

PROPOSED ORDER REPEALING, RENUMBERING, AMENDING AND CREATING A RULE
Office of the Commissioner of Insurance

Rule No. Agency 145 – Ins 6.57, 6.58, 6.59, 6.595, 6.61, 6.63, 6.92, 6.93, 26.03, 26.04, 26.05, 26.06, 26.07, 26.09, 28.01, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08, Wis. Adm. Code.

The Commissioner of Insurance proposes an order to repeal ss. Ins 6.59 (4) (b), Ins 26.05 (5), Ins 26.07 (2), and Ins 28.06 (5) (f); to renumber and amend s. Ins 28.06 (6) (b) 5., 7., and 13.; to amend ss. Ins 6.57, Ins 6.58, Ins 6.59 (4) (a), (am), (an), (ap), (as), (av), (ax), and (c), Ins 6.59 (5) (a), Ins 6.59 (8) (e), Ins 6.61 (15), Ins 6.63 (2), Ins 6.63 (3), Ins 6.63 (4), Ins 6.92 (2) (a), Ins 6.92 (4) (a), Ins 6.92 (6) (a) and (c), Ins 6.93 (1) (a), Ins 6.93 (2), Ins 26.03 (3m), Ins 26.03 (5), Ins 26.04 (2) (f), Ins 26.04 (3), Ins 26.05 (1), Ins 26.05 (3), Ins 26.06 (1), Ins 26.06 (3), Ins 26.07 (1) (a), Ins 26.09 (1) and (3), Ins 28.01, Ins 28.04 (1) (f), (g) and (h), Ins 28.04 (2) (b), Ins 28.05, Ins 28.06 (1), Ins 28.06 (4), Ins 28.06 (5) (c) 3., Ins 28.07 (1) (a), (b), (d) and (f), Ins 28.07 (2), 28.07 (3), and 28.08 (1); to create ss. Ins 6.595 (1) (am) and Ins 28.03 (3m) relating to changes in the agent licensing process and affecting small business.

The statement of scope for this rule SS: 063-15, was approved by the Governor on July 23, 2015, published in Register No. 716A1, on August 3, 2015, and approved by the Commissioner on August 18, 2015. The proposed rule was approved by the Governor on December 20, 2019, to submit to the legislature, and submitted to the legislature on January 3, 2020.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

Section 628.10, Wis. Stats.

2. Statutory authority:

Sections 601.41 (2) and (3), 628.04, 628.11, 628.98, Wis. Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

The Commissioner has the general authority to promulgate rules necessary to administer and enforce chs. 600 to 655, Wis. Stat., and as provided under ss. 227.11 (2) (a) and 601.41, Wis. Stat. Section 601.41 (2) and (3) (a), Wis. Stat., read in combination with ss. 628.04, 628.10, and 628.98, Wis. Stat., authorize the Commissioner to determine by rule the procedures for administering the agent licensing process, including identifying the forms and procedures for submitting applications and renewing individual, firm and navigator licenses. In addition, 601.41 (2) and (3) (a), Wis. Stat., authorize the Commissioner to establish minimum standards for intermediary records which includes requiring intermediaries to update any name, e-mail or address changes. Further, s. 628.11, Wis. Stat., specifically authorizes the Commissioner to establish reporting requirements for insurers regarding all agent appointments, including renewals and terminations of appointments. Finally, it should be noted that s. 628.10 (2) (a) and (am), Wis. Stat., require notification of renewal fees and failure to comply with continuing education credits to be sent by first-class mail 60 days prior to the due date. These two paragraphs are currently being revised to permit notification to be done through e-mail. Accordingly, the amended provisions referencing 628.10, Wis. Stat., specifically ss. Ins 6.58 (5), 6.63 (2) and (4), 6.92 (6) and 6.93 (2), and 28.04 (1) (f), Wis. Adm. Code, will be consistent with the revised version of s. 628.10 (2) (a) and (am), Wis. Stat.

4. Related statutes or rules:

Please see listing of rules and related statutes noted in #3 above.

5. **The plain language analysis and summary of the proposed rule:**

The Office of the Commissioner of Insurance (OCI) recently switched to the National Association of Insurance Commissioner's (NAIC) State Based System (SBS), which is a comprehensive web-based application that was developed to assist state regulators with many services relating to the agent licensing process. SBS was created by the NAIC in coordination with the National Insurance Producers Registry (NIPR) as an initiative to promote greater national licensing uniformity. Accordingly, the switch to SBS is creating greater uniformity between OCI's agent licensing process and those in other states.

