



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)**  
**(Implements RCW 34.05.310)**  
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: February 01, 2022

TIME: 8:04 AM

WSR 22-04-091

**Agency:** Office of the Insurance Commissioner

**Subject of possible rule making:** Insurance Underwriting Transparency

Insurance Commissioner Matter R 2022-01

**Statutes authorizing the agency to adopt rules on this subject:** RCW 48.02.060 for the Commissioner's general rulemaking authority to implement RCW 48.01.030, RCW 48.18.180, RCW 48.18.2901, RCW 48.18.292, RCW 48.18.480, RCW 48.18.545, RCW 48.19.020, RCW 48.19.035, and RCW 48.30.010.

**Reasons why rules on this subject may be needed and what they might accomplish:** Insurance consumers are not provided with full disclosure and complete transparency from insurers for adverse actions, rate changes, or the factors that insurers consider in determining premiums. This prevents the insurance consumer from making informed decisions on their insurance policies, renewals, coverages, and pricing. This also causes the consumer to experience unfairness and deception in these transactions, where insurers are at a significant advantage with expert level knowledge of the insurance underwriting process, including how heavily and which rating factors are considered. Allowing insurers to make rate changes or to take adverse actions against consumers who are at a significant disadvantage in these dealings, where there is also lack of full disclosure, complete transparency, and fairness, results in unfair and deceptive trade practices.

The Office of the Insurance Commissioner has received consumer complaints that indicate insurers have used unfair and deceptive practices involving a lack of complete transparency in rating premiums for insurance consumers. The unfair and deceptive practices operate to the detriment of the consumer, who is uninformed not only on the factors considered and the insurance underwriting process, but also as to how their insurer scrutinized or assessed each variable. Requiring insurers to provide an itemized notice to the consumer, disclosing the exact changes in a consumer's insurance, including costs, and the entirety of factors considered for adverse impacts, will achieve complete transparency, honesty, and fairness in these transactions.

Currently insurers must provide notice stating the significant factors of the credit history or insurance score that resulted in adverse actions against a consumer based in whole or in part on credit history or insurance score. However, the adverse action notice provided by insurers under RCW 48.18.545(2), does not sufficiently disclose the totality of factors or underwriting process decisions in adequate detail, and it does not achieve complete transparency in all insurance transactions. Insurers do not provide full disclosure to consumers containing honest and transparent reasons for their insurance product prices, nor do they provide any exact information on other factors considered that can result in adverse impacts. This causes confusion for consumers, while creating the potential for deception and unfairness in associated insurance transactions. Consumers are unfortunately left unaware of the factors being considered by insurance companies in setting their insurance premiums and rates. This presents complications for all affected parties with insurer actions against the consumer, such as determining whether the statutory rate standards and prohibitions on discrimination are being met (RCW 48.18.480 and RCW 48.19.020).

Consumers need to be provided with full disclosure and complete transparency, if their insurers are considering factors that result in adverse impacts or determine premiums and rates for insurance coverage, which at times can be statutorily mandated. In addition to complete transparency and full disclosure, consumers need access to complete information about their rates to determine if they are unfairly discriminatory or excessive, which are both prohibited under the Insurance Code. Insurers should provide consumers with an itemized notice disclosing their rating factors and the weight of consideration for each variable in insurance underwriting. The OIC recommends using the plain talk guidelines outlined by Executive Order 05-03 under Governor Christine Gregoire. This will afford consumers protection in the form of complete transparency and fairness in insurance underwriting, as well as the ability to make informed decisions on acquiring insurance, renewing policies, administering coverages, improving insurability, and managing insurance costs.

The business practice of insurers taking actions against consumers, without disclosing or giving notice to the exact factors and actuarial reasons for doing so, is deceptive. Permitting insurers to veil their underwriting practices with the guise that they

are proprietary, confidential, or of no interest to the consumer, results in a lack of honesty, complete transparency, and fairness in insurance transactions. The lack of complete transparency also allows insurers to take adverse actions, such as increasing insurance costs, without disclosing the exact factors and considerations that negatively impacted consumers.

The business of insurance, and the Insurance Code, are both conditioned upon the belief and intent that insurance is affected by public interest, which requires all affected parties to act with good faith, abstain from deception, and practice honesty and equity in all insurance matters. The duty of preserving the integrity of insurance is upon the insurer, the insured, their providers, and their representatives. The Office of the Insurance Commissioner's mission is to protect consumers, the public interest, and Washington's economy through the fair and efficient regulation of the insurance industry.

Therefore, the Commissioner is considering rulemaking that will seek to achieve complete transparency in insurance underwriting by requiring insurers to provide notices to consumers for all factors evaluated in any associated insurer actions, which must include an itemized disclosure of all variables considered in underwriting, as well as the proportionality or weight at which those factors were evaluated. The required notice should provide the consumer with information indicating the exact changes in their insurance, whether related to costs, coverages, or insurer actions against the consumer. This rulemaking will attempt to accomplish complete transparency in underwriting by defining and clarifying the scope of insurer responsibility for adverse actions, premiums, rate changes, and consumer notice requirements.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** None.

**Process for developing new rule (check all that apply):**

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) Submit written comments by March 1, 2022

**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Michael Walker  
Address: 302 Sid Snyder Ave., SW, Olympia WA 98504  
Phone: 360-725-7036  
Fax: 360-586-3109  
TTY: 360-586-0241  
Email: rulescoordinator@oic.wa.gov  
Web site: www.insurance.wa.gov  
Other:

(If necessary)

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Web site:  
Other:

Additional comments:

**Date:** February 1, 2022

**Name:** Mike Kreidler

**Title:** Insurance Commissioner

**Signature:**

