



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 04, 2025

TIME: 4:54 PM

WSR 25-22-098

Agency: Office of the Insurance Commissioner Insurance Commissioner Matter R 2025-10

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 25-15-141 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) Implementing SSB 5579 (R 2025-10)

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Tuesday, December 9, 2025	10:30 a.m. Pacific Time	Virtual meeting (Zoom) Detailed information for attending this meeting is posted on the OIC website: https://www.insurance.wa.gov/laws-rules/legislation-and-rulemaking/rulemaking/implementing-ssb-5579-r-2025-10	Written comments are due to the OIC by 11:59 pm on December 10, 2025. Written comments should be emailed to rulescoordinator@oic.wa.gov

Date of intended adoption: December 12, 2025 (Note: This is **NOT** the **effective** date)

<p>Submit written comments to:</p> <p>Name Rules Coordinator Address P.O. Box 40255, Olympia, WA 98504-0255 Email rulescoordinator@oic.wa.gov Fax 360-586-3109 Other TTY: 360-586-0241 Beginning (date and time) November 4, 2025 at 12:00 am Pacific Time By (date and time) <u>December 10, 2025 at 11:59 p.m.</u> Pacific Time</p>	<p>Assistance for persons with disabilities:</p> <p>Contact Rules Coordinator Phone 360-725-7171 Fax 360-586-3109/3535 TTY 360-586-0241 Email rulescoordinator@oic.wa.gov Other By (date) <u>December 8, 2025 at 5 p.m.</u></p>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rule implements SSB 5579 (codified at RCW 48.43.732). This law regulates public statements by health carriers and health care providers regarding potential contract terminations. The proposed rule ensures that interested organizations understand their rights and obligations under the new law. OIC is amending Chapter 284-170 Washington Administrative Code (WAC) to accomplish this goal.

Reasons supporting proposal: Revisions to current rules are necessary to effectuate the statute.

Statutory authority for adoption: RCW 48.02.060; RCW 48.43.732(5)

Statute being implemented: RCW 48.43.732

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Patty Kuderer, Insurance Commissioner
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Nico Janssen	P.O. Box 40255, Olympia WA 98504-0255	360-725-7171
Implementation	Sandy Ray, Todd Lovshin	P.O. Box 40255, Olympia WA 98504-0255	360-725-7000
Enforcement	Sofia Pasarow	P.O. Box 40255, Olympia WA 98504-0255	360-725-7000

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name Rules Coordinator
Address PO Box 40255, Olympia, WA 98504-0255
Phone 360-725-7171
Fax 360-586-3109
TTY
Email rulescoordinator@oic.wa.gov
Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

SBEIS Table 1. Summary of exemptions

WAC Section and Title	Description of Adopted Changes	Rationale for Exemption Determination
WAC 284-170-130 Definitions	Clarification of definitions used within the chapter.	RCW 34.05.310(4)(d)
WAC 284-170-441 Public statements regarding contract terminations	Adopts/incorporates by reference statutory provisions in RCW 48.43.732.	RCW 34.05.310(4)(e)

OIC determined that both health carriers and health care providers/facilities are impacted by the implementation of this rule. Based on 2024 WA Employment Security Department (ESD) Covered Employment data, health carriers and large health care providers/facilities are not considered small businesses as seen in the table below. A small business is defined as a business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees (RCW 19.85.020).

SBEIS Table 2. Summary of businesses required to comply with the Adopted Rule¹

Industry NAICS code	NAICS code title	Number of firms in WA	Avg employees per firm in WA	Minor cost threshold
621111	Offices of Physicians (except Mental Health Specialists)	2,130	26	\$27,457.90
621112	Offices of Physicians; Mental Health Specialists	142	9	\$2,716.32
621310	Offices of Chiropractors	1,110	5	\$1,309.73
621320	Offices of Optometrists	434	8	\$3,003.20
621330	Offices of Mental Health Practitioners (except Physicians)	325	11	\$3,726.60
621340	Offices of Physical; Occupational and Speech Therapists; and Audiologists	705	15	\$6,325.18
621391	Offices of Podiatrists	86	5	\$1,820.71
621399	Offices of All Other Miscellaneous Health Practitioners	1,292	5	\$1,354.40
621420	Outpatient Mental Health and Substance Abuse Centers	192	53	\$27,711.25
621491	HMO Medical Centers	8	1,064	\$141,928.86
621492	Kidney Dialysis Centers	17	193	\$157,192.18
621493	Freestanding Ambulatory Surgical and Emergency Centers	31	62	\$43,356.40

¹ Derived from WA Employment Security Department Covered Employment 2024 data: <https://esd.wa.gov/jobs-and-training/labor-market-information/employment-and-wages/covered-employment-qcew>

