The Doctors Company
TDC GROUP

August 4, 2025

Sent via email - rulescoordinator@oic.wa.gov
Washington Office of Insurance Commissioner
PO Box 40255
Olympia WA 98504-0255

Re: The Doctors Company Comment on R 2025-05 (Minimum Standards for Claims Handling)

Dear OIC Rules Coordinator:

Please accept this letter as The Doctors Company's written comment regarding R 2025-05 - Clarifying and updating the minimum standards for claims handling. The Doctors Company is the largest physician-owned medical liability insurance carrier in the nation and insures over 1,100 healthcare providers in Washington.

WAC 284-30-300 Authority and Purpose
We respectfully oppose the currently proposed deletion in WAC 284-30-300, which removes "with such frequency as to indicate a general business practice." This deletion makes an insurer strictly liable for any violation of the Minimum Standards for Claims Handling (MSCH), even ones resulting from inadvertence or mistake. Strict liability, in general, is imposed for inherently dangerous conduct and while claims handling is important it usually does not cause imminent harm to the public. Additionally, violations of the MSCH are enforceable under RCW 48.30.015 which permits the superior court to award *three times* the actual damages. Strict liability with treble damages is unreasonable for instances of mistake or inadvertence. We request language that permits an insurer the ability to provide a defense for an alleged violation.

WAC 284-30-320 (2) Definitions – Claim
We respectfully oppose the new definition of "Claim" in WAC 284-30-320(2) because it currently includes that a claim may be made by "any communication." We request clarification that an insurer is permitted to request that a claim be made in writing. This creates a clear document trail for the benefit of the insured, insurer, and the claimant.

WAC 284-30-320 (15) Definitions – Notification of a Claim
We respectfully oppose the proposed rule change in WAC 284-30-320(15) that adds to the definition of "Notification of a Claim" "[a]ny notification … to the insurer … by a third party claimant which reasonably apprises the facts pertinent to a claim … under an insurance policy or insurance contract of the insurer." This permits a third-party unknown to either the insured or the insurer to start the clock on a claim and trigger the insurer's obligations under the MSCH. In doing so, this provision violates the right of an insured to choose to file a claim and invades the right of an insurer and insured to freely contract the right for the insured to have the authority to initiate a claim. We request the removal of this third-party notification language.

The Doctors Company
TDCGROUP

WAC 284-30-330 (11) Specific unfair claims settlement practices defined.
We respectfully oppose the proposed rule change in WAC 284-30-330(11) that prohibits delaying an investigation or payment of a claim due to a request for supplemental service or medical provider documents. A request for current or updated service or medical provider information ensures that the claimant received the appropriate care, prevents potential fraud, and promotes accurate payment to resolve service and medical bills.

WAC 284-30-370 Standards for prompt investigation of a claim.
We respectfully request that medical liability insurers be exempted from the proposed rules that require investigations within 30 days and notifications every 30 days thereafter. Medical liability claim investigations may begin before a lawsuit is filed and require a careful analysis of the patient's medical records. Under HIPAA, the patient must consent to release their medical records, and once obtained, healthcare providers have up to 30 days to provide the records once they receive the release. Once the complete records are received one or more experts will likely be retained to review the records in addition to other investigation, all of which will take longer than the initial 30 days contained in these proposed changes. Medical liability claims cannot be investigated on a 30-day timeline. Other states, like California, exempt medical liability cases from a similar timeline. (*See* 10 CCR §2595.1(b)(2).) A requirement to provide notices and send repeated notices is a waste of resources and needlessly burdensome in the medical liability context and unfairly sets up medical professional liability insurers to allegations of delay in investigation on almost every claim.

Thank you for the opportunity to submit public comments to draft rules R 2025-05. If you have any questions, please do not hesitate to contact us.

Very truly yours,

Stephen Freedman
Senior Vice President & Regional Operating Officer

:dwc