



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Office of the Insurance Commissioner

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes **No** **If Yes, explain:**

Purpose: These rules amend the rules regarding the filing of financial and related filings by Washington domestic insurance companies, health care service contractors, health maintenance organizations, and self-funded multiple employer welfare arrangements to require that their financial and related statements only be filed electronically with the NAIC and for those related filings that the NAIC does not accept, these entities must file the statements electronically with the Commissioner. When the filings have been made with the NAIC, the Commissioner will deem the statements to have been filed with the Commissioner.

Insurance Commissioner Matter No. R 2013-25

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 284-07-050, WAC 284-07-060, WAC 284-07-070, WAC 284-07-100, WAC 284-07-190, and WAC 284-07-217

Suspended:

Statutory authority for adoption: RCW 48.02.060, RCW 48.05.250, RCW 48.44.050, RCW 48.46.095, RCW 48.46.200 and RCW 48.125.090.

Other authority: RCW 48.05.073, RCW 48.05.383, RCW 48.44.095, and RCW 48.46.080.

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-13-106 on June 17, 2014.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Jim Tompkins

phone (360) 725-7036

Address: PO Box 40258

fax (360) 586-3109

Olympia, WA 98504-0258

e-mail rulescoordinator@oic.wa.gov

Date adopted:

July 23, 2014

NAME (TYPE OR PRINT)

Mike Kreidler

SIGNATURE

TITLE

Insurance Commissioner

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 23, 2014

TIME: 10:18 AM

WSR 14-15-149

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New		Amended	6	Repealed	_____
-----	--	---------	---	----------	-------

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>6</u>	Repealed	_____
-----	-------	---------	----------	----------	-------

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	6	Repealed	_____

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 (~~and~~), health maintenance organizations registered under chapter 48.46 RCW, (~~and~~) 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) (~~and~~), 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 (~~is required to~~) must file with the (~~commissioner~~) National Association of Insurance Commissioners (NAIC) an annual statement for the previous calendar year in the general form and context as (~~promulgated~~) adopted by the (~~National Association of Insurance Commissioners~~) NAIC (~~(+)~~) for the kinds of insurance to be reported upon (~~, and shall also file a copy thereof with the NAIC~~). 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 (~~shall~~) must adhere to the appropriate Annual Statement Instructions and the Accounting Practices and Procedures Manuals (~~promulgated~~) adopted by the NAIC.

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

(4) Annual statements:

(a) Annual statements for all domestic insurers must be filed electronically with the (~~commissioner. Insurers must electronically transmit the annual statement, as described in subsection (2) of this section, in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file annual statements on paper. The insurer must demonstrate that filing in electronic form will create an undue financial hardship for the insurer. Applications for permission to file on paper must be received by the commissioner at least ninety days before the annual statement is due~~) 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) ~~((File a paper copy of the))~~ Include in the electronic filing an image of the original signatures ((and jurat page of the annual statement at the time of the electronic filing of the annual statement)) in PDF format as noted on the commissioner's web site. This ~~((paper copy))~~ electronically filed document must contain ~~((the original))~~ 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 ~~((shall))~~ must file quarterly statements of its financial condition with the ~~((commissioner and 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 ~~((shall))~~ must file quarterly statements of its financial condition with the NAIC. ~~((The commissioner may require a foreign insurer to file quarterly statements with the commissioner whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the foreign insurer.))~~ The statements ~~((shall))~~ must be filed ~~((in the commissioner's office))~~ 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 ~~((shall))~~ must be in the form and content as ~~((promulgated))~~ adopted by the NAIC for quarterly reporting by insurers, ~~((shall))~~ must be prepared according to appropriate Annual and Quarterly Statement Instructions and the Accounting Practices and Procedures Manuals ~~((promulgated))~~ adopted by the NAIC and ~~((shall))~~ 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 ~~((commissioner))~~ NAIC by electronically transmitting the quarterly statement as described in this subsection ~~((, in PDF or other format as noted on the commissioner's web site)).~~

(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 web site. 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 (~~shall~~) 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. (~~Such~~) Insurers must electronically transmit the monthly financial statements, as described in this subsection, in PDF or other format as noted on the commissioner's web site. The monthly financial statements (~~shall~~) 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 (~~insurer's~~) 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 (~~promulgated~~) adopted by the NAIC for their statutory filings.