621498	All Other Outpatient Care Centers	70	107	\$67,854.98
621610	Home Health Care Services	380	36	\$23,473.66
622110	General Medical and Surgical Hospitals	100	910	\$1,207,565.92
622210	Psychiatric and Substance Abuse Hospitals	17	146	\$115,696.14
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	7	304	\$229,577.69
623110	Nursing Care Facilities (Skilled Nursing Facilities)	244	82	\$37,910.73
623210	Residential Intellectual and Developmental Disability Facilities	66	77	\$23,067.54
623220	Residential Mental Health and Substance Abuse Facilities	60	73	\$33,718.17
623311	Continuing Care Retirement Communities	118	102	\$37,073.18
623312	Assisted Living Facilities for the Elderly	2,243	9	\$6,000.28
623990	Other Residential Care Facilities	39	38	\$17,113.42
524114	Direct Health and Medical Insurance Carriers	78	95	\$298,214.06

(2) Scope of exemptions: *Check one.*

- The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)): See Table 1 above.
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

A brief description of the proposed rule including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

Substitute Senate Bill (SSB) 5579 (Chapter 389, Laws of 2025) was signed into law on May 20, 2025. SSB 5579 adds a new section to RCW 48.43 (codified at RCW 48.43.732). This new law regulates public statements regarding expiring of terminating contracts by health carriers and certain health care providers and facilities. SSB 5579 also contains requirements related to: (a) standard template notices that carriers and providers send to health plan enrollees regarding contract expirations and terminations; (b) language in provider contracts; and (c) OIC and the Department of Health (DOH)'s enforcement of the law. Rulemaking is needed to implement SSB 5579 and ensure that interested organizations understand their rights and obligations under the new law.

SSB 5579 and this proposed rule impact both health carriers and health care providers/facilities. Health carriers are determined to not be small businesses, with an average of 95 employees per firm (ESD QCEW, 2024). Health care providers/facilities can be considered small businesses, although the bill does exempt independent individual providers or an independent single-specialty or multispecialty group practice of five or fewer providers (RCW 48.43.732(8)). Therefore, the smallest health care provider organizations do not need to comply with the requirements set forth in statute and this proposed rule, but other small businesses that do not meet this threshold must comply. For purposes of this analysis, the OIC assumes that some health care providers and facilities are classified as small businesses.

This analysis evaluates the cost of compliance and any potential impacts on revenue associated with the proposed rule. Impacts on small businesses are discussed in sections 4 and 5, and steps to reduce the impacts on small businesses are discussed in section 6.

The baseline for the small business economic impact analysis generally consists of existing rules and laws and their requirements. This allows OIC to make a consistent comparison between the state of the world with and without the proposed rule. SSB 5579 imposes restrictions on public statements about contract expirations and terminations. It also establishes the minimum content required for the standard notice template sent to enrollees and patients and the related language to be included in provider contracts. The proposed rule aligns existing Washington Administration Code (WAC) with statute by detailing the notice language to be included in the provisions of the provider contract and further defining terms, processes and dates to provide needed clarity.

SSB 5579 and the proposed rule apply requirements to health care providers and facilities. WAC 284-170-131(3) of the proposed rule defines "health care provider" and "health care facility" to have the same meaning as defined in RCW 48.43.005. RCW 48.43.005 provides the following definitions for these terms:

*"Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, behavioral health hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 or 70.230 RCW, drug and alcohol treatment facilities licensed under **chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.*

"Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

OIC identified the corresponding North American Industry Classification System (NAICS) codes for health care providers/facilities and health carriers. Table 2 above details the average number of firms and employees per industry code, as well as the minor cost threshold.

The minor cost threshold, which is the greater of either 1% of average annual payroll or 0.3% of average annual gross business income (RCW 19.85.020), ranges from \$1,309 for Office of Chiropractors (NAICS code 621310) to \$1,207,565 for General Medical Surgical Hospitals (NAICS code 62210).

The business types that are considered small businesses and thus the focus of this analysis are highlighted in table 2 above.

This analysis outlines probable costs of businesses in the industry to comply with the adopted rule and includes the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers whether compliance with the adopted rule will cause businesses in the industry to lose sales or revenue.

Portions of the proposal are exempt from requirements of the Regulatory Fairness Act. The rule sections that have been determined exempt based on the exemptions provided in RCW 34.05.310 are identified in the section above.

WAC 284-170-131 Definitions applicable to RCW 48.43.732.

Description:

This new section adds definitions applicable only to RCW 48.43.732. These definitions are added for clarity.

Cost(s):

There are no direct compliance costs imposed on the impacted entities by the addition of this new section.

WAC 284-170-360 Enrollee's access to providers.