The switch to SBS also provides OCI with a more efficient and effective tool for administering the agent licensing process by affording a streamlined process in which many aspects of agent licensing, including pre-licensing requirements, applications, company appointment and billings, terminations, notices, and continuing education are consolidated in one place. The comprehensive nature of the SBS application is necessary to facilitate an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate with each other through electronic means.

General Changes to chs. 6, 26, and 28: Electronic Communications, Flexibility, and Uniformity

One of the key challenges with the switch to SBS and the agent licensing process in general is modernization in which new technology is being utilized to create more effective and efficient processes—largely in the form of consolidated services and electronic communications. Accordingly, the proposed rule seeks to utilize electronic means as the primary form of communication, particularly the use of e-mail. Current notice provisions, including provisions relating to renewal fees, appointment fees, and continuing education requirements, all require the notice to be sent through the mail, which is inefficient and expensive. The proposed rule will permit the Commissioner to specify the manner in which notices shall be provided to the individuals and entities. This will allow our office to shift to e-mail in the short-term while providing the flexibility to adopt new forms of communication as they develop in the future (i.e. an online platform). In addition, the proposed rule will require individuals and entities to provide a contact e-mail address.

Similarly, the proposed rule will also permit the Commissioner to specify the manner in which applications, forms, and notices shall be filed. Under the current rules, applications and forms are generally required to be filed with OCI; for example, appointment requests and notices and intermediary licenses under ss. Ins 6.57, 6.58, and 6.59, Wis. Adm. Code., all require filing applications with OCI. However, under SBS many of these services will be handled through the SBS platform. Moreover, the proposed rule removes any reference to OCI specific applications or forms in favor of NAIC Uniform Applications to ensure uniformity with other states.

Finally, the proposed rule makes a distinction between the different causes for license revocation, which are governed by s. 628.10, Wis. Stats. Under the proposed rule, revocations for failing to comply with continuing education requirements or failing to pay regulation fees are referred to as terminations, while revocations for delinquent taxes and unemployment contributions are still referred to as revocations. This revision is not meant to create a substantive distinction, but rather is a way to more accurately reflect how the different revocations are both treated and viewed. For example, under s. Ins 6.61 (16) (a), Wis. Adm. Code, read in combination with s. Ins 6.61 (3) (e), Wis. Adm. Code, intermediaries are required to notify the Commissioner of any revocation for delinquent taxes or for failing to pay unemployment contributions, but they do not have to report revocations for failing to comply with continuing education requirements or failing to pay regulation fees.

Specific Changes to chs. 6, 26, and 28: Clarity, Efficiency, and Uniformity

In addition to the general changes outlined above, the proposed rule will also make a number of revisions that clarify, simplify, and/or remove existing requirements that are confusing and outdated. In general, these changes seek to streamline various aspects of the agent licensing process by removing unnecessary language and requirements and to create greater uniformity with other states.

Section Ins 6.57, Wis. Adm. Code—Appointment of Agents

First, under s. Ins 6.57 (1), Wis. Adm. Code, the proposed rule will clarify that appointment requests must be made either within 15 days of the date the agent contract is executed or the date the first insurance application is submitted. The same language is also added to subs. (5) and (6) in order to clarify appointment requirements regarding an insurer accepting business from an agent and for an agent soliciting on behalf of and submitting business to an insurer. In addition, the proposed rule also specifies that billing shall be done at the time of initial appointment. Finally, the proposed rule will remove specific fees details under subs. (4) and instead reference the statutory citation that governs the fees.

Sections Ins 6.58 and 6.59, Wis. Adm. Code—Firm and Individual Intermediary Licensing

The proposed rule will make a number of changes to OCI's individual and firm intermediary licensing provisions under ss. Ins 6.58 and 6.59, Wis. Adm. Code, which are intended to streamline the licensing procedures and create greater uniformity with other states. First, under s. Ins 6.58, Wis. Adm. Code, the proposed rule will allow travel intermediaries to apply for firm licensure, remove the certification requirement for the articles of incorporation, permit the application to be either signed or submitted by an officer or partner as opposed to being signed by an officer or partner, and require the intermediary firm to designate a responsible licensed producer (DRLP).

