

November 10, 2022

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

*Submitted via email*

**RE: Matter R 2022-01 – Transparency in insurance underwriting (Third Prepublication Draft) - NAMIC and NWIC’s Written Testimony**

Dear Commissioner Kreidler:

On behalf of our member companies, the National Association of Mutual Insurance Companies (NAMIC) and Northwest Insurance Council (NWIC) wish to provide the following comments regarding the above captioned third prepublication draft of the proposed regulation provided by the Office of the Insurance Commissioner (OIC) to insurers on October 27, 2022.

At the outset, we must again state that NAMIC’s and NWIC’s member companies appreciate the importance of providing insurance consumers with accurate and helpful information, so that they may make thoughtful, informed decisions in the competitive insurance marketplace. Insurers are committed to providing reliable, useful and beneficial information to consumers about the policies and coverages they purchase.

We also acknowledge and appreciate the work that the OIC’s rules team has engaged in to respond to comments, concerns and recommendations from the trades and from individual insurers who have reached out in an effort to improve the draft proposed rule. Put plainly, however, while the changes made from the second to the current third drafts are significant, the proposed rule remains excessively complicated and at times impossible for insurer compliance and – more importantly – excessively burdensome for policyholders.

This correspondence will include in greater detail concerns that have been raised to the trades by insurers, as well as specific suggestions and inquiries seeking clarification. However, we first earnestly offer three key recommendations we believe could lead to achieving a goal we all share: Establishing uniform requirements for personal lines P&C insurers to provide timely, clear, concise and *useful* information about premium increases to consumers in Washington.

1. **Limit the scope and breadth of the rule.** The concept of providing clear – and *actionable* – information to policyholders is a worthy goal. The draft proposed rule continues to require granular-level information, some of which is not gathered, saved or easily “presented in terms that are understandable to an average policyholder” [as required under (5)(a)(vi)(A)]. Further discussions

with insurers would likely reveal – for example – five-or-so “commonly applied” factors that most P&C insurers consider, that also have the greatest impact on premium changes *and* which can be impacted (improved) by changes in policyholder behavior. We believe it would be far more practical to consumers, cost-effective for insurers and compliance-friendly for the OIC for the rule to establish those leading factors and require insurers to explain in simple terms how each impacted the policyholder’s premium at renewal.

2. **Establish a single, realistic implementation date.** We acknowledge and appreciate that the OIC bifurcated the implementation schedule for the draft proposed rule, requiring insurers to provide premium change information when requested by a policyholder for policies renewing on or after January 1, 2024, and requiring notices for all policies with premium changes at or above 10% beginning with policies renewing on or after January 1, 2027. However, the same amount of IT development and design work will be required to respond to individual consumer inquiries as it will for broadly shared premium change disclosures. The identification and quantification of the numerous changes - especially for composite rate factors such as risk scores, underwriting tiers and driver rating factors, which sometimes include one or more “primary factors” – make responding individually and manually unworkable. And, as insurers have noted, renewal invoices for homeowners policies will be sent by some insurers by the end of October 2023 - less than a year from now. We urge the OIC to establish the effective date for the entire rule as no sooner than **January 1, 2027**.
3. **Use enforcement mechanisms other than exposure to violations under RCW 48.30.** As we have discussed in Interested Party meetings and shared in our previous comments, a rule as complex as what is being proposed by the OIC is bound to result in companies making errors as they seek to comply and provide accurate information to policyholders. The OIC has broad authority to inquire, investigate, engage in market conduct and other examinations of insurer practices – including the authority to level fines and issue cease-and-desist orders. The draft proposed rule’s reference to unfair and deceptive practices, RCW 48.30 and 284-30 WAC could expose insurers not only to administrative penalties, but also to litigation. This isn’t necessary for enforcement of the rule’s provisions, and should be replaced with references to other existing administrative remedies, so that an error made in a good faith effort to comply with the rule doesn’t result in a costly lawsuit.

**To the above recommendations, we would also add two suggestions/requests:**

- Consider the ongoing national discussions around transparency and disclosure in this rulemaking. We’re aware that organizations including the NAIC and NCOIL are developing potential model legislation that could greatly improve information provided to consumers in a more uniform way, easing compliance and providing greater clarity for insurers and consumers across the nation.
- Convene a working group of insurers, producers, OIC staff and interested parties to research what information is actually wanted by and useful for policyholders, and redesign the draft proposed rule to better reflect consumers’ needs.

Additionally, we respectfully tender the following comments and questions provided to the trades by insurers:

#### **Premium Capping and General Approved Rate Changes**

WAC 284-30A-040 (5)(a)(vi)(C)(I) addresses premium capping and general approved rate changes. We strongly urge that the Rule should permit companies to include “premium capping” as part of filed rate changes, and a reason such as “approved rate change”, on the same line on the Notice. The premium capping rules are included in approved rate filings. Listing “premium capping” as a separate “reason” and a separate line on the Notice will be very confusing to customers and will lead to many questions for agents, OIC staff and companies.

Even in a simple case, it might happen that the only “rating characteristic change” is that a recent prior claim is added (or becomes older and drops off), but the final premium could go down (up) due to stabilization. Adding a new claim will cause the “fully indicated ultimate calculated premium” to increase, yet the stabilized/capped premium might actually decrease from the prior term.

The following examples illustrate the problem:

- If the number of prior claims increases due to a recent new claim, that is likely to increase the “indicated premium” (by +10% for example). But even if nothing else changes, the stabilized (capped) premium might (a) increase by a smaller percentage, like 5% due to the stabilization rule or (b) not change at all or (c) decrease.
- Similarly, if a claim drops off the record, that would likely decrease the “indicated premium” (by -10% for example). But even if nothing else changes, the stabilized premium might (a) decrease by a smaller percentage like 5% due to the stabilization rule or (b) not change at all or (c) increase.

