearing notices may be required to pay the cost of mailing these notices (RCW 34.05.320(3)).

(c) Copies of proposed new rules and amendments to existing rules as well as information related to how the public may file comments are available on the OIC web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-02-070, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 34.05.446(2). 09-19-001 (Matter No. R 2008-24), § 284-02-070, filed 9/2/09, effective 10/3/09. Statutory Authority: RCW 48.02.060 and 34.05.220. 08-14-170 (Matter No. R 2008-10), § 284-02-070, filed 7/2/08, effective 8/2/08; 07-01-048 (Matter No. R 2003-09), § 284-02-070, filed 12/14/06, effective 1/14/07. Statutory Authority: RCW 48.02.060 and 34.05.220 (1)(b). 96-09-038 (Matter No. R 96-3), § 284-02-070, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 48.02.060 (3)(a). 91-17-013 (Order R 91-5), § 284-02-070, filed 8/13/91, effective 9/13/91; 88-23-079 (Order R 88-10), § 284-02-070, filed 11/18/88; Order R-68-6, § 284-02-070, filed 8/23/68, effective 9/23/68.]

## Chapter 284-04 WAC

### PRIVACY OF CONSUMER FINANCIAL AND HEALTH INFORMATION

#### WAC

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| 284-04-405 | Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions. |
| 284-04-900 | Sample clauses.   |

**WAC 284-04-405 Exceptions to notice and opt out requirements for disclosure of nonpublic personal financial information for processing and servicing transactions.** (1) Exceptions for processing transactions at consumer's request. The requirements for initial notice in WAC 284-04-200 (1)(b), the opt out in WAC 284-04-215 and 284-04-300 and service providers and joint marketing in WAC 284-04-400 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(a) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(b) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(c) A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or

(d) Reinsurance or stop loss or excess loss insurance.

(2) Necessary to effect, administer or enforce a transaction means that the disclosure is:

(a) Required, or is one of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(b) Required, or is a usual, appropriate or acceptable method:

(i) To carry out the transaction or the product or service business of which the transaction is a part, and record, service or maintain the consumer's account in the ordinary course of providing the insurance product or service;

(ii) To administer or service benefits or claims relating to the transaction or the product or service business of which it is a part;

(iii) To provide a confirmation, statement or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's insurance producer, surplus line broker, or title insurance agent;

(iv) To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

(v) To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance: Account administration, reporting, investigating or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects or as otherwise required or specifically permitted by federal or state law; or

(vi) In connection with:

(A) The authorization, settlement, billing, processing, clearing, transferring, reconciling or collection of amounts charged, debited or otherwise paid using a debit, credit or other payment card, check or account number, or by other payment means;

(B) The transfer of receivables, accounts or interests therein; or

(C) The audit of debit, credit or other payment information.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5), 11-01-159 (Matter No. R 2010-09), § 284-04-405, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b)(2), 01-03-034 (Matter No. R 2000-08), § 284-04-405, filed 1/9/01, effective 2/9/01.]

**WAC 284-04-900 Sample clauses.** Licensees, including a group of financial holding company affiliates that use a common privacy notice, may use the following sample clauses, if the clause is accurate for each institution that uses the notice. (Note that disclosure of certain information, such as assets, income and information from a consumer reporting agency, may give rise to obligations under the Federal Fair Credit Reporting Act, such as a requirement to permit a consumer to opt out of disclosures to affiliates or designation as a consumer reporting agency if disclosures are made to non-affiliated third parties.)

**A-1—Categories of information a licensee collects (all institutions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(a) to describe the categories of nonpublic personal information the licensee collects.

Sample Clause A-1:

We collect nonpublic personal information about you from the following sources:

- Information we receive from you on applications or other forms;
- Information about your transactions with us, our affiliates or others; and
- Information we receive from a consumer reporting agency.

**A-2—Categories of information a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use one of these clauses, as applicable, to meet the requirement of WAC 284-04-210 (1)(b) to describe the categories of nonpublic personal information the licensee discloses. The licensee may use these clauses if it discloses nonpublic personal information other than as permitted by the exceptions in WAC 284-04-400, 284-04-405, and 284-04-410.

Sample Clause A-2, Alternative 1:

We may disclose the following kinds of nonpublic personal information about you:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as "your name, address, Social Security number, assets, income, and beneficiaries");
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as "your policy coverage, premiums, and payment history"); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as "your creditworthiness and credit history").

Sample Clause A-2, Alternative 2:

We may disclose all of the information that we collect, as described (describe location in the notice, such as "above" or "below").

**A-3—Categories of information a licensee discloses and parties to whom the licensee discloses (institutions that do not disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirements of WAC 284-04-210 (1)(b), (c), and (d) to describe the categories of nonpublic personal information about customers and former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses. A licensee may use this clause if the licensee does not disclose nonpublic personal information to any party, other than as permitted by the exceptions in WAC 284-04-405 and 284-04-410.

Sample Clause A-3:

We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law.

**A-4—Categories of parties to whom a licensee discloses (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(c) to describe the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal information. This clause may be used if the licensee discloses nonpublic personal information other than as permitted by the exceptions in WAC 284-04-400, 284-04-405, and 284-04-410, as well as when permitted by the exceptions in WAC 284-04-405 and 284-04-410.

Sample Clause A-4:

We may disclose nonpublic personal information about you to the following types of third parties:

- Financial service providers, such as (provide illustrative examples, such as "life insurers, automobile insurers,

mortgage bankers, securities broker-dealers, and insurance producers");

- Nonfinancial companies, such as (provide illustrative examples, such as "retailers, direct marketers, airlines, and publishers"); and
- Others, such as (provide illustrative examples, such as "nonprofit organizations").

We may also disclose nonpublic personal information about you to nonaffiliated third parties as permitted by law.

#### **A-5—Service provider/joint marketing exception**

A licensee may use one of these clauses, as applicable, to meet the requirements of WAC 284-04-210 (1)(e) related to the exception for service providers and joint marketers in WAC 284-04-400. If a licensee discloses nonpublic personal information under this exception, the licensee shall describe the categories of nonpublic personal information the licensee discloses and the categories of third parties with whom the licensee has contracted.

Sample Clause A-5, Alternative 1:

We may disclose the following information to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements:

- Information we receive from you on applications or other forms, such as (provide illustrative examples, such as "your name, address, Social Security number, assets, income, and beneficiaries");
- Information about your transactions with us, our affiliates or others, such as (provide illustrative examples, such as "your policy coverage, premium, and payment history"); and
- Information we receive from a consumer reporting agency, such as (provide illustrative examples, such as "your creditworthiness and credit history").

Sample Clause A-5, Alternative 2:

We may disclose all of the information we collect, as described (describe location in the notice, such as "above" or "below") to companies that perform marketing services on our behalf or to other financial institutions with whom we have joint marketing agreements.

#### **A-6—Explanation of opt out right (institutions that disclose outside of the exceptions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(f) to provide an explanation of the consumer's right to opt out of the disclosure of nonpublic personal information to nonaffiliated third parties, including the method(s) by which the consumer may exercise that right. The licensee may use this clause if the licensee discloses nonpublic personal information other than as permitted by the exceptions in WAC 284-04-400, 284-04-405, and 284-04-410.

Sample Clause A-6:

If you prefer that we not disclose nonpublic personal information about you to nonaffiliated third parties, you may opt out of those disclosures, that is, you may direct us not to make those disclosures (other than disclosures permitted by law). If you wish to opt out of disclosures to nonaffiliated third parties, you may (describe a reasonable means of opting out, such as "call the following toll-free number: (insert number)").

#### **A-7—Confidentiality and security (all institutions)**

A licensee may use this clause, as applicable, to meet the requirement of WAC 284-04-210 (1)(h) to describe its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

Sample Clause A-7:

We restrict access to nonpublic personal information about you to (provide an appropriate description, such as "those employees who need to know that information to provide products or services to you"). We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-04-900, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.43.505 and Gramm-Leach-Bliley Act, Public Law 102-106, sec. 501(b), sec. 505 (b)(2). 01-03-034 (Matter No. R 2000-08), § 284-04-900, filed 1/9/01, effective 2/9/01.]

### **Chapter 284-12 WAC**

#### **INSURANCE PRODUCERS, TITLE INSURANCE AGENTS, SURPLUS LINE BROKERS, AND ADJUSTERS**

##### **WAC**

|            |  |
|------------|--|
| 284-12-080 | Requirements for separate accounts.                                |
| 284-12-095 | Unfair practice with respect to use of insurance producer defined. |
| 284-12-110 | Identification of an insurance producer to a prospective insured.  |
| 284-12-220 | Licensed in this state.  |
| 284-12-270 | Expiration and renewal of appointments.                            |

**WAC 284-12-080 Requirements for separate accounts.** (1) The purpose of this section is to effectuate RCW 48.15.180, 48.17.600 and 48.17.480 with respect to the separation and accounting of premium funds by insurance producers, title insurance agents and surplus line brokers, collectively referred to in this section as "producers." Pursuant to RCW 48.30.010, the commissioner has found and hereby defines it to be an unfair practice for any producer, except as allowed by statute, to conduct insurance business without complying with the requirements of RCW 48.15.180, 48.17.600 and this section.

(2) All funds representing premiums and return premiums received on Washington business by a producer in his or her fiduciary capacity on or after January 1, 1987, shall be deposited in one or more identifiable separate accounts which may be interest bearing.

(a) A producer may deposit no funds other than premiums and return premiums to the separate account except as follows:

- Funds reasonably sufficient to pay bank charges;
- Funds a producer may deem prudent for advancing premiums, or establishing reserves for the paying of return premiums; and

(iii) Funds for contingencies as may arise in the business of receiving and transmitting premiums or return premiums.

(b) A producer may commingle Washington premiums and return premiums with those produced in other states, but there shall be no commingling of any funds which would not be permitted by this section.

(3)(a) The separate account funds may be:

(i) Deposited in a checking account, demand account, or a savings account in a bank, national banking association, savings and loan association, mutual savings bank, stock savings bank, credit union, or trust company located in the state of Washington. Such an account must be insured by an entity of the federal government; or

(ii) Invested in United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States government is pledged for payment of principal and interest, repurchase agreements collateralized by securities issued by the United States government, and bankers acceptances. Insurers may, of course, restrict investments of separate account funds by their agent.

(b) A nonresident licensee, or a resident producer with affiliated operations under common ownership in two or more states, may utilize comparable accounts in another state provided such accounts otherwise meet the requirements of RCW 48.15.180, 48.17.600, 48.17.480 and this rule, and are accessible to the commissioner for purposes of examination or audit at the expense of the producer.

(4) Disbursements or withdrawals from a separate account shall be made for the following purposes only, and in the manner stated:

(a) For charges imposed by a bank or other financial institution for operation of the separate account;

(b) For payments of premiums, directly to insurers or other producers entitled thereto;

(c) For payments of return premiums, directly to the insureds or other persons entitled thereto;

(d) For payments of commissions and other funds belonging to the separate account's producer, directly to another account maintained by such producer as an operating or business account; and

(e) For transfer of fiduciary funds, directly to another separate premium account which meets the requirements of this section.

(5)(a) The entire premium received (including a surplus lines premium tax if paid by the insured) must be deposited into the separate account. Such funds shall be paid promptly to the insurer or to another producer entitled thereto, in accordance with the terms of any applicable agreement between the parties.

(b) Return premiums received by a producer and the producer's share of any premiums required to be refunded, must be deposited promptly to the separate account. Such funds shall be paid promptly to the insured or person entitled thereto.

(6)(a) Where a producer receives a premium payment in the form of an instrument, such as a check, which is made payable to an insurer, general agent or surplus line broker, the producer may forward such instrument directly to the payee if that can be done without endorsement or alteration. In such a case, the producer's separate account is not involved because the producer has not "received" any funds.

(b) If the producer receives a premium payment in the form of cash or an instrument requiring endorsement by the producer, such premium must be deposited into the producer's separate account, unless the insurer entitled to such funds has established other procedures by written direction to a producer who is its appointed agent, which procedures:

(i) Recognize that such agent is receiving premiums directly on behalf of the insurer; and

(ii) Direct the producer to give adequate receipts on behalf of the insurer; and

(iii) Require deposit of the proceeds into the insurer's own account or elsewhere as permitted by the insurer's direction.

Thus, for example, an insurer may utilize the services of a licensed insurance producer, acting as a "captive agent," in the sale of its insurance and in the operation of its places of business, and directly receive payments intended for it without such payments being deposited into and accounted for through the licensed insurance producer's separate account. In such cases, for purposes of this rule, the insurer, as distinguished from the insurance producer, is actually "receiving" the funds and is immediately responsible therefor.

(c) When a producer receives premiums in the capacity of a surplus line broker, licensed pursuant to chapter 48.15 RCW, after a binder or other written evidence of insurance has been issued to the insured, subject to the express written direction of the insurer involved, such premiums may be removed from the separate account.

(7) The commissioner recognizes the practical problems of accounting for the small amounts of interest involved spread over a large number of insurers and insureds. Therefore, absent any agreement between the producer and the insured or insurer to the contrary, interest earned on the deposits held in the separate account may be retained by the producer and used to offset bank charges, establish reserves, pay return premiums, or for any of the purposes listed in subsection (2) of this section, or the interest may be removed to the operating account.

(8) A producer shall establish and maintain records and an appropriate accounting system for all premiums and return premiums received by the producer, and shall make such records available for inspection by the commissioner during regular business hours upon demand during the five years immediately after the date of the transaction.

(9) The accounting system used must effectively isolate the separate account from any operating accounts. All record-keeping systems, whether manual or electronic must provide an audit trail so that details underlying the summary data, such as invoices, checks, and statements, may be identified and made available on request. Such a system must provide the means to trace any transaction back to its original source or forward to final entry, such as is accomplished by a conventional double-entry bookkeeping system. When automatic data processing systems are used, a description of the system must be available for review by the commissioner. A balance forward system (as in an ordinary checking account) is not acceptable.

(10)(a) A producer that is a business entity may utilize one separate account for the funds received by its affiliated persons operating under its license, and such affiliated persons may deposit the funds they receive in such capacity directly into the separate account of their firm or corporation.

(b) Funds received by an insurance producer who is employed by and offices with another insurance producer may be deposited into and accounted for through the separate account of the employing insurance producer. This provision does not, however, authorize the insurance producer

employee to represent an insurer as to which he or she has no appointment.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-12-080, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, 48.17.480 and 48.17.600. 90-04-042 (Order R 90-2), § 284-12-080, filed 1/31/90, effective 3/3/90. Statutory Authority: RCW 48.02.060 (3)(a) and 48.30.010(2). 88-17-117 (Order R 88-8), § 284-12-080, filed 8/24/88; 87-03-055 (Order R 87-1), § 284-12-080, filed 1/21/87.]

**WAC 284-12-095 Unfair practice with respect to use of insurance producer defined.** It is an unfair or deceptive practice and an unfair method of competition pursuant to RCW 48.30.010 for an authorized insurer to cancel or refuse to renew any insurance policy because its contract or arrangement with an appointed or a nonappointed insurance producer through whom such policy was written has been terminated.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-12-095, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.05.310, 48.30.010 and 48.15.080. 91-23-032 (Order R 91-7), § 284-12-095, filed 11/13/91, effective 1/1/92.]

**WAC 284-12-110 Identification of an insurance producer to a prospective insured.** It shall be an unfair practice for an insurance producer initiating a sales presentation away from his or her office to fail to inform the prospective purchaser, prior to commencing the sales presentation, that the insurance producer is acting as an insurance producer, and to fail thereafter to inform the prospective purchaser of the full name of the insurance company whose product the insurance producer offers to the buyer. This rule shall apply to all lines of insurance and to all coverage solicited in this state including coverage under a group policy delivered in another state, whether or not membership in the group is also being solicited.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-12-110, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 88-24-053 (Order R 88-12), § 284-12-110, filed 12/7/88.]

**WAC 284-12-220 Licensed in this state.** A person is licensed in this state for purposes of RCW 48.98.010 (1) and (2), if the person holds a resident or nonresident insurance producer's license issued by the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-12-220, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-220, filed 9/1/93, effective 10/2/93.]

**WAC 284-12-270 Expiration and renewal of appointments.** Appointments of managing general agents shall be for two years. They expire unless timely renewed. They expire on the same date that insurance producer appointments for the same insurer expire under WAC 284-17-410.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-12-270, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.01.030, 48.02.060(3), 48.14.010 and 48.17.500(3). 94-14-110 (Order R 94-14), § 284-12-270, filed 7/6/94, effective 8/6/94. Statutory Authority: RCW 48.02.060 and 1993 c 462 § 41. 93-19-009 (Order R 93-13), § 284-12-270, filed 9/1/93, effective 10/2/93.]

## Chapter 284-16 WAC INSURERS

### WAC

|            |  |
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| 284-16-700 | Definitions.                               |
| 284-16-710 | Requirements for business continuity plan. |

**WAC 284-16-700 Definitions.** For purposes of this regulation, the following definitions apply:

(1) "Financially significant activities and applications" means computer software, including system programs and application programs, which are used to perform automated processing of a financially significant account balance or set of transactions. This includes financially significant e-business systems.

(2) "Regulatory reporting" includes filing of quarterly and annual statements, holding company filings, submission of financial payments for fees and taxes, rate and form filings and licensing appointments and renewals.

[Statutory Authority: RCW 48.02.060 and 48.07.205. 10-22-076 (Matter No. R 2010-04), § 284-16-700, filed 11/1/10, effective 1/1/11.]

**WAC 284-16-710 Requirements for business continuity plan.** (1) Each domestic insurer must create and maintain a written business continuity plan identifying procedures relating to a local, state or national emergency or significant business disruption. Such procedures must be reasonably designed to:

(a) Enable the insurer to meet its existing obligations to insurance beneficiaries, policyholders, claimants, subscribers;

(b) Address the insurer's existing relationships with affiliates, third-party service providers, the National Association of Insurance Commissioners and the office of insurance commissioner; and

(c) Be made available upon request to the office of insurance commissioner.

(2) Each domestic insurer must update its business continuity plan in the event of any material change to the insurer's operations, structure, business or location.

(3) Each domestic insurer must conduct an annual review and test of its business continuity plan to determine whether modification is necessary in light of changes to the insurer's operations, structure, business or location.

(4) The elements that comprise a business continuity plan are flexible and may be tailored to the size and needs of an insurer. Each plan must at a minimum, address:

(a) Data back-up and recovery (hard copy and electronic);

(b) Information system disaster recovery (main site and alternate site);

(c) All financially significant activities and applications;

(d) Restoration priority based upon a business impact analysis;

(e) Alternate communications between policyholders or subscribers and the insurer;

(f) Alternate communications between the insurer, its employees and producers;

(g) Alternate physical location of employees;

(h) Regulatory reporting;

(i) Communications with regulators; and

(j) How the insurer will assure policyholders' prompt access to funds and securities due in the event that the insurer determines that it is unable to continue its business.

(5) If any of the categories in subsection (4) of this section are not applicable, the insurer's business continuity plan does not need to address the category but the insurer's business continuity plan must include the rationale for not including such category. If an insurer relies on an affiliate or third-party service provider for any of the categories in subsection (4) of this section or any financially significant system, application or activities, the insurer's business continuity plan must address this relationship.

(6) Each domestic insurer must clearly describe senior management roles and responsibilities associated with the declaration of an emergency and implementation of the business continuity plan.

(7) Each domestic insurer must designate a member of senior management to approve the plan and he or she shall be responsible for conducting the required annual review and test.

[Statutory Authority: RCW 48.02.060 and 48.07.205, 10-22-076 (Matter No. R 2010-04), § 284-16-710, filed 11/1/10, effective 1/1/11.]

## Chapter 284-17B WAC

### RENTAL CAR INSURANCE PRODUCER

#### WAC

|             |  |
|-------------|--|
| 284-17B-005 | What definitions are important throughout the chapter?   |
| 284-17B-010 | Who needs to be licensed as a rental car insurance producer?   |
| 284-17B-015 | How can I apply for a rental car insurance producer license?   |
| 284-17B-020 | Do I have continuing reporting and recordkeeping requirements?                                       |
| 284-17B-025 | How is a rental car insurance producer license renewed?  |
| 284-17B-030 | Can the rental car insurance producer endorse someone to act on behalf of the agent?                 |
| 284-17B-035 | Who can be a rental car insurance producer endorsee?   |
| 284-17B-040 | Is the rental car insurance producer required to provide training and education to its endorsees?    |
| 284-17B-045 | What activities are prohibited for rental car insurance producers?                                   |
| 284-17B-050 | How should a rental car insurance producer account for premiums?                                     |
| 284-17B-060 | What information must be included in the written material or brochure?                               |
| 284-17B-075 | Does the commissioner have authority to suspend, fine, or revoke my license or refuse to license me? |

#### WAC 284-17B-005 What definitions are important throughout the chapter? Definitions:

(1) **"Endorsee"** means an unlicensed employee or agent of a rental car insurance producer who meets the requirements of this chapter.

(2) **"Person"** means an individual or a business entity.

(3) **"Rental agreement"** means any written master, corporate, group, or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company.

(4) **"Rental car"** means any motor vehicle that is intended to be rented or leased for a period of thirty consecutive days or less by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:

(a) A private passenger motor vehicle, including a passenger van, recreational vehicle, minivan, or sports utility vehicle; or

(b) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand pounds.

(5) **"Rental car insurance producer"** means any rental car company that is licensed to offer, sell, or solicit rental car insurance under this chapter.

(6) **"Rental car company"** means any person in the business of renting rental cars to the public, including a franchisee.