Description:

This section of the proposed rule repeals subsection 6 and 7 and moves them to the new sections 284-170-365 and 284-170-443. This change is to better align existing rule with the requirements of RCW 48.43.732 on contracts that expire by their own terms or for contract terminations without cause in accordance with the terms of the provider contract.

Cost(s):

There are no direct compliance costs imposed on the impacted entities by the changes made in this section. The change in this section of the proposed rule is to better align with RCW 48.43.732.

WAC 284-170-365 Continuity of care protections.

Description:

This section of the proposed rule adds language repealed from 284-170-360 WAC regarding “continuity of care” protections through which enrollees can continue to receive health care services as if their provider remained “in network” after a contract expiration/termination. This change is to better organize existing rules with the requirements of RCW 48.43.732. Subsection 2 codifies into the WAC an existing federal statute (section 133 of the No Surprises Act, 42 U.S.C. 300gg-113) and any implementing federal rules regarding a separate continuity of care right.

Cost(s):

There are no direct compliance costs imposed on the impacted small businesses by the addition of this new section. The change in this section of the proposed rule is to clearly organize and interpret existing state and federal statutes.

WAC 284-170-421 Provider contracts-Standards-Hold harmless provisions.**Description:**

RCW 48.43.732(5) states that all requirements of RCW 48.43.732 must be included in all provider contracts by January 1, 2027. The section requires the commissioner to develop template language for inclusion in provider contracts by rule. The proposed rule’s amendments to WAC 284-170-421 provide the contract language and clarify that provider contracts cannot waive or include language that is inconsistent with RCW 48.43.732’s requirements.

Cost(s):

This section of the proposed rule imposes a cost on health carriers to update their provider contracts to include language about enrollee/patient notice requirements for expiring or terminating contract. Because health carriers are not considered small businesses, the compliance costs imposed are not considered as a part of this analysis. The OIC assumes no additional costs to health care providers and facilities due to this section because it is OIC’s understanding that health carriers, not providers, typically develop provider contract language.

WAC 284-170-443 Provider contract terminations – Notice requirements – General standards.**Description:**

This new section is created from language repealed in WAC 284-170-360(7). It applies only to contract terminations other than those specified under RC 48.43.732. It does not impose any new requirements.

Cost(s):

There are no direct costs associated with this section. Language is moved from a repealed section.

WAC 284-170-445 Provider contract terminations under RCW 48.43.732 – Notice requirements.**Description:**

RCW 48.43.732(4)(a) directs the OIC, in consultation with health carriers, health care providers, health care facilities, and consumers, to develop standard template language for contract termination and expiration notices sent to health plan enrollees and patients. This section of the proposed rule clarifies the process and timing for this requirement and the process for OIC’s prior approval of notices not using the standard template.

Cost(s):

There may be an administrative cost to health care providers/facilities to include additional elements as prescribed by the commissioner that are not outlined in RCW 48.43.732. Further, there may be costs to health care providers/facilities to update their existing notice templates to align with any future updates the commissioner makes to the templates.

This is generally deemed to be a minimal one-time cost for providers/facilities to update their notices to patients. This proposed rule and RCW 48.43.732 do not create a new obligation for a health care provider or facility to provide notice of a potential termination to enrollees/patients (RCW 48.43.732(2)). Therefore, there is no new cost of sending additional notices. The OIC makes the following assumptions for health care providers or facilities that already send notices to patients and choose to continue doing so using the standard template language:

- It takes an office support staff member 1 hour to update their existing contract termination/expiration notices with the standard template provided by the OIC. This includes creating the template to align with formatting requirements and to review the language.
- If a provider or facility chooses not solely to use the standard template, the provider/facility must receive the commissioner’s prior approval for a notice. This process takes 4 hours for an office support staff member to update their existing notices and submit them to the OIC for approval.
- The labor rate for a secretary is \$67.82 per hour.²

² 2024 labor rates estimated from the published 2019 labor costs by the Department of Labor:

<https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost-inputs-used-in-ebsa-opr-ria-and-pra-burden-calculations-june-2019.pdf>

- The cost of updating the notice template is a one-time cost for providers and facilities.

SBEIS Table 3. WAC 284-170-445 cost estimates

Scenario	Estimated Cost
Health care provider/facility uses the OIC standard template language found on the OIC website.	\$67.82
Health care provider/facility uses their own notice template and submits to the OIC for approval.	\$271.28

WAC 284-170-447 Enforcement – Public statements and notices regarding contract terminations.

Description:

This section of the proposed rule details the enforcement actions that the OIC may take upon carriers for non-compliance with the statute and regulations. For potential violations by health care providers and facilities, this section outlines how the commissioner may refer the provider/facility to the Department of Health or the appropriate licensing or disciplining entity. This section incorporates RCW 48.43.732 without material change and does not impose any additional compliance measures upon the impacted entities.