Under s. Ins 6.59, Wis. Adm. Code, the proposed rule requires applicants to provide a copy of the certificate of prelicensing that was presented to the exam proctor in order to sit for the exam, removes the requirement that applicants notify the testing vendor one day in advance of their scheduled examination, and increases the time period in which exam scores are valid from 30 to 180 days. In addition, the proposed rule clarifies the meaning of criminal "conviction" under ss. Ins 6.58 (4) (b) 1. and 6.59 (5) (a), Wis. Adm. Code, to align with the meaning of criminal "conviction" in the NAIC's Uniform Applications. Finally, s. Ins 6.59 (8), Wis. Adm. Code, currently requires nonresident intermediaries to provide OCI with a letter of certification when they become a resident of a new state, which is an outdated practice. The proposed rule replaces "new state of residence" with "home state" as a matter of uniformity and will only require the letter of certification if OCI cannot independently verify the nonresident license status in the new home state first.

Section Ins 6.63, Wis. Adm. Code—Regulation Changes

The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is provided for by statute under s. 628.10 (2) (cm), Wis. Stat. In addition, the proposed rule eliminates the last sentence in s. Ins 6.63 (4), Wis. Adm. Code, which outlines the requirements for re-licensure depending on the length of time the license was terminated or revoked. This sentence is unnecessary as the requirement is already set forth by statute under s. 628.10 (5) (a), Wis. Stat.

Chapters Ins 26 and 28, Wis. Adm. Code—Prelicensing Education and Continuing Education

Finally, the proposed rule will make a number of revisions to the current provisions governing prelicensing education and continuing education, which will simplify and/or eliminate unnecessary requirements that exist in the current code. In general, these changes seek to streamline the processes for prelicensing and continuing education.

The proposed rule will eliminate the “banking” of prelicensing credits by education providers under ss. 26.05 (5) and 26.07 (2), Wis. Adm. Code, which is no longer necessary with the switch to SBS. The elimination of “banking” may reduce potential fees to applicants and providers for uploading the credits while also eliminating the need for providers to collect the full social security number of pre-licensing students, which can be costly to secure. In addition, the proposed rule clarifies that approval of noncredit courses will expire on August 30 every two years starting on the August 30 after approval, and removes the requirement that applications for the next period be made on or before July 15 under s. Ins 26.06 (3), Wis. Adm. Code. Finally, the proposed rule permits noncredit programs to be offered in an audio or video format.

Similarly, the proposed rule will also clarify that approval for continuing education programs will expire on July 31 every two years starting on the July 31 after approval, and removes the requirement that applications for the next period be made on or before June 1 pursuant to s. Ins 28.06 (4), Wis. Adm. Code. In addition, the proposed rule moves communication skills, personnel management, and agency management into the category of subjects that may qualify for approval. Finally, the proposed rule also permits continuing education programs to be offered in an audio or video format.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no similar federal regulation covering these activities. Insurance is generally regulated on the state level with the NAIC enacting model rules, procedures, and programs for states.

7. Comparison of similar rules in adjacent states as found by OCI:

The four adjacent states have substantially similar requirements relating to the agent licensing process, which generally follow the NAIC “Producer Licensing Model Act.” Where variations among the four adjacent states exist is generally in how the agent licensing process is administered (i.e. how and when documents and information are filed or communicated). However, a direct comparison among the states is difficult because states have developed processes that work best for their department based on their resources and due to differences in how much of the licensing process is specified by statute or code for each state. The changes being made in this proposed rule are generally meant to clarify confusing language and/or requirements and to maximize OCI’s resources to make Wisconsin’s agent licensing process more efficient and cost-effective. Accordingly, the proposed rule is not aimed at making changes to the substantive requirements or procedures that are substantially similar among the adjacent states with limited exceptions, in particular: (1) eliminating the requirement that nonresident producers provided a certification from their new home state and (2) eliminating the “banking” of prelicensing credits. OCI’s position is that these requirements are not only outdated, but also create an unnecessary burden on and cost to insurance agents and entities.

Illinois: the agent licensing provisions are generally found in 215 ILCS 5/500-5 to 215 ILCS 5/500-150 and ILL. ADMIN. CODE tit. 50 Subch. ii.

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Iowa: the agent licensing provisions are generally found in IOWA CODE §§ 522B.1 to 522B.18, and 522E.3 and

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Michigan: the agent licensing provisions are generally found in MICH. COMP. LAWS §§ 500.1201 to 500.1204b and §§ 500.1204d to 500.1247.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: has a provision similar to Wisconsin’s current provision providing for “banking” of prelicensing credits.

