

Chapter 284-07 WAC
REQUIREMENTS AS TO COMPANY REPORTS AND ANNUAL STATEMENTS

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WAC

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284-07-014 Form A for loss and expense exhibit. [Statutory Authority: RCW 48.02.060 and 48.05.380. WSR 89-02-016 (Order R 88-16), § 284-07-014, filed 12/28/88. Statutory Authority: RCW 48.05.380. WSR 87-05-011 (Order R 87-2), § 284-07-014, filed 2/11/87.] Repealed by WSR 94-20-049, filed 9/29/94, effective 10/30/94. Statutory Authority: RCW 48.02.060 and 48.05.390.
284-07-024 Form B for reporting paid and unpaid losses. [Statutory Authority: RCW 48.02.060 and 48.05.380. WSR 89-02-016 (Order R 88-16), § 284-07-024, filed 12/28/88. Statutory Authority: RCW 48.05.380. WSR 87-05-011 (Order R 87-2), § 284-07-024, filed 2/11/87.] Repealed by WSR 94-20-049, filed 9/29/94, effective 10/30/94. Statutory Authority: RCW 48.02.060 and 48.05.390.
284-07-026 Form C for reporting closed and open claims. [Statutory Authority: RCW 48.02.060 and 48.05.380. WSR 89-02-016 (Order R 88-16), § 284-07-026, filed 12/28/88.] Repealed by WSR

94-20-049, filed 9/29/94, effective 10/30/94. Statutory Authority: RCW 48.02.060 and 48.05.390.

284-07-360 Required opinions. [Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-360, filed 12/30/94, effective 1/30/95.] Repealed by WSR 08-01-077 (Matter No. R 2006-10), filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260.

284-07-370 Statement of actuarial opinion not including an asset adequacy analysis. [Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-370, filed 12/30/94, effective 1/30/95.] Repealed by WSR 08-01-077 (Matter No. R 2006-10), filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260.

ANNUAL LIABILITY—INSURANCE REPORT

WAC 284-07-010 Special liability insurance report required annually. (1) Pursuant to RCW 48.05.380, each insurer authorized to write property and casualty insurance in the state of Washington shall record and report its Washington state loss and expense experience and other data, as required by RCW 48.05.390, on a form issued by the commissioner.

(2) Each such insurer shall complete the form in accordance with the definitions and instructions provided by the commissioner.

(3) Each such insurer shall submit this report to the insurance commissioner annually. The report covering the period ending December 31 of each year must be submitted no later than May 1 of the following year.

(4) If an insurer has no data or experience to report, it is not required to submit a report.

(5) With respect to products liability data, the commissioner finds that comparable information is included in the annual statement required by RCW 48.05.250. Therefore, products liability data shall not be reported on the form required by this section.

[Statutory Authority: RCW 48.02.060, 48.05.380, and 48.30.390. WSR 03-03-133 (Matter No. R 2002-09), § 284-07-010, filed 1/22/03, effective 2/22/03. Statutory Authority: RCW 48.02.060 and 48.05.390. WSR 94-20-049, § 284-07-010, filed 9/29/94, effective 10/30/94. Statutory Authority: RCW 48.02.060 and 48.05.380. WSR 89-02-016 (Order R 88-16), § 284-07-010, filed 12/28/88. Statutory Authority: RCW 48.05.380. WSR 87-05-011 (Order R 87-2), § 284-07-010, filed 2/11/87.]

ANNUAL AND OTHER STATEMENTS

WAC 284-07-050 Financial statement instructions. (1) For the purpose of this section, the following definitions shall apply:

(a) "Insurer" shall have the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(b) "Insurance" shall have the same meaning as set forth in RCW 48.01.040. It also includes prepayment of health care services as set forth in RCW 48.44.010(3), prepayment of comprehensive health care services as set forth in RCW 48.46.020(1), and health care services under RCW 48.125.010(1).

(2) Each authorized insurer must file with the National Association of Insurance Commissioners (NAIC) an annual statement for the previous calendar year in the general form and context as adopted by the NAIC for the kinds of insurance to be reported upon. The filing with the NAIC will be deemed to be a filing with the commissioner. To effectuate RCW 48.05.250, 48.05.400, 48.36A.260, 48.44.095 and 48.46.080 and to enhance consistency in the accounting treatment accorded various kinds of insurance transactions, the valuation of assets, and related matters, insurers must adhere to the appropriate Annual Statement Instructions and the Accounting Practices and Procedures Manuals adopted by the NAIC.

(3) This section does not relieve an insurer from its obligation to comply with specific requirements of Titles 48 RCW and 284 WAC.

(4) Annual statements:

(a) Annual statements for all domestic insurers must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. The commissioner has the discretion to allow an insurer to file electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the annual statement is due. If the NAIC does not collect or accept any annual statement supplement, schedule, form, or other document, then the domestic insurer must file the supplement, schedule, form, or other document electronically with the commissioner.

(b) To comply with statutory requirements that annual statements must be verified by the oaths of at least two of the insurer's officers, insurers may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signatures in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the company officers and the notary administering the oath.

(c) Both the electronic annual statement and the verification of that statement by the oaths of two officers must be received by the NAIC and the commissioner, if applicable, to complete an annual statement filing. The date of receipt of the later of the electronic annual statement or verification is considered the receipt date of the annual statement.

(5)(a) Each domestic insurer must file quarterly statements of its financial condition with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. The commissioner has the discretion to allow an insurer to file electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the quarterly statement is due. If the NAIC does not collect or accept any quarterly statement supplement, schedule, form, or other document, then the domestic insurer must file the supplement, schedule, form, or other document electronically with the commissioner. Each foreign insurer must file quarterly statements of its financial condition with the NAIC. The statements must be filed with the NAIC or the commissioner, if applicable, not later than the forty-fifth day or the fifteenth day of the second month after the end of the insurer's calendar quarters, whichever is

later. The quarterly statements must be in the form and content as adopted by the NAIC for quarterly reporting by insurers, must be prepared according to appropriate Annual and Quarterly Statement Instructions and the Accounting Practices and Procedures Manuals adopted by the NAIC and must be supplemented with additional information required by this title and by the commissioner. Quarterly statements for the fourth quarter are not required.

(b) Quarterly statements must be filed with the NAIC by electronically transmitting the quarterly statement as described in this subsection.

(c) To comply with statutory requirements that quarterly statements must be verified by the oaths of at least two of the insurer's officers, insurers may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signatures in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the company officers and the notary administering the oath.

(6) As a part of any investigation by the commissioner, the commissioner may require an insurer to file monthly financial statements whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the insurer. Monthly financial statements must be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial statement is being filed. Insurers must electronically transmit the monthly financial statements, as described in this subsection, in PDF or other format as noted on the commissioner's website. The monthly financial statements must be the internal financial statements of the company. In addition, the commissioner may require these internal financial statements to be accompanied by a schedule converting the financial statements to reflect financial position according to statutory accounting practices and submitted in a form using the same format and designation as the quarterly financial statements of insurers. "Financial statements" as used in this subsection includes:

- (a) Statement of assets;
- (b) Liabilities, capital and surplus;
- (c) Statements of revenue and expenses; and
- (d) Statements of cash flows.

(7) Health care service contractors shall use the Health Statement Form adopted by the NAIC for their statutory filings.

(8) Each health care service contractor's, health maintenance organization's, and self-funded multiple employer welfare arrangement's annual statement must be accompanied by an additional data statement form (IC-13A-HC/IC-14-HMO).

(9) The commissioner may allow a reasonable extension of the time for filing the financial statements. A request for an extension must be in writing. The request must be received prior to the due date of the filing and must state good cause for the extension. An extension can only be granted in writing; paper, fax, or email is considered "writing" for purposes of this subsection.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-050, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.500, and

48.46.200. WSR 07-14-104 (Matter No. R 2007-04), § 284-07-050, filed 7/2/07, effective 8/2/07. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-050, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.05.073, 48.44.050, 48.46.200. WSR 01-11-077 (Matter No. R 2000-09), § 284-07-050, filed 5/15/01, effective 6/15/01. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. WSR 99-16-035 (Matter No. R - 99-3), § 284-07-050, filed 7/28/99, effective 8/28/99; WSR 96-17-079 (Matter No. R 95-18), § 284-07-050, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-050, filed 9/9/92, effective 10/10/92.]