(7) **"Rental car insurance"** means insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, group, or individual agreements that is:

(a) Nontransferable;

(b) Applicable only to the rental car that is the subject of the rental agreement;

(c) Limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance, including uninsured or underinsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period; and

(iv) Roadside assistance and emergency sickness protection insurance.

(8) **"Renter"** means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5), 11-01-159 (Matter No. R 2010-09), § 284-17B-005, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-005, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-010 Who needs to be licensed as a rental car insurance producer?** Any person in the business of renting cars to the public and offering rental car insurance must either:

(1) Be licensed under chapter 284-17 WAC; or

(2) Comply with chapter 48.115 RCW and this chapter.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5), 11-01-159 (Matter No. R 2010-09), § 284-17B-010, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-010, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-015 How can I apply for a rental car insurance producer license?** Forms and instructions may be obtained by either calling the office of insurance commissioner or downloading them from the web site: [www.wa.gov](http://www.wa.gov)

insurance.wa.gov/. To apply for a rental car insurance producer license, the following must be submitted:

- (1) A rental car insurance producer application signed by the applicant, an officer of the applicant, or owner of the rental car-company;
- (2) A copy of articles of incorporation;
- (3) A certificate of good standing from the secretary of state;
- (4) Underwriting insurer appointment form, INS 18;
- (5) The insurer's certification form as described in RCW 48.115.015 (2)(a) signed by the appointing authority;
- (6) A list of all locations in Washington identifying the manager or direct supervisor at each;
- (7) A list of the names of all endorsees to its rental car insurance producer license;
- (8) Certification by the rental car company that the listed endorsees have met the training requirements in RCW 48.115.020(4) and are authorized to offer, sell, and solicit insurance in connection with the rental of vehicles as described in RCW 48.115.005(7).
- (9) The training and education program and materials as described in RCW 48.115.020(4) and all brochures and other written materials provided to renters as described in RCW 48.115.025; and
- (10) Initial fees:

|                               |  |
|-------------------------------|--|
| a. License fee for two years: | \$130 for business with under 50 employees<br>\$375 for business with 50 or more employees   |
| b. Appointment fee:           | \$20 for each underwriting insurer   |
| c. Location fee:              | \$35 for each additional location. Location fees are not required for locations where there are no endorsees due to waiver or approved alternate arrangement under WAC 284-17B-080 |

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-015, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-015, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-020 Do I have continuing reporting and recordkeeping requirements?** (1) Yes. The list of names of all endorsees to the rental car insurance producer license must be updated quarterly on a calendar year basis and submitted at the time of license renewal. The rental car company must retain each list for a period of three years from submission. At any time, endorsee lists must be provided to the commissioner upon request.

(2) The rental car insurance producer must maintain records of each transaction which allows it to identify the endorsee for one year.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-020, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-020, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-025 How is a rental car insurance producer license renewed?** Rental car insurance producer licenses are issued for a period of two years. A renewal notice will be mailed to each licensed rental car insurance producer every other year from the date of issuance. The renewal notice must be submitted with the rental car company certification form and applicable fee:

| <i>Date Fees are Received</i> | <i>Fee Every Other Year</i>                     |
|-------------------------------|---|
|                               | <b>50 OR MORE EMPLOYEES</b>                     |
| Prior to or on renewal date:  | \$375 with \$35 per each additional location    |
| 1-30 days late                | \$562.50 with \$35 per each additional location |
| 31-60 days late               | \$749.75 with \$35 per each additional location |
| 61 or more days late          | New license is required                         |
|                               | <b>UNDER 50 EMPLOYEES</b>                       |
| Prior to or on renewal date:  | \$130 with \$35 per additional location         |
| 1-30 days late                | \$195 with \$35 per each additional location    |
| 31-60 days late               | \$260 with \$35 per each additional location    |
| 61 or more days late          | New license is required                         |

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-025, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-025, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-030 Can the rental car insurance producer endorse someone to act on behalf of the agent?** Yes. An endorsee may act on behalf of the rental car insurance producer. The endorsee may act only in the offer, sale, or solicitation of rental car insurance. A rental car insurance producer is responsible for, and must supervise, all actions of its endorsees related to the offering, sale, or solicitation of rental car insurance.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-030, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-030, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-035 Who can be a rental car insurance producer endorsee?** An employee or agent of a rental car insurance producer may be an endorsee under the authority of the rental car agent license, if all of the following conditions are met:

- (1) The employee or agent is eighteen years of age or older;
- (2) The employee or agent is a trustworthy person and has not committed any act set forth in RCW 48.17.530;
- (3) The employee or agent has completed a training and education program; and
- (4) The employee or agent has a current agreement or business relationship with the rental car company.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-035, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-035, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-040 Is the rental car insurance producer required to provide training and education to its endorsees?** Yes. The rental car insurance producer must provide training and education to its endorsees as described in RCW 48.115.020(4).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-040, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-040, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-045 What activities are prohibited for rental car insurance producers?** A rental car insurance producer must comply with RCW 48.115.030.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-045, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-045, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-050 How should a rental car insurance producer account for premiums?** A rental car insurance producer is required to treat money collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, unless:

- (1) The charges for rental car insurance coverage are itemized and related to a rental transaction; and
- (2) The insurer has consented in writing that premiums do not need to be segregated from funds received by the rental car insurance producer. This written statement must be signed by an officer of the insurer.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-050, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-050, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-060 What information must be included in the written material or brochure?** The brochure and written material must clearly, conspicuously, and in plain language:

- (1) Summarize, clearly and correctly, the material terms, exclusions, limitations, and conditions of coverage offered to renters, including the identity of the insurer;
- (2) Describe the process for filing a claim including a toll-free telephone number to report a claim;
- (3) Provide the rental car insurance producer's name, address, telephone number, and license number, and the commissioner's consumer hotline number;
- (4) Inform the renter that the rental car insurance may duplicate coverage provided by the renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;
- (5) Inform the renter that when the rental car insurance is not the primary source of coverage, the renter's personal insurance will serve as the primary source of coverage;
- (6) Inform the renter that the purchase of the rental car insurance is not required to rent a car from the rental car insurance producer; and
- (7) Inform the renter that the rental car insurance producer and the endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages.

(8) The policy or certificate of coverage and rates must be filed and approved by OIC as outlined in RCW 48.18.100 and 48.19.040.

(9) If the written material includes a certificate of coverage or policy, the form number and edition, if applicable, of the approved certificate of coverage or policy must be identified on the printed material. The insurer must certify that the policy or certificate of coverage and the rates have been approved and that the wording on the written material is exactly as approved.

(10)(a) The renter must acknowledge the receipt of the brochures and written materials. The acknowledgment may be in the brochure or written materials, rental agreement, or a separate document.

(b) For transactions conducted by electronic means, the rental car agent must comply with the requirements of (a) of this subsection. Acknowledgment of the receipt of the documents may be made by either written or digital signature.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-060, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-060, filed 10/27/04, effective 11/27/04.]

**WAC 284-17B-075 Does the commissioner have authority to suspend, fine, or revoke my license or refuse to license me?** Yes, the commissioner may fine, suspend, revoke, or refuse to issue a license to a rental car insurance producer or applicant. See RCW 48.115.035.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-17B-075, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, and chapter 48.115 RCW. 04-22-045 (Matter No. R 2002-05), § 284-17B-075, filed 10/27/04, effective 11/27/04.]

## Chapter 284-19 WAC

### WASHINGTON ESSENTIAL PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM

#### WAC

284-19-070  
284-19-165

FAIR plan business—Distribution and placement.  
Cooperation of producers.

**WAC 284-19-070 FAIR plan business—Distribution and placement.** (1) The facility shall not require that the applicant demonstrates that he or she is unable to obtain insurance in the normal market, as a precondition to the placement of business under the FAIR plan. The facility, however, may require an insurance producer to furnish copies of documents or information showing what effort was made by the insurance producer to obtain insurance in the normal market. The facility shall forward to the commissioner the names of insurance producers who fail to cooperate or who appear to fail to make reasonable efforts on behalf of applicants for insurance to obtain insurance in the normal market.

(2) Assessments upon each insurer participating in this program shall be levied by the facility on the same percentage allocation basis as the insurer's premiums written bears to the total of all premiums written by all insurers participating in the program.

(a) The maximum limit of liability that may be placed through this program on any one property at one location is \$1,500,000. The facility undertakes the responsibility of seeking to place that portion of a risk that exceeds \$1,500,000.

(b) The term "at one location" as used in this chapter refers to real and personal property consisting of and contained in a single building, or consisting of and contained in contiguous buildings under one ownership.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-19-070, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 98-13-095 (Matter No. R 98-10), § 284-19-070, filed 6/16/98, effective 7/17/98. Statutory Authority: RCW 48.01.030, 48.02.060, 48.18.480, and 48.30.020. 79-08-019 (Order R 79-3), § 284-19-070, filed 7/11/79; Order R-69-1, § 284-19-070, filed 1/28/69.]

**WAC 284-19-165 Cooperation of producers.** All licensed insurance producers shall provide full cooperation in carrying out the aims and the operation of the FAIR plan.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-19-165, filed 12/22/10, effective 1/22/11; Order R-69-1, § 284-19-165, filed 1/28/69.]

### Chapter 284-20 WAC INSURANCE POLICIES

#### WAC

284-20-300 Mandatory offering of personal injury protection.

**WAC 284-20-300 Mandatory offering of personal injury protection.** (1) Insurers issuing an automobile liability insurance policy must offer the minimum personal injury protection coverage limits required in RCW 48.22.095, and must make available, if requested, additional personal injury protection limits as defined in RCW 48.22.100. Insurers may also offer other personal injury protection limits, in addition to these required offerings.

(2) If the named insured rejects personal injury protection coverage, the insurer must promptly delete the coverage after the insurer receives the rejection notice from the named insured. The insurer must retain a copy of the rejection notice or request to delete coverage with the policy record.

(3) Insurers may use electronic forms, electronic signatures and electronic attestations, in accordance with 15 U.S.C. Sec. 7001, to comply with this rule. The insurer must maintain an auditable compliance record and provide this information to the commissioner upon request.

(4) This section does not apply to corporations, partnerships, or any other nonhuman entity named as the insured.

[Statutory Authority: RCW 48.02.060 and 48.22.105. 10-10-058 (Matter No. R 2008-13), § 284-20-300, filed 4/29/10, effective 5/30/10.]

### Chapter 284-22 WAC USL&H ASSIGNED RISK PLAN

#### WAC

284-22-040 Territory.

**WAC 284-22-040 Territory.** (1) The assigned risk plan shall provide coverage only for employers who are unable to purchase United States Longshore and Harbor Workers' Compensation Act (USL&H) coverage and maritime

employers' liability coverage incidental to such workers' compensation coverage for their operations within the state of Washington.

(2) The assigned risk plan may, at its discretion, provide USL&H coverage and maritime employers' liability coverage incidental to such workers' compensation coverage for Washington state employers who are unable to purchase USL&H coverage for their Washington employees who temporarily work out-of-state.

[Statutory Authority: RCW 48.02.060 and 48.22.070. 10-11-056 (Matter No. R 2008-07), § 284-22-040, filed 5/13/10, effective 6/13/10. Statutory Authority: RCW 48.02.060 and 1992 c 209. 92-19-095 (Order R 92-12), § 284-22-040, filed 9/16/92, effective 10/17/92.]

### Chapter 284-23 WAC

#### WASHINGTON LIFE INSURANCE REGULATIONS

##### WAC

|            |   |
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**WAC 284-23-020 Definitions.** (1) For the purpose of this regulation:

(a) "Policy" shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.

(b) "Insurer" shall include any organization or person which issues life insurance or annuities in this State and is engaged in the advertisement of a policy.

(c) "Advertisement" shall be material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate, or retain a policy including:

(i) Printed and published material, audiovisual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

(ii) Descriptive literature and sales aids of all kinds issued by an insurer or insurance producer, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(iii) Material used for the recruitment, training and education of an insurer's sales personnel and insurance producers, which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy;

(iv) Prepared sales talks, presentations and material for use by sales personnel and insurance producers.

(2) "Advertisement" for the purpose of this regulation shall not include:

(a) Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(b) Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(c) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged, provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-020, filed 12/22/10, effective 1/22/11; Order R-75-3, § 284-23-020, filed 8/22/75, effective 11/1/75.]

**WAC 284-23-400 Purpose.** The purpose of this regulation is:

(1) To regulate the activities of insurers and insurance producers with respect to the replacement of existing life insurance and annuities;

(2) To protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by:

(a) Assuring that the purchaser receives information with which a decision can be made in his or her own best interest;

(b) Reducing the opportunity for misrepresentation and incomplete disclosures; and

(c) Establishing penalties for failure to comply with the requirements of this regulation.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-400, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-400, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-400, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-410 Definition of replacement.** "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing insurance producer, or to the proposing insurer if there is no insurance producer, that by reason of such transaction, existing life insurance or annuity has been or is to be:

(1) Lapsed, forfeited, surrendered, or otherwise terminated;

(2) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(4) Reissued with any reduction in cash value; or

(5) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent of the loan value set forth in the policy.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-410, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-410, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-410, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-420 Other definitions.** (1) "Conservation" means any attempt by the existing insurer or an insurance producer to dissuade a policyowner from the replace-

ment of existing life insurance or annuity. Conservation does not include such routine administrative procedures as late payment reminders, late payment offers or reinstatement offers.

(2) "Direct-response sales" means any sale of life insurance or annuity where the insurer does not utilize an insurance producer in the sale or delivery of the policy.

(3) "Existing insurer" means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement."

(4) "Existing life insurance or annuity" means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period.

(5) "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

(6) "Registered contract" means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account, or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-420, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-420, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-420, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-430 Exemptions.** Unless otherwise specifically included, this regulation shall not apply to transactions involving:

(1) Credit life insurance;

(2) Group life insurance or group annuities, unless the new coverage under the insurance or annuity is solicited on an individual basis and the cost of such coverage is borne substantially by the individual;

(3) An application to the existing insurer that issued the existing life insurance when a contractual change or conversion privilege is being exercised;

(4) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(5) Transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, insurance producers proposing replacement shall comply with the requirements of WAC 284-23-440 (1) and (2)(a) and (c); and

(6) Registered contracts shall be exempt only from the requirements of WAC 284-23-455 (2)(b) and (c), requiring provision of policy summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu thereof.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-430, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-430, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-430, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-440 Duties of insurance producers.** (1)

Each insurance producer who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

(a) A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

(b) A signed statement as to whether the insurance producer knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved, the insurance producer shall:

(a) Present to the applicant, not later than at the time of taking the application, a completed notice regarding replacement in the form as described in WAC 284-23-485, or other substantially similar form approved by the commissioner. Answers must be succinct and in simple nontechnical language. They should fairly and adequately highlight the points raised by the questions, without overwhelming the applicant with verbiage and data. An answer may include a reference to the contract or another source, but it must be essentially complete without the reference. The notice (and a copy) shall be signed by the applicant after it has been completed and signed by the insurance producer and the signed original shall be left with the applicant.

(b) Obtain with each application a list of all existing life insurance and/or annuity contracts to be replaced and properly identified by name of insurer, the insured and contract number. Such list shall be set forth on the notice regarding replacement required by WAC 284-23-485, immediately below the insurance producer's name and address. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(c) Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant.

(d) Submit to the replacing insurer with the application, a copy of the replacement notice provided pursuant to WAC 284-23-440 (2)(a).

(3) Each insurance producer who uses written or printed communications in a conservation shall leave with the applicant the original or a copy of such materials used.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-440, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-440, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-440, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-455 Duties of insurers that use insurance producers.** Each insurer that uses an insurance producer in a life insurance or annuity sale shall:

(1) Require with or as part of each completed application for life insurance or annuity, a statement signed by the insurance producer as to whether he or she knows replacement is or may be involved in the transaction.

(2) Where a replacement is involved:

(a) Require from the insurance producer with the application for life insurance or annuity (i) a list of all of the applicant's existing life insurance or annuities to be replaced and

(ii) a copy of the replacement notice provided the applicant pursuant to WAC 284-23-440 (2)(a). Such existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

(b) Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to (a) of this subsection and a policy summary, contract summary, or ledger statement containing policy data on the proposed life insurance or annuity as required by the life insurance solicitation regulation, WAC 284-23-200 through 284-23-270, and/or the annuity and deposit fund disclosure regulation, WAC 284-23-300 through 284-23-380. Cost indices and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within three working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(c) Each existing insurer or such insurer's insurance producer that undertakes a conservation shall, within twenty days from the date the written communication plus the materials required in (a) and (b) of this subsection is received by the existing insurer, furnish the policyowner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy and/or annuity. Such policy summary or ledger statement shall be completed in accordance with the provisions of the life insurance solicitation regulation, WAC 284-23-200 through 284-23-270, except that information relating to premiums, cash values, death benefits and dividends, if any, shall be computed from the current policy year of the existing life insurance. The policy summary or ledger statement shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any regulation or statute. Cost indices and equivalent level annual dividend figures need not be included. When annuities are involved, the disclosure information shall be that required in a contract summary under the annuity and deposit fund disclosure regulation, WAC 284-23-300 through 284-23-380. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries or ledger statement, which shall be furnished within five working days of the receipt of the request.

(3) The replacing insurer shall maintain evidence of the "Notice Regarding Replacement," the policy summary, the contract summary and any ledger statements used, and a replacement register, cross indexed, by replacing insurance producer and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries or ledger statements used in any conservation. Evidence that all requirements were met shall be maintained for at least three years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later.

(4) The replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all

premiums paid, which right may be exercised within twenty days commencing from the date of delivery of the policy.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-455, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-455, filed 6/23/87, effective 9/1/87.]

**WAC 284-23-460 Duties of insurers with respect to direct-response sales.** (1) If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant, with the policy, a replacement notice as described in WAC 284-23-485 or other substantially similar form approved by the commissioner. In such instances the insurer may omit the portion of the form which is included under the heading "Statement to Applicant by Insurance Producer," but including the portion beginning with "CAUTION" and continuing through the first three points down to and not including the fourth point which begins "Study the comments" without having to obtain approval of the form from the commissioner. The applicant's signature is not required on the notice.

(2) If the insurer proposes the replacement in connection with direct response sales, it shall:

(a) Provide to applicants or prospective applicants, with or as a part of the application, a replacement notice as described in WAC 284-23-485 or other substantially similar form approved by the commissioner.

(b) Request from the applicant with or as part of the application, a list of all existing life insurance or annuities to be replaced and properly identified by name of insurer, insured, and contract number.

(c) Comply with the requirements of WAC 284-23-455 (2)(b), if the applicant furnishes the names of the existing insurers, and the requirements of WAC 284-23-455(3), except that it need not maintain a replacement register.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-460, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-460, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-460, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-480 Penalties.** (1) Any insurance producer, and any insurer, representative, officer or employee of such insurer failing to comply with the requirements of this regulation shall be subject to such penalties as may be appropriate under the insurance laws of Washington.

(2) This regulation does not prohibit the use of additional material other than that which is required that is not in violation of this regulation or any other Washington statute or regulation.

(3) Policyowners have the right to replace existing life insurance after indicating in or as part of the applications for life insurance that such is not their intention; however, patterns of such action by policyowners who purchase the replacing policies from the same insurance producer shall be deemed prima facie evidence of the licensee's knowledge that replacement was intended in connection with the sale of those policies, and such patterns of action shall be deemed prima facie evidence of the licensee's intent to violate this regulation.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-480, filed 12/22/10, effective 1/22/11.

Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-480, filed 6/23/87, effective 9/1/87; 80-05-098 (Order R 80-5), § 284-23-480, filed 5/2/80, effective 10/1/80.]

**WAC 284-23-485 Form to be used for notice regarding replacement.**

(Insurance company's name and address)

IMPORTANT NOTICE REGARDING REPLACEMENT OF  
INSURANCE

(Save this notice! It may be important to you in the future.)

The decision to buy a new life insurance policy or annuity and discontinue or change an existing one is very important. Your decision could be a good one—or a mistake. It should be carefully considered. The Washington state insurance commissioner requires us to give you this notice to help you make a wise decision.

STATEMENT TO APPLICANT BY INSURANCE PRODUCER:  
(Use additional sheets, as necessary.)

I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following factors, which I call to your attention.

1. Can there be reduced benefits or increased premiums in later years? . . . No . . . Yes, explain:
2. Are there penalties, set up or surrender charges for the new policy? . . . No . . . Yes, explain, emphasizing any extra cost for early withdrawal:
3. Will there be penalties or surrender charges under the existing insurance as a result of the proposed transaction? . . . No . . . Yes, explain:
4. Are there adverse tax consequences from the replacement under current tax law? . . . No . . . Yes, explain:
  5. a) Are interest earnings a consideration in this replacement? No . . . Yes. . . .
  - b) If "yes," explain what portions of premiums or contributions will produce limited or no earnings. As pertinent, include in your explanation the need for minimum deposits to enhance earnings, and the reduction of earnings that may result from set-up charges, policy fees, and other factors.
6. Are minimum amounts required to be on deposit before excess interest will be paid? . . . No . . . Yes, explain:
7. If the new program is based on a variable or universal life insurance policy or a single-premium policy or annuity:
  - a) Are the interest rates quoted before . . . or after . . . fees and mortality charges have been deducted?
  - b) Interest rates are guaranteed for how long? . . .
  - c) The minimum interest rate to be paid is how much? . . .
  - d) If applicable, the rate you pay to borrow is . . . . . , and the limit on the amount that can be borrowed is . . . . .
  - e) The surrender charges are . . . . .
  - f) The death benefit is . . . . .