Minnesota: the agent licensing provisions are generally found in Minn. Stat. §§ 60K.30 to 60K.56.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: OCI’s review did not find any provisions addressing the “banking” of prelicensing credits.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

The OCI reviewed NAIC model acts, in particular the Producer Licensing Model Act. In addition, OCI reviewed SBS’s capabilities to ensure that changes are aligned with and utilize the technology and services offered by SBS.

9. Any analysis and supporting documentation that OCI used in support of OCI’s determination of the rule’s effect on small businesses under s. 227.114:

The proposed rule will likely have a positive impact on small businesses, including insurance agencies, pre-licensing and continuing education providers, and small insurance companies by reducing fees and administrative costs, eliminating unnecessary requirements, and streamlining processes. First, the proposed rule will eliminate the banking of prelicensing credits by education providers, which may reduce potential fees to applicants and providers for uploading the credits to SBS. In addition, the proposed rule will also eliminate the need for providers to collect the full social security number of prelicensing students, which can be costly to secure.

The proposed rule may also positively impact small business by reducing administrative costs through more effective and efficient processes. One of the key changes under the proposed rule is utilizing electronic means as the primary form of communication, which is faster and less expensive than providing paper copies through the mail. Finally, the switch to SBS will also allow small businesses to license new agents in less than 24 hours as compared to 13 days prior to the switch to SBS, and processing fees charged on applications are \$1 less than the previous vendor charged.

The proposed rule allows for the appointment of agents to be processed online. While this is quicker and more efficient for companies, the NIPR charges a small administrative fee for online processing. Smaller insurers, such as town mutual insurers, will process their agent appointments online and pay the small administrative processing fee. OCI believes the financial impact will be minimal as town mutual insurers generally have very few appointed agents.

10. Private Sector Fiscal Analysis.

This rule change will have no significant effect on the private sector regulated by OCI.

11. A description of the Effect on Small Business:

This rule will have little or no effect on small businesses. Please see #9 for a detailed description of the proposed rule's potential effect on small business.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the web site under Rule-Making at:

<https://oci.wi.gov/Pages/RegulationHome.aspx>

or by contacting Karyn Culver, Paralegal, at:

Phone: (608) 267-9586

Email: karyn.culver@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on April 30, 2019.

Mailing address:

Timothy L. Cornelius
Legal Unit - OCI Rule Comment for Rule Ins 06315
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Street address:

Timothy L. Cornelius
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Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
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Email address:

The proposed rule changes are:

SECTION 1. Ins 6.57 is amended to read:

Ins 6.57 (1) Submission of ~~an application for~~ an intermediary-agent appointment request shall initiate the appointment of an agent in accordance with s. 628.11, Stats. ~~The application shall be submitted to the office of the commissioner of insurance and entered in the OCI licensing system in a format specified by the commissioner~~ appointment request shall be made in a manner prescribed by the commissioner within 15 days ~~after the earlier~~ of the date the agent contract is executed or the date the first insurance application is submitted and shall show the lines of authority being requested for that agent. An appointment is valid only for the lines of insurance requested. The effective date of a valid appointment is the date on which the appointment request is submitted electronically in the format specified by the commissioner. ~~The agent validation report is a computer-generated report prepared by the office of the commissioner of insurance.~~ Billing for the initial appointment shall be done ~~annually at the same time and at the same rate as renewal appointments~~ at the time of appointment.

(2) Notice of termination of appointment of an individual intermediary in accordance with s. 628.11, Stats., shall be filed prior to or within 30 calendar days of the termination date ~~with the office of the commissioner of insurance~~ in a manner prescribed by the commissioner. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer ~~to be~~ appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company insurer in any capacity.

(a) If the reason for termination is one of the reasons listed as other criteria in s. Ins 6.59 (5) (d) or if the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities listed in s. Ins 6.59 (5) (d), the insurer must submit complete explanations and documentation in writing to OCI within 30 days of the termination.

(b) If the insurer has knowledge of complaints received or problems experienced by the ~~company~~ intermediary or the intermediary's agency involving ~~company~~ indebtedness, forgery, altering policies, fraud, misappropriation, misrepresentation, failure to promptly submit applications or premiums, or poor policyholder service ~~involving that involved~~ the intermediary being terminated, the insurer must submit complete explanations and documentation in writing to OCI within 30 days of the termination. This documentation need not prove violations, but should include any situation where possible violations exist. The Office of the Commissioner of Insurance will investigate these situations and take appropriate action based upon the investigation.