### **Composite Rating Variables**

WAC 284-30A-040 (5)(a)(vi)(C)(III) discusses composite rating variables. We strongly urge that “composite rating variables should be permitted to include “primary factors” as well as “additional factors”.

The language here might allow this, but it is our understanding that OIC intends for “composite rating variables” to only include “additional factors” (not “primary factors”).

Some “composite rating variables” include primary factors and some of those are protected as trade secrets. The third draft states that including compound rating variables like underwriting tier, driver class, etc. as a single “reason” and on a single line in the consumer notice is not acceptable, if the compound rating variable includes “primary factors”. However, for some insurers it is impossible to break out premium changes in this way.

### **Responses to Requests for Additional Information**

WAC 284-30A-040 (5)(a)(i)(A) and WAC 284-30A-040 (5)(a)(iii) only provide for a 20-day response to a premium request change. Twenty calendar days is frequently not enough time to resolve individual customer questions.

Regarding requests for additional information from policyholders as described in WAC 284-30A-040 (5)(a)(iii), it will sometimes require more than 20 calendar days for companies to research, analyze and respond. Allowing 30 business days from the date of receipt of the request is a more realistic timeframe to respond to these requests. The following language is recommended to reflect this change:

“Insurers must respond to and provide additional information for policyholder’s subsequent requests related to the Premium Change Notice, no later than ~~20 calendar~~ 30 business days from the date of receipt of any subsequent requests.”

Similarly related to WAC 284-30A-040 (5)(a)(i)(A), it is anticipated that policyholder information requests will require a manual process for responding. The response to a premium change notice request will likely also take longer than 20 calendar days. Allowing 30 business days from the date of receipt of the request is also recommended. Below is the suggested language:

“If upon request, then no later than ~~20 calendar~~ 30 business days from the date of receipt of the request ...”

#### **Clarification of affected policies**

We believe the Premium Change Transparency Rule should be limited to private passenger auto policies and not include property policies, motorcycle, RV, ATV, boat, or other lines of coverage.

#### **Clarification of “Premium Change”**

We would like the draft to clarify that changes to policy coverages, including mid-term endorsement additions, are not included in the definition of premium changes that require disclosure under the rule.

#### **Clarification of “Estimated Dollars”**

The OIC is requested to clarify and provide an example of “estimated dollars” as set forth in WAC 284-30A-040 (5)(a)(vi)(C)(IV):

(IV) Insurers may include the use of estimated dollars in the Premium Change Notice, if a reasonable explanation and sufficient information are provided by the insurer to the policyholder on the degree of accuracy estimated dollars achieve, as specifically applied to that policy and premium change.

#### **Clarification of “translation service”**

WAC 284-30A-040 (5)(a)(xi) discusses providing a translation service. The OIC is requested to clarify if there are specific languages that are required and/or if companies can satisfy this by providing a 1-800 translation service.

#### **Clarification of Premium Change Notice Contents**

The language in WAC 284-30A-050 regarding Premium Change Notice Contents is confusing. The Rule states: “... insurers must articulate and quantify policyholder premium changes through either dollars, percentages, or paragraph form ...” The OIC is requested to clarify the phrase “in paragraph form” and provide an example of what is contemplated by this language.

The form also indicates that either dollars or percentages can be shown, but the example Notice shows a column for each. The OIC is requested to clarify if a company only shows one or the other, will that be considered an “alternative form” as contemplated by this language. If not, the OIC is requested to provide an example of an acceptable “alternative form.”

#### **Clarification of Premium Change Notice Disclaimer**

As written, WAC 284-30A-040(5)(a) Premium Change Notice Disclaimer, requires insurers to modify their web pages and consumer-facing software applications that are specific to Washington. This requirement will cause confusion to consumers across the nation by showing the disclaimer to

customers each time they visit a web page, regardless of whether the language really applies to the customer. To avoid consumer confusion, the disclaimer language should only be required with renewal notices.

### **Clarification of Telematics Exemption**

WAC 284-30A-020(5)(c) Scope of Applicability provides an exemption for UBI (telematics):

*(5)(c) Exemptions: Information in a filing on “usage-based insurance” and about the usage-based component of the rate is confidential and exempt from this chapter, pursuant to RCW 48.19.040.*

The OIC is requested to confirm that companies are not required to include UBI (telematics) scores as a “reason” on the Notice or as a “composite rating variable.”

### **Clarification of Premium Change Notice Instructions**

The Premium Change Notice Instructions, WAC 284-30A-040(2),(3) and (4), are unclear. The OIC is requested to clarify if there are any changes to the form or if an “alternative” is utilized, OIC approval is required.

### **Clarification of Premium Change Notice Contents**

WAC 284-30A-050 provides guidance regarding the Premium Change Notice Contents.

The OIC is requested to clarify if companies are only expected to include on the form the reasons which cause the premium to increase. Often, some factors will cause increases while others will cause decreases.

Also, the OIC is asked to clarify what insurers are expected to do if there is a premium increase, but there are no reasons to list.

In closing, we again thank you for your time and effort throughout this process. We hope our comments will be reviewed in the spirit of their intent – continued dialogue toward workable, useful regulations that benefit Washington’s insurance consumers. Please feel free to contact us if you would like to discuss our written testimony in greater detail, or if you have any questions.

Respectfully,

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