8. Are there other short or long term effects from the replacement that might be materially adverse?

... No. ... Yes, explain:

Signature of Insurance Producer Date
Name of Insurance Producer (Print or Type) Address

List of Policies or Contracts to be Replaced:

Table with 3 columns: Company, Insured, Contract No.

CAUTION: The insurance commissioner suggests you consider these points:

- > Usually, contestable and suicide periods start again under a new policy. Benefits might be excluded under a new policy that would be paid under existing insurance.
> Terminating or altering existing coverage, before new insurance has been issued, might leave you unable to purchase other life insurance or let you buy it only at substantially higher rates.
> You are entitled to advice from the existing insurance producer or company. Such advice might be helpful.
> Study the comments made above by the insurance producer. They apply to you and this proposal. They are important to you and your future.

Completed Copy Received: (Applicant's Signature) (Date)

THIS COMPLETED FORM SHOULD BE FILED PERMANENTLY WITH YOUR NEW INSURANCE POLICY.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-23-485, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 87-14-015 (Order R 87-6), § 284-23-485, filed 6/23/87, effective 9/1/87.]

WAC 284-23-800 Purpose and scope. The purpose of these rules is to set standards for detecting and preventing the purchase of juvenile life insurance for speculative or fraudulent reasons, by ensuring that insurance underwriting practices consider such risk, and by setting forth the minimum practices required to insure the life of a juvenile. These rules apply to life insurance policies governed by chapter 48.23 RCW that insure the life of a juvenile.

[Statutory Authority: RCW 48.02.060 (3)(a). 10-12-099 (Matter No. R 2009-05), § 284-23-800, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 48.02.060 and 48.23.345. 09-03-104 (Matter No. R 2007-09), § 284-23-800, filed 1/21/09, effective 2/21/09.]

WAC 284-23-803 Definitions. For the purpose of this rule, the following definitions apply, unless the context clearly requires otherwise:

- (1) "Insurable interest" means a relationship to the insured at the time of application as defined in RCW 48.18-030 and 48.18.060(2).
(2) "Juvenile" means a person younger than eighteen years of age.

(3) "Juvenile Life Insurance Contract" means a life insurance policy or contract issued on the life of a juvenile.

(4) "Parent or legal guardian" means a natural parent, an adoptive parent whose status is documented in a final court order of adoption or a court appointed legal guardian for the juvenile. Step-parents who have not legally adopted the juvenile, foster parents, noncustodial parents or relatives acting in loco parentis are not considered parents or legal guardians of the juvenile for purposes of this rule.

[Statutory Authority: RCW 48.02.060 (3)(a). 10-12-099 (Matter No. R 2009-05), § 284-23-803, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 48.02.060 and 48.23.345. 09-03-104 (Matter No. R 2007-09), § 284-23-803, filed 1/21/09, effective 2/21/09.]

WAC 284-23-806 Required procedures and standards for sale of juvenile life insurance policies. Beginning July 1, 2009, an insurer must comply with the following procedures and standards when underwriting juvenile life insurance policies:

- (1) An insurer may refuse an applicant's request for life insurance when the combined life insurance-in-force exceeds the issuing insurer's maximum for juveniles.
(2) Life insurance upon a juvenile must not be made or take effect unless at the time the contract is made, the applicant is a person having an insurable interest in the life of the juvenile. The insurer must obtain and keep documentation sufficient to demonstrate that the applicant for the policy has an insurable interest in the life of the juvenile.

(3) In addition to the signature of the applicant, the consent of the parent or legal guardian with whom the juvenile resides, as evidenced by signature, must be obtained before submitting the application for underwriting. Any juvenile age fifteen or older must sign the application for insurance on the juvenile's life.

(4) An insurer must have underwriting standards and procedures justifying the issuance of a life insurance policy on the life of a juvenile. The insurer must provide the insurance commissioner with documentation from its records and files to support its underwriting justification upon request. The justification must address the following elements:

- (a) The issued policy must conform to the insurer's established standards and practices for underwriting juvenile life insurance or explain any variance.
(b) As part of its underwriting practice, the insurer must identify the amount, if any, of other life insurance contracts on the life of the juvenile which are in force or applied for at the time of application.
(c) The insurer must confirm that the policy death benefit is grossly proportional to the value of life insurance or accidental death benefits issued for other siblings or immediate family members, and if not, justify why proportionality or equivalency was not required.

(d) The commissioner must be able to determine that the insurer had good cause to underwrite when the overall amount of insurance on the juvenile exceeds the annual household income, and if it does so, justify why such an amount was approved. The extent to which the beneficiary or applicant is dependent on the juvenile for income or other support is an example of such a justification.

(5) If an application on the life of a juvenile is fifty thousand dollars or less and issued without underwriting, the insurer must meet the following alternative requirements:

(a) In addition to asking the applicant, take reasonable steps to determine the total amount of insurance in-force on the life of the juvenile at the date of application including, but not limited to, checking any national data base for in-force insurance information;

(b) Document the steps taken to determine the total amount of insurance in-force on a particular application and make the documentation available to the insurance commissioner upon request; and

(c) File an amended application or endorsement for use in Washington including the following statement: "This policy may be void or reduced when a claim is submitted if the total amount of life insurance in-force from all sources exceeds the underwriting limits established for issuance of this policy on the life of a juvenile." This statement must be printed in bold face type of at least twelve-point font.

(6) For each application for juvenile life insurance rejected by an insurer, each insurer must maintain at its home or principal office a complete file containing the original signed application, underwriting analysis, correspondence with the applicant and any other documents pertinent to the decision to reject the applicant as an insured, for a period of not less than ten years from the date the application was signed by the applicant. Such file shall be subject to inspection by the insurance commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a), 10-19-023 (Matter No. R 2010-05), § 284-23-806, filed 9/9/10, effective 10/10/10; 10-12-099 (Matter No. R 2009-05), § 284-23-806, filed 6/2/10, effective 7/3/10. Statutory Authority: RCW 48.02.060 and 48.23.345, 09-03-104 (Matter No. R 2007-09), § 284-23-806, filed 1/21/09, effective 2/21/09.]

### Chapter 284-29A WAC TITLE INSURANCE RATES

#### WAC

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**WAC 284-29A-010 Finding and purpose.** Title insurance protects against financial loss from defects in insured titles of real property. Losses from title insurance policies are not the primary cost to title insurers and title insurance agents. The primary costs incurred by title insurers and title insurance agents are maintenance of tract indexes and research to find title defects before the policies are issued. Title insurance is regulated differently than property and casualty insurance because loss ratios for title insurance are relatively low and expense ratios are fairly high. To imple-

ment and administer chapter 48.29 RCW, the commissioner needs detailed information about the costs underlying title insurance policies to regulate rates and ensure consumers are offered fair and equitable premiums. The purpose of this chapter is to adopt rules that establish:

(1) Standards for determining whether a premium rate complies with RCW 48.29.143;

(2) Standards and procedures that apply to RCW 48.29.147;

(3) The date after which title insurers must use rates that have been filed and approved under RCW 48.29.147; and

(4) Requirements for submitting all rate filings through SERFF.

[Statutory Authority: RCW 48.02.060 and 48.29.005, 10-15-092 (Matter No. R 2009-01), § 284-29A-010, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-020 Definitions.** The definitions in this section apply to this chapter:

"Commitment" means the same as in RCW 48.29.010 (3)(c).

"Complete filing" means a package of information containing rates, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

"Date filed" means the date a complete filing has been received and accepted by the commissioner.

"Filer" means a person, organization or other entity that files title insurance rates with the commissioner for a title insurer.

"NAIC" means the National Association of Insurance Commissioners.

"Objection letter" means correspondence created in SERFF and sent by the commissioner to the filer that:

(a) Requests clarification, documentation or other information;

(b) Explains errors or omissions in the filing; or

(c) Disapproves the filing under RCW 48.29.147.

"Policy" means a title policy as defined in RCW 48.29-010 (3)(a), and includes endorsements.

"Producer" means:

(a) A "producer of title insurance" as defined in WAC 284-29-205(8); and

(b) An "associate of producers" as defined in RCW 48.29.010 (3)(f).

"Rate" or "rates" means all classification manuals, rate and rule manuals, rating plans, rating schedules, minimum rates, class rates, and rating rules that title insurers must file under RCW 48.29.147.

"SERFF" means the system for electronic rate and form filing. SERFF is a proprietary NAIC computer-based application that allows insurers and other entities to create and submit rate, rule and form filings electronically to the commissioner.

"Title insurance agent" or "agent" has the same meaning as in RCW 48.17.010(15).

"Title insurance" has the same meaning as in RCW 48.11.100.

"Title insurer" means a title insurance company authorized to conduct title insurance business in this state under chapter 48.05 RCW.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-020, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-030 Transition to prior approval system.** (1) On and after January 1, 2012, all rates used in Washington state must be filed and approved under RCW 48.29.147.

(2) Title insurers must submit the rate filings required under RCW 48.29.147 and subsection (1) of this section to the commissioner by September 1, 2011, for rates to be effective on January 1, 2012. This rule allows the commissioner time to take final action on rates filed under this chapter before the effective date of January 1, 2012.

(3) Rates filed under RCW 48.29.140(2) must not be used for commitments issued on or after January 1, 2012.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-030, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-040 Supporting information required under RCW 48.29.147.** (1) When a title insurer files rates with the commissioner, the title insurer must demonstrate that the proposed rates comply with RCW 48.29.143. To the extent possible:

(a) Each title insurer must provide credible data to support the proposed rates. If credible data are not available, the title insurer must provide supporting documentation that describes its process for developing the proposed rates and demonstrates that they meet the requirements of RCW 48.29.143.

(b) Data used to support the proposed rates should be from the state of Washington. If data from other states are used, the title insurer must explain why those data are similar to what would be expected in Washington.

(2) If a title insurer proposes to use rates that are identical to the rates of another title insurer, the rate filing must include supporting information that demonstrates that the title insurer's proposed rates meet the requirements of RCW 48.29.143. It is not sufficient simply to state that the proposed rates are identical to those of another title insurer or that the rates are being filed for competitive purposes.

(3) Under RCW 48.29.143(2), a title insurer's provision for underwriting profit must be consistent with its cost of capital. The rate filing must demonstrate that expected underwriting profit, plus expected investment income on reserves and surplus, minus expected federal income taxes corresponds to an appropriate target after-tax rate of return on the title insurer's equity or net worth.

(4) The rate filing must provide sufficient information so that the commissioner may determine whether the proposed rates comply with RCW 48.29.147(3).

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-040, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-050 Unfairly discriminatory rates.** Situations in which the rates are unfairly discriminatory under RCW 48.29.143(1) include, but are not limited to:

(1) Rating rules that provide for a waiver of the cancellation fee or reduction of the cancellation fee, after a commitment has been issued, to an amount that is less than the expected average cost for the title insurer and its agents to

issue a commitment in the defined geographical area covered by the rating rules;

(2) Negotiation or bidding of price;

(3) Rating rules that do not have a definite charge for every bracket of coverage;

(4) Discounts not provided to all qualifying risks; and

(5) Rating plans in which policies:

(a) Generating higher premiums subsidize smaller policies; or

(b) From one geographical area subsidize those from another geographical area.

(6) A title insurer's application of more than one rate schedule to similarly situated risks in a county or other defined geographical area. For example, it is unfairly discriminatory for a title insurer to use different rate schedules for business produced by different title insurance agents in a specific rating territory.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-050, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-060 Judgment rating.** If the rates for a title insurance policy (including endorsements) depend in whole or in part upon the judgment of the title insurer or agent, the title insurer must:

(1) File rating rules that describe the specific criteria used for making the rates;

(2) Document the rationale for each judgment rate referencing the filed rating rule;

(3) Retain supporting documentation required under this section for at least three years following the effective date of the policy;

(4) Make the documentation available for examination by the commissioner on request; and

(5) Treat all similarly situated risks equitably. If a title insurer files a judgment rate that reduces the rate for a particular endorsement to a percentage of the base rate, then the title insurer must reduce the rate for all similarly situated risks that meet the same criteria. For example, if the title insurer charges an insured that meets specific criteria a premium of ten percent of the base rate for the endorsement, another insured meeting the same criteria must also be charged a premium of ten percent of the base rate.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-060, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-070 Referral fees and marketing expenses.** (1) Under RCW 48.29.210 and WAC 284-29-200 through 284-29-265, title insurers and title insurance agents:

(a) Are prohibited from giving anything of value to any person for the referral of title insurance business;

(b) Are prohibited from giving most things of value to persons who are in a position to refer or influence the referral of title insurance business;

(c) Must charge and collect for the costs of providing certain listed information, services, and other items of value that title insurers and their agents give to persons who are in a position to refer or influence the referral of title insurance business; and

(d) Are permitted to give specified things of value to producers of title insurance at no charge.

(2) Therefore, in making rates a title insurer must not include income or expenses related to the costs of:

(a) Giving anything of value to any person for the referral of title insurance business;

(b) Providing information, services, and other items of value that a title company is prohibited from giving to a producer of title insurance business under RCW 48.29.210 and WAC 284-29-200 through 284-29-265; and

(c) Providing information, services, and other items of value that the title insurer or a title insurance agent may give to producers if the title insurer or title insurance agent is paid for the information, services, or other items identified in WAC 284-29-200 through 284-29-265.

(3) However, in making rates a title insurer may include its income or expenses related to the costs of giving permitted things of value to producers of title insurance business and the title insurer's and title insurance agents' other marketing expenses.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-070, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-080 Expense component of rates.** (1)

In support of the expense component of the rates, the title insurer must:

(a) Include estimates of expected expenses to issue title insurance policies and commitments;

(b) Exclude the expected expenses related to escrow and other activities not directly related to title insurance;

(c) Exclude the expected expenses described in WAC 284-29A-070(2); and

(d) Show how those estimates were calculated and demonstrate how those estimates are connected to the proposed rates.

(2) The expense categories that must be considered when making rates include:

(a) Employees' salaries and wages;

(b) Owners' and partners' salaries and wages representing reasonable compensation for personal services actually performed by owners and partners;

(c) Employee benefits;

(d) Rent;

(e) Insurance;

(f) Legal expense;

(g) Licenses, taxes, and fees;

(h) Title plant expense and maintenance;

(i) Office supplies;

(j) Depreciation;

(k) Automobile expense;

(l) Communication expense;

(m) Education expense;

(n) Bad debts;

(o) Interest expense;

(p) Employee travel and lodging;

(q) Loss and loss adjustment expense;

(r) Accounting and auditing expense;

(s) Public relations expense; and

(t) Other specifically identified expenses.

(3) To support the agent commission component of rates, it is not sufficient to state the commission rate and perform calculations based on that percentage. The title insurer's rate

filing must include data that supports the expense component that applies to its title insurance agents.

(4) The supporting information required under this section may aggregate the data from agent reports received by the title insurer in one or more years under the provisions of WAC 284-29A-110.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-080, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-090 Rates must include all costs.** All premium rates filed under RCW 48.29.147 and this chapter must include all costs related to the title insurance transaction, including the costs to:

(1) Maintain the tract indexes;

(2) Search and examine the title or title to be insured;

(3) Issue preliminary commitments;

(4) Determine that each insured estate has been created, conveyed or modified as shown in the policy;

(5) Evaluate coverage and amend the policy as needed with appropriate and reasonable exceptions, conditions or modifications; and

(6) Any other direct or indirect cost associated with performing these activities.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-090, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-100 Effect of premium split on filing of premium rates.** If the title agency contracts between a title insurer and the title insurer's appointed title agents provide for a split of premiums between the title insurer and the title insurance agent, the title insurer must file premium rate schedules using supporting data and information that are consistent with that contractual premium split. The title insurer's base rates should be consistent with its actual contractual split of premiums between the title insurer and its agents. The title insurer's use of more than one premium split with its agents, if any, must be addressed through the filing of rating rules that specify the situations in which other premium splits are used and the adjustments that result from their use.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-100, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-110 Title insurance agents must report data to title insurers.** (1) Each title insurance agent must report premium, policy count, and expense data annually to each title insurer for which it produces business in the state of Washington by April 1st of each year. These data must be reported following the instructions published by the commissioner on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov). These instructions, called the *Title Insurance Agent Annual Report*, are incorporated into this chapter by reference.

(2) Each annual report required by this section must include:

(a) The following premium and policy count data:

(i) Title insurance premiums for all of the agent's business; and

(ii) Title insurance premiums produced for the title insurer to which the report is sent.

(iii) Number of policies issued by all of the title insurers with which the agent does business; and

(iv) Number of policies issued by the title insurer to which the report is sent.

(b) The following expense data related to issuing title insurance policies and commitments for all of the agent's business, excluding all expenses related to escrow and other activities not directly related to title insurance:

(i) Employees' salaries and wages;

(ii) Owners' and partners' salaries and wages representing reasonable compensation for personal services actually performed by owners and partners;

(iii) Employee benefits;

(iv) Rent;

(v) Insurance;

(vi) Legal expense;

(vii) Licenses, taxes, and fees;

(viii) Title plant expense and maintenance;

(ix) Office supplies;

(x) Depreciation;

(xi) Automobile expense;

(xii) Communication expense;

(xiii) Education expense;

(xiv) Bad debts;

(xv) Interest expense;

(xvi) Employee travel and lodging;

(xvii) Loss and loss adjustment expense;

(xviii) Accounting and auditing expense;

(xix) Public relations expense; and

(xx) Other specifically identified expenses.

(c) An explanation that:

(i) Describes how expenses are allocated between the title operations and escrow or other operations of the title insurance agent; and

(ii) Demonstrates that the expenses described in WAC 284-29A-070(2) have been excluded.

(d) The estimated average cost to issue a title insurance commitment.

(3) If a title insurer does not receive a report required under this section by April 1st of each year, the title insurer must notify the commissioner by April 15th. This notice must include the name of the agent that did not send the report on time.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-110, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-120 Filing documents incorporated by reference into this chapter.** SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner will incorporate documents posted on the SERFF web site and on the commissioner's web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

(1) The *SERFF Industry Manual* posted on the SERFF web site ([www.serff.com](http://www.serff.com)); and

(2) The *Washington State SERFF Title Insurance Rate Filing General Instructions* posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)).

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-120, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-130 General rate filing rules.** Filers must submit complete rate filings that comply with the *SERFF Industry Manual* posted on the SERFF web site ([www.serff.com](http://www.serff.com)) and the *Washington State SERFF Title Insurance Rate Filing General Instructions* posted on the commissioner's web site ([www.insurance.wa.gov](http://www.insurance.wa.gov)). All rate filings must comply with these rules:

(1) Filers must submit all rate filings and related documents to the commissioner electronically using SERFF.

(2) Filers must send all written correspondence related to a rate filing in SERFF.

(3) Each rate filing must be accurate and internally consistent.

(4) Filers must not submit combined rate and form filings.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-130, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-140 The commissioner may reject filings.** (1) The commissioner may reject and close any filing that does not comply with WAC 284-29A-120. If the commissioner rejects a filing, the title insurer has not filed rates with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives and accepts the new filing.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-140, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-150 Responding to objection letters.** If the commissioner disapproves a filing under RCW 48.29.147, the objection letter will state the reason(s) for disapproval, including relevant law and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and

(b) If appropriate, revised exhibits and supporting documentation.

(2) Respond to the commissioner in a timely manner.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-150, filed 7/20/10, effective 8/20/10.]

**WAC 284-29A-160 Filing authorization rules.** A title insurer may authorize a third-party filer to file rates on its behalf. For the purposes of this section, "third-party filer" means a person or entity in the business of providing insurance regulatory compliance services.

(1) If a title insurer delegates filing authority to a third-party filer, each filing must include as supporting documentation a letter signed by an officer of the title insurer authorizing the third-party filer to make filings on behalf of the title insurer.

(2) The title insurer may not delegate responsibility for the content of a filing to a third-party filer. The commissioner considers errors and omissions made by the third-party filer to be errors and omissions of the title insurer.

(3) If a third-party filer has a pattern of making filings that do not comply with this chapter, the commissioner may reject a delegation of filing authority from the title insurer.

[Statutory Authority: RCW 48.02.060 and 48.29.005. 10-15-092 (Matter No. R 2009-01), § 284-29A-160, filed 7/20/10, effective 8/20/10.]

## Chapter 284-30 WAC TRADE PRACTICES

### WAC

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**WAC 284-30-350 Misrepresentation of policy provisions.** (1) No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented.

(2) No insurance producer or title insurance agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

(3) No insurer shall deny a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so.

(4) No insurer shall, except where there is a time limit specified in the policy, make statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices the insurer's rights.

(5) No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

(6) No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which release the insurer or its insured from its total liability.

(7) No insurer shall make a payment of benefits without clearly advising the payee, in writing, that it may require reimbursement, when such is the case.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-350, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. 87-09-071 (Order R 87-5), § 284-30-350, filed 4/21/87. Statutory Authority: RCW 48.02.060 and 48.30.010. 78-08-082 (Order R 78-3), § 284-30-350, filed 7/27/78, effective 9/1/78.]

**WAC 284-30-550 Receipts to be given.** (1) To effectuate RCW 48.17.470 and 48.17.480 and to eliminate unfair

practices in accord with RCW 48.30.010, any insurance producer or other representative of an insurer who receives a contract payment or premium from or on behalf of an insured or applicant for homeowners', dwelling fire, private passenger automobile, motorcycle, individual life, or individual disability insurance shall deliver or mail a signed receipt therefor as promptly as possible, which should generally be no later than the next business day. Such receipt must be dated, identify the insurance producer and the insurance producer's address, identify the person by or for whom payment is made, state the amount received, identify the applicable insurer by its full legal name (or the premium finance company or Washington automobile insurance plan if payment is intended therefor), and identify the contract or policy including a brief description of the coverage for which payment is received.

