

WSR 22-18-072

OFFICE OF THE

INSURANCE COMMISSIONER

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Technical Assistance Advisory (TAA) 22-02¹
Opioid Reversal Medication Prescriptions
in Life Insurance Underwriting

¹ A TAA is an interpretive policy statement released to advise the public of the office of the insurance commissioner's (OIC) current opinions, approaches, and likely courses of action. TAAs are advisory only. RCW 34.05.230(1).

The insurance commissioner sent the attached letter to life insurance companies and other interested parties regarding opioid reversal medication prescriptions in life insurance underwriting on August 2, 2022. TAA consists solely of the letter and not this cover sheet. Please direct any questions about the advisory to Michael Walker, senior policy analyst, who may be contacted at Michael.Walker@oic.wa.gov and phone 360-725-7036.

August 2, 2022

Life insurance carriers and other interested parties

I am writing to address questions that have been raised regarding the consideration of opioid reversal medication prescriptions in life insurance underwriting. In summary, such underwriting practices are inappropriate in Washington, and the Office of the Insurance Commissioner (OIC) considers them to be a violation of the Insurance Code.

In December 2021, the University of Washington's (UW) Addictions, Drug & Alcohol Institute (ADAI), contacted the OIC to alert us to an issue they had identified in other states. Life insurance companies were denying policy applications or charging higher rates due to an individual's history of being prescribed opioid reversal medications. This issue has been identified in Colorado, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. Although the practice has not yet been identified in Washington, the OIC is providing this guidance in anticipation of the issue, ensuring that Washington insurance consumers are provided appropriate protection from such a practice.

In February of last year, the Washington State Department of Health issued a statewide standing order that authorizes pharmacists to dispense naloxone (an opioid reversal medication) to any person at risk of experiencing an opioid-related overdose or any person in a position to assist a person at risk of experiencing an opioid-related overdose. As of January 1, 2022, the law also now mandates that hospitals and certain health professionals provide opioid reversal medication to individuals presenting with symptoms of an opioid-related overdose.

As a result - and as is the case with several other states - in Washington an individual who legally obtains an opioid reversal medication may not be doing so because of their own possible need, but in order to provide the medication to other individuals.

In Washington, life insurance companies are permitted, within certain limits, to select those individuals they want to insure as long as they have valid reasons for doing so. In addition, life insurers are also permitted to consider preexisting conditions in their underwriting, so long as the company can prove any differential treatment will be based on sound actuarial principles, are nondiscriminatory, and follow fair trade practices. This allows life insurers to charge higher risk individuals more for their coverage, provided that the reasons are sound.

In the case of opioid reversal medication, neither coverage nor underwriting decisions can legitimately be based upon a prescription for a medication that may well be intended for use by another individual. Therefore, decisions to deny coverage or charge higher premiums based solely on the presence of such a prescription would violate RCW 48.18.480 and 48.30.300. Although the OIC is unaware of any such cases occurring to date within Washington, we are providing this guidance in an effort to minimize future conflicts over the issue.

If you have any questions about this issue, please contact us at (360) 725-7000 or visit our website for additional resources, linked here (<https://www.insurance.wa.gov/>).

Sincerely,
Mike Kreidler
Insurance Commissioner