Cost(s):

There are no direct costs associated with this section. The proposed language incorporates RCW 48.43.732 without material change. Further, fines, penalties, or defense costs associated with enforcement actions for failure to comply with the proposed rules are not costs that are considered in the small business economic impact analysis.

Summary of all Cost(s):

WAC Section and Title	Probable Cost (or Cost Range)
284-170-445	\$67.82 - \$271.28
Total Cost per Entity:	\$67.82 - \$271.28 (one-time cost)

The above summary details the quantifiable costs associated with this proposed rule.

Analysis on if the proposed rule may impose more than minor costs for businesses in the industry. Includes a summary of how the costs were calculated.

The estimated impacts of the proposed rule on identified small businesses are determined to not impose more than minor costs. The table below shows the identified small businesses by their NAICS code, their associated minor cost thresholds, and the estimated cost of the proposed rule. The estimated cost used is the highest end of the estimated cost range.

Industry NAICS code	NAICS code title	Number of firms in WA	Avg employees per firm in WA	Minor cost threshold	Estimated cost of rule
621111	Offices of Physicians (except Mental Health Specialists)	2,130	26	\$27,457.90	\$271.28
621112	Offices of Physicians; Mental Health Specialists	142	9	\$2,716.32	\$271.28
621310	Offices of Chiropractors	1,110	5	\$1,309.73	\$271.28
621320	Offices of Optometrists	434	8	\$3,003.20	\$271.28
621330	Offices of Mental Health Practitioners (except Physicians)	325	11	\$3,726.60	\$271.28
621340	Offices of Physical; Occupational and Speech Therapists; and Audiologists	705	15	\$6,325.18	\$271.28
621391	Offices of Podiatrists	86	5	\$1,820.71	\$271.28

621399	Offices of All Other Miscellaneous Health Practitioners	1,292	5	\$1,354.40	\$271.28
621610	Home Health Care Services	380	36	\$23,473.66	\$271.28
623312	Assisted Living Facilities for the Elderly	2,243	9	\$6,000.28	\$271.28
623990	Other Residential Care Facilities	39	38	\$17,113.42	\$271.28

Because the proposed rule does not impose more than minor costs on small businesses impacted by this rule, the OIC has determined that it is not necessary to complete a full small business impact statement.

Steps OIC has taken to lessen impacts


The OIC took several steps to reduce costs to comply with the proposed rule:

- In WAC 284-170-447, the OIC included language stating that the commissioner will provide informational notices to carriers and health care providers/facilities if the commissioner finds a violation during the period of July 27, 2025 to December 31, 2025. This interpretation aligns with other implementation dates of the statute, therefore giving impacted entities consistent timelines.
- Definitions have been added for clarity to ensure a seamless transition for carriers and health care providers/facilities.
- The standard notice template has not been explicitly prescribed in rule to allow for flexibility and a faster process by which impacted entities can work with OIC to ensure compliance.
- WAC 284-170-445(3) allows impacted entities to send expiration/termination notices electronically if the enrollee or patient consents to electronic communications. This interpretation could reduce the administrative burden on impacted entities from printing and mailing physical forms.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name Rules Coordinator
Address PO Box 40255, Olympia, WA 98504-0255
Phone 360-725-7171
Fax 360-586-3109
TTY
Email rulescoordinator@oic.wa.gov
Other

Date: November 4, 2025	Signature: 
Name: Patty Kuderer	
Title: Insurance Commissioner	

NEW SECTION

WAC 284-170-131 Definitions applicable to RCW 48.43.732. The following definitions apply only to RCW 48.43.732 and WAC 284-170-441, 284-170-445, and 284-170-447.

(1) "Cause to be made" means initiating, arranging, or directing another entity to make a public statement defined in this section.

(2) "Control" including the terms "controlled by" and "common control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a health care provider or health care facility, such as through ownership of voting securities, membership rights, or by contract.

(3) "Health care provider" and "health care facility" have the same meaning as defined in RCW 48.43.005.

(4) "Notices" mean letters or other written notifications sent directly to enrollees, by physical mail or electronically, including communicating through enrollees' electronic health records or portals, regarding expiring or terminating provider contracts described in RCW 48.43.732.

(5) "Otherwise affiliated with" or "affiliated with" means:

(a) A health care provider that directly, indirectly, or through one or more intermediaries, is controlled by or is under common control or ownership with a facility; or

(b) A health care provider that operates all or a substantial part of the health care services or property of a facility under a lease, management, or operating agreement.

(6) "Provider contract" has the same meaning as defined in RCW 48.43.732.

(7) "Public statement" means written or verbal communication, whether made electronically, orally, or through physical documents, by health care providers, health care facilities, carriers, or health care providers employed by, contracted with, or otherwise affiliated with a health care facility to health plan enrollees, patients, or the general public. "Public statement" includes, but is not limited to, notices, press releases, opinion articles such as op-eds, web pages, emails, social media posts, letters, communication through electronic health records, and individual verbal, written, or electronic communications.