(c) The insurer or the authorized representative of the insurer shall promptly notify the insurance commissioner in writing if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the insurance commissioner under par. (a) or (b) had the insurer then known of its existence.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule and in a payment type prescribed by the commissioner, the annual appointment fee defined in sub. (4), ~~within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agent for such insurer, according to the commissioner's~~

~~records as of the notice date. A billing schedule shall be adopted by the commissioner under which appointment notices invoices shall be sent available to insurers.~~

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are set forth by statute in s. 601.31 (1) (n), Stats.

~~Resident individual intermediary agents \$ 7.00~~

~~Nonresident individual intermediary agents \$ 24.00~~

~~**Note:** 2009 Wis. Act 28, section 3135, changed the minimum appointment fees to \$ 16 for residents and \$ 50 for non-residents.~~

(5) No insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer within 15 days of the date the agent contract is executed or the first insurance application is submitted, and the appointment shall show the lines of authority being requested for that agent.

(6) No intermediary shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer or enter into an agency contract unless the agent is appointed with that insurer within 15 days of the date the agent contract is executed or the first insurance application is submitted, and the appointment shall show the lines of authority being requested for that agent.

~~Note: A free copy of each form referenced in this section may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.~~

SECTION 2. Ins 6.58 is amended to read:

Ins 6.58 (1) PURPOSE. The purpose of this rule is to establish procedures for licensure of insurance intermediary firms as insurance intermediaries, reinsurance intermediaries, travel insurance agents or managing general agents.

(1m) DEFINITION. In this section "firm" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(2) LICENSE. Any firm may obtain an insurance intermediary firm license under this section.

(3) PROCEDURE. (a) Application for a permanent intermediary license, reinsurance intermediary license, travel insurance agent license or managing general agent license for a corporation or partnership shall be ~~made on application form 11-50 or, for residents of states that have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Business Entity Non-Resident License/ Registration form and filed with the commissioner of insurance~~ filed in a manner prescribed by the commissioner using the NAIC Uniform Application. The application shall be accompanied by include:

~~Note: Copies of forms referenced in ss. Ins 6.58 and 6.59 can be obtained at the office of the commissioner of insurance.~~

1. A licensing fee of \$ 100.00;
2. ~~Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary, reinsurance intermediary or managing general agent~~ A completed NAIC Uniform Application;
3. Certification that the insurance intermediary firm will transact business in such a way that all

acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license, and a list of such persons;

4. If the insurance intermediary firm is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the insurance intermediary firm's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.; and

5. A list of all partners, directors or principal officers or persons in fact having comparable power.

6. In the case of a corporation, the application must be signed or submitted by an officer. In the case of a partnership, the application must be signed or submitted by a partner.

7. Any bond, policy, designation or information required under s. Ins 47.02 (3) or (5).

8. A Designated Responsible Licensed Producer, DRLP, assigned by the intermediary firm.

(b) Determination of the acceptance or rejection of a completed application shall be made within ~~84~~ 90 days. ~~A completed application consists of form OCI 11 50 or the NAIC Uniform Application for Business Entity Nonresident License/Registration form and other required material described in par. (a).~~

(4) STANDARDS OF COMPETENCE AND TRUSTWORTHINESS. (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries, travel insurance agents or managing general agents, those standards as set ~~[forth]~~ forth in s. Ins 6.59 (5) shall apply in lieu of the standards set forth in this section.

Note: A missing word is shown in brackets.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries, travel insurance agents or managing general agents, the following criteria may be used in assessing trustworthiness and competence:

1. 'Criminal record.' The conviction for crimes which are substantially related to insurance. "Conviction" includes having been found guilty by judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

2. 'Accuracy of information.' Any material misrepresentation in the information submitted ~~on form~~ 11-50 in the application.

3. 'Regulatory action.' Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(5) FEES. (a) Biennially, at least 60 days prior to February 15 of each even numbered ~~years~~ year, a regulation fee notice of \$35.00 for resident and \$70.00 for nonresident insurance intermediary firms, reinsurance intermediaries, travel insurance firms, and managing general agents will be ~~sent to each entity by first class mail at the address on file with the office of the commissioner of insurance~~ issued in a manner prescribed by the commissioner.

(b) If payment of the biennial regulation fee is not made prior to February 15 of the year in which it is due, in a payment type prescribed by the commissioner, the license ~~will be revoked~~ shall terminate.

