MPL | MEDICAL PROFESSIONAL LIABILITY ASSOCIATION

August 7, 2025

Office of the Insurance Commissioner
302 Sid Snyder Ave., SW
Ste. 200
Olympia, WA 98501

Via email: rulescoordinator@oic.wa.gov

RE: R-2025-05 Clarifying and updating the minimum standards for claims handling

To Whom It May Concern:

On behalf of the Medical Professional Liability (MPL) Association and its more than four dozen domestic medical professional liability insurers and self-insured members, including entities domiciled and/or doing business in Washington, I am writing in regard to the prepublication draft of proposed amendments to the minimum standards for claims handling (R-2025-05).

By way of introduction, the MPL Association is the nation's leading trade association representing insurance companies, risk retention groups, captives, trusts, and other entities owned and/or operated by their policy holders, as well as other insurance carriers with a substantial commitment to the MPL line. MPL Association members insure more than 2.5 million healthcare professionals around the world—doctors, dentists, oral surgeons, nurses and nurse practitioners, podiatrists, and other healthcare providers. MPL Association members also insure more than 3,000 hospitals and 50,000 medical facilities and group practices globally.

MPL Association members are committed to ensuring a fair and efficient system of claims resolution for both the healthcare professionals they insure and patients who claim to have suffered an adverse outcome resulting from a medical procedure. In this regard, we appreciate the opportunity to share our perspective on the prepublication draft of proposed amendments to the minimum standards for claims handling (R-2025-05).

Given the nature of the proposed changes, we believe it would be appropriate for the Office of the Insurance Commissioner (OIC) to clearly differentiate between the different kinds of insurance covered by the regulation. In the Preproposal Statement of Inquiry, the OIC clearly noted that the potential rulemaking was based on consumer concerns with "automobile and homeowners' insurance claims." The proposed draft, however, broadly addresses all types of insurance in the state. Given that the claims handling processes vary substantially between different types of insurance, especially for a long-tail and highly complex line such as MPL, it would be appropriate to clarify the proposed rule to more clearly distinguish those circumstances applicable to all insurers, and those where different standards are not only appropriate, but absolutely necessary.

It is especially important to note that MPL insurance addresses perhaps the most complex and clinically challenging claims faced by any type of insurer. Unlike, for instance, home and auto, MPL claims frequently comprise multiple insured individuals and entities, involve health situations that have developed over a substantial period of time, and require a methodical review of the relevant standard of

care. To adequately assess whether any negligence occurred, and if so what the appropriate level of compensation should be, requires an extensive investigation and a thorough analysis of those results. This process cannot be rushed if a fair and just resolution to the claim is to be found. Add to this the fact that, on average, it takes one-and-a-half to two years following an incident before a claim is even filed, and the inherent complexities are only further magnified. We believe it is imperative that Washington's claims handling standards fully reflect this reality.

With regard to our specific concerns, in the "Authority and purpose" section of the draft (WAC 284-30-300), the OIC proposes deleting "with such frequency as to indicate a general business practice" from the current regulation. While we recognize the desire to address claims handling concerns before they become "frequent," we do not believe that the single violation of the proposed regulations is sufficient to constitute an "unfair claims settlement practice." Numerous reasons could exist for an entity to deviate inadvertently from the regulations and a single instance should not, and need not, trigger action against the insurer. In such cases simply informing the insurance entity of the deviation from the regulations may be sufficient to ensure any necessary changes are made to claims handling practices to prevent a future occurrence. A pattern of deviations, however, would certainly be appropriate to trigger OIC action. In this regard, we recommend, in addition to the proposed deletion, replacing "if violated" with "if subject to repeated violations." This would allow the OIC to address unfair claims *practices* without requiring that action be taken against an insurer for a one-time error.

In "Standards for prompt investigation of a claim" (WAC 284-30-370), we strongly oppose the new requirement to notify the claimant in writing of the need to have more than 30 days to investigate the claim and to provide a written notice every 30 days thereafter as long as the investigation continues. As noted previously, MPL insurance involves extremely complex claims which necessitate a long-term investigative approach. This would be no surprise to a claimant, who should have no expectation of a more rapid conclusion to their claim. As such, the proposed language would serve only to increase the administrative burden on MPL insurers with no discernable benefit to the claimant. In this light we recommend an explicit exemption from the ongoing investigation notification requirement for MPL insurers.

In "Settlement standards applicable to all insurers" (WAC 284-30-380), we strongly oppose removing "first party" from that section. As noted previously, the complexity of an MPL claim necessitates that it not be closed quickly, and expanding the notification of acceptance or denial to cover third-party claimants is inappropriate for MPL claims. Few if any claims could be resolved in the 30-day period stated in the proposed draft. Again, if the OIC moves forward with these changes we recommend an explicit exemption for MPL insurers.

We appreciate this opportunity to comment on behalf of the medical professional liability insurers doing business in Washington. Should you have any questions about any of the above, please do not hesitate to contact me.

Thank you again for this opportunity to comment.

Sincerely,

Michael C. Stinson, JM
Vice President, Public Policy and Legal Affairs
Ph: 240-813-6139
Em: mstinson@MPLassociation.org