



Mr. Michael Walker
Policy Analyst, Policy and Legislation Division
Washington State Office of the Insurance Commissioner

RE: Comments on CR-101 (R 2021-09) Administrative Hearings

Dear Mr. Walker,

On behalf of the Washington Association of Health Underwriters (WAHU), I am submitting this letter in response to the OIC's CR-101 (R 2021-09) notice of intent to consider the adoption of rules that the OIC issued on July 2, 2021, with a response date of July 28, 2021. For the reasons stated below, WAHU is opposed to the CR-101 and requests that the OIC not proceed further with this potential rulemaking.

WAHU is a professional trade association comprised of hundreds of licensed insurance producers that are located in virtually every city and town throughout Washington state. As professionals licensed by the OIC to engage in the sale and solicitation of insurance in Washington state, WAHU members are keenly aware of their responsibilities under the Code, and of their duties to the insurance-buying public as well. WAHU has been a strong and proud stakeholder, working with key legislators, the OIC, and other industry stakeholders, as legislators have updated the requirements in the Insurance Code related to licensed insurance producers. We are concerned, however, that the CR-101 (R 2021-09) related to revisions regarding certain Administrative Hearings could adversely impact WAHU members and other licensed insurance producers in matters where these Administrative Hearings are necessary.

This CR-101 notice of possible rulemaking appears to indicate that the OIC wishes to limit basic discovery in all administrative hearings in front of the Insurance Commissioner's internal hearing officer. "Discovery" is simply the exchange of legal information and known facts related to a case. Access to the facts is a central element of basic fairness. These hearings involve licensees administratively litigating decisions of the Commissioner, including decisions related to a license, compliance, fines, penalties, and business practices.

The proposed rule change apparently seeks to dramatically restrict discovery in all insurance administrative hearings in cases involving a licensee. The Administrative Procedures Act (APA) affords litigants the right to address and respond fully to all allegations and pleadings which would likely be restricted by this rule limiting discovery. WAHU believes that the proposed rule change is unnecessary. Current state law and regulations already provide the OIC's internal hearing officer with the ability, on a case-by-case basis, to approve certain discovery requests, and to manage any alleged discovery abuses.

Under the APA, the state agencies must provide actual fairness, and the appearance of fairness, in their administrative processes. This potential rule puts both of these standards in jeopardy. There is no need for the OIC to restrict the discovery rights of regulated entities that are engaged in administrative litigation with the Commissioner. Regulated entities, including licensed insurance producers, deserve an opportunity to discover and present all relevant information that might be influential in such

matters. Additionally, the hearing officers conducting such hearings deserve to have all of the relevant information presented before a decision is rendered.

Accordingly, WAHU requests that the OIC not proceed with any rulemaking associated with CR-101 (R 2021-09) regarding Administrative hearings.

Thank you,
Angela Dubai

Angela Dubai

WAHU President