WAC 284-07-060 Statement of actuarial opinion. (1) For purposes of this section "insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2)(a) Each insurer must include with its annual statement, a statement from a qualified actuary, as defined in WAC 284-05-060, or as defined in subsection (4) of this section for domestic property and casualty insurers, or as defined in subsection (5) of this section for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW entitled "Statement of Actuarial Opinion," setting forth the actuary's opinion relating to the insurer's reserves and other actuarial items, prepared in accordance with the appropriate *Annual Statement Instructions and Accounting Practices and Procedures Manuals* adopted by the National Association of Insurance Commissioners. If an exemption is allowed by the *Annual Statement Instructions* and is approved by the domiciliary commissioner, an insurer shall be exempt from this requirement (unless the commissioner of Washington makes a specific finding, by order, bulletin, letter, or otherwise, that for a specific insurer, or one or more insurers, company compliance is necessary to carry out the commissioner's statutory responsibilities). A certified copy of the approved exemption must be filed with the annual statement in all jurisdictions in which the company is authorized.

(b) After December 31, 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. This includes the statement of actuarial opinion for the year ended December 31, 2014. Insurers must electronically transmit the statement of actuarial opinion, as described in (a) of this subsection, in PDF or other format as noted on the commissioner's website. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion electronically with the commissioner. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the statement of actuarial opinion is due.

(c) To comply with requirements that statements of actuarial opinion must be signed by the actuary, an insurer may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the actuary and any person providing supporting documentation.

(3) This section does not relieve an insurer from its obligation to comply with other requirements of Titles 48 RCW and 284 WAC.

(4) With respect to statements of actuarial opinion for property and casualty insurers domiciled in this state, a person can demonstrate competency in loss reserve evaluation, and thus be considered to be a qualified actuary, only by being:

(a) A person who meets the basic education, experience, and continuing education requirements of the qualification standards promulgated by the American Academy of Actuaries, has obtained and maintains an accepted actuarial designation prescribed by the *Annual Statement Instructions*, and is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct and U.S. Qualification Standards promulgated by the American Academy of Actuaries, and participates in the Actuarial Board for Counseling and Discipline when its association members are practicing in the U.S.; or

(b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner, as prescribed by the *Annual Statement Instructions*.

(5) With respect to statements of actuarial opinion for health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements the qualified actuary must be:

(a) A member in good standing of the American Academy of Actuaries;

(b) A person recognized by the American Academy of Actuaries as qualified for such actuarial evaluation; or

(c) A person with documented experience, skill, and knowledge substantially equivalent to that required for either (a) or (b) of this subsection, acceptable to the commissioner. A person qualifying under this alternative (c) must be approved in advance by the commissioner. In such a case, the health care service contractor or health maintenance organization must request approval at least ninety days prior to the filing of its annual statement.

[Statutory Authority: RCW 48.02.060, 48.05.073, and 48.05.383. WSR 21-23-076, § 284-07-060, filed 11/15/21, effective 1/1/22. Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-060, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-060, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-060, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 93-07-020 (Order R 93-1), § 284-07-060, filed 3/8/93, effective 4/8/93.]

WAC 284-07-070 Statements to be filed in electronic form. (1)

For the purpose of this section, the following definition shall apply: "Insurer" shall have the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(2) Annual statements, quarterly statements, and other financial reports filed by an insurer with the commissioner or the National Association of Insurance Commissioners must be filed in electronic form after September 1, 2014, according to WAC 284-07-050.

(3) Until the commissioner otherwise directs by letter, bulletin, or otherwise, generally or as to one or more companies, "electronic form" means internet filing.

(4) The commissioner may allow a reasonable extension of the time for filing the financial statements. A request for an extension must be in writing. The request must be received prior to the due date of the filing and must state good cause for the extension. An extension can only be granted in writing; paper, fax, or email is considered "writing" for purposes of this subsection.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-070, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-070, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.44.050 and 48.46.200. WSR 96-17-079 (Matter No. R 95-18), § 284-07-070, filed 8/21/96, effective 9/21/96. Statutory Authority: RCW 48.02.060. WSR 93-19-003 (Order R 93-7), § 284-07-070, filed 9/1/93, effective 10/2/93.]

AUDITED FINANCIAL STATEMENTS

WAC 284-07-100 Purpose and scope. (1) The purpose of WAC 284-07-100 through 284-07-230 is to improve the Washington state insurance commissioner's surveillance of the financial condition of insurers by requiring:

(a) An annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants;

(b) *Communications of Internal Control Related Matters Noted in an Audit*; and

(c) Management's report of internal control over financial reporting.

(2) Every insurer, as defined in WAC 284-07-110, is subject to WAC 284-07-100 through 284-07-230. Insurers having direct premiums written of less than one million dollars in any calendar year and less than one thousand policyholders or certificate holders of direct written policies nation-wide at the end of the calendar year are exempt from WAC 284-07-100 through 284-07-230 for the year (unless the commissioner makes a specific finding that compliance is necessary for the commissioner to carry out statutory responsibilities) except that insurers having assumed premiums under either contracts or treaties,

or both of reinsurance of one million dollars or more will not be exempt.

(3) Foreign or alien insurers filing the audited financial report in another state, under that state's requirement for filing of audited financial reports, which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from WAC 284-07-120 through 284-07-210 if:

(a) A copy of the audited financial report, *Communication of Internal Control Related Matters Noted in an Audit*, and the Accountants' Letter of Qualifications that are filed with the other state are filed with the NAIC in accordance with the filing dates specified in WAC 284-07-120, 284-07-190 and 284-07-200, respectively (Canadian insurers may submit accountant's reports as filed with the Office of the Superintendent of Financial Institutions, Canada); and

(b) A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the NAIC within the time specified in WAC 284-07-180.

(4) Foreign or alien insurers required to file management's report of internal control over financial reporting in another state are exempt from filing the report in this state provided the other state has substantially similar reporting requirements and the report is filed with the commissioner of the other state within the time specified.

(5) WAC 284-07-100 through 284-07-230 shall not prohibit, preclude, or in any way limit the commissioner from ordering, conducting, or performing examinations of insurers under the rules, regulations, practices, and procedures of the insurance commissioner.

(6) All reports and filings required by WAC 284-07-100 through 284-07-230 must be filed electronically with the NAIC. The filing with the NAIC will be deemed to be a filing with the commissioner. If the NAIC does not collect or accept any of these reports and filings, then the domestic insurer must file the report and other filings electronically with the commissioner. Insurers must electronically transmit the report or filing in PDF or other format as noted on the commissioner's website. The commissioner has the discretion to allow an insurer to file electronically with the commissioner any reports and filings required by WAC 284-07-100 through 284-07-230. The insurer must demonstrate that filing with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file with the NAIC must be received by the commissioner at least ninety days before the report or filing is due.

(7) To comply with statutory or other requirements that reports or filings be signed or verified, insurers and accountants may:

(a) Use a method of electronic signature verification that has been approved by the commissioner; or

(b) Include in the electronic filing an image of the signature in PDF format as noted on the commissioner's website. This electronically filed document must contain a legally binding signature of the insurer or independent certified public accountant.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-100, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-100, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.44.050, and

48.46.200. WSR 06-16-093 (Matter No. R 2006-06), § 284-07-100, filed 7/31/06, effective 8/31/06; WSR 02-21-120 (Matter No. R 2002-07), § 284-07-100, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-100, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-100, filed 9/9/92, effective 10/10/92.]

WAC 284-07-110 Definitions. For the purposes of WAC 284-07-100 through 284-07-230 the following definitions shall apply:

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which he or she is licensed to practice; for Canadian and British companies, the terms mean a Canadian-chartered or British-chartered accountant.

(2) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(3) "Audit committee" means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, the internal audit functions of an insurer or group of insurers (if applicable), and external audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of WAC 284-07-100 through 284-07-230 at the election of the controlling person. Refer to WAC 284-07-213(5) for exercising this election. If an audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the audit committee.

(4) "Audited financial report" means and includes those items specified in WAC 284-07-130.

(5) "Group of insurers" means those licensed insurers included in the reporting requirements of chapter 48.31B RCW, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of internal control over financial reporting.

(6) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(7) "Independent board member" has the same meaning as described in WAC 284-07-213(3).

(8) "Insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(9) "Internal audit function" means a person or persons that provide independent, objective and reasonable assurance designed to add value and improve an organization's operations and accomplish its ob-

jectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

(10) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g) and includes those policies and procedures that:

(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g) and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g).

(11) "NAIC" means the National Association of Insurance Commissioners.

(12) "Policy holder" also means subscriber.

(13) "SEC" means the United States Securities and Exchange Commission.

(14) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder.

(15) "Section 404 report" means management's report on internal control over financial reporting as defined by the SEC and the related attestation report of the independent certified public accountant described in WAC 284-07-110(1).

(16) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002:

(a) The preapproval requirements of Section 201 (Section 10A(i) of the Securities and Exchange Act of 1934);

(b) The audit committee independence requirements of Section 301 (Section 10A (m) (3) of the Securities and Exchange Act of 1934); and

(c) The internal control of financial reporting requirements of Section 404 (Item 308 of SEC Regulations S-K).