(2) The receipt need not be an independent document but may be incorporated in an application or binder, if appropriate.

(3) For purposes of this section "life insurance" includes annuities.

(4) For purposes of this section "insurer" includes a health care service contractor and a health maintenance organization, and "disability insurance" includes their contracts and agreements.

(5) This section shall not apply to the receipt of checks or other instruments payable on their face to the insurer, premium finance company or the Washington Automobile Insurance Plan. It also shall not apply to payments (other than by cash) received by an insurance producer after delivery of the policy for which payment is made, when the payment is pursuant to a premium financing arrangement with the insurance producer or in response to a billing by the insurance producer.

(6) A failure to comply with this section shall be an unfair practice pursuant to RCW 48.30.010, and a violation of a regulation pursuant to RCW 48.17.530.

(7) Each insurer shall inform its insurance producers and appropriate representatives of the requirements of this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-550, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 (3)(a). 85-02-019 (Order R 84-8), § 284-30-550, filed 12/27/84.]

**WAC 284-30-560 Applications and binders.** (1) Every application form used in connection with homeowners', dwelling fire and vehicle insurance, shall contain a clear and conspicuous statement setting forth whether or not coverage has commenced.

(a) If coverage has commenced, the effective date shall be stated.

(b) If coverage has not commenced, there shall be an explanation as to the circumstances which will cause coverage to commence and the time when coverage will become effective.

(c) The statement concerning commencement of coverage shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the other contents of the application so as to be confusing, misleading or not readily evident.

(d) A copy of such application shall be delivered or mailed to the applicant promptly following its execution.

(2) Every binder used pending the issuance of a policy of property, marine and transportation, vehicle and general casualty insurance, as those kinds of insurance are defined in chapter 48.11 RCW, shall be reduced to writing or printed form and delivered or mailed to the insured as promptly as possible, which should generally be no later than the next business day.

(a) Such binder must be dated, identify the insurer in which coverage is bound, briefly describe the coverage bound, state the date and time coverage is effective, and acknowledge receipt of the amount of any premium money received.

(b) Such binder may be incorporated in or be attached to the application for the insurance but must be clear and conspicuous.

(3) Binders should be replaced promptly with insurance policies. With few exceptions and then only in compliance with RCW 48.18.230(2), insurers must replace binders within ninety days of their effective date.

(4) It shall be an unfair practice and unfair competition for an insurer or insurance producer to engage in acts or practices which are contrary to or not in conformity with the requirements of this section, and a violation of this section is prohibited and shall subject an insurer and insurance producer to the penalties or procedures set forth in RCW 48.05.140, 48.17.530, or 48.30.010.

(5) Each insurer shall inform its insurance producers and appropriate representatives of the requirements of this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-560, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 (3)(a). 85-02-019 (Order R 84-8), § 284-30-560, filed 12/27/84.]

**WAC 284-30-580 Policies to be delivered, not held by insurance producers or title insurance agents.** (1) RCW 48.18.260 requires that policies be delivered within a reasonable period of time after issuance. If an insurer relies upon its appointed insurance producers or title insurance agents to make deliveries of its policies, the insurer, as well as the appointed insurance producer or title insurance agent, is responsible for any delay resulting from the failure of the appointed insurance producer or title insurance agent to act diligently.

(2) Insurance producers and title insurance agents delivering insurance policies to insureds must make an actual physical delivery. It is not acceptable for an insurance producer or title insurance agent to merely obtain a receipt indicating a delivery and then to retain the policy, for safekeeping or otherwise, in the insurance producer's or title insurance agent's possession.

(3) Insurance producers and title insurance agents may obtain policies from owners or insureds and hold such policies briefly for analysis or servicing, giving a receipt therefor in every instance, but shall promptly return any such policies to their owners or insureds. Insurance producers and title insurance agents shall not otherwise take custody of, or hold, insurance policies, whether for fee or at no charge, unless a family or legal relationship clearly justifies such conduct, as,

for example, where a policy belonging to a minor child of the insurance producer and title insurance agent is held, or where the insurance producer or title insurance agent is acting as a legal guardian or a court appointed representative and holds a policy of a ward or of an estate.

(4) It shall be an unfair practice and unfair competition for an insurer or insurance producer or title insurance agent to engage in acts or practices which are contrary to or not in conformity with the requirements of this section, and a violation of this section is prohibited and shall subject an insurer, insurance producer and title insurance agent to the penalties or procedures set forth in RCW 48.05.140, 48.17.530, or 48.30.010.

(5) Each insurer shall inform its appointed insurance producers or title insurance agents and appropriate representatives of the requirements of this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-580, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 (3)(a). 85-02-019 (Order R 84-8), § 284-30-580, filed 12/27/84.]

**WAC 284-30-600 Unfair practices with respect to out-of-state group life and disability insurance.** (1) Under RCW 48.30.010, it is an unfair method of competition and an unfair practice for any insurer to engage in any insurance transaction, as defined in RCW 48.01.060, regarding life insurance, annuities, or disability insurance coverage on individuals in this state under a group policy delivered to a policyholder outside this state when:

(a) The policy or certificate providing coverage in the state of Washington, including, but not limited to, applications, riders, or endorsements, contains any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policy or certificate.

(b) The policy or certificate providing coverage in the state of Washington, including, but not limited to, applications, riders, or endorsements, has any title, heading, or other indication of its provisions which is misleading.

(c) The policy or certificate delivered to residents of the state of Washington does not include all terms and conditions of the coverage.

(d) The type of group being covered under the contract providing coverage in the state of Washington does not qualify for group life insurance or group disability insurance under the provisions of Title 48 RCW.

(e) The coverage is being solicited by deceptive advertising.

(f) With respect to disability insurance, the policy or certificate providing coverage in the state of Washington does not:

(i) Provide that claims will be processed in compliance with RCW 48.21.130 through 48.21.148;

(ii) Meet the requirements as to benefits and coverage mandated by chapter 48.21 RCW and rules effectuating that chapter, specifically including those set forth in chapter 284-51 WAC, and WAC 284-30-610, 284-30-620 and 284-30-630;

(iii) With respect to long-term care insurance, also meet the requirements of chapter 48.84 RCW and chapter 284-54 WAC;

(iv) With respect to medicare supplemental insurance, also meet the requirements of chapter 48.66 RCW and chapter 284-66 WAC; and

(v) Meet the loss ratio standards applicable to group insurance under RCW 48.66.100 and 48.70.030 and chapter 284-60 WAC.

(g) With respect to life insurance, the out-of-state group policy or certificate providing coverage in the state of Washington fails to comply with the provisions of:

(i) Chapter 48.24 RCW;

(ii) WAC 284-23-550 and 284-23-600 through 284-23-730;

(iii) WAC 284-30-620; and

(iv) WAC 284-30-630.

(2) Except as provided in subsection (3)(c) of this section, for purposes of this section it is immaterial whether the coverage is offered by means of a solicitation through: A sponsoring organization; the mail broadcast or print media; electronic communication, including electronic mail and web sites; licensed insurance producers; or any other method of communication.

(3) It is further defined to be an unfair practice for any insurer marketing group insurance coverage in this state to do the following with respect to the coverage:

(a) To fail to comply with the requirements of this state relating to advertising and claims settlement practices, and to fail to furnish the commissioner, upon request, copies of all advertising materials intended for use in this state;

(b) To fail to file copies of all certificate forms and any other related forms providing coverage in Washington, including trust documents or articles of incorporation with the commissioner at least thirty days prior to use; and

(c) To fail to file with the commissioner a copy of the disclosure statement required by WAC 284-30-610, where the sale of coverage to individuals in this state will be through solicitation by insurance producers. The disclosure statement must be appropriately completed, as it appears when delivered to the Washington individuals who are solicited by the Washington licensees.

The disclosure form must also be filed at least thirty days prior to any solicitation of coverage.

(4) This section does not apply to self-funded plans that are defined by and subject to the federal Employee Retirement Income Security Act of 1974 (ERISA) or to insurers when acting as third-party administrators for self-funded ERISA plans.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-600, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, 48.01.020, 48.01.060. 00-19-048 (Matter R 98-18), § 284-30-600, filed 9/14/00, effective 10/15/00. Statutory Authority: RCW 48.02.060 (3)(a) and 48.30.010. 91-03-073 (Order 90-14), § 284-30-600, filed 1/16/91, effective 4/1/91. Statutory Authority: RCW 48.02.060 (3)(a). 85-02-018 (Order R 84-7), § 284-30-600, filed 12/27/84.]

**WAC 284-30-610 Unfair practices with respect to the solicitation of coverage under out-of-state group policies.**

(1) It is an unfair method of competition and an unfair practice for an insurer to permit a licensed insurance producer,

whether appointed by the insurer or not, to solicit an individual in the state of Washington to buy or apply for life insurance, annuities, or disability insurance coverage when the coverage is provided under the terms of a group policy delivered to an association or organization (or to a trustee designated by the association or organization), as policyholder, outside this state, unless the following steps are taken:

(a) An accurately completed disclosure statement, substantially in the form set forth in subsection (2) of this section, must be brought to the attention of the individual being solicited before the application for coverage is completed and signed. The disclosure form must be signed by both the soliciting licensee and the individual being solicited and it must be given to the individual.

(b) A copy of the completed disclosure statement must be submitted by the soliciting licensee, with the application for coverage, to the insurer providing the coverage.

(c) The insurer must confirm the accuracy of the form's contents, and retain the copy for not less than three years from the date the coverage commences or from the date received, whichever is later.

(2) Disclosure statement form: (Type size to be no less than ten-point)

(Insurer's name and address)

**IMPORTANT INFORMATION ABOUT THE COVERAGE YOU ARE BEING OFFERED**

Save this statement! It may be important to you in the future. The Washington State Insurance Commissioner requires that we give you the following information about the coverage offered to you under a group policy issued by (insurer), (to/on behalf of) (association or organization).

The policy is subject to and governed by the laws of the state of .....

The certificate of coverage issued to you is governed by the state of Washington.

The Washington State Insurance Commissioner has authority to assist you concerning your coverage.

To keep this coverage, you (must/need not) continue membership in the group. If you are not now a member, the initial cost of membership is \$ . . . . Additional dues or membership fees are currently \$ . . . . per . . . . Membership costs (may/will not) increase in future years. You will also have the premiums to pay.

The coverage (can/can not) be discontinued by the group. It (can/can not) be terminated by the insurer. If the group organization ceases to exist, your coverage (would/would not) terminate. You (are/are not) entitled by the contract to convert your coverage to your own policy.

(Group organization's name) (will/will not) be paid for its participation in this insurance program. (An explanation of payments must be inserted here.)

If you apply for this coverage, you (will/will not) have a "free look" (of . . . . days\*) during which you may cancel your contract and recover your premium without obligation. Your membership fee to join the group (is/is not) refund-

able. \*(Omit phrase, "of . . . . days", if there is no "free look.")

DELIVERED to the applicant this . . . . . day of (month), (year), by

(Signed) . . . . . (insurance producer).

Printed Name: . . . . .

I ACKNOWLEDGE THAT I HAVE RECEIVED AND UNDERSTAND THIS DISCLOSURE STATEMENT: . . . . Applicant.

(3) This section does not apply with respect to coverage provided to individuals under a group contract which is provided for a group of a type described in RCW 48.24.035, 48.24.040, 48.24.060, 48.24.080, 48.24.090, or 48.24.095.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-610, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.30.010, 48.01.020, 48.01.060. 00-19-048 (Matter R 98-18), § 284-30-610, filed 9/14/00, effective 10/15/00. Statutory Authority: RCW 48.02.060 (3)(a) and 48.30.010. 91-03-073 (Order 90-14), § 284-30-610, filed 1/16/91, effective 4/1/91.]

**WAC 284-30-660 Deceptive use of quotations or evaluations prohibited.** (1) It is an unfair or deceptive practice and an unfair method of competition pursuant to RCW 48.30.010 for any insurance company, insurance producer, surplus line broker, or title insurance agent in connection with the business of insurance, to utilize quotations or evaluations from rating or advisory services or other independent sources, in a manner likely to deceive the persons to whom the information is directed.

(2) Acts which are prohibited by this section include the following examples:

(a) If an insurer represents in its advertising that it has received an "A+" rating from an advisory service, such representation is deceptive unless it includes a clear explanation that such advisory service's practice is to rate insurance companies on the basis of "AAA," "AA," and declining to "A," if such is the case. The absence of such explanation would reasonably cause the ordinary person to believe falsely that the insurer had received the highest rating available from the service.

(b) Similarly, quoting figures or comments from a report, such as those representing claims paid or the capital or reserves or the quality of an insurer, in a manner to suggest that such figures or comments are impressive or that the report demonstrates the company to be particularly strong financially or of high quality relative to other companies, when such is not the case, creates a false impression and is deceptive.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-660, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060. 88-24-053 (Order R 88-12), § 284-30-660, filed 12/7/88.]

**WAC 284-30-670 Insurers must transact business in their legal name.** (1) The commissioner is adopting this regulation as an unfair practice for the following reasons:

(a) Many insurers fail or periodically fail to comply with the legal name requirement of RCW 48.05.190(1) when transacting insurance business.

(b) When a consumer seeks assistance from the commissioner, the legal name of the company must be determined. When the consumer is unable to provide the information, the commissioner's staff must research it, which unnecessarily wastes the commissioner's resources and delays the inquiry and resolution, posing a risk of harm to the consumer.

(c) Insurers will not accept a lawsuit from their insured if the paperwork does not identify the insurer correctly.

(2) The following definitions apply to this section:

(a) "Legal name" of the insurer means the name displayed on the Washington state certificate of authority issued by the commissioner.

(b) "Contracted entity" means an entity with which an insurer contracts to transact any aspect of the business of insurance, such as adjudicating claims, determining eligibility, or underwriting or marketing products on behalf of an insurer, and includes such entities as insurance producers, claims administrators, and managing general agents as defined in RCW 48.98.005(3).

(c) "Transacting business" includes insurance transaction, as defined in RCW 48.01.060.

(3) An insurer must identify itself by its legal name when:

(a) Transacting business with a consumer, insured, potential insured or claimant as defined in WAC 284-30-320(2); and

(b) Communicating orally, electronically, or in writing with the commissioner regarding an investigation, inquiry, enforcement matter or examination. Written communication must also include the insurer's NAIC code.

(4) Advertisements directed to insureds or potential insureds must clearly display the insurer's legal name and the location of its home office or principal office, as required by RCW 48.30.050.

(a) An advertisement by an insurance producer, licensee, or other marketing entity advertising an insurance product common to multiple insurers does not need to include the legal name of the insurer. The advertisement must include the insurance producer, licensee, or other marketing entity's name and address.

(b) Advertisements directed solely to insurance producers, providers, or other marketing entities, but not directed to insureds or potential insureds, are exempt from this subsection.

(5) Each single violation of this section by an insurer or its contracted entity may subject the insurer to all applicable provisions of Title 48 RCW, including, but not limited to, RCW 48.05.140 and 48.05.185.

(6) This regulation does not bar the use of trade names, group names, logos or trademarks. To be in compliance with RCW 48.05.190(1), when an insurer uses a trade name, group name, logo or trademark when conducting its business, the insurer must also identify itself by its legal name as required by this section.

[Statutory Authority: RCW 48.02.060. 10-12-100 (Matter No. R 2008-11), § 284-30-670, filed 6/2/10, effective 7/3/10.]

**WAC 284-30-750 Insurance producers' and surplus line brokers' fees to be disclosed.** It shall be an unfair practice for any insurance producer or surplus line broker providing services in connection with the procurement of insurance

to charge a fee in excess of the usual commission which would be paid to an insurance producer or surplus line broker without having advised the insured or prospective insured, in writing, in advance of the rendering of services, that there will be a charge and its amount or the basis on which such charge will be determined.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-750, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. 87-09-071 (Order R 87-5), § 284-30-750, filed 4/21/87.]

**WAC 284-30-850 Authority, purpose, and effective date.** In order to prevent unfair methods of insurance sales to active duty service members of the United States armed forces, unfair competition, and unfair or deceptive acts or practices by insurers, fraternal benefit societies, or insurance producers, WAC 284-30-850 through 284-30-872 are adopted. These rules may be called the "military sales practices" rules.

(1) The Military Personnel Financial Services Protection Act (P.L. 109-290) was enacted by the 109th Congress to protect members of the United States armed forces from unscrupulous practices regarding the sale of insurance, financial, and investment products on and off military installations. The act requires this state to adopt rules that meet sales practice standards adopted by the National Association of Insurance Commissioners to protect members of the United States armed forces from dishonest and predatory insurance sales practices both on and off of a military installation.

(2) Based on the commissioner's authority under RCW 48.30.010 to define by rule methods of competition and other acts and practices in the conduct of the business of insurance found by the commissioner to be unfair or deceptive, after evaluation of the acts and practices of insurers, fraternal benefit societies, or insurance producers that informed the need for P.L. 109-290, and because the commissioner is required by that act to adopt rules that meet the sales practice standards adopted by the National Association of Insurance Commissioners and federal law, the commissioner finds the acts or practices set forth in WAC 284-30-850 through 284-30-872 to be unfair or deceptive methods of competition or unfair or deceptive acts or practices in the business of insurance.

(3) These military sales practices rules are effective for all benefit contracts, insurance policies and certificates solicited, issued, or delivered in this state on and after (the effective date of these rules).

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-850, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.30.010. 07-17-120 (Matter No. R 2007-01), § 284-30-850, filed 8/20/07, effective 9/20/07.]

**WAC 284-30-860 Exemptions.** (1) The following life insurance solicitations or sales are exempt from the requirements of WAC 284-30-850 through 284-30-872:

(a) Credit life insurance.

(b) Group life insurance where there is no in-person face-to-face solicitation of individuals by a licensed insurance producer or where the policy or certificate does not include a side fund.

(c) An application to the insurer that issued the existing policy or certificate when a contractual change or a conversion privilege is being exercised; or when the existing insurance policy or certificate is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term life conversion privilege is exercised among corporate affiliates.

(d) Individual, stand-alone policies of health or disability income insurance.

(e) Contracts offered by Servicemembers Group Life Insurance (SGLI) or Veterans Group Life Insurance (VGLI), as authorized by 38 U.S.C. section 1965 et seq., and contracts offered by State Sponsored Life Insurance (SSLI) as authorized by 37 U.S.C. Section 707 et seq.

(f) Life insurance policies or certificates offered through or by a nonprofit military association, qualifying under section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer.

(g) Contracts used to fund any of the following:

(i) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(ii) A plan described by sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the IRC, as amended, if established or maintained by an employer;

(iii) A government or church plan defined in section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC;

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(v) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(vi) Prearranged funeral contracts.

(2) Nothing in WAC 284-30-850 through 284-30-872 shall be construed to restrict the ability of nonprofit organizations or other organizations to educate members of the United States armed forces in accordance with federal Department of Defense Instruction 1344.07 "Personal Commercial Solicitation on DOD Installations," or any successor directive.

(3)(a) For purposes of the military sales practices rules, general advertisements, direct mail and internet marketing do not constitute "solicitation." Telephone marketing does not constitute "solicitation" only if the caller explicitly and conspicuously discloses that the product being solicited is life insurance and the caller makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.

(b) Nothing in this section shall be construed to exempt an insurer, or insurance producer from the military sales practices rules in any in-person face-to-face meeting established as a result of the solicitation exemptions listed in this section.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-860, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.30.010. 07-17-120 (Matter No. R 2007-01), § 284-30-860, filed 8/20/07, effective 9/20/07.]

**WAC 284-30-865 Definitions.** The following definitions apply to the military sales practices rules, unless the context clearly requires otherwise:

(1) "Active duty" means full-time duty in the active military service of the United States and includes members of the reserve component, such as national guard or reserve, while serving under published orders for active duty or full-time training. This term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of fewer than thirty-one calendar days.

(2) "Department of Defense (DOD) personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

(3) "Door-to-door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without a prior specific appointment.

(4) "General advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance or the promotion of an insurer or insurance producer.

(5) "Insurer" means an insurance company, as defined in RCW 48.01.050, that provides life insurance products for sale in this state. The term "insurer" also includes fraternal benefit societies, as defined at RCW 48.36A.010. Whenever the term "insurer," "policy," or "certificate" is used in these military sales practices rules, it includes insurers and fraternal benefit societies and applies to all insurance policies, benefit contracts, and certificates of life insurance issued by them.

(6) "Known" or "knowingly" means, depending on its use in WAC 284-30-870 and 284-30-872, that the insurer or insurance producer had actual awareness, or in the exercise of ordinary care should have known at the time of the act or practice complained of that the person being solicited is either:

- (a) A service member; or
- (b) A service member with a pay grade of E-4 or below.

(7) "Life insurance" has the meaning set forth in RCW 48.11.020.

(8) "Military installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

(9) "MyPay" means the Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

(10) "Service member" means any active duty officer (commissioned and warrant) or any enlisted member of the United States armed forces.

(11) "Side fund" means a fund or reserve that is part of or is attached to a life insurance policy or certificate (except for individually issued annuities) by rider, endorsement, or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

- (a) Accumulated or cash value or secondary guarantees provided by a universal life policy;
- (b) Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
- (c) A premium deposit fund which:

(i) Contains only premiums paid in advance which accumulate at interest;

(ii) Imposes no penalty for withdrawal;

(iii) Does not permit funding beyond future required premiums;

(iv) Is not marketed or intended as an investment; and

(v) Does not carry a commission, either paid or calculated.

(12) "Specific appointment" means a prearranged appointment that has been agreed upon by both parties and is definite as to place and time.

