**Consumer Directed Employer**

**Rate Setting Board**

**Bylaws**

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# Article I. Name

The name of this body shall be the Consumer Directed Employer Rate Setting Board, also known as the “Board”.

# Article II. Mission Statement

The Board’s mission is to attempt to determine a proposed labor and administrative rate, including a specific amount for health benefits for the Consumer Directed Employer (CDE) and the Individual Provider (IP) workforce. In addition, the Board may take testimony and make a recommendation regarding the administrative rate for home care agencies that serve Medicaid clients.

# Article III. Definitions

Administrative Rate**:**  The portion of a consumer directed employer's hourly rate that is to be used by the consumer directed employer to perform its administrative duties.

Board Staff: A member of the Department of Social and Health Services CDE Program Unit.

Home Care Agency Administrative Rate: The portion of the home care agency rate that is not subject to direct care worker parity ([RCW 74.39A.310](https://app.leg.wa.gov/rcw/default.aspx?cite=74.39A.310#:~:text=RCW%2074.39A.,or%20increase%20in%20labor%20rates.&text=These%20documents%20are%20currently%20being,during%20the%202024%20Legislative%20Session.")).

Labor Rate: The portion of the consumer directed employer's hourly rate that is to be used by the consumer directed employer to compensate its workers, including wages, benefits, and any associated taxes.

Open Public Meetings Act (OPMA): The statute that requires that all meetings of governing bodies of public agencies, including cities, counties, and special purpose districts, be open to the public.

# Article IV. Purpose, Function, and Responsibilities

## Section 1. Purpose

The Board was established per RCW 74.39A.530 to evaluate and determine a proposed rate paid to the CDE. The rate consists of a combined labor and an administrative component. In addition, the Board may make a recommendation regarding the administrative rate for home care agencies that serve Medicaid clients.

If there are two contracted consumer directed employers, then all references to the CDE shall be interpreted in the plural throughout the bylaws.

## Section 2. Function/Responsibilities

The Board functions as the public body responsible to collaboratively review, discuss, and determine the rate to be paid to the CDE. This is accomplished on an even year cycle and between cycles if needed.

Board members are responsible to evaluate and propose changes in the rate to be paid to the CDE that includes a labor component to be used exclusively for paying the wages, associate taxes, and benefits of IPs; and an administrative component that is fair and sufficient to generate a reasonable rate of return for the CDE vendor and consider an increase to the home care agency administrative rate. Responsibilities of the Board include the following. Board members will:

* Comply with the Open Public Meetings Act (OPMA) requirements,
* Receive rate setting materials and information prior to each meeting, as available,
* Review the material and come prepared for discussion.
* Collaboratively discuss the materials and listen to testimony.
* Have an opportunity to ask questions or request more information.

The agreed upon CDE rate and recommended home care agency administrative rate will be submitted to OFM to determine if the rates are financially feasible for the state. If certified, the rates will be included in the Governor’s budget for the legislature to approve or reject the request for funds as a whole during regular session of each odd year. If the legislature rejects the request, the matter shall return to the Board for further consideration and development of a revised proposed rates.

# Article V. Membership

## Section 1. Appointments

The Board consists of members as outlined in RCW 74.39A.530.

1. Voting Members
2. One representative from the Governor’s office
3. One representative from the Department of Social and Health Services (DSHS)
4. One representative from each Consumer Directed Employer
5. One designee from the exclusive bargaining unit. In the absence of an exclusive bargaining representative, a designee from the consumer directed employer workforce chosen by the employees of the Consumer Directed Employer
6. A fifth voting member shall be selected at the commencement of the Board’s activities by the aforementioned members. This person shall Chair the Board and cast a tie-breaking vote if the voting members are unable to pass by majority vote on the labor rate component. The selection process for the Chair is outlined in the Selecting the Rate Setting Board Chair Policy & Procedure.
7. Non-voting, advisory members
8. Four legislators, one member from each caucus of the House of Representatives and the Senate
9. One representative from the State Council on Aging
10. One representative of an organization representing people with intellectual or developmental disabilities;
11. One representative of an organization representing people with physical disabilities;
12. One representative from the licensed home care agency industry chosen by the state's largest association of home care agencies that primarily serves state-funded clients
13. One home care worker chosen by the state's largest organization of home care workers