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 20-01-008, § 284-07-110, filed 12/5/19, effective 1/5/20. Statutory Authority: RCW 48.02.060, 48.31B.040, chapter 48.31B RCW, and 2015 c 122. WSR 15-22-062 (Matter No. R 2015-05), § 284-07-110, filed 10/30/15, effective 1/1/16. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-110, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-07-044 (Matter No. R 2008-29), § 284-07-110, filed 3/11/09, effective 4/11/09. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-110, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-110, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW

WAC 284-07-120 General requirements related to filing and extensions for filing of annual audited financial reports and audit committee appointment.

(1) All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the commissioner on or before June 1 for the year ended December 31 immediately preceding. The commissioner may require an insurer to file an audited financial report earlier than June 1 with ninety days advance notice to the insurer.

(2) Extensions of the June 1 filing date may be granted by the commissioner for thirty-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting an extension and determination by the commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten days prior to the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

(3) If an extension is granted in accordance with the provisions in subsection (2) of this section, a similar extension of thirty days is granted to the filing of management's report of internal control over financial reporting.

(4) Every insurer required to file an annual audited financial report pursuant to WAC 284-07-100 through 284-07-230 shall designate a group of individuals as constituting its audit committee, as defined in WAC 284-07-110(3). The audit committee of an entity that controls an insurer may be deemed to be the insurer's audit committee for purposes of WAC 284-07-100 through 284-07-230 at the election of the controlling person.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-120, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-120, filed 9/9/92, effective 10/10/92.]

WAC 284-07-130 Contents of annual audited financial report.

(1) The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the commissioner of the state of domicile.

(2) The annual audited financial report shall include the following:

- (a) Report of independent certified public accountant.
- (b) Balance sheet reporting admitted assets, liabilities, capital, and surplus.
- (c) Statement of operations.
- (d) Statement of cash flows.
- (e) Statement of changes in capital and surplus.

(f) Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and *NAIC Accounting Practices and Procedures Manual*. The notes shall include a

reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to RCW 48.05.250, 48.05.073, 48.36A.260, 48.43.050, 48.43.097, 48.44.095, 48.46.080, or 48.125.090 with a written description of the nature of these differences.

(g) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-130, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 02-21-120 (Matter No. R 2002-07), § 284-07-130, filed 10/23/02, effective 11/23/02. Statutory Authority: RCW 48.02.060, 48.05.073, 48.43.097, 48.44.050, 48.46.200. WSR 01-21-075 (Matter No. R 2001-03), § 284-07-130, filed 10/18/01, effective 11/18/01. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-130, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-130, filed 9/9/92, effective 10/10/92.]

WAC 284-07-140 Designation of independent certified public accountant.

(1) Each insurer required by WAC 284-07-100 through 284-07-230 to file an annual audited financial report must, within sixty days after becoming subject to the requirement, register with the commissioner in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit set forth in WAC 284-07-100 through 284-07-230. Insurers not retaining an independent certified public accountant on the effective date of WAC 284-07-100 through 284-07-230 shall register the name and address of their retained independent certified public accountant not less than six months before the date when the first audited financial report is to be filed.

(2) The insurer shall obtain a letter from the accountant, and file a copy with the commissioner stating that the accountant is aware of the provisions of the Washington state insurance code, Title 48 RCW, and the rules and regulations that relate to accounting and financial matters and affirming that the accountant will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the commissioner, specifying such exceptions as he or she may believe appropriate.

(3) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall, within five business days, notify the commissioner of this event. The insurer shall also furnish the commissioner with a separate letter within ten business days of the above notification stating whether in the twenty-four months preceding such event there were any disagreements with the former accountant on any matter of ac-

counting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the subject matter of the disagreement in connection with his or her opinion. The disagreements required to be reported in response to this section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he or she does not agree; and the insurer shall furnish such responsive letter from the former accountant to the commissioner together with its own.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-140, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-140, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-140, filed 9/9/92, effective 10/10/92.]

WAC 284-07-150 Qualifications of independent certified public accountant. (1) The commissioner shall not recognize a person or firm as a qualified independent certified public accountant if the person or firm:

(a) Is not in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or

(b) Has either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as an indemnification) with respect to the audit of the insurer.

(2) Except as otherwise provided in WAC 284-07-100 through 284-07-230, the commissioner shall recognize an independent certified public accountant as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants (AICPA) and statutes (chapter 18.04 RCW) and rules (chapter 4-25 WAC) of the Washington state board of accountancy, or similar rules.

(3) A qualified independent certified public accountant may enter into any agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration. However, in the event of a delinquency proceeding commenced against the insurer under chapters 48.31 and 48.99 RCW, the mediation or arbitration provisions shall operate at the option of the statutory successor.

(4) (a) The lead (or coordinating) partner (having primary responsibility for the audit) may not act in that capacity for more than five consecutive years. The person shall be disqualified from acting in that or a similar capacity for the same company or its insurance

subsidiaries or affiliates for a period of five consecutive years. An insurer may make application to the commissioner for relief from the above rotation requirement on the basis of unusual circumstances. This application must be made at least thirty days before the end of the calendar year. The commissioner may consider the following factors in determining if the relief should be granted:

(i) Number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;

(ii) Premium volume of the insurer; and

(iii) Number of jurisdictions in which the insurer transacts business.

(b) The insurer shall file, with its annual statement filing, the approval for relief from WAC 284-07-150 (4) (a) with the states that it is licensed in or doing business in and with the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(5) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report, prepared in whole or in part by, any natural person who:

(a) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961-1968, or any dishonest conduct or practices under federal or state law;

(b) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under WAC 284-07-100 through 284-07-230; or

(c) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of WAC 284-07-100 through 284-07-230.

(6) The commissioner as provided in RCW 48.02.060 may hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual audited financial report made pursuant to WAC 284-07-100 through 284-07-230 and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of WAC 284-07-100 through 284-07-230.

(7) (a) The commissioner shall not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following nonaudit services:

(i) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

(ii) Financial information systems design and implementation;

(iii) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(iv) Actuarially oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statements only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also

issue an actuarial opinion or certification (opinion) on an insurer's reserves if the following conditions have been met:

(A) Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions;

(B) The insurer has competent personnel (or engages a third-party actuary) to estimate the reserves for which management takes responsibility; and

(C) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(v) Internal audit outsourcing services;

(vi) Management functions or human resources;

(vii) Broker or dealer, investment adviser, or investment banking services;

(viii) Legal services or expert services unrelated to the audit; or

(ix) Any other services that the commissioner determines, by rule, are impermissible.

(b) In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The principles are that the accountant cannot function in the role of management, cannot audit his or her own work, and cannot serve in an advocacy role of the insurer.

(8) Insurers having direct written and assumed premiums of less than one hundred million dollars in any calendar year may request an exemption from subsection (7)(a) of this section. The insurer shall file with the commissioner a written statement discussing the reasons why the insurer should be exempt from these provisions. If the commissioner finds, upon review of this statement, that compliance with WAC 284-07-100 through 284-07-230 would constitute a financial or organizational hardship upon the insurer, an exemption may be granted.

(9) A qualified independent certified public accountant who performs the audit may engage in other nonaudit services, including tax services, that are not described in subsection (7)(a) of this section or that do not conflict with subsection (7)(b) of this section, only if the activity is approved in advance by the audit committee, in accordance with subsection (10) of this section.

(10) All auditing services and nonaudit services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the audit committee. The preapproval requirement is waived with respect to nonaudit services if the insurer is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity or:

(a) The aggregate amount of all such nonaudit services provided to the insurer constitutes not more than five percent of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the nonaudit services are provided;

(b) The services were not recognized by the insurer at the time of the engagement to be nonaudit services; and

(c) The services are promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more of the members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(11) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapprovals required by subsection (10) of this section. The decisions of any member to whom this authority is delegated shall be presented to the full audit committee at each of its scheduled meetings.

(12)(a) The commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any other person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This section shall only apply to partners and senior managers involved in the audit. An insurer may make application to the commissioner for relief from the above requirement on the basis of unusual circumstances.

(b) The insurer shall file, with its annual statement filing, the approval for relief from (a) of this subsection with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-150, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-07-044 (Matter No. R 2008-29), § 284-07-150, filed 3/11/09, effective 4/11/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-150, filed 9/9/92, effective 10/10/92.]

WAC 284-07-160 Consolidated or combined audits. An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

(1) Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet;

(2) Amounts for each insurer subject to this section shall be stated separately;

(3) Noninsurance operations may be shown on the worksheet on a combined or individual basis;

(4) Explanations of consolidating and eliminating entries shall be included; and

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-160, filed 10/5/09, effective 11/5/09. Statu-

tory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-160, filed 9/9/92, effective 10/10/92.]