(8) "Specific legal obligation" and "legal obligation" means a statutory, regulatory, judicial, or other legal requirement obligating a carrier, health care provider, or health care facility to take a specific action.

AMENDATORY SECTION (Amending WSR 16-07-144, filed 3/23/16, effective 4/23/16)

WAC 284-170-360 Enrollee's access to providers. (1) Each issuer must allow an enrollee to choose a primary care provider who is accepting new patients from a list of participating providers.

(a) Enrollees also must be permitted to change primary care providers at any time with the change becoming effective not later than the beginning of the month following the enrollee's request for the change.

(b) The issuer must ensure at all times that there are a sufficient number of primary care providers in the service area accepting new patients to accommodate new enrollees if the plan is open to new enrollment, and to ensure that existing enrollees have the ability to change primary care providers.

(2) Each issuer must allow an enrolled child direct access to a pediatrician from a list of participating pediatricians within their network who are accepting new patients.

(a) Enrollees must be permitted to change pediatricians at any time, with the change becoming effective not later than the beginning of the month following the enrollee's request for the change.

(b) Each issuer must ensure at all times that there are a sufficient number of pediatricians in the service area accepting new patients to accommodate new enrollees if the plan is open to new enrollment, and to ensure that existing enrolled children have the ability to change pediatricians.

(3) Each issuer must have a process whereby an enrollee with a complex or serious medical condition or mental health or substance use disorder, including behavioral health condition, may receive a standing referral to a participating specialist for an extended period of time. The standing referral must be consistent with the enrollee's medical or mental health needs and plan benefits. For example, a one-month standing referral would not satisfy this requirement when the expected course of treatment was indefinite. However, a referral does not preclude issuer performance of utilization review functions.

(4) Each issuer must provide enrollees with direct access to the participating chiropractor of the enrollee's choice for covered chiropractic health care without the necessity of prior referral. Nothing in this subsection prevents issuers from restricting enrollees to seeing only chiropractors who have signed participating provider agreements or from utilizing other managed care and cost containment techniques and processes such as prior authorization for services. For purposes of this subsection, "covered chiropractic health care" means covered benefits and limitations related to chiropractic health services as stated in the plan's medical coverage agreement, with the exception of any provisions related to prior referral for services.

(5) Each issuer must provide, upon the request of an enrollee, access by the enrollee to a second opinion regarding any medical diagnosis or treatment plan from a qualified participating provider of the enrollee's choice. The issuer may not impose any charge or cost upon the enrollee for such second opinion other than the charge or cost imposed for the same service in otherwise similar circumstances.

~~((6) Each issuer must cover services of a primary care provider whose contract with the plan or whose contract with a subcontractor is being terminated by the plan or subcontractor without cause under the terms of that contract:~~

~~(a) For at least sixty days following notice of termination to the enrollees; or~~

~~(b) In group coverage arrangements involving periods of open enrollment, only until the end of the next open enrollment period.~~

~~(i) Notice to enrollees must include information of the enrollee's right of access to the terminating provider for an additional sixty days.~~

~~(ii) The provider's relationship with the issuer or subcontractor must be continued on the same terms and conditions as those of the contract the plan or subcontractor is terminating, except for any pro-~~

~~vision requiring that the issuer assign new enrollees to the terminated provider.~~

~~(7) Each issuer must make a good faith effort to assure that written notice of a termination is provided at least thirty days prior to the effective date of the termination to all enrollees who are patients seen on a regular basis by the provider or facility whose contract is terminating, irrespective of whether the termination was for cause or without cause. When a termination for cause provides less than thirty days notice to the carrier or provider, an issuer must make a good faith effort to assure that written notice of termination is provided immediately to all enrollees.)~~

NEW SECTION

WAC 284-170-365 Continuity of care protections. (1) Each carrier must cover services of a primary care provider whose contract with the plan or whose contract with a subcontractor is being terminated by the plan or subcontractor without cause under the terms of that contract:

(a) For at least 60 days following notice of termination to the enrollees; or

(b) In group coverage arrangements involving periods of open enrollment, only until the end of the next open enrollment period.

(i) Notice to enrollees must include information of the enrollee's right of access to the terminating provider for an additional 60 days.

(ii) The provider's relationship with the carrier or subcontractor must be continued on the same terms and conditions as those of the contract the plan or subcontractor is terminating, except for any provision requiring that the carrier assign new enrollees to the terminated provider.

(2) Each carrier must provide continuity of care services beginning on the date of contract termination to enrollees pursuant to section 133 of the No Surprises Act (42 U.S.C. 300gg-113) and any implementing federal regulations.