(13) "United States armed forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-865, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.30.010. 07-17-120 (Matter No. R 2007-01), § 284-30-865, filed 8/20/07, effective 9/20/07.]

**WAC 284-30-870 Practices declared to be unfair or deceptive when committed on a military installation. (1)**

The following acts or practices by an insurer or insurance producer are found by the commissioner to be false, misleading, unfair or deceptive methods of competition or unfair or deceptive or acts or practices in the conduct of the business of insurance when committed on a military installation and solicited in-person face-to-face:

(a) Knowingly soliciting the purchase of any life insurance policy or certificate door to door or without first establishing a specific appointment for each meeting with the prospective purchaser.

(b) Soliciting service members in a group or mass audience or in a captive audience where attendance is not voluntary.

(c) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

(d) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing, or other areas where the installation commander has prohibited solicitation.

(e) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(f) Posting unauthorized bulletins, notices, or advertisements.

(g) Failing to present DD Form 2885 Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

(h) Knowingly accepting an application for life insurance or issuing a policy or certificate of life insurance on the life of an enlisted member of the United States armed forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement related to the sale of life insurance established by regulations, directives, or rules of the DOD or any branch of the United States armed forces.

(2) The following acts or practices by an insurer or insurance producer are found by the commissioner to be false, misleading, unfair or deceptive methods of competition or

unfair or deceptive acts or practices in the conduct of the business of insurance or improper influences or inducements when committed on a military installation:

(a) Using DOD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(b) Using an insurance producer to participate in any education or orientation program sponsored by United States armed forces.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5), 11-01-159 (Matter No. R 2010-09), § 284-30-870, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.30.010, 07-17-120 (Matter No. R 2007-01), § 284-30-870, filed 8/20/07, effective 9/20/07.]

**WAC 284-30-872 Practices declared to be unfair or deceptive regardless of where they occur.** (1) The following acts or practices by an insurer or insurance producer are found by the commissioner and declared to be false, misleading, unfair or deceptive methods of competition or unfair or deceptive or acts or practices in the conduct of the business of insurance or improper influences or inducements regardless of the location where they occur:

(a) Submitting, processing, or assisting in the submission or processing of any allotment form or similar device used by the United States armed forces to direct a service member's pay to a third party for the purchase of life insurance. For example, the using or assisting in the use of a service member's "MyPay" account or other similar internet or electronic medium to pay for life insurance is prohibited. For purposes of these military sales practices rules, assisting a service member by providing insurer or premium information necessary to complete any allotment form is not an unfair, deceptive, or prohibited practice.

(b) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

(i) Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301 et seq. and regulations promulgated thereunder; and

(ii) Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(c) Employing any device or method, or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's leave and earnings statement (or equivalent or successor form) as "savings" or "checking" and where the service member has no formal banking relationship.

(d) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(e) Using DOD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or

sale of life insurance to service members who are junior in rank or grade, or to their family members.

(f) Offering or giving anything of value, directly or indirectly, to DOD personnel to procure their assistance in encouraging, assisting, or facilitating the solicitation or sale of life insurance to another service member.

(g) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(h) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income in order to purchase life insurance.

(2) The following acts or practices by an insurer or insurance producer may lead to confusion regarding the source, sponsorship, approval, or affiliation of the insurer or any insurance producer. They are each found by the commissioner to be false, misleading, unfair or deceptive methods of competition or unfair or deceptive or acts or practices in the conduct of the business of insurance regardless of the location where they occur:

(a) Making any representation, or using any device, title, descriptive name, or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer or insurance producer, or the policy or certificate offered is affiliated, connected, or associated with, endorsed, sponsored, sanctioned, or recommended by the U.S. government, the United States armed forces, or any state or federal agency or governmental entity.

(i) For example, the use of the following titles, including but not limited to the following is prohibited: Battalion insurance counselor, unit insurance advisor, Servicemen's Group Life Insurance conversion consultant, or veteran's benefits counselor.

(ii) A person is not prohibited from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Examples include, but are not limited to the following: Chartered life underwriter (CLU), chartered financial consultant (ChFC), certified financial planner (CFP), master of science in financial services (MSFS), or masters of science financial planning (MS).

(b) Soliciting the purchase of any life insurance policy or certificate through the use of or in conjunction with any third-party organization that promotes the welfare of or assists members of the United States armed forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that the insurer or insurance producer, or the insurance policy or certificate is affiliated, connected, or associated with endorsed, sponsored, sanctioned, or recommended by the U.S. government, or the United States armed forces.

(3) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs, or investment returns. They are each found by the commissioner to be false, misleading, unfair or deceptive methods of competition or unfair or deceptive or acts or practices in the conduct of the business of insurance regardless of the location where they occur:

(a) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(b) Misrepresenting the mortality costs of a life insurance policy or certificate (except for individually issued annuities), including stating or implying that the policy or certificate costs nothing or is free.

(4) The following acts or practices by an insurer or insurance producer regarding Servicemembers Group Life Insurance (SGLI) or Veterans Group Life Insurance (VGLI) are each found by the commissioner to be false, misleading, unfair, or deceptive methods of competition or unfair or deceptive acts or practices in the conduct of the business of insurance regardless of the location where they occur:

(a) Making any representation regarding the availability, suitability, amount, cost, exclusions, or limitations to coverage provided to service members or dependents by SGLI or VGLI, which is false, misleading, or deceptive.

(b) Making any representation regarding conversion requirements, including the costs of coverage, exclusions, or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading, or deceptive.

(c) Suggesting, recommending, or encouraging a service member to cancel or terminate his or her SGLI policy, or issuing a life insurance policy or certificate which replaces an existing SGLI policy unless the replacement takes effect upon or after separation of the service member from the United States armed forces.

(5) The following acts or practices regarding disclosure by an insurer or insurance producer are declared to be false, misleading, unfair, or deceptive methods of competition or unfair or deceptive acts or practices in the conduct of the business of insurance regardless of the location where the act occurs:

(a) Deploying, using, or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(b) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person face-to-face meeting with a prospective purchaser.

(c) Except for individually issued annuities, failing to clearly and conspicuously disclose the fact that the policy or certificate being solicited is life insurance.

(d) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the Military Personnel Financial Services Protection Act (P.L. 109-290), p. 16.

(e) Except for individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time of application is taken:

(i) An explanation of any free look period with instructions on how to cancel any policy or certificate issued by the insurer; and

(ii) Either a copy of the application or a written disclosure. The copy of the application or the written disclosure must clearly and concisely set out the type of life insurance,

the death benefit applied for, and its expected first year cost. A basic illustration that meets the requirements of this state will be considered a written disclosure.

(6) The following acts or practices by an insurer or insurance producer are each found by the commissioner to be false, misleading, unfair or deceptive methods of competition or unfair or deceptive or acts or practices in the conduct of the business of insurance regardless of the location where they occur:

(a) Except for individually issued annuities, recommending the purchase of any life insurance policy or certificate which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(b) Offering for sale or selling a life insurance policy or certificate which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(i) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate, survivors, or dependents.

(ii) Other military survivor's benefits include, but are not limited to: The death gratuity, funeral reimbursement, transition assistance, survivor and dependents' educational assistance, dependency and indemnity compensation, TRICARE healthcare benefits, survivor housing benefits and allowances, federal income tax forgiveness, and Social Security survivor benefits.

(c) Except for individually issued annuities, offering for sale or selling any life insurance policy or certificate which includes a side fund:

(i) Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(ii) Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined policy or certificate. For this disclosure, the effective rate of return must consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule must be provided for at least each policy year from year one to year ten and for every fifth policy year thereafter, ending at age one hundred, policy maturity, or final expiration; and

(iii) Which by default diverts or transfers funds accumulated in the side fund to pay, reduce, or offset any premiums due.

(d) Except for individually issued annuities, offering for sale or selling any life insurance policy or certificate which after considering all policy benefits, including but not limited to endowment, return of premium, or persistency, does not comply with standard nonforfeiture law for life insurance.

(e) Selling any life insurance policy or certificate to a person known to be a service member that excludes coverage

if the insured's death is related to war, declared or undeclared, or any act related to military service, except for accidental death coverage (for example, double indemnity) which may be excluded.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-30-872, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.30.010. 07-17-120 (Matter No. R 2007-01), § 284-30-872, filed 8/20/07, effective 9/20/07.]

## Chapter 284-36A WAC FRATERNAL BENEFIT SOCIETIES

### WAC

284-36A-035 Confidentiality of RBS reports—Use of information for comparative purposes—Use of information to monitor solvency.

**WAC 284-36A-035 Confidentiality of RBS reports—Use of information for comparative purposes—Use of information to monitor solvency.** (1) All RBS reports, to the extent the information is not required to be set forth in a publicly available annual statement schedule, including the results or report of any examination or analysis of a fraternal benefit society that are filed with the commissioner constitute information that might be damaging to the fraternal benefit society if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information shall not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

(2) The comparison of a fraternal benefit society's total adjusted surplus to its RBS level is a regulatory tool that may indicate the need for possible corrective action with respect to the fraternal benefit society, and is not a means to rank fraternal benefit societies generally. Therefore, except as otherwise required under the provisions of this chapter, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the RBS level of any fraternal benefit society, or of any component derived in the calculation, by any fraternal benefit society, insurance producer, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the comparison regarding a fraternal benefit society's total adjusted surplus to its RBS level or an inappropriate comparison of any other amount to the fraternal benefit society's RBS level is published in any written publication and the fraternal benefit society is able to demonstrate to the commissioner with substantial proof the falsity of such statement, or the inappropriateness, as the case may be, then the fraternal benefit society may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

(3) The RBS instructions and RBS reports are solely for use by the commissioner in monitoring the solvency of fraternal benefit societies and the need for possible corrective

action with respect to fraternal benefit societies and shall not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that a fraternal benefit society or any affiliate is authorized to write.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-36A-035, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.36A.100(7), 48.36A.290(4), 48.36A.100, 48.36A.282, 48.36A.284, 48.36A.286, 48.36A.290, 48.36A.-310 and 1996 c 236. 96-22-064 (Matter No. R 96-5), § 284-36A-035, filed 11/4/96, effective 12/5/96.]

## Chapter 284-43 WAC

### HEALTH CARRIERS AND HEALTH PLANS

#### WAC

284-43-410 Utilization review—Generally.  
284-43-820 Health plan disclosure requirements.

### WAC 284-43-410 Utilization review—Generally. (1)

These definitions apply to this section:

(a) "Concurrent care review request" means any request for an extension of a previously authorized inpatient stay or a previously authorized ongoing outpatient service, e.g., physical therapy, home health, etc.

(b) "Immediate review request" means any request for approval of an intervention, care or treatment where passage of time without treatment would, in the judgment of the provider, result in an imminent emergency room visit or hospital admission and deterioration of the patient's health status. Examples of situations that do not qualify under an immediate review request include, but are not limited to, situations where:

(i) The requested service was prescheduled, was not an emergency when scheduled, and there has been no change in the patient's condition;

(ii) The requested service is experimental or in a clinical trial;

(iii) The request is for the convenience of the patient's schedule or physician's schedule; and

(iv) The results of the requested service are not likely to lead to an immediate change in the patient's treatment.

(c) "Nonurgent preservice review request" means any request for approval of care or treatment where the request is made in advance of the patient obtaining medical care or services and is not an urgent care request.

(d) "PostsERVICE review request" means any request for approval of care or treatment that has already been received by the patient.

(e) "Urgent care review request" means any request for approval of care or treatment where the passage of time could seriously jeopardize the life or health of the patient, seriously jeopardize the patient's ability to regain maximum function, or, in the opinion of a physician with knowledge of the patient's medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the request.

(2) Each carrier must maintain a documented utilization review program description and written clinical review criteria based on reasonable medical evidence. The program must

include a method for reviewing and updating criteria. Carriers must make clinical review criteria available upon request to participating providers. A carrier need not use medical evidence or standards in its utilization review of religious non-medical treatment or religious nonmedical nursing care.

(3) The utilization review program must meet accepted national certification standards such as those used by the National Committee for Quality Assurance except as otherwise required by this chapter and must have staff who are properly qualified, trained, supervised, and supported by explicit written clinical review criteria and review procedures.

(4) Each carrier when conducting utilization review must:

(a) Accept information from any reasonably reliable source that will assist in the certification process;

(b) Collect only the information necessary to certify the admission, procedure or treatment, length of stay, or frequency or duration of services;

(c) Not routinely require providers or facilities to numerically code diagnoses or procedures to be considered for certification, but may request such codes, if available;

(d) Not routinely request copies of medical records on all patients reviewed;

(e) Require only the section(s) of the medical record during prospective review or concurrent review necessary in that specific case to certify medical necessity or appropriateness of the admission or extension of stay, frequency or duration of service;

(f) For prospective and concurrent review, base review determinations solely on the medical information obtained by the carrier at the time of the review determination;

(g) For retrospective review, base review determinations solely on the medical information available to the attending physician or order provider at the time the health service was provided;

(h) Not retrospectively deny coverage for emergency and nonemergency care that had prior authorization under the plan's written policies at the time the care was rendered unless the prior authorization was based upon a material misrepresentation by the provider;

(i) Not retrospectively deny coverage or payment for care based upon standards or protocols not communicated to the provider or facility within a sufficient time period for the provider or facility to modify care in accordance with such standard or protocol; and

(j) Reverse its certification determination only when information provided to the carrier is materially different from that which was reasonably available at the time of the original determination.

(5) Each carrier must reimburse reasonable costs of medical record duplication for reviews.

(6) Each carrier must have written procedures to assure that reviews and second opinions are conducted in a timely manner.

(a) Review time frames must be appropriate to the severity of the patient condition and the urgency of the need for treatment, as documented in the review request.

(b) If the review request from the provider is not accompanied by all necessary information, the carrier must tell the provider what additional information is needed and the dead-

line for its submission. Upon the sooner of the receipt of all necessary information or the expiration of the deadline for providing information, the time frames for carrier review determination and notification must be no less favorable than federal Department of Labor standards, as follows:

(i) For immediate request situations, within one business day when the lack of treatment may result in an emergency visit or emergency admission;

(ii) For concurrent review requests that are also urgent care review requests, as soon as possible, taking into account the medical exigencies, and no later than twenty-four hours, provided that the request is made at least twenty-four hours prior to the expiration of previously approved period of time or number of treatments;

(iii) For urgent care review requests received before July 1, 2011, within forty-eight hours;

(iv) For urgent care review requests received on or after July 1, 2011, within twenty-four hours;

(v) For nonurgent preservice review requests, including nonurgent concurrent review requests, within five calendar days; or

(vi) For postservice review requests, within thirty calendar days.

(c) Notification of the determination must be provided as follows:

(i) Information about whether a request was approved or denied must be made available to the attending physician, ordering provider, facility, and covered person. Carriers must at a minimum make the information available on their web site or from their call center.

(ii) Whenever there is an adverse determination the carrier must notify the ordering provider or facility and the covered person. The carrier must inform the parties in advance whether it will provide notification by phone, mail, fax, or other means. For an adverse determination involving an urgent care review request, the carrier may initially provide notice by phone, provided that a written or electronic notification meeting United States Department of Labor standards is furnished within three days of the oral notification.

(d) As appropriate to the type of request, notification must include the number of extended days, the next anticipated review point, the new total number of days or services approved, and the date of admission or onset of services.

(e) The frequency of reviews for the extension of initial determinations must be based on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(7) No carrier may penalize or threaten a provider or facility with a reduction in future payment or termination of participating provider or participating facility status because the provider or facility disputes the carrier's determination with respect to coverage or payment for health care service.

[Statutory Authority: RCW 48.02.060 and 48.43.520. 10-23-051 (Matter No. R 2009-19), § 284-43-410, filed 11/10/10, effective 12/11/10. Statutory Authority: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.100, 48.46.200, 48.43.505, 48.43.510, 48.43.515, 48.43.-520, 48.43.525, 48.43.530, 48.43.535. 01-03-033 (Matter No. R 2000-02), § 284-43-410, filed 1/9/01, effective 7/1/01.]

**WAC 284-43-820 Health plan disclosure requirements.** (1) Health plan disclosure information must comply with and include each requirement listed in RCW 48.43.510.

(2) Health plan disclosures must be current and:

- (a) Provided by paper copy upon request;
- (b) Provided by electronic communication upon request;
- (c) Clearly identified as health plan disclosures; and
- (d) Prominently displayed and accessible on the carrier's web site.

(3) Each disclosure must be written in a manner that is easily understood by the average plan participant.

(4) Each carrier must provide to all enrollees and prospective enrollees a list of available disclosure items, including instructions on how to access and request copies of health disclosure information in paper and electronic forms, and web site links to the entire health plan disclosure information.

[Statutory Authority: RCW 48.02.060 and 48.43.510. 10-02-068 (Matter No. R 2008-16), § 284-43-820, filed 1/4/10, effective 2/4/10. Statutory Authority: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.100, 48.46.200, 48.43.505, 48.43.510, 48.43.515, 48.43-520, 48.43.525, 48.43.530, 48.43.535. 01-03-033 (Matter No. R 2000-02), § 284-43-820, filed 1/9/01, effective 7/1/01.]

## Chapter 284-50 WAC

### WASHINGTON DISABILITY INSURANCE REGULATIONS

#### WAC

284-50-020      Applicability.  
284-50-030      Definitions.

**WAC 284-50-020 Applicability.** (1) These rules shall apply to every "advertisement," as that term is hereinafter defined, in WAC 284-50-030, subsections (1), (7), (8) and (9), unless otherwise specified in these rules, intended for presentation distribution, or dissemination in this state when such presentation, distribution, or dissemination is made either directly or indirectly by or on behalf of an insurer, or insurance producer as those terms are defined in the insurance code of this state and these rules.

(2) Every insurer shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer for whom such advertisements are prepared.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-50-020, filed 12/22/10, effective 1/22/11; Order R-76-2, § 284-50-020, filed 3/4/76; Order R-73-1, § 284-50-020, filed 2/28/73, effective 4/1/73.]

**WAC 284-50-030 Definitions.** (1) An advertisement for the purpose of these rules shall include:

(a) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards, and similar displays; and

(b) Descriptive literature and sales aids of all kinds issued by an insurer, or insurance producer for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

(c) Prepared sales talks, presentations, and material for use by insurance producers.

(2) "Policy" for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides disability benefits, or medical, surgical, or hospital expense benefits, whether on an indemnity, reimbursement, service, or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium, and double indemnity benefits included in life insurance and annuity contracts.

(3) "Insurer" for the purposes of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health care service contractor, health maintenance organization, and any other legal entity which is defined as an "insurer" in the insurance code of this state and is engaged in the advertisement of a policy as "policy" is defined in this regulation.

(4) "Exception" for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

(5) "Reduction" for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

(6) "Limitation" for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

(7) "Institutional advertisement" for the purpose of these rules shall mean an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of accident and sickness insurance, or the promotion of the insurer.

(8) "Invitation to inquire" for the purpose of these rules shall mean an advertisement having as its objective the creation of a desire to inquire further about the product and which is limited to a brief description of the loss for which the benefit is payable, and which may contain:

(a) The dollar amount of benefit payable, and/or

(b) The period of time during which the benefit is payable; provided the advertisement does not refer to cost. An advertisement which specifies either the dollar amount of benefit payable or the period of time during which the benefit is payable shall contain a provision in effect as follows:

"For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the policy may be continued in force, see your insurance producer or write to the company."

(9) "Invitation to contract" for the purpose of these rules shall mean an advertisement which is neither an invitation to inquire nor an institutional advertisement.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-50-030, filed 12/22/10, effective 1/22/11; Order R-76-2, § 284-50-030, filed 3/4/76; Order R-73-1, § 284-50-030, filed 2/28/73, effective 4/1/73.]

## Chapter 284-54 WAC

## LONG-TERM CARE INSURANCE RULES

## WAC

284-54-300 Information to be furnished, style.

DISPOSITION OF SECTIONS FORMERLY  
CODIFIED IN THIS CHAPTER

284-54-750 Standards for education of licensees soliciting long-term care contracts. [Statutory Authority: RCW 48.02.060, 48.17.150, and 48.85.030. 05-09-022 (Matter No. R 2005-01), § 284-54-750, filed 4/12/05, effective 5/13/05; 97-19-007, § 284-54-750, filed 9/4/97, effective 10/5/97.] Repealed by 10-02-087 (Matter No. R 2009-18), filed 1/6/10, effective 2/6/10. Statutory Authority: RCW 48.83.170. Later promulgation, see WAC 284-17-262.

**WAC 284-54-300 Information to be furnished, style.**

(1) Each insurance producer, or other representative of an insurer selling or offering benefits that are designed, or represented as being designed, to provide long-term care insurance benefits, shall deliver the disclosure form as set forth in WAC 284-54-350 not later than the time of application for the contract. If an insurance producer has solicited the coverage, the disclosure form shall be signed by that insurance producer and a copy left with the applicant. The insurer shall maintain a copy in its files.

(2) The disclosure form required by this section shall identify the insurer issuing the contract and may contain additional appropriate information in the heading. The informational portion of the form shall be substantially as set forth in WAC 284-54-350 and words emphasized therein shall be underlined or otherwise emphasized in each form issued. The form shall be printed in a style and with a type character that is easily read by an average person eligible for long-term care insurance.

(3) Where inappropriate terms are used in the disclosure form, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or health maintenance organization shall substitute appropriate terminology.

(4) In completing the form, each subsection shall contain information which succinctly and fairly informs the purchaser as to the contents or coverage in the contract. If the contract provides no coverage with respect to the item, that shall be so stated. Address the form to the reasonable person likely to purchase long-term care insurance.