~~(e) The license will be revoked if payment is not made within 60 days after February 15.~~

(6) NOTIFICATION OF CHANGES. Each insurance intermediary firm licensed or applying for a license shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, business address, contact email address, location of the business records, or a change in the name ~~and~~ or address of the designated representative.

Note: Intermediary corporations and partnerships are subject to the record-keeping requirements as set forth in s. Ins 6.61 (1).

~~A free copy of each form referenced in this section may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.~~

SECTION 3. Ins 6.59 (4) (a), (am), (an), (ap), (as), (av), and (ax) are amended to read:

(4) PROCEDURE. (a) Application for resident intermediary agents. Application for a permanent resident agent license or an enlargement of authority requiring an examination shall be made ~~on-line in a manner prescribed by the commissioner~~ following successful completion of any required prelicensing education and the examination. A completed application ~~consists of the agent's name, the current address for the residence of the applicant; the current mailing address for the applicant; an original exemption form as required under ch. Ins 26, if required by s. Ins 26.04 (3); an electronic confirmation of prelicensing education completion for the specific lines of authority shall include: the NAIC Uniform Application; fingerprints to be provided in a format specified by the commissioner in order to complete; an electronic confirmation of criminal history from the Wisconsin department of justice, the crime information bureau, and the federal bureau of investigation completed not more than 180 days prior to the test date; payment of the fees to the testing vendor; and an electronic photograph of the applicant taken by the test service at the time of testing; a certified certificate of prelicensing from the prelicensing school that was presented to the exam proctor prior to sitting for the exam; confirmation of previous license in another state, if applicable; and any documentation required in answer to questions on the application.~~

(am) Application for nonresident intermediary agents. Application for a permanent nonresident agent license or an enlargement of authority shall be ~~made on-line or on form OCI 11-041N (rev.) or on filed in a manner prescribed by the commissioner using the NAIC Uniform Application for Individual Nonresident License form and filed with the office of the commissioner of insurance.~~ A completed application ~~consists of~~ shall include: the NAIC Uniform Application; payment of the fees; and any documentation required in answer to questions on the application. If confirmation of license status is not attainable from the National Insurance Producer Registry, ~~an original certificate evidence of licensing from the home state, as defined by s. Ins 28.03 (3m), of residence is required.~~

(an) Application for Variable variable life and variable annuity products. Application for a permanent resident agent variable life and variable annuity products license or an enlargement of authority to include variable life and variable annuity products license shall be ~~made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of insurance~~ filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application ~~consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the application; the current mailing address for the applicant~~ shall include: the NAIC Uniform Application; payment of the fees; any documentation required in answer to questions on the application; and verification of required registration by the Financial Industry Regulatory Authority (FINRA) registered for Series 6 or Series 7.

(ap) Application for limited travel, crop, legal expense or surety agent license. Application for a permanent resident agent travel, crop, legal expense or surety agent limited license or an enlargement of authority to include travel, crop, legal expense or surety limited license shall be ~~made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of~~

insurance filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the applicant; the current mailing address for the applicant shall include: the NAIC Uniform Application; payment of the fees; and any documentation required in answer to questions on the application.

(as) *Application for reinsurance intermediary-broker, reinsurance intermediary-manager or managing general agent.* Application for a reinsurance intermediary broker or reinsurance intermediary manager or managing general agent license shall be ~~made on form OCI 11-040 and filed with the office of the commissioner of insurance~~ filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application consists of a completed application form shall include: the NAIC Uniform Application; payment of the fees; and any documentation required in answer to questions on the application.

(av) *Application for a title insurance limited license by Wisconsin licensed attorneys.* Application for a permanent resident agent title insurance limited license or an enlargement of authority to include title insurance limited license shall be ~~made on form OCI 11-41Atty (rev.) and filed with the office of the commissioner of insurance~~ filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application consists of a completed form OCI 11-041Atty (rev.) giving the current address for the residence of the applicant shall include: the NAIC Uniform Application; an original certificate signed by the provider showing completion of at least 6 hours of continuing legal education approved by the Wisconsin Board of Bar Examiners dealing solely with title insurance and completed within 1 year of the application date; a copy of the applicant's current State Bar of Wisconsin membership card if membership cannot be verified by the commissioner; payment of the fees; and any documentation required in answer to questions on the application.

