

WSR 23-15-113

AGENDA

OFFICE OF THE
INSURANCE COMMISSIONER

[Filed July 19, 2023, 8:27 a.m.]

**Semi-Annual Rule Development Agenda
July 2023**

This list is current as of July 18, 2023. There may be additional rule-making activity not included on this agenda and all information referenced is subject to change.

For general information on the office of insurance commissioner's (OIC) rule making, please visit <https://www.insurance.wa.gov/legislation-and-rulemaking>.

For the most up-to-date information on proposed rules, please visit <https://www.insurance.wa.gov/proposed-rules>.

To sign up for email or text alerts from OIC about rule changes, legislation, industry information, and consumer news, please visit <https://public.govdelivery.com/accounts/WAOIC/subscriber/new>.

For questions, please contact OIC policy and rules manager, Ariele Page Landstrom, rulescoordinator@oic.wa.gov, or 360-725-7056.

The commissioner has released a rule-making agenda on the following topics, which are all in pre-CR-101 status:

Name of Proposed Rule	Summary
Eliminating preclicensing education requirements for insurance producers	HB 1061 (2023) removes preclicensing education requirements for first-time resident insurance producer licensee applicants. Proposed rule making will make changes to several rules under chapter 284-17 WAC that pertain to preclicensing education requirements to align with the new law.
Best interest standard for annuity transactions	HB 1120 (2023) requires insurance producers to act in the best interest of the consumer under the circumstances known at the time when making an annuity recommendation and is aligned with NAIC's Model Regulation #275 on annuity transactions. The proposed rule making will align chapters 284-17 and 284-23 WAC with the new law, including updating training requirements, revising the scope of applicability, and removing the prior suitability standard.
Communication by OIC	SHB 1266 (2023) sets a process for communication from OIC with insurance producers when the communication may affect licensure. Proposed rule making may address chapter 284-17 WAC to change definitions, address of record information, and email processes.
Revising the prior authorization process	E2SHB 1357 (2023) revised timelines for health plans processing of prior authorization requests related to decisions, electronic authorization standards, and communication requirements. Proposed rule making intends to address inconsistencies between the new law and current rule, such as WAC 284-43-2000 Health care services utilization review, 284-43-2020 Drug utilization review, and 284-43-2050 Prior authorization processes.
Continuity of coverage for prescription drugs	SSB 5300 (2023) prohibits health carriers and their health care benefit managers (HCBM) from requiring substitution of a prescribed nonpreferred drug with a preferred drug or increasing an enrollee's cost sharing obligation when the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic drug, or any other drug prescribed to treat a serious mental illness. Proposed rule making intends to address inconsistencies between the new law and current rules, including addressing the prescription drug process (WAC 284-43-2021), formulary policies and prescription drug cost sharing (WAC 284-43-5060 through 284-43-5110), and the definition of "serious mental illness" (WAC 284-43-0160).
Risk mitigation in property insurance	SSB 5720 allows commercial property insurers to provide risk mitigation goods and services as part of commercial property insurance policies. Proposed rule making intends to amend chapter 284-33 WAC to remove exclusion of commercial property insurers and remove any reference to the amount allowed.
Consolidated health care proposed rule making	This proposed rule making intends to consolidate efforts in several health-related areas, including: <ul style="list-style-type: none"> • ESHB 1222 (2023) requires coverage of hearing instruments. Proposed rule language may clarify that an enrollee can purchase a more expensive hearing instrument and may address a circumstance in which an enrollee changes plans during the 36-month hearing instrument benefit period.

Name of Proposed Rule	Summary
	<ul style="list-style-type: none"> • SB 5036 (2023) extends by six months the date by which real-time telemedicine using audio and video technology may substitute for in-person. Proposed rule language intends to extend the time frame, as consistent with the new law. • SB 5066 (2023) clarifies that contracts and contract amendments between health care benefit managers and health carriers that were executed prior to the effective date of the bill and remain in force must be filed with OIC no later than 60 days following the effective date of the bill. Proposed rule language intends to update WAC 284-180-460 so that carriers are added to the current list of entities for which HCBMs must file their contracts and contract amendments. rule making may also address where there are discrepancies between the carrier and HCBM filings. • SB 5242 (2023) provides that a health carrier may not impose cost sharing for abortion of a pregnancy. Proposed rule language intends to include the new cost-sharing limitations for abortion. • SSB 5396 (2023) prohibits health carriers from imposing cost sharing on coverage for supplemental and diagnostic breast examinations. Proposed rule language intends to include the new cost-sharing limitations for breast examinations. Rule making may also include requiring mammography services. <p>Proposed rule making intends to align the definition of "emergency medical services" in RCW 48.43.005 with the same term as defined in rule (WAC 284-43-0160 and 284-170-130).</p>
Health care benefit manager registration	The proposed rule making intends to reduce the documentation required for registration of HCBMs. Additionally, disclosures for registration are currently limited to state agencies; proposed rule language intends to include expansion for federal violations for oversight.
Life insurance with accelerated benefits and long-term care riders	WAC 284-23-650 prohibits insurers from describing life insurance policies providing long-term care insurance benefits as long-term care insurance through the acceleration of the death benefit and requires that insurers issue a disclosure statement. The current rule language is in conflict with RCW 48.83.020(5), which allows life insurance policies funding long-term care insurance benefits through the acceleration of the policy's death benefits. The proposed rule making will clarify to which policies the prohibition and disclosure statement would apply.

Other Possible Rule-Making Topics: In addition to the rules referenced above, the commissioner continues his effort to update and clarify code, as well as implement recent legislation. A potential list of subjects that may be considered for future rule making include, or may include:

- Adjuster issues
- Annuity marketing and disclosure requirements
- Balance billing
- Barriers to patient care access resulting from contracting practices
- Breast cancer health issues
- Coordination of benefits
- Data security and cybersecurity
- Dental insurance practices
- Discontinuation and renewal of health plan coverage
- Discrimination in health care plan design
- Electronic filing of state specific reporting
- Electronic notices and document delivery of insurance products
- Essential health benefits
- Fixing outdated references
- Health care coverage
- HCBMs
- Holding company regulations
- Implementation of state or federal legislation or reform
- Licensing requirements
- Life and disability issues
- Guaranty funds
- Long-term care insurance

Market stabilization
Medical parity
Minimum valuation standards
NAIC model act and regulation implementation
Network access
Pharmacy formulary tiers
Pharmacy exceptions, substitutions and appeals process
Pharmacy benefit managers
Pediatric dental
Prelicensing insurance education
Producer issues, including commissioner and education requirements
Property and casualty issues
Ride-sharing insurance coverage
Summary of health insurance benefits coverage
Telemedicine
Rating variables
Reproductive health issues

In addition to the above-mentioned topics, any person may petition OIC under RCW 34.05.330 requesting the adoption, amendment, or repeal of any rule.

Mike Kreidler
Insurance Commissioner