AMENDATORY SECTION (Amending WSR 16-07-144, filed 3/23/16, effective 4/23/16)

WAC 284-170-421 Provider contracts—Standards—Hold harmless provisions. The execution of a contract by an issuer does not relieve the issuer of its obligations to any enrollee for the provision of health care services, nor of its responsibility for compliance with statutes or regulations. In addition to the contract form filing requirements of this subchapter, all individual provider and facility contracts must be in writing and available for review upon request by the commissioner.

(1) An issuer must establish a mechanism by which its participating providers and facilities can obtain timely information on patient

eligibility for health care services and health plan benefits, including any limitations or conditions on services or benefits.

(2) Nothing contained in a participating provider or a participating facility contract may have the effect of modifying benefits, terms, or conditions contained in the health plan. In the event of any conflict between the contract and a health plan, the benefits, terms, and conditions of the health plan must govern with respect to coverage provided to enrollees.

(3) Each participating provider and participating facility contract must contain the following provisions:

((u)) (a) {Name of provider or facility} hereby agrees that in no event, including, but not limited to nonpayment by {name of issuer}, {name of issuer's} insolvency, or breach of this contract will {name of provider or facility} bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against an enrollee or person acting on their behalf, other than {name of issuer}, for services provided pursuant to this contract. This provision does not prohibit collection of {deductibles, copayments, coinsurance, and/or payment for noncovered services}, which have not otherwise been paid by a primary or secondary issuer in accordance with regulatory standards for coordination of benefits, from enrollees in accordance with the terms of the enrollee's health plan.

(b) {Name of provider or facility} agrees, in the event of {name of issuer's} insolvency, to continue to provide the services promised in this contract to enrollees of {name of issuer} for the duration of the period for which premiums on behalf of the enrollee were paid to {Name of issuer} or until the enrollee's discharge from inpatient facilities, whichever time is greater.

(c) Notwithstanding any other provision of this contract, nothing in this contract shall be construed to modify the rights and benefits contained in the enrollee's health plan.

(d) {Name of provider or facility} may not bill the enrollee for covered services (except for deductibles, copayments, or coinsurance) where {name of issuer} denies payments because the provider or facility has failed to comply with the terms or conditions of this contract.

(e) {Name of provider or facility} further agrees (i) that the provisions of (a), (b), (c), and (d) of this subsection shall survive termination of this contract regardless of the cause giving rise to termination and shall be construed to be for the benefit of {name of issuer's} enrollees, and (ii) that this provision supersedes any oral or written contrary agreement now existing or hereafter entered into between {name of provider or facility} and enrollees or persons acting on their behalf.

(f) If {name of provider or facility} contracts with other providers or facilities who agree to provide covered services to enrollees of {name of issuer} with the expectation of receiving payment directly or indirectly from {name of issuer}, such providers or facilities must agree to abide by the provisions of (a), (b), (c), (d), and (e) of this subsection. ((u))

(4) Beginning January 1, 2027, each provider contract, as defined in RCW 48.43.732, must contain a provision entitled "ENROLLEE/PATIENT NOTICE REQUIREMENTS FOR EXPIRING OR TERMINATING CONTRACTS." This provision must be placed in the provisions of the provider contract addressing contract expirations or terminations. This provision must include the following language:

(a) {Name of provider/facility and name of carrier} agree to follow all applicable requirements of RCW 48.43.732 and corresponding regulations at WAC 284-170-441, 284-170-445, and 284-170-447.

(b) If this provider contract expires by its own terms or one party gives notice to the other party of an intended termination without cause in accordance with the terms of this provider contract, provider/facility and carrier may not make or cause to be made public statements regarding such expiration or termination until 45 days prior to the termination date of the provider contract.

(c) Except for notifications to enrollees/patients that the contract termination is no longer applicable, such as in the case of a rescission of the contract termination, all notices sent to enrollees and patients under this contract termination provision must either:

(i) Solely utilize the standard template language posted on the website of the office of the insurance commissioner under WAC 284-170-445, with no modifications to the text of the template other than to insert the specific information requested in the bracketed sections of the template. Notices complying with this subsection may be sent to enrollees and patients without the commissioner's review or prior approval; or

(ii) Receive the commissioner's prior approval if the notice does not solely utilize the template language. Notices described in this subsection must be reviewed and approved by the commissioner prior to being used.

(iii) Provider/facility and carrier may send enrollees and patients the notices described in this subsection electronically rather than by physical mail if the enrollee or patient has consented to receive electronic communications.

(d) Carrier acknowledges that, for violations of RCW 48.43.732 and WAC 284-170-441 and 284-170-445 by carriers, the commissioner may pursue enforcement actions under RCW 48.02.080 or impose a civil monetary penalty upon carriers of up to \$100 per noncompliant notice, per day, per enrollee to whom the notice has been sent in advance of the 45-day period established under WAC 284-170-441.