(5) A policy which provides for the payment of benefits based on standards described as "usual," "customary," or "reasonable" (or any combination thereof), or words of similar import, shall include an explanation of such terms in its disclosure form and in the definitions section of the contract.

(6) If the contract contains any gatekeeper provision which limits benefits or precludes the insured from receiving benefits, such gatekeeper provision shall be fully described.

(7) All insurers shall use the same disclosure form. It is intended that the information provided in the disclosure form will appear in substantially the same format provided to an purchaser to compare competing contracts easily.

(8) The information provided shall include the statement: "This is NOT a medicare supplement policy," and shall otherwise comply with WAC 284-66-120.

(9) The required disclosure form shall be filed by the insurer with the commissioner prior to use in this state.

(10) In any case where the prescribed disclosure form is inappropriate for the coverage provided by the contract, an alternate disclosure form shall be submitted to the commissioner for approval or acceptance prior to use in this state.

(11) Upon request of an applicant or insured, insurers shall make available a disclosure form in a format which meets the requirements of the Americans With Disabilities Act and which has been approved in advance by the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-54-300, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.84.030 and 48.84.050. 95-19-028 (Order R 95-5), § 284-54-300, filed 9/11/95, effective 10/12/95. Statutory Authority: RCW 48.02.060(3), 48.30.010 and 48.84.910. 87-15-027 (Order R 87-7), § 284-54-300, filed 7/9/87.]

## Chapter 284-66 WAC

WASHINGTON MEDICARE SUPPLEMENT  
INSURANCE REGULATION

## WAC

|            |   |
|------------|---|
| 284-66-030 | Definitions.  |
| 284-66-130 | Requirements for application forms and replacement of medicare supplement insurance coverage. |
| 284-66-142 | Form of replacement notice.   |
| 284-66-240 | Filing requirements and premium adjustments.  |
| 284-66-243 | Filing and approval of policies and certificates and premium rates.                           |
| 284-66-330 | Standards for marketing.  |
| 284-66-340 | Appropriateness of recommended purchase and excessive insurance.                              |
| 284-66-350 | Permitted compensation arrangements.  |

**WAC 284-66-030 Definitions.** For purposes of this chapter:

(1) "Applicant" means:

(a) In the case of an individual medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement insurance policy, the proposed certificate holder.

(2) "Certificate" means any certificate delivered or issued for delivery in this state under a group medicare supplement insurance policy regardless of the situs of the group master policy.

(3) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(4) "Issuer" includes insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations, and any other entity delivering or issuing for delivery medicare supplement policies or certificates.

(5) "Direct response issuer" means an issuer who, as to a particular transaction, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance producer.

(6) "Disability insurance" is insurance against bodily injury, disablement or death by accident, against disablement resulting from sickness, and every insurance relating to disability insurance. For purposes of this chapter, disability insurance includes policies or contracts offered by any issuer.

(7) "Health care expense costs," for purposes of WAC 284-66-200(4), means expenses of a health maintenance

organization or health care service contractor associated with the delivery of health care services that are analogous to incurred losses of insurers.

(8) "Policy" includes agreements or contracts issued by any issuer.

(9) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(10) "Premium" means all sums charged, received, or deposited as consideration for a medicare supplement insurance policy or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or other similar fee or charge made by the issuer in consideration for the policy is deemed part of the premium. "Earned premium" means the "premium" applicable to an accounting period whether received before, during or after that period.

(11) "Prestandardized medicare supplement benefit plan," "prestandardized benefit plan" or "prestandardized plan" means a group or individual policy of medicare supplement insurance issued prior to January 1, 1990.

(12) "Replacement" means any transaction where new medicare supplement coverage is to be purchased, and it is known or should be known to the proposing insurance producer or other representative of the issuer, or to the proposing issuer if there is no insurance producer, that by reason of the transaction, existing medicare supplement coverage has been or is to be lapsed, surrendered or otherwise terminated.

(13) "Secretary" means the Secretary of the United States Department of Health and Human Services.

(14) "1990 standardized medicare supplement benefit plan" means a group or individual policy of medicare supplement insurance issued on or after January 1, 1990, and prior to June 1, 2010, and includes medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured.

(15) "2010 standardized medicare supplement benefit plan" or "2010 plan" means a group or individual policy of medicare supplement insurance with an effective date for coverage on or after June 1, 2010.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-030, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.66.030 (3)(a), 48.66.041, and 48.66.165. 09-24-052 (Matter No. R 2009-08), § 284-66-030, filed 11/24/09, effective 1/19/10. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-030, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-030, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-030, filed 3/20/90, effective 4/20/90.]

**WAC 284-66-130 Requirements for application forms and replacement of medicare supplement insurance coverage.** (1) Application forms must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has another medicare supplement, medicare advantage, medicaid coverage, or another health insurance or other disability policy or certificate in force or whether a medicare supplement insurance policy or certificate is intended to replace any other policy or certificate of a health care service contractor, health

maintenance organization, disability insurer, or fraternal benefit society presently in force. A supplementary application or other form to be signed by the applicant and insurance producer containing the questions and statements, may be used: If the coverage is sold without an insurance producer, the supplementary application must be signed by the applicant.

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[Statements]

(1) You do not need more than one medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) If you are sixty-five or older, you may be eligible for benefits under medicaid and may not need a medicare supplement policy.

(4) If, after purchasing this policy, you become eligible for medicaid, the benefits and premiums under your medicare supplement policy can be suspended if requested during your entitlement to benefits under medicaid for twenty-four months. You must request this suspension within ninety days of becoming eligible for medicaid. If you are no longer entitled to medicaid, your suspended medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within ninety days of losing medicaid eligibility. If the medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in a medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health benefit plan. If you suspend your medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within 90 days of losing your employer or union-based group health plan. If the medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6) Counseling services may be available in your state to provide advice concerning your purchase of medicare supplement insurance and concerning medical assistance through the state medicaid program, including benefits as a "Qualified Medicare Beneficiary" (QMB) and a "Specified Low-Income Medicare Beneficiary" (SLMB).

[Questions]

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. **PLEASE ANSWER ALL QUESTIONS.**

[Please mark Yes or No below with an "X"]

To the best of your knowledge.

(1)(a) Did you turn age 65 in the last 6 months?

Yes  No

(b) Did you enroll in medicare Part B in the last 6 months?

Yes  No

(c) If yes, what is the effective date?

(2) Are you covered for medical assistance through the state medicaid program?

[NOTE TO APPLICANT; If you are participating in a "Spend - Down Program" and have not met your "Share of Cost," please answer NO to this question.]

Yes  No

If yes,

(a) Will medicaid pay your premiums for this medicare supplement policy?

Yes  No

(b) Do you receive any benefits from medicaid OTHER THAN payments toward your medicare Part B premium?

Yes  No

(3)(a) If you had coverage from any medicare plan other than original medicare within the past 63 days (for example, a medicare advantage plan, or a medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START // END //

(b) If you are still covered under the medicare plan, do you intend to replace your current coverage with this new medicare supplement policy?

Yes  No

(c) Was this your first time in this type of medicare plan?

Yes  No

(d) Did you drop a medicare supplement policy to enroll in the medicare plan?

Yes  No

(4)(a) Do you have another medicare supplement policy in force?

Yes  No

(b) If so, with what company and what plan do you have [optional for Direct Mailers]?

\_\_\_\_\_  
\_\_\_\_\_

(c) If so, do you intend to replace your current medicare supplement policy with this policy?

Yes  No

(5) Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union or individual plan.)

Yes  No

(a) If so, with what company and what kind of policy?

\_\_\_\_\_  
\_\_\_\_\_

(b) What are your dates of coverage under the other policy?

START // END //

(If you are still covered under the other policy, leave "END" blank.)

\_\_\_\_\_  
(2) Insurance producers must list any other medical or health insurance policies sold to the applicant.

(a) List policies sold that are still in force.

(b) List policies sold in the past five years that are no longer in force.

(3) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, must be returned to the applicant by the insurer upon delivery of the policy.

(4) Upon determining that a sale will involve replacement of medicare supplement coverage, an issuer, other than a direct response issuer, or its appointed insurance producer, must furnish the applicant, before issuing or delivering the medicare supplement insurance policy or certificate, a notice regarding replacement of medicare supplement insurance coverage. One copy of the notice, signed by the applicant and the insurance producer (except where the coverage is sold without an insurance producer), must be provided to the applicant and an additional signed copy must be kept by the issuer. A direct response issuer must deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of medicare supplement insurance coverage.

(5) The notice required by subsection (4) of this section for an issuer, must be provided in substantially the form set forth in WAC 284-66-142 in no smaller than twelve point type, and must be filed with the commissioner before being used in this state.

(6) The notice required by subsection (4) of this section for a direct response insurer must be in substantially the form set forth in WAC 284-66-142 and must be filed with the commissioner before being used in this state.

(7) A true copy of the application for a medicare supplement insurance policy issued by a health maintenance organization or health care service contractor for delivery to a resident of this state must be attached to or otherwise physically made a part of the policy when issued and delivered.

(8) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor or health maintenance organization may substitute appropriate terminology.

(9) Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-130, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-130, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.66.041 and 48.66.165. 96-09-047 (Matter No. R 96-2), § 284-66-130, filed 4/11/96, effective 5/12/96. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-130, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-130, filed 3/20/90, effective 4/20/90.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 284-66-142 Form of replacement notice.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE OR MEDICARE ADVANTAGE

[Insurance company's name and address]

SAVE THIS NOTICE!

IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing medicare supplement or medicare advantage insurance and replace it with a policy to be issued by [Company name] Insurance Company. Your new policy will provide thirty days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this medicare supplement coverage is a wise decision, you should terminate your present medicare supplement or medicare advantage coverage. You should evaluate the need for other disability coverage you have that may duplicate this policy. STATEMENT TO APPLICANT BY ISSUER, [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this medicare supplement policy will not duplicate your existing medicare supplement or, if applicable, medicare advantage coverage because you intend to terminate your existing medicare supplement coverage or leave your medicare advantage plan. The replacement policy is being purchased for the following reason(s) (check one):

- Additional benefits.
No change in benefits, but lower premiums.
Fewer benefits and lower premiums.
My plan has outpatient prescription drug coverage and I am enrolling in Part D.
Disenrollment from a medicare advantage plan. Please explain reason for disenrollment. [optional only for direct mailers]
Other. (please specify)
1. NOTE: If the issuer of the medicare supplement policy being applied for does not, or is otherwise prohibited from imposing preexisting condition limitations, please skip to statement 2 below. If you have had your current medicare supplement policy less than three months, health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under original policy.
3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Insurance producer, or Other Representative)\*

[Typed Name and Address of Issuer, or Insurance producer]

(Applicant's Signature)

(Date)

\*Signature not required for direct response sales.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-142, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.06.060 and 48.66.165. 07-06-014 (Matter No. R 2006-13), § 284-66-142, filed 2/26/07, effective 3/29/07. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-

08), § 284-66-142, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.66.041 and 48.66.165. 96-09-047 (Matter No. R 96-2), § 284-66-142, filed 4/11/96, effective 5/12/96. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-142, filed 2/25/92, effective 3/27/92.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

**WAC 284-66-240 Filing requirements and premium adjustments.** (1) All policy forms issued or delivered on or after January 1, 1990, and before July 1, 1992, as well as any future rate adjustments to such forms, must demonstrate compliance with the loss ratio requirements of WAC 284-66-200 and policy reserve requirements of WAC 284-66-210, unless the forms meet the standards of WAC 284-66-063 and 284-66-203. All filings of rate adjustments must be accompanied by the proposed rate schedule and an actuarial memorandum completed and signed by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter. If any of the items listed below are inappropriate due to the pricing methodology used by the pricing actuary, the commissioner may waive the requirements upon request of the issuer.

(a) Filings of issue age level premium rates must be accompanied by the following:

(i) Anticipated loss ratios stated on a policy year basis for the period for which the policy is rated. Filings of future rate adjustments must contain the actual policy year loss ratios experienced since inception;

(ii) Anticipated total termination rates on a policy year basis for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a policy year basis since inception;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to insurance producers and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the issuer and any insurance producers, or others whose compensation is based in whole or in part on the sale of medicare supplement insurance policies, the agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(b) Filings of community rated forms must be accompanied by the following:

(i) Anticipated loss ratio for the accounting period for which the policy is rated. The duration of the accounting period must be stated in the filing, established based on the judgment of the pricing actuary, and must be reasonable in the opinion of the commissioner. Filings for rate adjustment must demonstrate that the actual loss ratios experienced during the three most recent accounting periods, on an aggregate

basis, have been equal to or greater than the loss ratios required by WAC 284-66-200.

(ii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iii) Schedule of total compensation payable to insurance producers and other producers as a percentage of premium, if any;

(iv) Specimen copy of the compensation agreements or contracts between the insurer and any insurance producers or others whose compensation is based in whole or in part on the sale of medicare supplement insurance policies, the agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(v) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(2) Every issuer must make premium adjustments that are necessary to produce an expected loss ratio under the policy that will conform with the minimum loss ratio standards of WAC 284-66-200.

(3) No premium adjustment that would modify the loss ratio experience under the policy, other than the adjustments described in this section, may be made with respect to a policy at any time other than upon its renewal or anniversary date.

(4) Premium refunds or premium credits must be made to the premium payer no later than upon renewal if a credit is given, or within sixty days of the renewal or anniversary date if a refund is provided.

(5) For purposes of rate making and requests for rate increases, all individual medicare supplement policy forms of an issuer are considered "similar policy forms" including forms no longer being marketed.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-240, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-240, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-240, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-240, filed 3/20/90, effective 4/20/90.]

**WAC 284-66-243 Filing and approval of policies and certificates and premium rates.** (1) An issuer may not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner according to the filing requirements and procedures prescribed by the commissioner.

(2) An issuer may not use or change premium rates for a medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner according to the filing requirements and procedures prescribed by the commissioner.

(3)(a) Except as provided in (b) of this subsection, an issuer may not file for approval more than one form of a policy or certificate of each type for each standard medicare supplement benefit plan.

(b) An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard medicare supplement benefit plan, one for each of the following cases:

- (i) The inclusion of new or innovative benefits;
- (ii) The addition of either direct response or insurance producer marketing methods;
- (iii) The addition of either guaranteed issue or underwritten coverage;
- (iv) The offering of coverage to individuals eligible for medicare by reason of disability. The form number for products offered to enrollees who are eligible by reason of disability must be distinct from the form number used for a corresponding standardized plan offered to an enrollee eligible for medicare by reason of age.

(c) For the purposes of this section, a "type" means an individual policy, a group policy, an individual medicare SELECT policy, or a group medicare SELECT policy.

(4)(a) Except as provided in (a)(i) of this subsection, an issuer must continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the commissioner. A policy form or certificate form is not considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve months.

(i) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least thirty days before discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer may no longer offer for sale the policy form or certificate form in this state.

(ii) An issuer that discontinues the availability of a policy form or certificate form under (a)(i) of this subsection, may not file for approval a new policy form or certificate form of the same type for the same standard medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of medicare supplement business to another issuer is considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology is considered a discontinuance under (a) of this subsection, unless the issuer complies with the following requirements:

(i) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in that the revised rating methodology and resultant rates differ from the existing rating methodology and resultant rates.

(ii) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential that is in the public interest.

(5)(a) Except as provided in (b) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard medicare supplement benefit plan must be

combined for purposes of the refund or credit calculation prescribed in WAC 284-66-203.

(b) Forms assumed under an assumption reinsurance agreement may not be combined with the experience of other forms for purposes of the refund or credit calculation.

(6) An issuer may set rates only on a community rated basis or on an issue-age level premium basis for policies issued prior to January 1, 1996, and may set rates only on a community rated basis for policies issued after December 31, 1995.

(a) For policies issued prior to January 1, 1996, community rated premiums must be equal for all individual policyholders or certificateholders under a standardized medicare supplement benefit form. Such premiums may not vary by age or sex. For policies issued after December 31, 1995, community rated premiums must be set according to RCW 48.66.045(3).

(b) Issue-age level premiums must be calculated for the lifetime of the insured. This will result in a level premium if the effects of inflation are ignored.

(7) All filings of policy or certificate forms must be accompanied by the proposed application form, outline of coverage form, proposed rate schedule, and an actuarial memorandum completed, signed and dated by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter:

(a) Anticipated loss ratios stated on a calendar year basis by duration for the period for which the policy is rated. Filings of future rate adjustments must contain the actual calendar year loss ratios experienced since inception, both before and after the refund required, if any and the actual loss ratios in comparison to the expected loss ratios stated in the initial rate filing on a calendar year basis by duration if applicable;

(b) Anticipated total termination rates on a calendar year basis by duration for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a calendar year basis since inception;

(c) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(d) Schedule of total compensation payable to insurance producers and other producers as a percentage of premium, if any;

(e) A complete specimen copy of the compensation agreements or contracts between the issuer and its insurance producers, as well as the contracts between any insurance producers or others whose compensation is based in whole or in part on the sale of medicare supplement insurance policies. The agreements must demonstrate compliance with WAC 284-66-350 (where appropriate);

(f) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-243, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.66.030 (3)(a), 48.66.041, and 48.66.165. 09-24-052 (Matter No. R 2009-08), § 284-66-243, filed 11/24/09, effective

1/19/10. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-243, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-243, filed 2/25/92, effective 3/27/92.]

**WAC 284-66-330 Standards for marketing.** (1) Every issuer marketing medicare supplement insurance coverage in this state, directly or through its producers, must:

(a) Establish marketing procedures to assure that any comparison of policies or certificates by its insurance producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the policy or certificate the following:

"NOTICE TO BUYER: THIS (POLICY, CONTRACT OR CERTIFICATE) MAY NOT COVER ALL OF YOUR MEDICAL EXPENSES."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for medicare supplement insurance already has disability insurance and the types and amounts of any such insurance.

(e) Establish auditable procedures for verifying compliance with this section.

(2) In addition to the acts and practices prohibited in chapter 48.30 RCW, chapters 284-30 and 284-50 WAC, and this chapter, the commissioner has found and hereby defines the following to be unfair acts or practices and unfair methods of competition, and prohibited practices for any issuer, or their respective appointed insurance producers either directly or indirectly:

(a) Twisting. Making misrepresentations or misleading comparisons of any insurance policies or issuers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, keep, or convert any insurance policy.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or otherwise applying undue pressure to coerce the purchase of, or recommend the purchase of, insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-330, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-330, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-330, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-330, filed 3/20/90, effective 4/20/90.]

**WAC 284-66-340 Appropriateness of recommended purchase and excessive insurance.** (1) In recommending the purchase or replacement of any medicare supplement pol-

icy or certificate an insurance producer must make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of a medicare supplement policy or certificate that will provide an individual more than one medicare supplement policy or certificate is prohibited.

(3) An issuer may not issue a medicare supplement policy or certificate to an individual enrolled in medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-340, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-340, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-340, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-340, filed 3/20/90, effective 4/20/90.]

**WAC 284-66-350 Permitted compensation arrangements.** (1)(a) The commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any issuer, directly or indirectly, to provide commission to an insurance producer or other representative for the solicitation, sale, servicing, or renewal of a medicare supplement policy or certificate that is delivered or issued for delivery to a resident within this state unless the commission is identical as to percentage of premium for every policy year as long as the coverage under the policy or certificate remains in force with premiums being paid, or waived by the issuer, for the coverage.

(b) Each commission payment must be made by the issuer no later than sixty days following the date on which the applicable premiums, that are the basis of the commission calculation, were paid. Each payment must be paid to either the producing insurance producer who originally sold the policy or to a successor insurance producer designated by the issuer to replace the producing insurance producer, or shared between them on some basis. The distribution of the commission payments must be designated by the issuer in its various insurance producers' commission agreements and it may not terminate, reduce or keep the commission payment as long as the policy or certificate remains in force with premiums being paid, or waived by the issuer, for the coverage thereunder.

(c) Where an issuer provides a portion of the total commission for the solicitation, sale, servicing, or renewal of a medicare supplement policy or certificate to an insurance producer, sales manager, district representative or other supervisor who has marketing responsibilities (other than a producing or successor insurance producer), while such portion of total commissions continues to be paid it must be identical as to percentage of premium for every policy year as long as coverage under the policy or certificate remains in force with premiums being paid, or waived by the issuer, for the coverage.

(2) For purposes of this section, "commission" includes pecuniary or nonpecuniary remuneration of any kind relating

to the solicitation, sale, servicing, or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, advances on commissions, awards and finders fees.

(3) This section does not apply to salaried employees of an issuer who have marketing responsibilities if the salaried employee is not compensated, directly or indirectly, on any basis dependent upon the sale of insurance being made, including but not limited to considerations of the number of applications submitted, the amount or types of insurance, or premium volume.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-66-350, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.66.165. 05-17-019 (Matter No. R 2004-08), § 284-66-350, filed 8/4/05, effective 9/4/05. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130 and 48.46.200. 92-06-021 (Order R 92-1), § 284-66-350, filed 2/25/92, effective 3/27/92. Statutory Authority: RCW 48.02.060, 48.20.450, 48.20.460, 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, 48.66.041, 48.66.050, 48.66.100, 48.66.110, 48.66.120, 48.66.130, 48.66.150 and 48.66.160. 90-07-059 (Order R 90-4), § 284-66-350, filed 3/20/90, effective 4/20/90.]

**Chapter 284-83 WAC  
LONG-TERM CARE INSURANCE RULES**

**WAC**

284-83-063

Notice to applicant regarding replacement of individual accident and sickness or long-term care insurance marketed by an insurance producer.

