

WSR 22-01-034
PERMANENT RULES
OFFICE OF THE

INSURANCE COMMISSIONER

[Filed December 6, 2021, 11:55 a.m., effective January 6, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update references to associations involved in the FAIR plan administration and make technical changes that should make the rules clearer and easier to follow.

Citation of Rules Affected by this Order: Amending WAC 284-19-140 and 284-19-150.

Statutory Authority for Adoption: RCW 48.02.060, 48.01.030, and 48.18.480.

Adopted under notice filed as WSR 21-21-100 on October 19, 2021.

A final cost-benefit analysis is available by contacting Shari Maier, 302 Sid Snyder S.W., Suite 200, Olympia, WA 98501, phone 360-725-7173, email ShariM@oic.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 6, 2021

Mike Kreidler
Insurance Commissioner

OTS-3261.3

AMENDATORY SECTION (Amending WSR 14-21-179, filed 10/22/14, effective 11/22/14)

WAC 284-19-140 Administration. (1) This program shall be administered by a governing committee (referred to as the committee) of the facility, subject to the supervision of the commissioner, and operated by a manager appointed by the committee.

(2) The committee consists of nine members, including ~~((five))~~ six insurers, ~~((elected from each of the following))~~ as follows:

(a) ~~((American Insurance Association (one member);))~~ Property insurers represented by any trade association(s) shall designate or elect three members. Any such trade association not already represented on the committee may request representation by contacting the FAIR plan manager. The allocation of these three committee members will be made in accordance with applicable committee operating procedures and directives;

~~(b) ((Property Casualty Insurers Association of America (two members))~~

~~(e))~~ All other stock insurers shall elect ((+) one member (+)) by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in this respective group; ~~((and~~

~~(d))~~ (c) All other nonstock insurers shall elect ((+) one member (+)) by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in this respective group;

(d) A sixth member ((shall)) must be an insurer designated as the service insurer under the program((-)), and the commissioner shall designate a sixth member if there is more than one service insurer((-));

(e) The other three members are individuals who are appointed by the commissioner to serve, none of whom have a direct or indirect interest in any insurer except as a policyholder((- The individual members serve for a period of one year or until their successors are appointed.));

(f) Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time((-)); and

(g) One of the six insurers on the governing committee ((shall)) must be a domestic insurer.

(3) The governing committee may issue operating procedures and other directives to carry out the purposes of this plan and directives of the commissioner.

(4) Each person serving on the committee or any subcommittee, each member of the facility, and each officer and employee of the facility shall be indemnified by the facility against all costs and expenses actually and necessarily incurred in connection with the defense of any action, suit, or proceeding in which he or she is made a party by reason of being or having been a member of the committee, or a member or officer or employee of the facility except in relation to matters as to which he or she has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of duties as a member of the committee, or a member or officer or employee of the facility. This indemnification does not apply to any loss, cost, or expense on insurance policy claims under the program. Indemnification is not exclusive of other rights to which such member or officer may be entitled as a matter of law.

(5) Members on the committee serve for a period of one year or until successors are elected, designated or appointed, as applicable.

[Statutory Authority: RCW 48.02.060 and 48.01.030. WSR 14-21-179 (Matter No. R 2014-06), § 284-19-140, filed 10/22/14, effective 11/22/14. Statutory Authority: RCW 48.02.060. WSR 98-13-095 (Matter No. R 98-10), § 284-19-140, filed 6/16/98, effective 7/17/98. Statutory Authority: RCW 48.01.030, 48.02.060, 48.18.480, and 48.30.020. WSR 79-08-019 (Order R 79-3), § 284-19-140, filed 7/11/79; Order R-69-1, § 284-19-140, filed 1/28/69.]

AMENDATORY SECTION (Amending WSR 98-13-095, filed 6/16/98, effective 7/17/98)

WAC 284-19-150 Annual and special meetings. (1) There shall be an annual meeting of the insurers on a date fixed by the committee. (~~((The three associations (WAC 284-19-140(2)) shall designate or elect their representatives to the committee. The two nonassociation groups of companies shall elect their respective representatives by a majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in the respective groups of companies. Representatives on the committee shall serve for a period of one year or until successors are elected or designated.))~~)

(2) A special meeting may be called at a time and place designated by the committee or upon the written request to the committee of any ten insurers, not more than one of which may be a group under the same management or ownership.

(3) Twenty days' notice of the annual or special meeting (~~((shall))~~) must be given in writing by the committee to the insurers. A majority of the insurers constitutes a quorum. Voting by proxy is permitted. Notice of any meeting (~~((shall))~~) must be accompanied by an agenda for the meeting.

(4) Any matter, including amendment of this program, may be proposed and voted upon by mail, provided the procedure is unanimously authorized by the members of the committee present and voting at any meeting of the committee. If approved by the committee, notice of any proposal is mailed to the insurers not less than (~~((twenty))~~) 20 days prior to the final date fixed by the committee for voting.

(5) At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, including amendment to this program, or any vote of the insurers which may be taken by mail on any proposal, such votes (~~((shall))~~) must be cast and counted on a weighted basis in accordance with each insurer's premiums written. A proposal becomes effective when approved by at least two-thirds of the votes cast on the weighted basis, except amendments to this program that will require administrative action by the commissioner.

[Statutory Authority: RCW 48.02.060. WSR 98-13-095 (Matter No. R 98-10), § 284-19-150, filed 6/16/98, effective 7/17/98; Order R-69-1, § 284-19-150, filed 1/28/69.]