WAC 284-07-170 Scope of audit and report of independent certified public accountant. Financial statements furnished pursuant to WAC 284-07-130 hereof shall be examined by an independent certified public accountant. The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. In accordance with AU Section 319 of the Professional Standards of the AICPA, *Consideration of Internal Control in a Financial Statement Audit*, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a management's report of internal control over financial reporting pursuant to WAC 284-07-217, the independent certified public accountant should consider (as that term is defined in Statement of Auditing Standards (SAS) No. 102, *Defining Professional Requirements in Statements on Auditing Standards*, or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration shall be given to the procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-170, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-170, filed 9/9/92, effective 10/10/92.]

WAC 284-07-180 Notification of adverse financial condition. (1) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within five business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus or net worth requirements of the Washington state insurance code, Title 48 RCW, as of that date. An insurer that has received a report pursuant to this subsection shall forward a copy of the report to the commissioner within five business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the commissioner. If the independent certified public accountant fails to receive the evidence within the required five business day period, the independent certified public accountant shall furnish to the commissioner a copy of its report within the next five business days.

(2) No independent public accountant shall, by virtue of WAC 284-07-100 through 284-07-230, be liable in any manner to any person for any statement made in connection with subsection (1) of this section if the statement is made in good faith in compliance with subsection (1) of this section.

(3) If the accountant, subsequent to the date of the audited financial report filed pursuant to WAC 284-07-100 through 284-07-230, becomes aware of facts which might have affected his or her report, the commissioner notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants (AICPA) or its replacement.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-180, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-180, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-180, filed 9/9/92, effective 10/10/92.]

WAC 284-07-190 Communication of internal control related matters noted in an audit.

(1) In addition to the annual audited financial report, each insurer must furnish the commissioner with a written communication as to any unremediated material weaknesses in its internal controls over financial reporting noted during the audit. Such communication must be prepared by the accountant within sixty days after the filing of the annual audited financial report, and must contain a description of any unremediated material weakness (as the term material weakness is defined by SAS No. 60, *Communication of Internal Control Related Matters Noted in an Audit*, or its replacement) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in WAC 284-07-120(1)) in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state.

(2) The insurer must provide a description of remedial actions taken or proposed to correct unremediated material weaknesses, if such actions are not described in the accountant's communication.

(3) Insurers must electronically file the written communication as to any unremediated material weakness in its internal controls over financial reporting noted during an audit, as described in subsection (1) of this section, in PDF or other format as noted on the commissioner's website.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-190, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-190, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-190, filed 9/9/92, effective 10/10/92.]

WAC 284-07-200 Accountant's letter of qualifications. The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

(1) That the accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants (AICPA) and the statutes (chapter 18.04 RCW) and rules (chapter 4-25 WAC) of the Washington state board of accountancy, or similar rules;

(2) The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within WAC 284-07-100 through 284-07-230 shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards;

(3) That the accountant understands the annual audited financial report and his or her opinion thereon will be filed in compliance with WAC 284-07-100 through 284-07-230 and that the commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers;

(4) That the accountant consents to the requirements of WAC 284-07-210 and that the accountant consents and agrees to make available for review by the commissioner, or the commissioner's designee or appointed agent, the workpapers, as defined in WAC 284-07-210;

(5) A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants (AICPA); and

(6) A representation that the accountant is in compliance with the requirements of WAC 284-07-150.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-200, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-200, filed 9/9/92, effective 10/10/92.]

WAC 284-07-210 Definition, availability, and maintenance of independent certified public accountants workpapers. (1) Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her audit of the financial statements of an insurer and which support the accountant's opinion.

(2) Every insurer required to file an audited financial report pursuant to WAC 284-07-100 through 284-07-230, shall require the accountant to make available for review by the commissioner's examiners, all workpapers prepared in the conduct of the accountant's audit and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the commissioner's office or at any other reasonable place designated by the commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the commissioner has filed a report on exami-

nation covering the period of the audit but no longer than seven years from the date of the audit report.

(3) In the conduct of the aforementioned periodic review by the commissioner's examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the commissioner's office. Such reviews by the commissioner's examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the insurance commissioner.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-210, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-210, filed 9/9/92, effective 10/10/92.]

WAC 284-07-213 Requirements for audit committees. This section does not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX compliant entity or a direct or indirect wholly owned subsidiary of a SOX compliant entity.

(1) The audit committee is directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between management and the accountant regarding financial reporting) for the purpose of preparing or issuing the audited financial report or related work pursuant to WAC 284-07-100 through 284-07-230. Each accountant must report directly to the audit committee.

(2) The audit committee of an insurer or group of insurers is responsible for overseeing the insurer's internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill their responsibilities if required by WAC 284-07-214.

(3) Each member of the audit committee must be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to subsection (6) of this section and WAC 284-07-110(3).

(4) In order to be considered independent for purposes of this section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise nonindependent members, that law shall prevail and the members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

(5) If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the state, may remain an audit committee member for the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to be no longer independent.

(6) To exercise the election of the controlling person to designate the audit committee for purposes of WAC 284-07-100 through

284-07-230, the ultimate controlling person must provide written notice to the commissioners of the affected insurers. Notification must be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which must include a description of the basis for the change. The election remains in effect for perpetuity, until rescinded.

(7) (a) The audit committee must require the accountant that performs for an insurer any audit required by WAC 284-07-100 through 284-07-230 to timely report to the audit committee in accordance with the requirements of SAS 61, *Communication with Audit Committees*, or its replacement, including:

(i) All significant accounting policies and material permitted practices;

(ii) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and

(iii) Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

(b) If an insurer is a member of an insurance or health carrier holding company system, the reports required by (a) of this subsection may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

(8) The proportion of independent audit committee members must meet or exceed the following criteria:

Prior Calendar Year Direct Written and Assumed Premiums		
\$0 - \$300,000,000	Over \$300,000,000 - \$500,000,000	Over \$500,000,000
No minimum requirements. See also Note A and B.	Majority (50% or more) of members shall be independent. See also Note A and B.	Supermajority of members (75% or more) shall be independent. See also Note A.

Note A: The commissioner has authority by state law to require the entity's board to enact improvements to the independence of the audit committee membership if the insurer is in a RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than five hundred million dollars in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from nonaffiliates for the reporting entities.

(9) An insurer with direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and federal flood program, less than five hundred million dollars may make application to the commissioner for a waiver from this section's requirements based upon hardship. The insurer must file, with its annual statement filing, the approval for relief from this section with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the in-

surer must file the approval in an electronic format acceptable to the NAIC.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 20-01-008, § 284-07-213, filed 12/5/19, effective 1/5/20. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-213, filed 10/5/09, effective 11/5/09.]

WAC 284-07-214 Internal audit function requirements. (1) An insurer is exempt from the requirements of this section if:

(a) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Insurance Program, less than five hundred million dollars; and

(b) If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Insurance Program, less than one billion dollars.

(2) An insurer or group of insurers exempt from the requirements of this section is encouraged, but not required, to conduct a review of the insurer business type, sources of capital, and other risk factors to determine whether an internal audit function is warranted. The potential benefits of an internal audit function should be assessed and compared against the estimated costs.

(3) The insurer or group of insurers must establish an internal audit function providing independent, objective and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance must be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

(4) In order to ensure that internal auditors remain objective, the internal audit function must be organizationally independent. Specifically, the internal audit function will not defer ultimate judgment on audit matters to others, and must appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships.

(5) The head of the internal audit function must report to the audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

(6) If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirement set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 20-01-008, § 284-07-214, filed 12/5/19, effective 1/5/20.]

WAC 284-07-215 Conduct of insurers in connection with the preparation of required reports and documents. (1) No director or officer of an insurer shall, directly or indirectly:

(a) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication required under WAC 284-07-100 through 284-07-230; or

(b) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication required under WAC 284-07-100 through 284-07-230.

(2) No officer or director of an insurer, or any other person acting under the direction thereof, shall directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to WAC 284-07-100 through 284-07-230 if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(3) For purposes of subsection (2) of this section, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant:

(a) To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the commissioner, generally accepted auditing standards, or other professional or regulatory standards);

(b) Not to perform audit, review or other procedures required by generally accepted auditing standards or other professional standards;

(c) Not to withdraw an issued report; or

(d) Not to communicate matters to an insurer's audit committee.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-215, filed 10/5/09, effective 11/5/09.]

WAC 284-07-217 Management's report of internal control over financial reporting. (1) Every insurer required to file an audited financial report under WAC 284-07-100 through 284-07-230 that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and federal flood program, of five hundred million dollars or more must prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in WAC 284-07-110. The report must be filed with the commissioner along with the *Communications of Internal Control Related Matters Noted in an Audit* described under WAC 284-07-190. Management's report of internal control over financial reporting shall be as of December 31 immediately preceding.