(e) Provider/facility acknowledges that, for potential violations of RCW 48.43.732 and WAC 284-170-441 and 284-170-445 by health care providers and health care facilities (as those terms are defined in RCW 48.43.005), if the commissioner has cause to believe that any health care provider or health care facility has violated the requirements of RCW 48.43.732 or WAC 284-170-441 or 284-170-445, the commissioner may submit information to the department of health or the appropriate health care facility or provider licensing or disciplining entity.

(5) A provider contract cannot, by its terms or other provisions, waive or include language that is inconsistent with the prohibited conduct and requirements set forth in RCW 48.43.732.

(6) The contract must inform participating providers and facilities that willfully collecting or attempting to collect an amount from an enrollee knowing that collection to be in violation of the participating provider or facility contract constitutes a class C felony under RCW 48.80.030(5).

((+5)) (7) An issuer must notify participating providers and facilities of their responsibilities with respect to the health issuer's applicable administrative policies and programs, including but not limited to payment terms, utilization review, quality assessment and improvement programs, credentialing, grievance, appeal and adverse benefit determination procedures, data reporting requirements, pharma-

cy benefit substitution processes, confidentiality requirements and any applicable federal or state requirements.

~~((6))~~ (8) An issuer must make all documents, procedures, and other administrative policies and programs referenced in the contract available for review by the provider or facility prior to contracting. An issuer may comply with this subsection by providing electronic access.

(a) Participating providers and facilities must be given reasonable notice of not less than ~~((sixty))~~ 60 days of changes that affect provider or facility compensation or that affect health care service delivery unless changes to federal or state law or regulations make such advance notice impossible, in which case notice must be provided as soon as possible.

(b)(i) Subject to any termination and continuity of care provisions of the contract, a provider or facility may terminate the contract without penalty if the provider or facility does not agree with the changes, subject to the requirements in subsection ~~((9))~~ (11) of this section.

(ii) A material amendment to a contract may be rejected by a provider or facility. The rejection will not affect the terms of the existing contract. A material amendment has the same meaning as in RCW 48.39.005.

(c) No change to the contract may be made retroactive without the express written consent of the provider or facility.

(d) An issuer must give a provider or facility full access to the coverage and service terms of the applicable health plan for an enrolled patient.

~~((7))~~ (9) Each participating provider and participating facility contract must contain the following provisions:

(a) "No health carrier subject to the jurisdiction of the state of Washington may in any way preclude or discourage their providers from informing patients of the care they require, including various treatment options, and whether in their view such care is consistent with medical necessity, medical appropriateness, or otherwise covered by the patient's service agreement with the health carrier. No health carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of a patient with a health carrier. Nothing in this section shall be construed to authorize providers to bind health carriers to pay for any service."

(b) "No health carrier may preclude or discourage patients or those paying for their coverage from discussing the comparative merits of different health carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier."

~~((8))~~ (10) Subject to applicable state and federal laws related to the confidentiality of medical or health records, an issuer must require participating providers and facilities to make health records available to appropriate state and federal authorities involved in assessing the quality of care or investigating complaints, grievances, appeals, or review of any adverse benefit determinations of enrollees. An issuer must require providers and facilities to cooperate with audit reviews of encounter data in relation to the administration of health plan risk adjustment and reinsurance programs.

~~((9))~~ (11) An issuer and participating provider and facility must provide at least ~~((sixty))~~ 60 days' written notice to each other before terminating the contract without cause.

~~((10))~~ (12) Whether the termination was for cause, or without cause, the issuer must make a good faith effort to ensure written notice of a termination is provided at least ~~((thirty))~~ 30 days prior to the effective date of the termination or immediately for a termination for cause that results in less than ~~((thirty))~~ 30 days notice to a provider or carrier to all enrollees who are patients seen:

- (a) On a regular basis by a specialist;
- (b) By a provider for whom they have a standing referral; or
- (c) By a primary care provider.

~~((11))~~ (13) An issuer is responsible for ensuring that participating providers and facilities furnish covered services to each enrollee without regard to the enrollee's enrollment in the plan as a private purchaser of the plan or as a participant in publicly financed programs of health care services. This requirement does not apply to circumstances when the provider should not render services due to limitations arising from lack of training, experience, skill, or licensing restrictions.

~~((12))~~ (14) An issuer must not penalize a provider because the provider, in good faith, reports to state or federal authorities any act or practice by the issuer that jeopardizes patient health or welfare or that may violate state or federal law.

~~((13))~~ (15) Every participating provider contract must contain procedures for the fair resolution of disputes arising out of the contract.