**WAC 284-83-063 Notice to applicant regarding replacement of individual accident and sickness or long-term care insurance marketed by an insurance producer.** The following notice is required in WAC 284-83-060(3):

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL [ACCIDENT AND SICKNESS] [HEALTH] OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing [accident and sickness] [health] or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] insurance company. Your new policy provides thirty days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all [accident and sickness] [health] or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY [INSURANCE PRODUCER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

- (1) Health conditions that you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
- (2) State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
- (3) If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its appointed [insurance producer] regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (4) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before your sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of [Insurance Producer] or Other Representative)

[Typed Name and Address of [Insurance Producer]]

The above "Notice to Applicant" was delivered to me on:

.....  
(Applicant's Signature)

.....  
(Date)

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-83-063, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060, 48.83.070, 48.83.110, 48.83.120, 48.83.130(1), and 48.83.140 (4)(a). 08-24-019 (Matter No. R 2008-09), § 284-83-063, filed 11/24/08, effective 12/25/08.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

**Chapter 284-87 WAC**  
**JOINT UNDERWRITING ASSOCIATION FOR**  
**MIDWIFERY AND BIRTHING CENTERS**  
**MALPRACTICE INSURANCE**

**WAC**

|            |   |
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| 284-87-020 | Definitions.  |
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| 284-87-060 | General powers and duties of the board.                     |
| 284-87-080 | Statistics, records, and reports.                           |
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| 284-87-165 | Distribution of assets upon dissolution of the association. |

**WAC 284-87-020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

"Association" means the joint underwriting association established pursuant to the provisions of chapter 48.87 RCW.

"Board" means the governing board of the association.

"Licensee" means any person or birth center facility licensed to provide midwifery services pursuant to chapters 18.46, 18.50, and 18.79 RCW.

"Market assistance plan" or "MAP" means the voluntary consumer assistance plan established pursuant to the provisions of RCW 48.22.050.

"Member insurer" means any insurer that on or after July 25, 1993, possesses a certificate of authority to write medical malpractice, general casualty insurance, or both, within this state.

"Midwifery and birth center insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as a result of negligence or malpractice in rendering professional service by any licensee.

"Service company" means any insurance company or person designated by the association to act on behalf of the association under chapters 48.87 RCW and 284-87 WAC.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-020, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-020, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-050 Administration.** (1) The association must be administered by a governing board, subject to the

supervision of the commissioner, and operated by a service company or companies appointed by the board.

(2) The board must consist of seven members. Five board members must be member insurers appointed by the commissioner. The other two board members must be licensees who are appointed by the commissioner to so serve, neither of whom shall have an interest, directly or indirectly, in any insurer except as a policyholder. Three of the original board members must be appointed to serve an initial term of three years, two must be appointed to serve an initial term of two years, and the remaining must be appointed to serve a one-year initial term. All other terms must be for three years or until a successor has been appointed. Not more than one member insurer in a group under the same management or ownership shall serve on the board at the same time. At least one of the five insurers on the board must be a domestic insurer. Members of the board may be removed by the commissioner for cause.

(3) The association must indemnify each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board, or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his, her, or its duties as a member of such board, or member, officer, or employee of the association. This indemnification shall not be exclusive of other rights as to which such member, or officer, or employee may be entitled as a matter of law.

(4) The association at the discretion of the board may agree to indemnify its appointed service company or companies and its staff from all costs and expenses actually and necessarily incurred by them in defense of any action, suit, or proceeding in which they are made a party by reason of their being or having been a service company of the association, except in relation to matters as to which they have been judged by a court of competent jurisdiction, to have engaged in willful misconduct in the performance of their duties as a service company on its behalf by staff.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-050, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-050, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-060 General powers and duties of the board.** (1) Within thirty days after the appointment of its members by the commissioner, the board must prepare and adopt a plan of operation and bylaws consistent with this chapter, subject to approval by the commissioner. In a timely manner thereafter, the board must take all actions necessary to prepare the association to receive applications and issue policies, when and if the commissioner activates the association as provided in WAC 284-87-040. These actions must include the preparation of all necessary policy forms and rating information to be filed with the commissioner for approval and all necessary operating manuals and procedures to be followed.

(2) The board shall meet as often as may be required to perform the general duties of the administration of the association or on the call of the commissioner. Four members of the board shall constitute a quorum as long as at least one of those present is a licensee board member.

(3) The board may appoint a service company or companies, who shall serve at the pleasure of the board, to perform any duties necessary or incidental to the proper administration of the association, including the hiring of necessary staff.

(4) The board shall annually furnish to the commissioner a written report of operations. All insurer members of the association may receive a copy of the report from the association upon request.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-060, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-060, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-080 Statistics, records, and reports.** (1) The association must maintain statistics on business written and shall make the following quarterly report to the commissioner:

- (a) Number of applications received by the association;
- (b) Number of applications accepted by the association and the total and average premiums charged, including the high and low premiums;
- (c) Number of policies canceled; and
- (d) Claims activity.

(2) In addition to statistics, the association must maintain complete and separate records of all business transactions, including copies of all policies and endorsements issued by the association, and records of reasons provided for each declination of coverage or cancellation of coverage, including the results of any on-site inspections, or investigations of applicants or insureds or their employees. Information concerning individual licensees must be kept confidential to the extent permitted by law.

(3) Regular reports of the association's operations must be submitted to all members of the board and to the commissioner, the reports must include, but not necessarily to be limited to, premiums written and earned, losses, including loss adjustment expense, paid and incurred, all other expenses incurred, outstanding liabilities, and, at least once a year, the proposed annual budget of the association for the next fiscal year.

(4) The books of account, records, reports, and other documents of the associations must be open to the commissioner for examination at all reasonable times.

(5) The books of account, records, reports, and other documents of the association shall be open to inspection by members only at times and under conditions as the board shall determine.

(6) The books of account of any and all servicing companies may be audited by a firm of independent auditors designated by the board.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-080, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-080, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-090 Eligibility of licensees for coverage.** Any licensee that is unable to obtain midwifery or birthing center insurance with liability limits of at least one million dollars per claim and three million dollars per annual aggregate, or other minimum level of mandated coverage as determined by the department of health, from the voluntary insurance market or from any market assistance plan organized pursuant to RCW 48.22.050, is eligible to apply for coverage through the association. The association's service company or companies shall promptly process such application and, if the licensee is judged to be an acceptable insurable risk, offer coverage to the licensee. In view of the purpose of chapter 48.87 RCW, every licensee will be presumed to be an acceptable insurable risk for the association. To refuse or cancel coverage to any licensee meeting the other eligibility requirements of this section, the association must have the prior written approval of the commissioner. The commissioner will grant such approval only if the association demonstrates that circumstances justify refusing or canceling coverage to the licensee.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-090, filed 7/8/10, effective 8/8/10. Statutory Authority: RCW 48.02.060, 48.87.100 and 48.87.050. 94-13-006 (Order R 94-11), § 284-87-090, filed 6/2/94, effective 7/3/94. Statutory Authority: RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-090, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-100 Standard policy coverage—Premiums.** (1) All policies issued by the association must have liability limits of at least one million dollars per claim and three million dollars per annual aggregate, or other minimum level of mandated coverage as determined by the department of health, and shall be issued for a term of one year.

(2) Premiums must be based on the association's rate filings approved by the commissioner in accordance with chapter 48.19 RCW. The rate filings shall provide for modification of rates for licensees according to the type, size, and past loss experience of each licensee, and any other differences among licensees that can be demonstrated to have a probable effect upon losses.

(3) Consistent with the nonprofit character of the association, rates for policies issued by the association must be set so that the expected profit (that is, premiums plus investment income minus the sum of expenses and losses) is zero.

(4) The association is exempt from the requirements of WAC 284-24-065.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-100, filed 7/8/10, effective 8/8/10. Statutory Authority: RCW 48.02.060, 48.87.100 and 48.87.050. 94-13-006 (Order R 94-11), § 284-87-100, filed 6/2/94, effective 7/3/94. Statutory Authority:

RCW 48.02.060 and 48.87.100. 94-02-053 (Order R 93-18), § 284-87-100, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-110 Renewal of policies.** (1) Policies written by the association will not automatically renew. To obtain continuing coverage by the association, a licensee must again satisfy initial eligibility requirements under WAC 284-87-090 at the end of the expiring policy term.

(2) The association shall notify covered licensees in writing at least ninety days prior to the expiration of a policy term of the need to submit a new application for coverage to the association to continue coverage.

(3) If the association fails to provide the required written notice, the existing policy shall continue in force until the association has provided the required notice. In such case, premium shall be charged the licensee on a pro rata basis for coverage during the extended coverage period.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-110, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-110, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-130 Right of appeal.** (1) Any applicant or insured, licensed pursuant to chapter 18.46, 18.50, or 18.88 RCW, shall have a right of appeal to the commissioner, including the right to appear before the commissioner or his or her designee, if requested by the person seeking appeal, from any decision by the board.

(2) Appeals to the commissioner under this provision shall be handled in accordance with chapters 48.04 and 34.05 RCW.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-130, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-130, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-140 Cooperation of producers.** All licensed producers must provide full cooperation in carrying out the aims and the operation of the association.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-140, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-140, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-150 Commissions.** The association shall pay commissions as established by the board on policies issued under this chapter to the licensed producer designated by the applicant.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-150, filed 7/8/10, effective 8/8/10; 94-02-053 (Order R 93-18), § 284-87-150, filed 12/30/93, effective 1/30/94.]

**WAC 284-87-155 Reserves and surplus.** (1) The board shall determine and establish a minimum loss reserve account to offset infrequent severe losses.

(2) If the board, in its sole discretion, determines that the reserve account is in excess of an amount necessary to pay potential infrequent severe losses, the association may, but is not obligated to:

(a) Refund to the member insurers all or any portion of any assessment that was received from the member insurers in the same pro rata amount the member insurer was assessed and paid. No return to a member insurer may exceed the aggregate amount paid to the association by the member insurer.

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(b) After all assessments received by the association from member insurers are refunded to the member insurers, the association may make a one-time premium adjustment to the insured licensees.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-155, filed 7/8/10, effective 8/8/10.]

**WAC 284-87-165 Distribution of assets upon dissolution of the association.** If the association is deactivated or dissolved and has a positive asset balance, the excess funds will be distributed in the following order:

(1) For the purchase of prior acts coverage from the successor insurer for all active licensees insured by the association.

(2) For the return of one hundred percent of unearned premium to all active licensees insured by the association.

(3) For the return of remaining funds to the member insurers on a pro rata formula, based upon the total of all assessments paid in throughout the lifetime of the association's operation. Returns to a member insurer must not exceed the aggregate amount paid to the association by the member insurer.

(4) For the distribution of any remaining balance to active licensees insured by the association at the time of deactivation or dissolution, according to a pro rata formula based upon the total of all premiums paid to the association. Distribution amounts paid to a licensee must not exceed the aggregate amount paid to the association by the licensee. Pro rata amounts of less than twenty-five dollars will not be returned.

(5) Any remaining balance will be utilized at the discretion of the commissioner.

[Statutory Authority: RCW 48.02.060 and 48.87.100. 10-15-014 (Matter No. R 2010-02), § 284-87-165, filed 7/8/10, effective 8/8/10.]

## Chapter 284-92 WAC

### LIABILITY RISK RETENTION

#### WAC

|            |  |
|------------|--|
| 284-92-240 | Suspension and revocation of registration. |
| 284-92-440 | Suspension and revocation of registration. |
| 284-92-450 | Insurance producers.                       |

**WAC 284-92-240 Suspension and revocation of registration.** The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. The registration of a purchasing group may be suspended or revoked:

(1) If any basis exists on which, if the purchasing group were an insurer, or insurance producer, its certificate of authority or its license could be suspended or revoked.

(2) If any insurer issuing policies for the purchasing group is subject, or would be subject if it were an authorized insurer, to suspension or revocation of its certificate of authority under RCW 48.05.140.

(3) If any insurer issuing policies for or to the purchasing group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official).

(4) If the purchasing group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by a person not licensed in Washington as an insurance producer or surplus line broker; or does or permits any other act, by a person not licensed as an insurance producer or surplus line broker, if that act may be performed only by one so licensed.

(5) If the purchasing group fails to reply fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-240, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-240, filed 9/1/93, effective 10/2/93.]

**WAC 284-92-440 Suspension and revocation of registration.** The grounds for suspension or revocation mentioned in this section are in addition to those mentioned elsewhere in this regulation or in other applicable law or regulation. In addition, a domestic risk retention group is subject to the same sanctions, on the same grounds, as a domestic insurer, including revocation of its certificate of authority. The registration of a risk retention group may be suspended or revoked if:

(1) Any basis exists on which, if the risk retention group were an authorized insurer, its certificate of authority could be suspended or revoked, under chapter 48.05 RCW or otherwise.

(2) If the risk retention group has any order of supervision, receivership, conservation, or liquidation, or any order similar to such an order, entered against it in any state or country by a court or insurance commissioner (or equivalent supervisory official); or any such court or official finds that the risk retention group is in a hazardous financial or financially impaired condition.

(3) If the risk retention group solicits or accepts, or permits the solicitation or acceptance, of insurance applications by anyone not appropriately licensed as an insurance producer or surplus line broker; or does or permits any other act by a person not appropriately licensed as an insurance producer or surplus line broker, if that act may be performed only by one so licensed.

(4) An order is entered by a court enjoining the risk retention group from soliciting or selling insurance, or operating.

(5) If the risk retention group fails to respond fully, accurately, and in writing to an inquiry of the commissioner.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-440, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-440, filed 9/1/93, effective 10/2/93.]

**WAC 284-92-450 Insurance producers.** Only appropriately licensed insurance producers or surplus line brokers may solicit or accept applications for insurance to be issued by a risk retention group.

[Statutory Authority: RCW 48.02.060 (3)(a) and 48.17.010(5). 11-01-159 (Matter No. R 2010-09), § 284-92-450, filed 12/22/10, effective 1/22/11. Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-006 (Order R 93-10), § 284-92-450, filed 9/1/93, effective 10/2/93.]

## Chapter 284-97 WAC

### LIFE SETTLEMENT REGULATION

#### WAC

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**WAC 284-97-010 Purpose and scope.** (1) The purpose of this chapter is to effectuate chapter 48.102 RCW, by establishing minimum standards and disclosure requirements to be met by life settlement providers and life settlement brokers with respect to life settlement contracts advertised, solicited, or issued for delivery in this state, and licensing requirements for life settlement providers and life settlement brokers.

(2) This regulation is not exclusive, and acts or omissions, whether or not specific in this chapter, may also be violations of other sections of the insurance code or other regulations promulgated thereunder.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-010, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-010, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-015 Definitions.** For purposes of this chapter:

(1) "Domestic life settlement provider" means a provider as defined in RCW 48.102.006(19) who if:

(a) A natural person either resides or has their principal place of business in this state, or both; or

(b) A legal entity that either has their principal place of business in this state, or is incorporated in or otherwise formed under the laws of the state of Washington, or both.

(2) "NAIC" means the National Association of Insurance Commissioners.

(3) "Nonresident or foreign life settlement provider" means a provider as defined in RCW 48.102.006(19) who if:

(a) A natural person does not either reside or have their principal place of business in this state, or both; or

(b) A legal entity who does not either have their principal place of business in this state, or is not incorporated in or otherwise formed under the laws of the state of Washington, or both.

(4) "SERFF" means the System for Electronic Rate and Form Filing. SERFF is a proprietary NAIC computer-based application that allows filers to create and submit rate, rule, and form filings electronically to the commissioner.

(5) "Solicitation" means, for example; proposing, negotiating, signing, or doing any act in furtherance of making or proposing to make a life settlement contract. Solicitation specifically includes advertising by mail, use of the print or electronic media, telephone, or any other method of presenting, distributing, issuing, circulating, or permitting to be issued or

circulated any information or material in connection with a life settlement contract.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-015, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-015, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-020 Licensing requirements for life settlement providers.** (1) The application form and instructions for obtaining a license as a life settlement provider are on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) The application for a license as a life settlement provider shall furnish all of the applicable following information:

(a) The name of the applicant, its address, and organizational structure.

(b) Copies of its organizational documents, including but not limited to its: Articles of incorporation and any amendments thereto, certificate of incorporation and any amendments thereto, bylaws and any amendments thereto, partnership agreement and any amendments thereto, articles of association and any amendments thereto, certificate of formation of a limited liability company and any amendments thereto, and limited liability company agreement and any amendments thereto.

(c) The identity of all: Stockholders holding ten percent or more of the voting securities; investors holding a ten percent or greater interest; partners; corporate officers; trustees; if an association, all of the members; all of the members of a limited liability company; and parent and affiliate entities, together with a chart showing the relationship of the applicant to any parent, affiliated or subsidiary entities.

(d) A list of all stockholders holding ten percent or more of the voting securities, investors holding a ten percent or greater interest, partners, and officers of any parent or affiliate entities.

(e) Biographical affidavits of all its officers, directors, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association).

(f) For domestic life settlement providers, fingerprint cards of all its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, and members (if an association).

(g) A list of states in which the life settlement provider is licensed on the date of application, a copy of each effective license, and a list of the states in which it is or was doing business.

(h) A list of all business licenses from the federal and any state government, which has been issued to the applicant, together with a certificate of incorporation from the Washington secretary of state, and a statement showing the current status of any such licenses, such as whether it has been revoked or suspended.

(i) A report stating whether any regulatory action, by any level of state or federal government, is pending or has been taken against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(j) A report stating whether any criminal action or civil action has been taken, or is pending, against the applicant or its officers, directors, trustees, investors holding a ten percent or greater interest, partners, members of a limited liability company, or members (if an association).

(k) A copy of its most recent financial and operating reports, audited and unaudited.

(l) Copies of documents filed with the federal Securities and Exchange Commission.

(m) A detailed plan of operations for the applicant's business, including but not limited to information regarding or identification of the following items in connection with the applicant's life settlement business:

(i) Escrow accounts and banks;

(ii) Advertising, brokerage, or distribution system to be used;

(iii) Marketing techniques to be used;

(iv) Marketing training program; and

(v) Contract offering and servicing facilities.

(n) For a nonresident provider, an appointment of the commissioner to receive service of process and a designation of the person to whom the commissioner shall forward legal process.

(o) A copy of the applicant's antifraud plan that meets the requirements of RCW 48.102.140.

(p) Such other information as the commissioner may reasonably require.

(3) To qualify for authority to transact business as a life settlement provider the applicant must possess unimpaired capital, and thereafter maintain unimpaired capital, in the amount of not less than one hundred fifty thousand dollars.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-020, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-020, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-025 Annual reporting requirements for life settlement providers.** (1) Every licensed life settlement provider must file with the commissioner an annual statement on or before March 1st for the immediately preceding calendar year ending December 31st. For good cause shown, the commissioner may grant an extension of time to file if the request for extension is received by the commissioner more than five business days prior to March 1st.

(2) The annual statement forms and instructions are on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

(3) In addition to any other requirements, for any policy settled within five years of policy issuance, the annual statement shall specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year.

(4) Annual statements filed by a life settlement provider with the commissioner must be filed in electronic form. Electronic form shall mean in pdf format and according to the instructions on the commissioner's web site.

(5) As a demonstration of financial responsibility, life settlement providers must comply with WAC 284-07-100 through 284-07-230, except WAC 284-07-100 (5), (6), and (7), to the extent reasonably applicable, and the applicant

shall not be required to file any report, letter, or other document required by WAC 284-07-100 through 284-07-230 with the National Association of Insurance Commissioners (NAIC).

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-025, filed 1/27/10, effective 2/27/10.]

**WAC 284-97-030 Licensing life settlement brokers.**

The application form and instructions for obtaining a license as a life settlement broker are on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-030, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-030, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-035 Prompt reply to the commissioner required.** Every licensed life settlement provider and broker licensed under chapter 48.102 RCW, must promptly reply in writing to an inquiry of the commissioner relative to the business of life settlements. A timely response is one that is received by the commissioner within fifteen business days from receipt of the inquiry. Failure to make a complete and timely response constitutes a violation of this section.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-035, filed 1/27/10, effective 2/27/10.]

**WAC 284-97-040 Contract and form filing requirements for life settlement providers and life settlement brokers.** All life settlement contracts as defined in RCW 48.102.006(12) and disclosure forms required by RCW 48.102.080 must be filed with and be approved by the commissioner prior to use in this state. No other forms shall be filed with the commissioner.

(1)(a) Life settlement providers must file with the commissioner:

(i) Their life settlement contract form completed in John Doe fashion; and

(ii) The disclosure form required by RCW 48.102.080 (1).

(b) The life settlement contract form and disclosure form must be submitted as separate documents.

(c) Life settlement providers shall not file any other forms with the commissioner.

(d) Life settlement providers must submit the life settlement contract and disclosure forms filing through SERFF.

The SERFF filing instructions are in the *SERFF Industry Manual* on the SERFF web site at [www.serff.com](http://www.serff.com) and the Washington state SERFF Life and Disability Rate and Form Filing General Instructions on the commissioner's web site at: [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2)(a) Life settlement brokers must file with the commissioner:

(i) The disclosure form required by RCW 48.102.080(1); and

(ii) The disclosure form required by RCW 48.102.080 (3).

(b) These two disclosure forms must be submitted as separate documents.

(c) Life settlement brokers shall not file any other forms with the commissioner.

(d) Life settlement brokers must submit their disclosure form filings only in paper format.

(3)(a) Every life settlement contract shall be in writing, in a type size of no less than ten points, shall be identified by a form number in the lower left-hand corner of the first page, and include the terms under which the life settlement provider will pay compensation (called by whatever name) to the owner in exchange for the assignment, transfer, sole devise, or bequest of the death benefit or assignment of ownership of the life insurance policy or certificate to the life settlement provider.