(2) Notwithstanding the premium threshold in subsection (1) of this section, the commissioner may require an insurer to file management's report of internal control over financial reporting if the insurer is in any RBC level event, or meets any one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-310.

(3) An insurer or group of insurers that is:

(a) Directly subject to Section 404;

(b) Part of a holding company system whose parent is directly subject to Section 404;

(c) Not directly subject to Section 404 but is a SOX compliant entity; or

(d) A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX compliant entity may file its or its parent's Section 404 Report and an addendum in satisfaction of this section's requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in WAC 284-07-130 (2)(b) through (g)) were included in the scope of the Section 404 Report. The addendum must be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in WAC 284-07-130 (2)(b) through (g)) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file:

(i) A WAC 284-07-217 report; or

(ii) The Section 404 Report and a WAC 284-07-217 report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report.

(4) Management's report of internal control over financial reporting must include:

(a) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(b) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(c) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of the internal control over financial reporting;

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(e) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weakness in its internal control over financial reporting;

(f) A statement regarding the inherent limitations of internal control systems; and

(g) Signatures of the chief executive officer and the chief financial officer (or equivalent position/title).

(5) Insurers must electronically file management's report of internal control over financial reporting, as described in subsection (1) of this section, in PDF or other format as noted on the commissioner's website.

(6) Management must document and make available upon financial condition examination the basis upon which its assertions, required in subsection (4) of this section, are made. Management may base its assertions, in part, upon review, monitoring and testing of internal controls undertaken in the normal course of its activities.

(a) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost-effective manner and, as such, may include assembly of or reference to existing documentation.

(b) Management's report on internal control over financial reporting, required by subsection (1) of this section, and any documentation provided in support thereof during the course of a financial condition examination, must, to the extent provided by law, be kept confidential by the commissioner.

[Statutory Authority: RCW 48.02.060, 48.05.250, 48.44.050, 48.46.095, 48.46.200, 48.125.090, 48.05.073, 48.05.383, 48.44.095, and 48.46.080. WSR 14-15-149 (Matter No. R 2013-25), § 284-07-217, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-217, filed 10/5/09, effective 11/5/09.]

WAC 284-07-220 Exemptions and effective dates. (1) Upon written application of any insurer, the commissioner may grant an exemption from compliance with any and all provisions of WAC 284-07-100 through 284-07-230 if the commissioner finds, upon review of the application, that compliance with WAC 284-07-100 through 284-07-230 would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten days from a denial of an insurer's written request for an exemption from WAC 284-07-100 through 284-07-230, the insurer may request in writing a hearing on its application for an exemption. The hearing shall be held in accordance with the rules and procedures pertaining to administrative hearings.

(2) Domestic insurers retaining a certified public accountant on the effective date of WAC 284-07-100 through 284-07-230 who qualify as independent must comply with WAC 284-07-100 through 284-07-230 for the year ending December 31, 1992, and each year thereafter unless the commissioner permits otherwise.

(3) Domestic insurers not retaining a certified public accountant on the effective date of WAC 284-07-100 through 284-07-230 who qualify as independent may meet the following schedule for compliance unless the commissioner permits otherwise.

(a) As of December 31, 1992, file with the commissioner an audited financial report.

(b) For the year ending December 31, 1992, and each year thereafter, the insurers must file with the commissioner all reports and communications required by WAC 284-07-100 through 284-07-210.

(4) Foreign insurers must comply with WAC 284-07-100 through 284-07-230 for the year ending December 31, 1992, and each year thereafter, unless the commissioner permits otherwise.

(5) The requirements of WAC 284-07-150(4) shall be in effect for audits of the year beginning January 1, 2010 and thereafter.

(6) The requirements of WAC 284-07-213 are to be in effect January 1, 2010. An insurer or group of insurers that is not required to have independent audit committee members or only a majority of independent audit committee members (as opposed to a supermajority) because the total written premium and assumed premium is below the threshold and subsequently becomes subject to one of the independence requirements due to change in premiums has one year following the year the threshold is exceeded (but not later than January 1, 2010) to comply with the independence requirements. Likewise, an insurer that becomes subject to one of the independence requirements as a result of business combination has one calendar year following the date of acquisition or combination to comply with the independence requirements.

(7) The requirements of WAC 284-07-150 (7) through (12), 284-07-190, 284-07-215, and 284-07-217 are effective beginning with the reporting period ending December 31, 2010 and each year thereafter. An insurer or group of insurers that is not required to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements has two years following the year the threshold is exceeded (but not earlier than December 31, 2010) to file a report. Likewise, an insurer acquired in a business combination has two calendar years following the date of acquisition or combination to comply with the reporting requirements.

(8) The requirements of WAC 284-07-214 are to be in effect on January 1, 2020. If an insurer or group of insurers that is exempt from WAC 284-07-214 requirements no longer qualifies for that exemption, it has one year after the year the threshold is exceeded to comply with the requirements of WAC 284-07-214.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 20-01-008, § 284-07-220, filed 12/5/19, effective 1/5/20. Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-220, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060, 48.43.140, 48.44.050 and 48.46.200. WSR 94-04-045 (Order R 94-2), § 284-07-220, filed 1/27/94, effective 2/27/94. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-220, filed 9/9/92, effective 10/10/92.]

WAC 284-07-230 Canadian and British companies. (1) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by the companies with their supervision authority duly audited by an independent chartered accountant.

(2) For the insurers, the letter required in WAC 284-07-140(2) shall state that the accountant is aware of the requirements relating to the annual audited report filed with the commissioner pursuant to WAC 284-07-120 and shall affirm that the opinion expressed is in conformity with those requirements.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-230, filed 10/5/09, effective 11/5/09. Statutory Authority: RCW 48.02.060. WSR 92-19-040 (Order R 92-10), § 284-07-230, filed 9/9/92, effective 10/10/92.]

WAC 284-07-240 Severability provision. If any provision of WAC 284-07-100 through 284-07-230 or its application to any person or circumstances is held invalid, the remainder of WAC 284-07-100 through 284-07-230 or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 48.02.060, 48.44.050, 48.46.200, 48.05.250, 48.44.095, 48.46.080, 48.46.200, and 48.125.090. WSR 09-20-069 (Matter No. R 2009-09), § 284-07-240, filed 10/5/09, effective 11/5/09.]

ACTUARIAL OPINION AND MEMORANDUM REGULATION

WAC 284-07-310 Purpose. The purpose of this regulation, WAC 284-07-310 through and including WAC 284-07-400, called the actuarial opinion and memorandum regulation, is to prescribe:

- (1) Guidelines and standards for statements of actuarial opinion submitted in accordance with the requirements of chapter 48.74 RCW, RCW 48.36A.250, 48.36A.260, and for supporting memoranda;
- (2) Rules applicable to the appointment of an appointed actuary; and
- (3) Guidelines and standards relating to "adequacy of reserves."

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-310, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-310, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-310, filed 12/30/94, effective 1/30/95.]

WAC 284-07-320 Authority. This regulation is issued pursuant to the authority vested in the commissioner under RCW 48.01.030, 48.02.060, and chapters 48.36A and 48.74 RCW.

[Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-320, filed 12/30/94, effective 1/30/95.]

WAC 284-07-330 Scope. (1) This regulation applies to all life insurance companies and fraternal benefit societies doing business in this state, to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities, or disability insurance business in this state; and to all disability insurers that file annual statements on the life and accident and health

blank. This regulation requires the appointed actuary to use his or her professional judgment in performing the required asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. The commissioner may specify specific methods of actuarial analysis and actuarial assumptions when, in the commissioner's opinion, such specifications are necessary.

(2) This regulation applies to all annual statements filed with the commissioner on and after December 31, 2020.

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-330, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-330, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-330, filed 12/30/94, effective 1/30/95.]

WAC 284-07-340 Definitions. The following definitions apply throughout this regulation:

(1) "Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis set forth in WAC 284-07-380 and according to applicable actuarial standards of practice.

(2) "Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3) "Annual statement" means that statement required by RCW 48.05.250 to be filed annually by the company with the commissioner.

(4) "Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in WAC 284-07-350(3) to provide the actuarial opinion and supporting memorandum as required by RCW 48.74.025.

(5) "Asset adequacy analysis" means an analysis that meets the standards and other requirements set forth in WAC 284-07-350(4).

(6) "Company" means an insurance company, fraternal benefit society, or reinsurer subject to this regulation.

(7) "Qualified actuary" means an individual who meets the requirements set forth in WAC 284-07-350(1).

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-340, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-340, filed 12/30/94, effective 1/30/95.]

