

RCW 48.03.040 Examination reports—Consideration by commissioner

—Orders—Confidentiality. (1) No later than sixty days after completion of each examination, the commissioner shall make a full written report of each examination made by him or her containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of individuals, and such conclusions and recommendations as may reasonably be warranted from such facts.

(2) The report shall be certified by the commissioner or by his or her examiner in charge of the examination, and shall be filed in the commissioner's office subject to subsection (3) of this section.

(3) The commissioner shall furnish a copy of the examination report to the person examined not less than ten days and, unless the time is extended by the commissioner, not more than thirty days prior to the filing of the report for public inspection in the commissioner's office. If such person so requests in writing within such period, the commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the commissioner have been made.

(4) Within thirty days of the end of the period described in subsection (3) of this section, unless extended by order of the commissioner, the commissioner shall consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order:

(a) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure that violation;

(b) Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refile under this section; or

(c) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(5) All orders entered under subsection (4) of this section must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. Such an order is considered a final administrative decision and may be appealed under the Administrative Procedure Act, chapter 34.05 RCW, and must be served upon the company by certified mail or certifiable electronic means, together with a copy of the adopted examination report. A copy of the adopted examination report must be sent by certified mail or certifiable electronic means to each director at the director's residence address or to a personal email account.

(6) (a) Upon the adoption of the examination report under subsection (4) of this section, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the person examined. Thereafter, the commissioner may

open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(b) Nothing in this title prohibits the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(c) If the commissioner determines that regulatory action is appropriate as a result of any examination, he or she may initiate any proceedings or actions as provided by law.

(d) Nothing contained in this section requires the commissioner to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency. [2008 c 100 s 1; 1993 c 462 s 45; 1965 ex.s. c 70 s 1; 1947 c 79 s .03.04; Rem. Supp. 1947 s 45.03.04.]

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.