

DATE: July 19, 2023

TIME: 8:27 AM

WSR 23-15-113

## Office of the Insurance Commissioner Semi-Annual Rule Development Agenda July 2023

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

For general information on OIC's rulemaking, 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 the Insurance Commissioner 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 & Rules Manager, Ariele Page Landstrom:

[rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov) or 360-725-7056.

**The Commissioner has released a rulemaking agenda on the following topics, which are all in pre-CR-101 status:**

| Name of proposed rule   | Summary   |
|---|---|
| <b>Eliminating pre-licensing education requirements for insurance producers</b> | House Bill 1061 (2023) removes pre-licensing education requirements for first-time resident insurance producer licensee applicants. Proposed rulemaking will make changes to several rules under chapter 284-17 WAC that pertain to pre-licensing education requirements to align with the new law. |



| Name of proposed rule  | Summary  |
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| <b>Best interest standard for annuity transactions</b>           | House Bill 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 rulemaking 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.  |
| <b>Communication by the Office of the Insurance Commissioner</b> | Substitute House Bill 1266 (2023) sets a process for communication from OIC with insurance producers when the communication may affect licensure. Proposed rulemaking may address chapter 284-17 WAC to change definitions, address of record information, and email processes.  |
| <b>Revising the prior authorization process</b>                  | Engrossed Second Substitute House Bill 1357 (2023) revised timelines for health plans processing of prior authorization requests related to decisions, electronic authorization standards, and communication requirements. Proposed rulemaking 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).   |
| <b>Continuity of coverage for prescription drugs</b>             | Substitute Senate Bill 5300 (2023) prohibits health carriers and their health care benefit managers 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, or antiepileptic drug, or any other drug prescribed to treat a serious mental illness. Proposed rulemaking 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). |



| Name of proposed rule                               | Summary  |
|---|--|
| <b>Risk mitigation in property insurance</b>        | Substitute Senate Bill 5720 allows commercial property insurers to provide risk mitigation goods and services as part of commercial property insurance policies. Proposed rulemaking intends to amend chapter 284-33 WAC to remove exclusion of commercial property insurers and remove any reference to the amount allowed.   |
| <b>Consolidated health care proposed rulemaking</b> | <p>This proposed rulemaking intends to consolidate efforts in several health-related areas, including:</p> <ul style="list-style-type: none"><li>• Engrossed Substitute House Bill 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 circumstance in which an enrollee changes plans during the 36-month hearing instrument benefit period.</li><li>• Senate Bill 5036 (2023) extends by 6 months the date by which real-time telemedicine using audio and video technology may substitute for an in-person. Proposed rule language intends to extend the timeframe, as consistent with the new law.</li><li>• Senate Bill 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. Rulemaking may also address where there are discrepancies between the carrier and HCBM filings.</li><li>• Senate Bill 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.</li><li>• Substitute Senate Bill 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</li></ul> |

| Name of proposed rule   | Summary  |
|---|--|
|   | <p>examinations. Rulemaking may also include requiring mammography services.</p> <p>Proposed rulemaking 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>  |
| <b>Health care benefit manager registration</b>                           | <p>The proposed rulemaking intends to reduce the documentation required for registration of health care benefit managers. Additionally, disclosures for registration are currently limited to state agencies; proposed rule language intends to include expansion for federal violations for oversight.</p>  |
| <b>Life insurance with accelerated benefits and long-term care riders</b> | <p>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 rulemaking will clarify to which policies the prohibition and disclosure statement would apply.</p> |

**Other Possible Rule-Makings 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 rulemaking 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  
Health care benefit managers  
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 the Office of the Insurance Commissioner under RCW 34.05.330 requesting the adoption, amendment, or repeal of any rule.





Insurance Commissioner Mike Kreidler