(ax) *Application for surplus lines agent license.* Application for a surplus lines insurance license shall be ~~made on form OCI 11-070 (rev.) and filed with the office of the commissioner of insurance~~ filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application consists of a completed form OCI 11-070 (rev.) giving the current address for the residence of the applicant shall include: the NAIC Uniform Application; payment of the fees; and any documentation required in answer to questions on the application.

SECTION 4. Ins 6.59 (4) (b) is repealed.

SECTION 5. Ins 6.59 (4) (c) is amended to read:

Ins 6.59 (4) (c) Issuance of license. An applicant for an original license or an enlargement of authority who passes the examination, if required, satisfies the requirements in par. (a), (am) or (as) and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued a license for those kinds of authority for which the applicant is qualified. Examination scores are valid for ~~30~~ 180 days. Failure to apply for a license within ~~30~~ 180 days will require candidate to re-take the examination. Determination of the acceptance or rejection of a completed application shall be made within 90 days of receipt by the office of the commissioner of insurance of the completed application including any documentation required.

SECTION 6. Ins 6.59 (5) (a) is amended to read:

Ins 6.59 (5) (a) Criminal record. The conviction for crimes which are substantially related to the circumstances of holding an insurance license. “Conviction” includes having been found guilty by judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

SECTION 7. Ins 6.59 (8) (e) is amended to read:

Ins 6.59 (8) (e) A licensed nonresident agent, after becoming a resident of a state other than Wisconsin, may retain licensing authority under the nonresident license for a maximum of 60 days,

at which time all authority granted under the nonresident license shall ~~ease~~ terminate if licensure in the new home state, as defined by s. Ins 28.03 (3m), cannot be verified by the commissioner, unless a letter of certification or other comparable evidence from the new state of residence home state is provided to the commissioner.

Note: A free copy of each form referenced in this section may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.

SECTION 8. Ins 6.595 (1) (am) is created to read:

Ins 6.595 (1) (am) "Producer" means an insurance marketing intermediary as defined in s. 628.02, Wis. Stat.

SECTION 9. Ins 6.61 (15) is amended to read:

Ins 6.61 (15) CHANGE OF NAME OR ADDRESS. Each intermediary shall, within 30 days, notify the commissioner of insurance in writing in a manner prescribed by the commissioner of any change in the intermediary's name, residence address, and contact email address, business address or mailing address.

SECTION 10. Ins 6.63 (2) is amended to read:

Ins 6.63 (2) Renewal fees are due on the last day of the intermediary's birth month every other year. OCI will send a form OCI-11-051 renewal fee notice by first-class mail in a manner prescribed by the commissioner at least 60 days prior to the fee due date to each intermediary at the mailing address on file with the office of the commissioner of insurance.

SECTION 11. Ins 6.63 (3) is amended to read:

Ins 6.63 (3) Any resident individual intermediary whose license is ~~revoked~~ terminated for failing to pay renewal fees; or failing to complete required continuing education or revoked for failing to pay unemployment insurance contributions or failing to pay delinquent taxes may, within 12 months from the termination or revocation date, apply to be relicensed for the same license without completing prelicensing education or passing a written examination. Resident licensees who are required to complete continuing education must have all previous requirements met. The application fee shall be as specified in s. 628.10 (5) (a), Stats. If a resident license has been terminated or revoked for more than 12 months, the intermediary shall, in order to be relicensed, satisfy the examination and licensing requirements established by s. Ins 6.59.

SECTION 12. Ins 6.63 (4) is amended to read:

Ins 6.63 (4) Intermediaries with a Surplus Lines license shall pay an annual renewal fee of \$100.00 on or before the assigned expiration date each year. OCI will send ~~an OCI~~ a renewal fee notice by first-class mail in a manner prescribed by the commissioner at least 60 days prior to the fee due date to each intermediary surplus lines agent at the ~~home~~ address on file with the office of the commissioner of insurance. Any resident individual intermediary whose surplus lines license is ~~revoked~~ terminated for failing to pay renewal fees or revoked for failing to pay unemployment insurance contributions or failing to pay delinquent taxes ~~may, within 12 months from the revocation date for failing to pay delinquent taxes or within 10 months from the revocation date for failure to pay a renewal fee or complete continuing education, apply to be relicensed for the same license must apply to be relicensed.~~ If a license has been revoked for more than 12 months for failing to pay delinquent taxes or revoked for more than 10 months for failure to pay a renewal fee, the intermediary shall, in order to be relicensed, satisfy the licensing requirements established by s. Ins 6.59.