~~((14))~~ (16) Participating provider and facility contracts entered into prior to the effective date of these rules must be amended upon renewal to comply with these rules, and all such contracts must conform to these provisions no later than July 1, 2016. The commissioner may extend the July 1, 2016, deadline for an issuer for an additional one year, if the issuer makes a written request. That request must explain how a good faith effort at compliance has been made, provide the specific reasons the deadline cannot be met, and state the date the issuer expects to be in compliance (no more than one year beyond July 1, 2016).

NEW SECTION

WAC 284-170-441 Public statements regarding contract terminations. In the case of a provider contract defined in RCW 48.43.732 that is expiring by its own terms or for which one party has given notice to the other party of an intended termination without cause in accordance with the terms of the provider contract, carriers, health care providers and health care facilities, and health care providers employed by, contracted with, or otherwise affiliated with a health care facility may not make or cause to be made public statements regarding such expiration or termination until 45 days prior to the expiration or termination date.

NEW SECTION

WAC 284-170-443 Provider contract terminations—Notice requirements—General standards. (1) This section applies to any contract termination other than those under RCW 48.43.732.

(2) Each carrier must make a good faith effort to assure that notice of a termination is provided at least 30 days prior to the effective date of the termination to all enrollees who are patients seen on a regular basis by the provider or facility whose contract is terminating, irrespective of whether the termination was for cause or without cause.

(3) When a termination provides less than 30 days notice to the carrier or provider, a carrier must make a good faith effort to assure that written notice of termination is provided immediately to all enrollees.

NEW SECTION

WAC 284-170-445 Provider contract terminations under RCW 48.43.732—Notice requirements. (1) This section applies to provider contracts as set forth in RCW 48.43.732 that are expiring by their own terms or for which one party has given notice to the other party of an intended termination without cause in accordance with the terms of the provider contracts.

(2) By December 1, 2025, the commissioner shall develop and publish standard enrollee/patient notice templates. The standard enrollee/patient notice templates will be posted on the public website of the office of the insurance commissioner by December 1, 2025. The commissioner may modify the templates periodically, as determined necessary.

(a) Beginning January 1, 2026, all notices sent to enrollees and patients under this section must either:

(i) Solely utilize the standard template language posted on the website of the office of the insurance commissioner under this section, with no modifications to the text of the template other than to insert the specific information required in the bracketed sections of the template. Notices complying with this subsection may be sent to enrollees and patients without the commissioner's review or prior approval; or

(ii) For notices that do not solely utilize the standard template as described in this section, receive the commissioner's prior approval before the notices are sent to enrollees. In determining whether to approve or deny proposed notices, the commissioner may consider, but is not limited to, consideration of: Whether the notices contain the minimum information required by RCW 48.43.732(4); whether the notices clearly inform the enrollee of their options and rights to access health care services; whether the notices are generally consistent with the standard template language under this section; and whether the notices make any statements related to the intent or conduct of the other party to the contract dispute.

(b) The commissioner shall develop a process by which carriers, health care providers, and facilities may submit proposed notices to

the commissioner under the circumstances described in (a)(ii) of this subsection. Instructions for this process will be posted on the website of the office of the insurance commissioner on or before January 1, 2026. Carriers, health care providers, and facilities must submit proposed notices to the commissioner a minimum of 14 business days in advance of the date they intend to deliver such notice to the enrollee/patient.

(3) Carriers, health care providers, and health care facilities may send enrollees and patients the notices described in this section electronically rather than by physical mail if the enrollee or patient has consented to receive electronic communications.

(4) Notifications to enrollees/patients that the contract termination is no longer applicable, such as a rescission of the contract termination, are not subject to the requirements of this section.

NEW SECTION

WAC 284-170-447 Enforcement—Public statements and notices regarding contract terminations. (1) For violations of RCW 48.43.732 and WAC 284-170-421 (4) and (5), 284-170-441, and 284-170-445 committed by carriers on or after January 1, 2026, the commissioner may pursue enforcement actions under RCW 48.02.080 or impose a civil monetary penalty upon carriers of up to \$100 per noncompliant notice, per day, per enrollee to whom the notice has been sent in advance of the 45-day period established under RCW 48.43.732 and WAC 284-170-441.

(2) For potential violations of RCW 48.43.732 and corresponding regulations in WAC 284-170-421 (4) and (5), 284-170-441, and 284-170-445 by health care providers and health care facilities on or after January 1, 2026, if the commissioner has cause to believe that any health care provider or health care facility is in violation, the commissioner may submit information to the department of health or the appropriate health care facility or provider licensing or disciplining entity.

(3) During the period of July 27, 2025, to December 31, 2025, the commissioner will provide informational notices to carriers and health care providers and facilities if the commissioner finds there has been a violation of RCW 48.43.732. Any informational notices issued by the commissioner during this period will be public records and may be subject to disclosure.