

APPLICANT'S EXHIBIT **18**

Hearings Unit Case No. 16-0002

Office of the Insurance Commissioner

1 needed to evaluate the rate filing. *Id.* When all information is reviewed, the Insurance
2 Commissioner disapproves the rate filing if it is excessive, inadequate or unfairly
3 discriminatory. *See* RCW 48.19.020. Alternatively, the rate filing is approved
4 provided it is supported by the required information and is not excessive, inadequate
5 or unfairly discriminatory. *See* RCW 48.19.030, RCW 48.19.040, WAC 284-54-630.
6 The Insurance Commissioner continues to try to find solutions to problems
7 surrounding long-term care insurance, independently in the State of Washington, and
8 nationally with the National Association of Insurance Commissioners ("NAIC").

9 In response to the growing number of premium increases in long-term care
10 insurance, the NAIC has continued its work to determine the best practices to address
11 the complex issues surrounding long-term care insurance. *State Insurance Regulators*
12 *Work on Long-Term Care Insurance*, NAIC (June 11, 2013),
13 http://www.naic.org/Releases/2013_docs/state_insurance_regulators_work_long_term_care_insurance.htm. (Last visited Nov. 1, 2014). The NAIC is the U.S. standard-setting
14 and regulatory support organization created and governed by the chief insurance
15 regulators from the 50 states, District of Columbia and five U.S. territories. Through the
16 NAIC, state regulators establish standards and best practices, conduct peer review and
17 coordinate their regulatory oversight. In 2011, the NAIC again revised its model long-
18 term care insurance regulation, a model law that is used by most states as a foundation to
19 regulate long-term care insurers. *Id.* The State of Washington, as a member of the
20 NAIC, has adopted the revised model long-term care insurance regulation. The NAIC
21 has since continued working with state regulators to identify a way to address this
22 national problem. *Id.*

23 B. Long-Term Care Insurance Regulations

24 All insurance in Washington, including long-term care insurance is regulated
25 under the Washington Insurance Code in Title 48 of the Washington Revised Code.
26 The Insurance Code authorizes the Insurance Commissioner to "make reasonable rules
and regulations for effectuating any provision of the code." RCW 48.02.060. The
Insurance Code, in combination with the Washington Administrative Code (WAC

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1 284), provides the requirements for rate filings, including rate filings affecting
2 disability insurance premiums. *See* RCW 48.19.² Washington law defines disability
3 insurance to include long-term care insurance. Specifically, RCW 48.11.030 defines
4 disability insurance as “insurance against bodily injury, disablement or death by
5 accident, against disablement resulting from sickness, and every insurance
6 appertaining thereto including stop loss insurance.” As a result, most statutes and
7 rules pertaining to long-term care insurance fall primarily under the statutes and rules
8 applicable to disability insurance. However, statutes and rules specific to long-term
9 care insurance supplement the general provisions for disability insurance. *See* RCW
10 48.83, RCW 48.84, WAC 284-54, and WAC 284-83.

11 The Insurance Code specifies various considerations that must be taken into
12 account in the setting of rates, including past and prospective loss experience, hazards,
13 profitability, and expenses. *See Id.* Washington’s insurance statutes and rules also
14 provide detailed guidelines for determining whether a rate filing is justified, excessive,
15 inadequate or discriminatory. *See* RCW 48.19.030, WAC 284.24.065 and WAC 284-
16 54-060. Moreover, the Code directs the Insurance Commissioner to conduct a review
17 of the rate filings and requires insurers to submit extensive documentation in support
18 of their rate filing, such as loss experience and other pertinent information. *See*
19 RCW 48.19.040. The Insurance Commissioner undertakes a review of a rate filing as
20 soon as reasonably possible. *See* RCW 48.19.060 and RCW 48.19.100. The
21 Insurance Commissioner can approve or disapprove a rate filing. *See* RCW 48.19.060,
22 RCW 48.19.100.

23 “Furthermore, the Code anticipates consumer involvement, and provides a
24 mechanism for their input on rate-setting.” *Blaylock v. First Am. Title Ins. Co.*, 504 F.
25 Supp 2d 1091, 1095 (W.D. Wash. 2007). Pursuant to a written request and a
26 reasonable fee, insurers are required to provide affected consumers “all pertinent
information” related to the rate. *See Id.* and RCW 48.19.310. Insurers are also

² RCW 48.19.010(1) originally excluded disability insurance from this section; however RCW
48.19.010(2) placed disability insurance within the purview of this regulatory section.