(b) Every life settlement contract shall provide for payment to the owner in a lump sum and shall be voidable at the option of the owner if the agreed value is not paid in full within fifteen days of the date the life settlement contract is executed by all parties thereto.

(c) Every life settlement contract shall provide for transfer of the entire life insurance policy: Provided, however, That if agreed to in writing by both the insurer and the owner, a stated dollar value which is less than the full face amount of the life insurance policy (less any outstanding loans) may be transferred if:

(i) The life settlement provider obtains a bond in favor of all beneficiaries of the policy other than the life settlement provider in an amount sufficient to guarantee the payment of all premium for the balance of the premium-paying period as calculated on the effective date of the life insurance policy; or

(ii) Another arrangement acceptable to the commissioner is made which guarantees that the insurance policy will remain in full force and effect for the protection of beneficiaries designated by the owner (other than the life settlement provider) until the death of the insured.

(4) The life settlement contract shall provide for rescission no less favorable to the owner than as set forth in RCW 48.102.110(9). It shall provide that if the insured dies during the period of time allowed for rescission, the contract is considered rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the life settlement provider. The contract shall provide a method for giving notice of rescission. If notice of rescission is given by mail, it shall be deemed given when deposited in the United States mail, first class postage prepaid.

(5) The life settlement contract shall specify any effect entering into the contract will have upon the continued availability of supplemental benefits or riders that are or may be attached to the life insurance policy that is the subject of the life settlement contract, including assigning the responsibility for the continued payment of premiums. The benefits and riders considered shall include, but need not be limited to, the following:

(a) Guaranteed insurability options;

(b) Accidental death benefits, or accidental death and dismemberment benefits;

(c) Disability income or loss of income protection;

(d) Waiver of premium or monthly deduction waiver; and

(e) Family, spousal, or children's riders or benefits.

(6) No life settlement contract may contain any limitation or restriction on the use of the proceeds by the owner.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-040, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-040, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-050 Standards for evaluating reasonability of compensation.** In order to assure that benefits offered to an owner who is terminally or chronically ill are reasonable in relation to the rate, fee, or other compensation that is charged, any payout shall be no less than the greater of the amounts defined in subsections (1) and (2) of this section.

(1) Payouts shall be no less than the following percentage of the expected death benefit under the insurance policy, net of loans. The following are minimum standards and shall not be presumed to be proof of fairness as to any specific transaction.

(a) If the insured's life expectancy is less than six months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner shall be no less than eighty percent.

(b) If the insured's life expectancy is at least six months, but less than twelve months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner shall be no less than seventy percent.

(c) If the insured's life expectancy is at least twelve months, but less than eighteen months, then the percentage of the expected death benefit under the insurance policy, net of

loans, to be received by the owner shall be no less than sixty-five percent.

(d) If the insured's life expectancy is at least eighteen months, but less than twenty-five months, then the percentage of the expected death benefit under the insurance policy, net of loans, to be received by the owner, shall be no less than sixty percent.

(2) Payouts shall be no less than the greater of the cash surrender value or accelerated death benefit under the insurance policy.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-050, filed 1/27/10, effective 2/27/10. Statutory Authority: RCW 48.02.060, 48.30.010 and 1995 c 161 §§ 2, 4, 5 and 10. 95-22-016 (Order R 95-2), § 284-97-050, filed 10/20/95, effective 11/20/95.]

**WAC 284-97-900 Savings clause.** Amendments to WAC 284-97-010 through 284-97-050 effective on or after July 26, 2009, do not affect any rights acquired or liabilities or obligations incurred under WAC 284-97-010 through 284-97-050 that existed prior to July 26, 2009, nor affects any proceedings instituted under those sections.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-900, filed 1/27/10, effective 2/27/10.]

**WAC 284-97-910 Insurance company disclosure form.** RCW 48.102.100 requires that insurers provide a notice to owners of individual life insurance policies at certain times. The following is the only document approved by the commissioner to give this notice.

Important information about your life insurance policy  
from the State of Washington Office of the Insurance Commissioner

**Life insurance is a critical part of a broader financial plan. There are many options available, and you have the right to shop around and seek advice from different financial advisers in order to find the options best suited to your needs.** You are encouraged to consider the following possible alternatives to [requesting a surrender of your life insurance policy, requesting accelerated death benefits under your life insurance policy, or letting your life insurance policy lapse\*]. These alternatives include, but are not limited to:

- **Accelerated Death Benefit:** Your policy may provide an early or accelerated discounted benefit payment if you have a terminal or chronic illness.
- **Cash Surrender:** Your policy may have a cash surrender value your life insurer would pay you if you cancel it.
- **Gift:** You may be able to gift your policy to your beneficiary, who would then assume responsibility for paying premiums.
- **Life Settlement:** You may be able to sell your life insurance policy to a third party for an amount that, under Washington law must be greater than the cash surrender value or accelerated death benefits under your policy. You pay no further premium. The third party becomes the policyholder and receives the benefit upon the insured's death.
- **Maintain Your Policy:** You may be able to maintain your life insurance policy in force by paying the premiums directly or using your current policy values to pay the premiums.
- **Policy Changes:** You may be able to reduce or eliminate future premium payments by obtaining a paid-up policy, by reducing optional coverages, or through other options available from your life insurer.
- **Policy Loan:** You may be able to take out a loan from your life insurance company using the cash value of your policy as collateral. Loan proceeds can be used to pay the premiums or for other purposes.
- **Third-Party Loan:** You may be able to get a loan from another party to pay your policy's premiums. In return, the lender may require an assignment of a portion or all of the policy's death benefits.

These options may or may not be available depending on your circumstances and the terms of your life insurance policy. Please see your policy or contact your life insurance company, financial advisor, agent or broker to determine your particular options. If you're a Washington state resident and have questions about life insurance and your rights, contact the Office of the Insurance Commissioner at 1-800-562-6900, or go to [www.insurance.wa.gov](http://www.insurance.wa.gov). Ask questions if you don't understand your policy. Here's a list of commonly used terms:

Important information about your life insurance policy  
from the State of Washington Office of the Insurance Commissioner

**Accelerated death benefit:** A benefit allowing terminally ill or chronically ill life insurance policyholders to receive cash advances of all or part of the expected death benefit. The accelerated death benefit can be used for health care treatments or any other purpose.

**Cash surrender value:** This term is also called "cash value," "surrender value," and "policyholder's equity." The amount of cash due to a policyholder who requests the insurance company cancel their life insurance policy before it matures or death occurs.

**Expected death benefit:** The face amount of the policy, less any policy loan amounts, that the insurance company is expected to pay the beneficiaries named in the life insurance policy upon the death of the insured.

**Lapse:** Refers to a life insurance policy ending or expiring when a policyholder stops making premium payments.

**Life settlement:** Refers to a contract in which the policyholder sells his or her life insurance policy to a third party for a one-time cash payment which is greater than the cash surrender value, but less than the death benefit of the policy. A life settlement includes a viatical settlement, defined below.

**Policy loan:** A loan issued by an insurance company using the cash value of a person's life insurance policy as collateral.

**Viatical settlement:** An arrangement in which someone with a terminal illness sells his or her life insurance policy at an amount less than the death benefit. The ill person receives cash, and the buyer receives the full amount of the death benefit. This death benefit is payable once the former policyholder dies.

*This brochure is for informational purposes only and does not constitute an endorsement of any of the options described above.*

- \* A life insurance company should choose among these three phrases to state the appropriate phrase that fits the situation of the particular policy owner to whom the notice is being sent.

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-910, filed 1/27/10, effective 2/27/10.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

**WAC 284-97-920 Verification of coverage for life insurance policies form.** RCW 48.102.110(2) provides that the request for verification of coverage must be made on a form approved by the commissioner. The following is the only verification of coverage form approved by the commissioner.

**VERIFICATION OF COVERAGE FOR LIFE INSURANCE POLICIES**

**SUBMITTED TO:** \_\_\_\_\_ **NAIC#** \_\_\_\_\_  
Name of Insurance Company

**POLICY NUMBER:** \_\_\_\_\_

**SUBMITTED FROM:** \_\_\_\_\_  
Name of Life Settlement Broker/Provider

**ADDRESS:** \_\_\_\_\_

**TELEPHONE NUMBER:** \_\_\_\_\_

**CONTACT:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

IF INFORMATION IS CORRECT, INSURER REPRESENTATIVE MAY PLACE A CHECKMARK IN THE BOX. OTHERWISE PROVIDE CORRECTED INFORMATION THROUGHOUT THIS FORM. AN ASTERISK INDICATES INFORMATION THE LIFE SETTLEMENT PROVIDER/BROKER MUST PROVIDE.

**POLICY OWNER'S AND INSURED'S INFORMATION**

|  | This column to be completed by Life Settlement Broker/Provider | This column to be used by Insurance Company |
|--|--|---|
| <b>Owner's Name</b>  | *  |   |
| <b>Address</b>   | *  |   |
| <b>City, state, ZIP code</b>   | *  |   |
| <b>Tax ID or Social Security number</b>  | *  |   |
| <b>Insured's name</b>  | *  |   |
| <b>Insured's date of birth</b>   | *  |   |
| <b>Second insured's name (if applicable)</b>   | *  |   |
| <b>Second insured's date of birth (if applicable)</b>  | *  |   |
| <b>I hereby consent by my signature below to release information requested by this form by the insurance company to the life settlement broker/provider.</b> |  |   |
| <b>Signature of owner</b>  |  | <b>Date signed</b>                          |

**IS THE POLICY IN FORCE?**

**YES**

**NO**

*IF NO, SIGN, AND DATE ON PAGE 4 AND RETURN TO THE LIFE SETTLEMENT BROKER OR PROVIDER THAT SUBMITTED THE VERIFICATION OF COVERAGE.*

**POLICY TYPE, RIDERS AND OPTIONS:**

**\*TERM**

**WHOLE LIFE**

**UNIVERSAL LIFE**

**VARIABLE LIFE**

If a question is not applicable to the type of policy, write N/A in the column.

|   | This column to be completed by Life Settlement Broker/Provider | This column to be used by Insurance Company |
|---|--|---|
| <b>Original issue date</b>  | *  |   |
| <b>Maturity date of policy</b>  |  |   |
| <b>State of issue</b>   | *  |   |
| <b>Does the policy have an irrevocable beneficiary?</b>                                     | *  |   |
| <b>Is the policy currently assigned?</b>  | *  |   |
| <b>Was the policy ever converted or reinstated?</b>   |  |   |
| <b>Is the policy in the contestability period?</b>  | *  |   |
| <b>Is the policy in the suicide period?</b>   | *  |   |
| <b>Please list all riders and indicate if any are in the contestable or suicide period.</b> | *  |   |

**POLICY VALUES**

|   | This column to be completed by Life Settlement Broker/Provider | This column to be used by Insurance Company |
|---|--|---|
| <b>Policy values as of (insert date)</b>              |  |   |
| <b>Current face amount of policy</b>                  | *  |   |
| <b>Amount of accumulated dividends</b>                |  |   |
| <b>Current face amount of riders</b>                  |  |   |
| <b>Amount of any outstanding loans</b>                | *  |   |
| <b>Amount of outstanding interest on policy loans</b> |  |   |
| <b>Current net death benefit</b>                      | *  |   |
| <b>Current account value</b>                          | *  |   |
| <b>Current cash surrender value</b>                   | *  |   |
| <b>Is policy participating?</b>                       | *  |   |
| <b>If yes, what is the current dividend option?</b>   |  |   |

**PREMIUM INFORMATION**

|  | This column to be completed by Life Settlement Broker/Provider | This column to be used by Insurance Company |
|--|--|---|
| <b>Current payment mode</b>                                  | *  |   |
| <b>Current modal premium</b>                                 | *  |   |
| <b>Date last premium paid</b>                                | *  |   |
| <b>Date next premium due</b>                                 | *  |   |
| <b>Current monthly cost of insurance as of (insert date)</b> |  |   |
| <b>Date of last cost of insurance deduction</b>              |  |   |

**TO BE COMPLETED BY LIFE SETTLEMENT BROKER/PROVIDER**

The information submitted for verification by the life settlement broker/provider is correct and accurate to the best of my knowledge and has been obtained through the policy owner and/or insured.

|           |              |
|-----------|--------------|
| Signature | Printed name |
|-----------|--------------|

TO BE COMPLETED BY INSURANCE COMPANY

The information provided by verification by the insurance company is correct and accurate to the best of my knowledge as of \_\_\_\_\_ (date).  
 Insurance company: \_\_\_\_\_ NAIC # \_\_\_\_\_  
 Printed name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
*Please provide information about where the forms listed below should be submitted for processing.*  
 Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 Company Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 City, State, ZIP: \_\_\_\_\_  
 Overnight Address: \_\_\_\_\_  
 City, State, ZIP: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

FORMS REQUEST

Please provide the forms checked below:

- ? Absolute Assignment/Change of Ownership/Life Assignment
- ? Change of Beneficiary
- ? Release of Irrevocable Beneficiary (if applicable)
- ? Waiver of Premium Claim Form
- ? Disability Waiver of Premium Approval Letter
- ? Release of Assignment
- ? Change of Death Benefit Option Form (if UL)
- ? Allocation Change Form (if Variable)
- ? Annual Report
- ? Current In Force Illustration

[Statutory Authority: RCW 48.02.060, 48.102.011, 48.102.046, 48.102.100, 48.102.170, 48.102.021, 48.102.041, and 48.102.080. 10-04-042 (Matter No. R 2009-14), § 284-97-920, filed 1/27/10, effective 2/27/10.]

**Chapter 284-160 WAC**  
**GUARANTEED ASSET PROTECTION WAIVER**

**WAC**

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**WAC 284-160-010 Purpose of this chapter.** (1) The purpose of this chapter is to adopt processes and procedures for creditors to use when they register with the commissioner under chapter 48.160 RCW, and otherwise implement the chapter.

(2) This chapter is effective on January 1, 2010. All guaranteed asset protection waiver creditors must comply with this chapter on or after that date. Applicants registered before the effective date of this chapter do not need to refile their application to be in compliance.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-010, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-020 Definitions.** For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Complete filing" means the package of information containing the registration application, other supporting documents requested by the commissioner, and fees.

(2) "Creditor" means the same as in RCW 48.160.010 (3), and includes any person acting as an obligor for a guaranteed asset protection waiver.

(3) "Days" means calendar days including Saturday and Sunday and holidays unless otherwise specified.

(4) "File" means a record in any retrievable format, and unless otherwise specified, includes paper and electronic formats.

(5) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which a creditor maintains its principal place of residence or principal place of business and is licensed to do business.

(6) "Registrant" means a person registering with the commissioner under the guaranteed asset protection waiver program as required by chapter 48.160 RCW.

(7) "Written" or "in writing" means any retrievable method of recording an agreement or document, and unless otherwise specified, includes paper and electronic formats.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-020, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-030 Persons required to register.** Any person offering or selling guaranteed asset protection waivers to residents of the state of Washington or borrowers in the state of Washington, or acting as an obligor for guaranteed asset protection waivers sold to residents of this state, must register with the commissioner as required by RCW 48.160.-020 unless:

(1) The person is exempt under RCW 48.160.001(2);  
 (2) The person is a retail seller of motor vehicles assigning:

(a) More than eighty-five percent of guaranteed asset protection waiver agreements within thirty days of such agreements' effective date; and

(b) One hundred percent of guaranteed protection waiver agreements within forty-five days of each agreement's effective date; or

(3) The person is an insurer authorized to transact insurance business in Washington state.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-030, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-050 Use of legal name and address.** (1) Every guaranteed asset protection waiver contract issued to a resident of Washington state or in Washington state must conspicuously disclose the legal name, home office address, and local contact address of the creditor.

(2) Upon any assignment or transfer of the waiver, as allowed under RCW 48.160.030, the disclosure provided to the consumer must conspicuously include:

(a) The legal name and home office address of both the person or entity transferring the obligation;

(b) The legal name and home office address of the assignee for the guaranteed asset protection waiver; and

(c) The local address, telephone and e-mail contact information for the assignee for the guaranteed asset protection waiver.

(3) The contract must not use a trade name, a group designation, name of a parent company, name of a particular division, service mark, slogan, symbol, or other device or reference without also disclosing the legal name of the creditor, or in such a manner that it would have the capacity or tendency to mislead or deceive as to the true identity of the creditor or create the impression that a company other than the creditor would have any responsibility for the financial obligation under the contract.

(4) No contract, solicitation or marketing document or disclosure notice to a consumer may use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective consumers into believing that the program or contract is in some manner connected with such government program or agency. Creditors may disclose that they are registered with the commissioner.

(5) The commissioner will use the last mailing address provided by the registrant to the commissioner as the address of record. Registrants must advise the commissioner of any change of address within thirty days after the end of the month in which the change of address occurs. This includes

any change in the registrant's mailing, business or e-mail address. Failure to advise the commissioner of a change of address may subject a registrant to disciplinary action under RCW 48.160.070.

(6) When communicating with the commissioner's office for any reason, applicants and registrants must use their legal name.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-050, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-060 Guaranteed asset protection waiver program registration requirements.** (1) An applicant for registration to issue guaranteed asset protection waivers must file a completed application as required by the commissioner on the application form and its accompanying instructions. The application form and instructions for completing the form are available on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov). The application form and any required documents must be completed and submitted to the commissioner electronically, unless the applicant receives prior approval to file a paper copy of the application and documents.

(2) In order to transact the business of issuing and administering guaranteed asset protection waiver contracts in the state of Washington, the commissioner must have approved the registration application packets filed by an applicant for registration. Applicants must submit packets that comply with chapter 48.160 RCW and with these rules.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-060, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-070 Required notices and disclosures.** When a registrant under this chapter provides notice to a borrower of the sale, transfer or any type of assignment of the waiver obligation, they must comply with the requirements in RCW 48.160.030.

(1) The selling, transferring or assigning creditor must mail the notice to the borrower's last known address using U.S. mail. The selling, transferring or assigning creditor may also provide electronic notice to the borrower, but such notice does not satisfy the notice requirement under the statute.

(2) The notice of transfer, assignment or sale of the waiver obligation must contain the legal name and official business address, and if different, the local business address of the new person or entity responsible to the borrower for waiver benefits. If that person or entity is different from the contact person or entity to apply to for benefits, then the notice must also contain the legal name, official business and local business addresses for the contact person.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-070, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-080 Payment of refund on canceled guaranteed asset protection contracts.** When a borrower cancels a guaranteed asset protection contract and a refund is due that is payable to the borrower, the current obligor on the guaranteed asset protection contract must refund the amount due, and must not require the borrower to request the refund from the original or a prior obligor on the contract.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-080, filed 1/6/10, effective 1/6/10.]

**WAC 284-160-090 Registrant documentation.** For each guaranteed asset protection contract entered into, registrants must retain records, preferably in electronic format, of all transactions associated with the contract, including correspondence from the borrower, notices sent to the borrower, and agreements or contracts associated with the sale or transfer of the guaranteed asset protection obligation. Creditors must retain the records for the duration of the waiver agreement and for an additional two years after its termination date. Termination occurs when a contract expires, is canceled by either party, or waiver under the agreement on behalf of a borrower occurs.

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-090, filed 1/6/10, effective 1/6/10.]

commissioner will identify and notify the additional companies that are required to complete and participate in the MAP and will list their names on the commissioner's web site, [www.insurance.wa.gov](http://www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060 and 2010 c 230 §§ 14 and 15. 10-16-131 (Matter No. R 2010-03), § 284-164-200, filed 8/4/10, effective 9/4/10.]

**WAC 284-160-100 Use of the term "insurance."** A guaranteed asset protection program must not use the term "insurance" to describe the program in its advertisements, marketing efforts, promotions, marketing materials, guaranteed asset protection program documents, brochures, or contracts, except when referring to the borrower's automobile insurance policy, or making the statement that the waiver is not insurance as required in RCW 48.160.050(10).

[Statutory Authority: RCW 48.02.060 and 48.160.070. 10-02-111 (Docket Number R 2009-15), § 284-160-100, filed 1/6/10, effective 1/6/10.]

**Chapter 284-164 WAC  
FLOOD INSURANCE**

**WAC**

|             |   |
|-------------|---|
| 284-164-100 | Voluntary flood market assistance plan (MAP).             |
| 284-164-200 | Compulsory participation in market assistance plan (MAP). |

**WAC 284-164-100 Voluntary flood market assistance plan (MAP).** If the commissioner determines that at least twenty-five or more insurers have volunteered to issue the coverage contemplated by chapter 230, Laws of 2010, the commissioner may require the insurers to form a market assistance plan (MAP) under section 15, chapter 230, Laws of 2010 and this section. The commissioner will list the names of the insurers that have volunteered to participate in the MAP on the commissioner's web site, [www.insurance.wa.gov](http://www.insurance.wa.gov).

[Statutory Authority: RCW 48.02.060 and 2010 c 230 §§ 14 and 15. 10-16-131 (Matter No. R 2010-03), § 284-164-100, filed 8/4/10, effective 9/4/10.]

**WAC 284-164-200 Compulsory participation in market assistance plan (MAP).** (1) Certain companies offering either property insurance, or property and casualty insurance, or both, are required to become members of the market assistance plan (MAP) as established by chapter 230, Laws of 2010.

(2) The number of companies required to participate in the MAP must be sufficient to fulfill the quota of twenty-five insurers participating in the MAP.

(3) If the commissioner determines that fewer than twenty-five insurers have volunteered to issue the coverage contemplated by chapter 230, Laws of 2010, the commissioner may require the insurers to participate in a MAP under section 15, chapter 230, Laws of 2010 and this section. The