WAC 284-07-350 General requirements. The statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with WAC 284-07-380, must be included with an annual statement. A memorandum in support thereof in accordance with WAC 284-07-390, is required to be available by May 1st each year. The statement of opinion on the adequacy of the reserves and related actuarial items must comply with the

requirements of the *Valuation Manual*, as revised from time to time by the National Association of Insurance Commissioners, and as defined in RCW 48.74.015.

Statement of actuarial opinion:

(1) "Qualified actuary" means an individual who:

(a) Is a member in good standing of the American Academy of Actuaries; and

(b) Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements or equivalent standards acceptable to the commissioner; and

(c) Is familiar with the valuation requirements applicable to life and health insurance companies; and

(d) Has not been found by the commissioner (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice to have:

(i) Violated any provision of, or any obligation imposed by, Title 48 RCW or other law or any applicable regulation or order of the commissioner in the course of his or her dealings as a qualified actuary;

(ii) Been found guilty of fraudulent or dishonest practices;

(iii) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as a qualified actuary;

(iv) Submitted to the commissioner during the past five years, an actuarial opinion or memorandum that the commissioner rejected because it did not meet the provisions of this regulation or standards set by the Actuarial Standards Board; or

(v) Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

(e) Has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under (d) of this subsection.

(f) The commissioner may accept equivalent qualifications in place of those in (a) and (b) of this subsection if the individual has otherwise demonstrated his or her actuarial competence to the satisfaction of the commissioner, and meets the qualifications in (c), (d), and (e) of this subsection.

(2) "Appointed actuary" means a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this regulation; either directly by, or by the authority of, the board of directors through an executive officer of the company.

(a) The company shall give the commissioner written notice no more than five business days of the following: The name, title (and, in the case of a consulting actuary, the name of the firm), and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary.

(b) The company must state in its notice that the appointed actuary meets the requirements set forth in subsection (1) of this section.

(c) After the company furnishes the notice, no further notice is required with respect to this person, except the following, if applicable:

(i) The company must give the commissioner timely written notice if the actuary ceases to be appointed or retained as an appointed actuary; and

(ii) The company must give the commissioner timely written notice if the actuary fails to meet the requirements set forth in subsection (2) of this section.

(d) If an actuary who was the appointed actuary for the immediately preceding filed actuarial opinion is replaced by an action of the board of directors, the insurer shall within five business days notify the insurance department of the state of domicile of this event. The insurer shall also furnish the domiciliary commissioner with a separate letter within ten business days of the above notification stating whether in the twenty-four months preceding such event there were any material disagreements with the former appointed actuary regarding the content of the opinion. The disagreements required to be reported in response to this paragraph include both those resolved to the former actuary's satisfaction and those not resolved to the former actuary's satisfaction. The insurer shall also in writing request such former actuary to furnish a letter addressed to the insurer stating whether the actuary agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he/she does not agree. Additionally, the insurer shall furnish such responsive letter from the former actuary to the domiciliary commissioner together with its own.

(3) Standards for asset adequacy analysis: Unless the commissioner approves equivalents in advance, the asset adequacy analysis required by this regulation:

(a) Must conform to the standards of practice as revised from time to time by the Actuarial Standards Board and to any additional standards under this regulation, and must form the basis of the statement of actuarial opinion in accordance with this regulation; and

(b) Must be based on methods of analysis that are deemed appropriate for such purposes by the Actuarial Standards Board.

(4) Liabilities to be covered:

(a) As required by RCW 48.74.025, the statement of actuarial opinion applies to all in force business on the statement date regardless of when or where issued, including reserves of Exhibits 5, 6, and 7, and claim liabilities in Exhibit 8, Part 1 and equivalent items in the separate account statement or statements.

(b) If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company calculated in accordance with methods set forth in RCW 48.74.040, 48.74.070, 48.74.080, and 48.74.090, the company must establish the appropriate additional reserve.

(c) Additional reserves established under (b) of this subsection and deemed not necessary in subsequent years may be released. Any amounts released must be disclosed in the actuarial opinion for the applicable year. The release of these reserves will not be deemed an adoption of a lower standard of valuation.

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-350, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-350, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250

and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-350, filed 12/30/94, effective 1/30/95.]

WAC 284-07-380 Statement of actuarial opinion based on an asset adequacy analysis. The statement of actuarial opinion must comply with VM-30 of the *Valuation Manual*, as revised from time to time by the National Association of Insurance Commissioners, and as defined in RCW 48.74.015.

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-380, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-380, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.02.060. WSR 06-12-077 (Matter No. R 2006-04), § 284-07-380, filed 6/6/06, effective 7/7/06. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-380, filed 12/30/94, effective 1/30/95.]

WAC 284-07-390 Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.

(1) In accordance with RCW 48.74.025, the appointed actuary must prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves. The memorandum must comply with VM-30 of the *Valuation Manual*, as revised from time to time by the National Association of Insurance Commissioners, and as defined in RCW 48.74.015. The memorandum must be made available for examination by the commissioner upon his or her request but will not be considered a record of the commissioner or subject to automatic filing with the commissioner.

(2) In accordance with RCW 48.74.025, the appointed actuary must prepare a regulatory asset adequacy issues summary according to the requirements set forth in VM-30 of the *Valuation Manual*, as revised from time to time by the National Association of Insurance Commissioners, and as defined in RCW 48.74.015. The regulatory asset adequacy issues summary must be submitted no later than April 1st of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. Except for a domestic life insurance company, the regulatory asset adequacy issues summary must be submitted only upon request of the commissioner. The regulatory asset adequacy issues summary has the standing of a memorandum in support of the actuarial opinion, and will be kept confidential to the extent and under the conditions provided for in RCW 48.74.025(4).

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-390, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.02.060, 48.74.025, 48.36A.250, 48.36A.260. WSR 08-01-077 (Matter No. R 2006-10), § 284-07-390, filed 12/17/07, effective 1/17/08. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-390, filed 12/30/94, effective 1/30/95.]

WAC 284-07-400 Additional considerations for analysis. (1) Any additional consideration for analysis must be compiled in accordance with VM-30 of the *Valuation Manual*, as revised from time to time by the National Association of Insurance Commissioners, and as defined in RCW 48.74.015.

(2) Documentation: The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions, and the results obtained.

[Statutory Authority: RCW 48.02.060, 48.74.025, 48.74.028, 48.74.100, 48.36A.250 and 48.36A.260. WSR 20-21-044 (Matter No. R 2020-05), § 284-07-400, filed 10/13/20, effective 11/13/20. Statutory Authority: RCW 48.01.030, 48.02.060, 48.74.025, 48.36A.250 and 48.36A.260. WSR 95-02-036 (Order R 94-26), § 284-07-400, filed 12/30/94, effective 1/30/95.]

PERMITTED ACCOUNTING PRACTICES

WAC 284-07-500 Definitions. For purposes of this rule:

(1) A "permitted accounting practice" is an accounting practice that departs from the National Association of Insurance Commissioners (NAIC) *Accounting Practices and Procedures Manual* or state prescribed accounting practices, and has been approved in writing by the commissioner.

(2) "State prescribed accounting practices" are those accounting practices that are incorporated directly or by reference by Titles 48 RCW and 284 WAC applicable to domestic insurers.

(3) A "domestic insurer" includes an entity organized under the laws of this state as an insurer authorized under chapter 48.05 RCW, a fraternal benefit society licensed under chapter 48.36A RCW, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, a self-funded multiple employer welfare arrangement authorized under chapter 48.125 RCW, or other entity regulated under Title 48 RCW and required to comply with the NAIC *Accounting Practices and Procedures Manual* and state prescribed accounting practices.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 09-03-102 (Matter No. R 2008-26), § 284-07-500, filed 1/21/09, effective 2/21/09.]

WAC 284-07-510 Prior approval required for a domestic insurer to use permitted accounting practice. (1) If a domestic insurer wishes to use a permitted accounting practice, the domestic insurer must obtain prior written approval of the permitted accounting practice from the commissioner.

(2) An insurer must submit its request for a permitted accounting practice to the commissioner in writing.

(3) A request for a permitted accounting practice must be received by the commissioner more than thirty days prior to its proposed effective date and may not be used until thirty days after the commissioner has approved the practice in writing. For good cause shown, the commissioner may reduce either time period.

(4) Instructions as to how and where a domestic insurer must send its request for a permitted accounting practice to the commissioner may be found on the commissioner's website at www.insurance.wa.gov.

(5) The insurer may not implement any permitted practice prior to written approval by the commissioner.

(6) An insurer may use only those permitted accounting practices which have been specifically approved for that insurer and only for the time period permitted by the commissioner.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 09-03-102 (Matter No. R 2008-26), § 284-07-510, filed 1/21/09, effective 2/21/09.]

