

March 1, 2022

Rules Coordinator
Office of the Washington Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

RE: Matter R 2022-01
Comments on OIC CR 101 – Transparency in insurance underwriting
Submitted via email

Dear Commissioner Kreidler:

On behalf of our member companies, the **Northwest Insurance Council (NWIC)** and the **National Association of Mutual Insurance Companies (NAMIC)** wish to provide the following comments regarding the Office of the Insurance Commissioner’s (OIC) CR 101 (Preproposal Statement of Inquiry), related to insurance underwriting transparency.

Property & Casualty insurers are committed to providing reliable, useful and accurate information to consumers about the policies and coverages they purchase. The OIC’s contention that consumers are experiencing “unfairness and deception” in insurance transactions in the absence of this rule is unfounded, and we specifically reject the statement that insurers, “do not provide full disclosure to consumers containing honest and transparent reasons for their insurance product prices”.

It is already plainly against the letter and spirit of Washington statutes and insurance regulations for insurers to engage in unfair or deceptive practices, and if the allegations set forth in the CR 101 were provably true, we believe the OIC would investigate and impose fines and/or other regulatory sanctions against any insurer found to be in violation of those laws or rules.

We also take exception to the false premise, as stated in the OIC’s CR 101, that existing consumer notifications, particularly the adverse action notice required under RCW 48.18.545(2) are insufficient to adequately inform consumers about factors that may contribute to underwriting or rating decisions made by insurers.

- We would argue that factors such as the OIC’s existing regulations that require insurers to send adverse action notices to consumers even when their insurance rates have been *improved* by the inclusion of Credit-Based Insurance Scores are a primary source of confusion and frustration for Washington policyholders.
- We would further argue that it is not the responsibility of insurance consumers to determine – as the CR 101 suggests – if their rates “are unfairly discriminatory or excessive, which are both prohibited under the Insurance Code.” Insurers provide to the OIC exhaustively detailed information, calculated and compiled by actuaries and legal/compliance experts, in every rate filing. These filings are required to be submitted to the OIC for approval *prior* to use, allowing the OIC to fulfill *its* statutory obligation to review those filings and determine whether the filed

rates meet all statutory requirements. We would respectfully argue it is the OIC's duty – not the consumer's – to understand and review filings to ensure rates are not inadequate, excessive or unfairly discriminatory.

Further, and especially based on the inaccurate portrayal of insurers' current adherence to Washington's existing disclosure requirements, we are concerned that new rules imposed by the OIC that are intended to provide "full disclosure and complete transparency" will be in direct conflict with federal and state laws that protect proprietary information from public disclosure.

We note that the Uniform Trade Secrets Act (RCW 19.108.010 and RCW 42.56.070 provide exemptions from public disclosure of insurer rating information, as do WACs 284-03-03 and 284-24A-030 and others. While there is value in consumers being provided with generalized and even some specific information about how insurance products are underwritten and priced, it is not clear (1) that information currently being provided fails to satisfy existing laws and regulations; nor (2) that the level of detail contemplated by the wording of the CR 101 would not be in conflict with the concept of protecting proprietary rating and underwriting factors from broad public (and competitor) review. In fact, the preproposal statement of inquiry specifically attacks these principles found in current law and suggest a lack of full understanding about Washington's competitive insurance market.

Finally, we wish to note that, as a direct result of actions taken by the Commissioner in March 2021 and February 2022, the P&C insurance marketplace is in chaos. Renewal rates have skyrocketed for thousands of the lowest-risk insureds in our state through no fault of their own. Additionally, after a court invalidated the Commissioner's emergency rule banning the use of credit-based insurance scores and insurers had just begun to restore prior discounts to policyholders, the Commissioner's recent adoption of the new permanent (3-year) rule put that rate relief in jeopardy.

We believe requiring the development of a new set of complex documents for use by every insurer, to include dozens (at least) of rating and underwriting factors and associated analyses, comparative and historical rate data and other information will serve to further frustrate and confuse consumers, as well as dramatically increase costs for insurers that will further inflate premiums.

At the outset of this letter, we expressed our commitment to providing reliable, accurate, useful information to insurance consumers. As we close, we invite the OIC to reconsider this rule proposal and instead explore with stakeholders – including participating in discussions on this topic currently underway at both the NAIC and NCOIL – a reasonable approach to improving the quality of information insurers provide to consumers – information they can use to make the right decisions about accessing the insurance coverage they need at reasonable and affordable rates.

Thank you for the opportunity to provide comment on behalf of our members. Please contact us if we can provide additional information.

Respectfully,

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