Other than the legislators, state agency representatives, and Chair identified in this section, members of the Board are appointed by the Governor for terms of two years, except the Governor shall appoint the initial members identified in (1,c.), (1,d.), and (2,b.) through (2,f.) of the section to staggered terms not to exceed four years.

## Section 2. Board Chair

At the start of the Board's rate setting activities, the voting members must first select an additional voting member, who will Chair the Board. The Chair is responsible to:

1. Preside over Board meetings.
2. Cast a tie-breaking vote if the voting members fail to reach agreement on the labor rate by July 1.
3. Act as the Board’s formal spokesperson. If an alternate spokesperson is needed the Board can designate a particular spokesperson for a specific issue as needed. Public statements by the Chair or designated spokesperson on behalf of the Board must reflect the Board’s adopted recommendations and positions.

## Section 3. Vacancies and Removal

1. The Governor’s appointments shall be made by April 1 of each even-numbered year.
2. All mid-term vacancy of an appointed Board member, or an appointment from the appointing authority replacing a former member shall be for the remainder for the unexpired term.
3. When one of the Governor appointed Board seats is vacant, the Board and DSHS may make a recommendation to the Governor on filling the vacant seat.
4. Governor or legislative appointed members appointed to fill a vacancy with a remaining term of less than one and one-half years may be reappointed for the next two-year term.

## Section 4. Resignations

If a Governor appointed Board member is unable to complete their term, they must inform the Governor’s Office and the Board staff. A letter of resignation should be sent to the Governor indicating the date their resignation is effective and whether they are able to serve until a replacement is named.

## Section 5. Attendance

1. Regular and consistent attendance of Board Members is critical to effective functioning and to meet the requirements as outlined in RCW 74.39A.530. Board members are expected to attend the majority of the meetings.
2. Staff taking the minutes of a Board meeting shall record the attendance. The meeting minutes will reflect those voting and non-voting members who attended in person, virtually, or were absent.
3. If a Board member is unable to attend two meetings in a row, the Board will review whether the position on the Board should be forfeited. The voting members will vote on any recommended action.

## Section 6. Compensation and Reimbursement for Expenses

If funding is available DSHS may reimburse Board members eligible for travel and other bona fide expenses in accordance with RCW 43.03.050 and 43.03.060.

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# Article VI. Meetings

## Section 1. Overview

All Board meetings shall be held to conform to the Open Public Meetings Act, RCW 42.30. Meeting notices will be posted on the CDE internet website.

## Section 2. Frequency

1. Regular Board Meetings
2. By January 30 of each even year, Board staff will send to the Code Reviser’s Office for publication the date, time and location for regular Board meetings for that year.
3. The date, time and location for regular Board meetings shall be set by majority vote of the voting members of the Board or by the Chair. The Chair may cancel a regular Board meeting for justifiable reasons, including the lack of sufficient agenda items or lack of a quorum.
4. Special Board Meetings
5. The Chair may call a special meeting of the Board at any time.
6. Board members may call a special meeting at any time provided a majority of the voting board members agree.
7. Notice must be delivered 72 hours before the meeting to each member of the Board.
8. The general public must also be given 72 hours notice.
9. The notice must specify the time, place and the nature of the business to be conducted at the meeting. The Board may not take final action on any item not listed in the public notice.

## Section 3. Quorum

* 1. A majority of the voting members of the Board shall constitute a quorum for the transaction of business and is necessary for any action to taken by the Board. In the event there are vacancies on the Board, a majority of existing voting members shall constitute a quorum.
  2. Any Board action may be taken by voice vote. Whenever a vote is non-unanimous, the Chair shall call for a show of hands. At the request of any board member, the Chair shall poll the members individually to record their votes.