WAC 284-07-520 Information to be included in a permitted accounting practice request. A request for a permitted accounting practice must contain, at a minimum, all of the following information:

(1) The proposed effective date and the date of the first filed financial statement in which the proposed permitted accounting practice will be reported;

(2) A detailed description of the permitted accounting practice being requested, including specific citation to the NAIC *Accounting Practices and Procedures Manual* or state prescribed accounting practices from which the proposed permitted accounting practice will depart;

(3) The periods, if any, in which the proposed permitted accounting practice was previously in effect;

(4) The period in which the proposed permitted accounting practice will be effective (e.g., specific beginning and ending dates);

(5) Specific identification of each financial statement line item and its respective impact from the proposed permitted accounting practice. The respective impact must compare the financial statements prepared in accordance with RCW 48.05.073, 48.36A.263, 48.43.097, or 48.125.090(2) and financial statements incorporating the permitted accounting practices;

(6) The total financial impact on the capital and surplus of the proposed permitted accounting practice and any other previously granted permitted accounting practices. The total impact must compare the financial statements prepared in accordance with RCW 48.05.073, 48.36A.263, 48.43.097, or 48.125.090(2) and financial statements incorporating the permitted accounting practice; and

(7) The capital and surplus effect of the proposed permitted accounting practice, on a legal entity basis, on the domestic insurer, its ultimate and intermediate parents and all affiliated United States insurers. The capital and surplus effect must compare the financial statements prepared in accordance with RCW 48.05.073, 48.36A.263, 48.43.097, or 48.125.090(2) and financial statements incorporating the permitted accounting practice on a legal entity basis on the domestic insurer, its ultimate and intermediate parents and all affiliated United States insurers.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 09-03-102 (Matter No. R 2008-26), § 284-07-520, filed 1/21/09, effective 2/21/09.]

WAC 284-07-530 Expiration of a permitted accounting practice. The commissioner may only approve a request to use a permitted ac-

counting practice for up to one calendar year. All permitted practices will expire no later than December 31. An insurer wishing to continue the permitted practice must file a new permitted practice request with the commissioner. Permitted accounting practices that were previously approved by the commissioner that remain in effect as of the effective date of this rule which do not have a specific termination date will expire upon any change of control of the insurer or December 31, 2010, whichever occurs first.

[Statutory Authority: RCW 48.02.060, 48.44.050, and 48.46.200. WSR 09-03-102 (Matter No. R 2008-26), § 284-07-530, filed 1/21/09, effective 2/21/09.]

WAC 284-07-540 Issuer segregation of premium accounting plan.

(1) For purposes of this section, "issuer" has the definition found in RCW 48.01.053.

(2) A health plan issuer, whether domestic, foreign or alien, must obtain the commissioner's prior written approval of its accounting practice plan for segregating premium allocated to a termination of pregnancy benefit. This requirement only applies to qualified issuers certified through the health benefit exchange, for qualified health plans issued on the exchange.

(a) The segregation plan must describe the accounting practices the issuer will use to ensure segregation of federal funds for premium and claims for nonexcepted termination of pregnancy benefits from other premium received from an enrollee who receives a premium tax benefit or cost-sharing subsidy pursuant to enrollment on the health benefit exchange. The segregation plan must allocate the two types of premium to separate accounts (allocation accounts). The segregation plan must also ensure that claims for the nonexcepted termination of pregnancy benefit are not paid from an allocation account into which federal funds are placed.

(b) The segregation plan must ensure strict separation of funds between the allocation accounts, and include at least one allocation account solely for the deposit of private premium dollars used to pay for abortion coverage, and a second allocation account to process premium dollars paid for all other covered benefits.

(c) This rule does not require an issuer to conduct two separate premium transactions with enrollees. For purposes of approval by the commissioner, the segregation of premium may occur solely as an accounting transaction.

(3) A health plan issuer must submit its plan to the commissioner in writing more than thirty days prior to its proposed effective date, and may not be used until thirty days after the commissioner has approved the plan in writing. For good cause, the commissioner may reduce either time period.

(4) A health plan issuer may not implement any changes or amendments to its segregated account accounting plan prior to receiving the commissioner's written approval.

(5) Instructions as to how and where an issuer must send its request for approval of its segregation of premium accounting plan may be found on the commissioner's website at www.insurance.wa.gov.

(6) A filing under this section must include the following information:

(a) The proposed effective date and the date of the first filed financial statement in which the proposed segregated account will be reported;

(b) A description of accounting systems for processing premium payments for products on the exchange that offer termination of pregnancy benefits, including:

(i) The financial accounting systems, including documentation and internal controls, to ensure the appropriate segregation of payments received for coverage of nonexcepted termination of pregnancy benefits from those received for coverage of all other services, which may be supported by federal premium tax credits and cost-sharing reduction payments;

(ii) The financial accounting systems, including accounting documentation and internal controls, that ensure that all expenditures for nonexcepted termination of pregnancy benefits are reimbursed from the appropriate allocation account; and

(iii) An explanation of how the issuer's systems, including accounting documentation and internal controls meet the requirements for segregation accounts under the law.

(7) After an accounting practice plan for segregating premium has been approved, an issuer must file with its annual statement filed with the commissioner on or before March 1st of each year:

(a) Certification that the issuer is certified as a qualified issuer through the exchange;

(b) An annual supplemental information schedule containing a reconciliation of all segregated account activity (beginning balance + receipts - disbursements = ending balance) for the year. The annual supplemental information schedule shall be electronically filed with the commissioner in PDF format in compliance with the form and instructions contained on the commissioner's website;

(c) The annual supplemental information schedule shall contain an affirmation of the issuer's CEO and CFO that the financial accounting systems, including accounting documentation and internal controls, of the segregated account covered by the annual supplemental information schedule meet the requirements for segregated accounts under the ACA;

(d) The annual audit of issuers conducted by independent certified public accountants, in addition to all other requirements of opinions, shall opine on whether the supplementary information contained in the annual supplemental information schedule is fairly stated, and, if the segregated accounts financial accounting systems, including documentation and internal controls, comply with the requirements of the ACA. The CPA report will be filed with the issuers annual audited financial statement filed with the commissioner;

(e) Stating the amount of premium segregated for each product offered on the exchange, calculated as if the coverage were included for the entire population of enrollees. The amount of premium must not be less than one dollar per enrollee, per month; and

(f) Stating the number of enrollees, by plan for the benefit year, for whom premium was segregated pursuant to this rule, P.L. 111-148 (111th Congress, 2010), at Section 1303 (b) (2) (B) and (C), and 45 C.F.R. Sec. 156.280.

(8) The commissioner may periodically audit issuers and each product subject to which this regulation applies to verify compliance. The commissioner will retain working papers and periodic audit reports for a period of not less than three years, and may make the reports available to the state health benefit exchange or the U.S. Department of Health and Human Services upon request.

[Statutory Authority: RCW 48.02.060 and section 1303(b) of the Affordable Care Act, P.L. 111-148 (as amended) (2010). WSR 13-09-013 (Matter No. R 2012-28), § 284-07-540, filed 4/8/13, effective 5/9/13.]

BIOGRAPHICAL AFFIDAVITS

WAC 284-07-600 Definitions. For the purposes of this regulation, WAC 284-07-610 and 284-07-620, called the biographical affidavits regulation, the following definitions apply:

(1) A "biographical affidavit" means the current National Association of Insurance Commissioners (NAIC) Biographical Affidavit, Form 11, available on the NAIC's website at www.naic.org.

(2) A "domestic insurer" includes an entity organized under the laws of this state, domiciled in this state or using this state as its state of entry including:

(a) An insurer authorized under chapter 48.05 RCW.

(b) A fraternal benefit society as defined in RCW 48.36A.010 and authorized under chapter 48.36A RCW.

(c) A health care service contractor defined in RCW 48.44.010 and registered under chapter 48.44 RCW.

(d) A health maintenance organization defined in RCW 48.46.020 and registered under chapter 48.46 RCW.

(e) A self-funded multiple employer welfare arrangement defined in RCW 48.125.010 and authorized under chapter 48.125 RCW.

(f) An alien insurer authorized under chapter 48.05 RCW and subject to the requirements under chapter 48.35 RCW.

(3) A "foreign insurer" or an "alien insurer" are as defined in RCW 48.05.010 and authorized under chapter 48.05 RCW.

(4) An "officer" or "director" includes:

(a) An individual with controlling interests as defined in RCW 48.31B.005(3);

(b) An executive officer as defined in WAC 284-18-340 and 284-18A-340; and

(c) Key management personnel who control the operations of a domestic, foreign or alien insurer.

[Statutory Authority: RCW 48.02.060, 48.31B.040, chapter 48.31B RCW, and 2015 c 122. WSR 15-22-062 (Matter No. R 2015-05), § 284-07-600, filed 10/30/15, effective 1/1/16. Statutory Authority: RCW 48.02.060, 48.36A.290, 48.44.050, 48.46.030, and 48.46.200. WSR 11-24-087 (Matter No. R 2011-19), § 284-07-600, filed 12/7/11, effective 1/7/12.]