(8) Each health care service contractor's (~~and~~), health maintenance organization's, and self-funded multiple employer welfare arrangement's annual statement (~~shall~~) 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 e-mail is considered "writing" for purposes of this subsection.

AMENDATORY SECTION (Amending WSR 02-21-120, filed 10/23/02, effective 11/23/02)

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, (~~and~~) 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 (~~shall~~) 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 (~~and~~), 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 accord-

ance with the appropriate *Annual Statement Instructions and Accounting Practices and Procedures Manuals* (~~(promulgated)~~) 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, (~~(2002)~~) 2014, statements of actuarial opinion for all domestic and foreign insurers must be filed electronically with the (~~commissioner~~) 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, (~~(2002)~~) 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 web site. The commissioner has the discretion to allow an insurer to file a statement of actuarial opinion (~~(on paper)~~) electronically with the commissioner. The insurer must demonstrate that filing (~~(in electronic form)~~) with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file (~~(a paper copy)~~) 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) (~~(File a paper copy of the signature page of the statement of actuarial opinion at the time of the electronic filing of the statement of actuarial opinion. The paper copy must contain the original signature of the actuary.)~~) Include in the electronic filing an image of the original signature in PDF format as noted on the commissioner's web site. 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 (~~(the insurance code or rules thereunder)~~) 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 member in good standing of the Casualty Actuarial Society; 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 ~~((and)),~~ 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.

AMENDATORY SECTION (Amending WSR 02-21-120, filed 10/23/02, effective 11/23/02)

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, ~~((and))~~ 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 ~~((shall))~~ must be filed in electronic form ~~((as well as on paper through December 31, 2002. All annual, quarterly, and other financial statements filed by an insurer after December 31, 2002, shall be filed with the commissioner in electronic form only))~~ 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 ~~((, on a diskette,))~~ internet filing ~~((, or File Transfer Protocol (FTP) filing, for all filings made prior to January 1, 2003. For all filings required to be made on or after January 1, 2003, "electronic form" will exclude diskette.~~

(4) An insurer who on December 31, 1996, was not subject to this rule or has not previously filed in electronic form to the commissioner or the NAIC, shall comply with this rule for the year ending December 31, 1996, and each year thereafter. To enhance the intrastate and interstate surveillance of the insurer's financial condition earlier filing is permitted.

(5) The requirement under this section applies to the extent that the NAIC has issued a diskette submission directive or has otherwise approved or prescribed an applicable diskette format for the particular class of insurer).

~~((+6))~~ (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 e-mail is considered "writing" for purposes of this subsection.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

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, (~~shall be~~) 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 (~~shall be~~) 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 (~~pursuant to~~) under either contracts (~~and/or~~) or treaties, or both of reinsurance of one million dollars or more will not be (~~so~~) exempt.

(3) Foreign or alien insurers filing the audited financial report in another state, (~~pursuant to~~) 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 ~~((commissioner))~~ 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 web site. The commissioner has the discretion to allow an insurer to file ~~((paper copies of))~~ electronically with the commissioner any reports and filings required by WAC 284-07-100 through 284-07-230. The insurer must demonstrate that filing ~~((in electronic form))~~ with the NAIC will create an undue financial hardship for the insurer. Applications for permission to not file ~~((in hard copy))~~ with the NAIC must be received by the commissioner at least ninety days before the ~~((statement of annual statement))~~ 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) ((File a paper copy of the signature or verification at the time of the electronic transmission of the report or filing.~~

~~(8) The report or filing and the appropriate signatures and/or verifications must both be received to complete a filing. The date of receipt of the later of the two parts of the filing is considered the receipt date of the report or filing.))~~ Include in the electronic filing an image of the signature in PDF format as noted on the commissioner's web site. This electronically filed document must contain a legally binding signature of the insurer or independent certified public accountant.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

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 ~~((shall))~~ 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 ~~((shall))~~ must be prepared by the accountant within sixty days after the filing of the annual audited financial report, and ~~((shall))~~ 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 ~~((is required to))~~ 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 web site.

AMENDATORY SECTION (Amending WSR 09-20-069, 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 (~~pursuant to~~) 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 (~~shall~~) 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 (~~shall~~) 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 (~~shall~~) 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 (~~shall~~) 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 web site.

(6) Management (~~shall~~) 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, (~~shall~~) must, to the extent provided by law, be kept confidential by the commissioner.