

**WAC 284-23-580 Insurer must obtain and keep evidence that insured is a key person—Definition of "key person."** (1) If a business entity seeks to be the owner and beneficiary of a contract of life insurance on an employee, the insurer must obtain and keep evidence that the business entity had an "insurable interest" in the life of the insured as required by RCW 48.18.030(3) and that the insured was a "key person" at the time the contract was made.

(2) An insurer issuing employer-owned key person life insurance to a business entity shall establish and apply appropriate underwriting guidelines to ensure that the employees or other persons on whose lives key person life insurance policies are written are actually key persons.

(3) An insurer issuing employer-owned life insurance policies or certificates must keep or require the employer to keep throughout the period of insurance, evidence that the insured has applied for or consented to the contract in writing. Consent requirements include, but are not limited to RCW 48.18.030, 48.18.060, and 48.18.580.

(4) If a contract of insurance is entered into pursuant to an exchange under Section 1035 of the Internal Revenue Code, an insurer is not required to obtain a new consent by the insured employee (as required at RCW 48.18.580(2)) only if the insurer to be replaced provides the replacing insurer with a copy of the original signed consent.

(5) The term "key person" means a person that, during the year the contract was made, was:

(a) A director;

(b) A shareholder who owns more than five percent in value of the stock of the employer; or

(c) A "highly compensated individual" or "highly compensated employee" within the meaning of Internal Revenue Code sections 414(q), 105(h) or 101(j), as applicable.

[Statutory Authority: RCW 48.02.060 and 48.18.586. WSR 08-01-076 (Matter No. R 2004-03), § 284-23-580, filed 12/17/07, effective 1/17/08.]