WAC 284-07-610 Filing requirements for foreign and alien insurers. (1) Foreign and alien insurers must file a biographical affidavit for each officer or director as specified by the NAIC Uniform Certificate of Authority Application (UCAA) as part of an application for certificate of authority or certificate of registration.

(2) Alien insurers authorized under chapter 48.35 RCW must meet the requirements of WAC 284-07-620.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be

submitted directly to the commissioner by the background investigation agency.

[Statutory Authority: RCW 48.02.060, 48.36A.290, 48.44.050, 48.46.030, and 48.46.200. WSR 11-24-087 (Matter No. R 2011-19), § 284-07-610, filed 12/7/11, effective 1/7/12.]

WAC 284-07-620 Filing requirements for domestic insurers. (1)

Domestic insurers must file a biographical affidavit:

(a) For each officer or director as part of an application for a solicitation permit, certificate of authority, or certificate of registration.

(b) Within thirty business days after:

(i) An individual becomes an officer or director;

(ii) A material change of filed information required in the biographical affidavit; or

(iii) At the request of the commissioner.

(c) Within fifteen business days, of any information concerning the conviction of an officer or director of a felony or the naming of an officer or director, other than as a party plaintiff or complainant, in a criminal or civil action in which fraud is an issue.

(d) Every thirty-six months after the last biographical affidavit filed.

(2) An officer or director may choose to list all affiliate insurers and insurers under common control on one biographical affidavit in lieu of filing a separate form for each affiliated insurer.

(3) Biographical affidavits must be investigated and verified by a vendor authorized by the NAIC to perform a state, national, or international history background check. Verification reports must be submitted directly to the commissioner by the background investigation agency.

[Statutory Authority: RCW 48.02.060, 48.36A.290, 48.44.050, 48.46.030, and 48.46.200. WSR 11-24-087 (Matter No. R 2011-19), § 284-07-620, filed 12/7/11, effective 1/7/12.]

CORPORATE GOVERNANCE ANNUAL DISCLOSURE

WAC 284-07-700 Purpose. The purpose of WAC 284-07-700 through 284-07-740 is to set forth the procedures for filing and the required contents of the corporate governance annual disclosure (CGAD), deemed necessary by the commissioner to carry out the provisions of chapter 48.195 RCW.

[Statutory Authority: RCW 48.02.060, 48.195.030 and chapter 48.195 RCW. WSR 18-20-090 (Matter No. R 2018-02), § 284-07-700, filed 10/1/18, effective 1/1/19.]

WAC 284-07-710 Definitions. The definitions in this section apply throughout WAC 284-07-720 through 284-07-730 unless the context clearly requires otherwise.

(1) "Commissioner" means the insurance commissioner of this state.

(2) "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in RCW 48.31B.005.

(3) "Insurer" has the same meaning as set forth in RCW 48.31B.005, except that it does not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(4) "Senior management" means any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and shall include, for example and without limitation, the chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief procurement officer (CPO), chief legal officer (CLO), chief information officer (CIO), chief technology officer (CTO), chief revenue officer (CRO), chief visionary officer (CVO), or any other "C" level executive.

[Statutory Authority: RCW 48.02.060, 48.195.030 and chapter 48.195 RCW. WSR 18-20-090 (Matter No. R 2018-02), § 284-07-710, filed 10/1/18, effective 1/1/19.]

WAC 284-07-720 Filing procedures. (1) An insurer, or the insurance group of which the insurer is a member, required to file a CGAD by chapter 48.195 RCW, must annually, no later than June 1st, submit to the commissioner a CGAD that contains the information described in WAC 284-07-730.

(2) The CGAD must include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's board of directors (hereafter "board") or the appropriate committee thereof.

(3) The insurer or insurance group has discretion regarding the appropriate format for providing the information required by WAC 284-07-700 through 284-07-730 and is permitted to customize the CGAD to provide the most relevant information necessary to permit the commissioner to gain an understanding of the corporate structure, policies and practices utilized by the insurer or insurance group.

(4) For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at either: (a) The ultimate controlling parent level; (b) an intermediate holding company level; or (c) the individual legal entity level, or any combination of (a), (b), or (c) of this subsection, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it must indicate which of the three

criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

(5) Notwithstanding subsection (1) of this section, and as outlined in RCW 48.195.020, if the CGAD is completed at the insurance group level, then it must be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the National Association of Insurance Commissioners. In these instances, a copy of the CGAD must also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request.

(6) An insurer or insurance group may comply with this section by referencing other existing documents (e.g., ORSA summary report, Holding Company Form B or F filings, Securities and Exchange Commission (SEC) proxy statements, foreign regulatory reporting requirement, etc.) if the documents provide information that is comparable to the information described in WAC 284-07-730. The insurer or insurance group must clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the commissioner.

(7) Annually following the initial filing of the CGAD, the insurer or insurance group must file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing must so state.

[Statutory Authority: RCW 48.02.060, 48.195.030 and chapter 48.195 RCW. WSR 18-20-090 (Matter No. R 2018-02), § 284-07-720, filed 10/1/18, effective 1/1/19.]

WAC 284-07-730 Contents of corporate governance annual disclosure. (1) The insurer or insurance group must be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices.

(2) The CGAD must describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following:

(a) The board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group must describe and discuss the rationale for the current board size and structure; and

(b) The duties of the board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the board's leadership is structured, including a discussion of the roles of chief executive officer (CEO) and chairman of the board within the organization.

(3) The insurer or insurance group must describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors:

(a) How the qualifications, expertise and experience of each board member meet the needs of the insurer or insurance group;

(b) How an appropriate amount of independence is maintained on the board and its significant committees;

(c) The number of meetings held by the board and its significant committees over the past year as well as information on director attendance;

(d) How the insurer or insurance group identifies, nominates and elects members to the board and its committees. The discussion must include, for example:

(i) Whether a nomination committee is in place to identify and select individuals for consideration;

(ii) Whether term limits are placed on directors;

(iii) How the election and reelection process function; and

(iv) Whether a board diversity policy is in place and if so, how it functions.

(e) The processes in place for the board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any board or committee training programs that have been put into place).

(4) The insurer or insurance group must describe the policies and practices for directing senior management, including a description of the following factors:

(a) Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their respective roles, including:

(i) Identification of the specific positions for which suitability standards have been developed and a description of the standards employed; and

(ii) Any changes in an officer's or key person's suitability as outlined by the insurer's or insurance group's standards and procedures to monitor and evaluate such changes.

(b) The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example:

(i) Compliance with laws, rules, and regulations; and

(ii) Proactive reporting of any illegal or unethical behavior.

(c) The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description must include sufficient detail to allow the commissioner to understand how the organization ensures that compensation programs do not either encourage or reward, or both, excessive risk taking. Elements to be discussed may include, for example:

(i) The board's role in overseeing management compensation programs and practices;

(ii) The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid;

(iii) How compensation programs are related to both company and individual performance over time;

(iv) Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels;

(v) Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; and

(vi) Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine its risk management objectives are met by incentivizing its employees.

(d) The insurer's or insurance group's plans for CEO and senior management succession.

(5) The insurer or insurance group must describe the processes by which the board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including discussion of:

(a) How oversight and management responsibilities are delegated between the board, its committees and senior management;

(b) How the board is kept informed of the insurer's strategic plans, the associated risks, and steps senior management is taking to monitor and manage those risks;

(c) How reporting responsibilities are organized for each critical area. The description must allow the commissioner to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board. This description may include, for example, the follow critical risk areas of the insurer:

(i) Risk management processes (an ORSA summary report filer may refer to its ORSA summary report pursuant to the Risk Management and Own Risk and Solvency Assessment Act, chapter 48.05A RCW);

(ii) Actuarial function;

(iii) Investment decision-making processes;

(iv) Reinsurance decision-making processes;

(v) Business strategy/finance decision-making processes;

(vi) Compliance function;

(vii) Financial reporting/internal auditing; and

(viii) Market conduct decision-making processes.

[Statutory Authority: RCW 48.02.060, 48.195.030 and chapter 48.195 RCW. WSR 18-20-090 (Matter No. R 2018-02), § 284-07-730, filed 10/1/18, effective 1/1/19.]

WAC 284-07-740 Severability clause. If any provision of WAC 284-07-700 through 284-07-730, or the application to any person or circumstance is held invalid, the remainder of WAC 284-07-700 through 284-07-730 or the application of the provision to other persons or circumstances is not affected.

[Statutory Authority: RCW 48.02.060, 48.195.030 and chapter 48.195 RCW. WSR 18-20-090 (Matter No. R 2018-02), § 284-07-740, filed 10/1/18, effective 1/1/19.]