## Section 4. Process and Manner of Voting

Voting Process

When the board membership has four voting members listed in Article V., Section 1, each voting member shall have one vote. When there are five voting members due to two CDEs representatives, each voting member shall have two votes with the exception of the CDE representatives who shall have one vote. Voting members cannot split their votes. A majority of the voting members of the Board constitutes a quorum.

Manner of Voting

* 1. The voting on Chair election, motions, and resolutions shall be conducted by voice vote.
  2. In lieu of voice vote, a Board member may request a vote by roll call, and the Chair will honor any such request.
  3. Absentee voting is not permitted.
  4. The use of proxies is not permitted.
  5. Secret votes are not permitted.
  6. Only Board members identified in Article IV., Section 1, may vote.

## Section 5. Rules of Procedure

1. The procedures used to conduct Board business will be determined by these Bylaws, the Open Public Meetings Act, RCW 42.56, and the Board’s authorizing statute, RCW 74.39A.530.
2. Robert's Rules of Order shall be used for formal Board actions and will be used when taking official positions, when approving the agenda and minutes of Board meetings, and when amending the Bylaws. In all other instances informal or formal procedures may be used.

## Section 6. Meeting Minutes and Agendas

1. Agenda for all meetings proposed by the Chair, no less than seven days prior to meeting
2. Chair reserves right to change and modify the proposed agenda of a regularly scheduled meeting at any time prior.
3. The agenda shall be adopted by majority vote of the voting members of the board.
4. Board members are encouraged to submit meeting agenda items to the Chair for consideration at least 10 business days prior to the meeting.
5. Board staff will assist the Chair with the administrative duties.
6. The meeting minutes will be posted once they have been approved by the Board.

Section 7. Board Staff

The Department of Social and Health Services shall provide administrative and operational support to the Board.

## Section 8. Public Comment

The Chair may solicit public comment on any or all agenda items during meetings. The Chair of the Board will set the time limit of speakers. Based on the content, some agendas may not include a public comment period.

## Section 9. Legal Advice

Each board and commission is assigned an Assistant Attorney General (AAG) to provide valuable information and advice about statutes and legal issues. Requests can be made by the Chair to the Board AAG regarding decisions, conflict of interest, review proposed documents, complaints, and general legal advice about Board actions and activities.

Each involved Administration/Agencies will continue to have the ability to work with and seek legal advice from their respective AAG or private attorney’s about CDE business which could involve rate setting matters. Under statute that advice would be kept under client attorney privilege unless endorsed by the attorney involved.

## Section 10. Lobbying

1. No Board member or Board staff may use the name of the Board to support or oppose any issue or cause.
2. The Board and its members can lobby in their official capacity as Board members in support or opposition to legislative proposals if authorized by a vote of the Board or is required as a function of the Board, such as testifying as a Board member.
3. Board members may provide information to appropriate parties about proposed legislation and its potential effect on the Board.
4. Board members are permitted to lobby in support or opposition to legislative proposals on behalf of organizations they represent or in their individual capacity, provided they do not connect their activities to their position as a Board member in any way.

# Article VII. Amendment Procedures

## Section 1. How to Amend the Board Bylaws

1. These bylaws may be amended by any meeting of the Board that meets quorum requirements outlined in Article VI., Section 3 of these bylaws.
2. Proposed amendments shall be presented at a Board meeting for discussion and to get all questions answered. Recommended amendments will then be voted on at a subsequent Board meeting.
3. Approval of a majority of the Board who are in attendance is required. The Chair may be included in the approval process to break a tie vote if applicable.

# Bylaws Approval

The Board approved the bylaws by majority vote on April 18, 2022.

The Board approved revisions to the bylaws by majority vote on July 8, 2024.