

RCW 48.195.050 Retaining third-party consultants—Under direction and control of the commissioner—Written agreements and consent.

(1) The commissioner may retain at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the corporate governance annual disclosure and related information or the insurer's compliance with this chapter.

(2) Any persons retained under subsection (1) of this section is under the direction and control of the commissioner and is acting in a purely advisory capacity.

(3) The national association of insurance commissioners and third-party consultants are subject to the same confidentiality standards and requirements as the commissioner.

(4) As part of the retention process, a third-party consultant must verify to the commissioner, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this chapter.

(5) A written agreement with either the national association of insurance commissioners or a third-party consultant, or both, governing the sharing and use of information provided under this chapter must contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this chapter:

(a) Specific procedures and protocols for maintaining the confidentiality and security of corporate governance annual disclosure related information shared with the national association of insurance commissioner or a third-party consultant under this chapter;

(b) Procedures and protocols for sharing by the national association of insurance commissioners only with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(c) A provision specifying that ownership of the corporate governance annual disclosure related information shared with the national association of insurance commissioners or a third-party consultant remains with the commissioner and the national association of insurance commissioners or third-party consultant's use of the information is subject to the direction of the commissioner;

(d) A provision that prohibits the national association of insurance commissioners or a third-party consultant from storing the information shared under this chapter in a permanent database after the underlying analysis is completed;

(e) A provision requiring the national association of insurance commissioners or a third-party consultant to provide prompt notice to the commissioner and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's corporate governance annual disclosure related information; and

(f) A requirement that the national association of insurance commissioners or a third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the

national association of insurance commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners or third-party consultant under this chapter. [2018 c 30 § 6.]

Severability—2018 c 30 § 6: "If any provision of this chapter other than section 6 of this act, or its application to any person or circumstances is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected." [2018 c 30 § 10.]

Effective date—2018 c 30: See note following RCW 48.195.005.