Note: A free copy of each form referenced in this section may be obtained from the office of the

~~commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.~~

SECTION 13. Ins 6.92 (2) (a) is amended to read:

Ins 6.92 (2) PROCEDURE. (a) *Application for navigator license.* An individual applying for a navigator license shall submit an application to the office in the form prescribed by the commissioner. A completed application shall include: the navigator's name; the navigator's residence; contact email address; mailing and business addresses; confirmation of successful completion of prelicensing training; fingerprints provided in a format specified by the commissioner to complete; an electronic confirmation of criminal history from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation completed not more than 180 days prior to the licensing examination date; payment of the nonrefundable fees to the testing vendor; an electronic photograph of the applicant taken by the test vendor at the time of testing; confirmation of previous navigator licensure in another state, if applicable; payment of the fee under s. 601.31 (1) (nm), Stats.; proof of financial responsibility under sub. (7); and any documentation required in answer to questions on the application.

SECTION 14. Ins 6.92 (4) (a) is amended to read:

Ins 6.92 (4) CHANGE OF NAME OR ADDRESS. (a) A licensed navigator shall, within 30 days, notify the commissioner in ~~writing~~ a manner prescribed by the commissioner of any change in the navigator's name, residence address, principal place of business, ~~and~~ contact email address or mailing address.

SECTION 15. Ins 6.92 (6) (a) and (c) are amended to read:

Ins 6.92 (6) LICENSE RENEWALS. (a) The nonrefundable renewal fee of \$ 35.00 is due before October 1 of each year. The commissioner shall send notice of the renewal fee ~~by 1st class mail to the mailing address on file~~ in a manner prescribed by the commissioner at least 60 days prior to the fee due date to each navigator. Applications for navigator license renewal shall be submitted before the October 1 renewal deadline. The navigator shall provide proof financial responsibility under sub. (7).

(c) Any navigator whose license is ~~revoked~~ terminated for failing to pay renewal fees, or failing to complete required annual navigator continuing education, or revoked for failing to pay unemployment insurance contributions or failing to pay delinquent taxes may, within 12 months from the termination or revocation date, apply to reinstate for the same navigator license without completing prelicensing navigator training or passing a written examination. The navigator must satisfy the requirement of s. 628.10 (2) (a), (am), or (cm), Stats., satisfactorily complete a reinstatement application and pay twice the amount of the license renewal fee under par. (a). If a navigator license has been terminated or revoked for more than 12 months, the navigator shall, in order to be relicensed, satisfy the examination and other licensing requirements established by subs. (2) to (4).

SECTION 16. Ins 6.93 (1) (a) is amended to read:

Ins 6.93 (1) INITIAL APPLICATION. (a) *Registration application for navigator entity.* An entity registering as a navigator entity shall submit an application to the commissioner in the form prescribed by the commissioner. A completed application shall include: the navigator entity's name; the names of the entity's officers; the current mailing address; the name and contact email address of at least one licensed designated responsible navigator; names, license number, contact email addresses, and mailing addresses for the navigators it employs, supervises or is affiliated with; proof of financial responsibility under sub. (4) (b), and compliance with competence and trustworthiness criteria under s. Ins 6.92 (3), and any documentation required to questions on the application.

SECTION 17. Ins 6.93 (2) is amended to read:

Ins 6.93 (2) REGISTRATION RENEWALS. The renewal fee of \$100.00 is due before October 1 of each year. The commissioner shall send notice of the registration renewal fee ~~by 1st class mail to the mailing address on file~~ in a manner prescribed by the commissioner at least 60 days prior to the fee due date to each navigator entity. Applications for navigator entity renewal shall be submitted before the October 1 renewal deadline. The navigator entity shall comply with the requirements of s. 628.92 (5) (a), Stats., by submitting proof of a current bond or by providing evidence of an equivalent coverage alternative subject to the commissioner's prior approval. Failure to comply with the requirements of this section may be cause for the commissioner to deny, revoke, or suspend the registration of a navigator entity.

SECTION 18. Ins 26.03 (3m) is amended to read:

Ins 26.03 (3m) "Credit hour" means a period of study, included as a part of a course, consisting of no less than 50 minutes of classroom instruction, or 4500 words per credit hour for correspondence, self-study, audio or video courses, or on-line courses.

SECTION 19. Ins 26.03 (5) is amended to read:

Ins 26.03 (5) "Exemption form request" means a completed ~~form OCI 11-026 (rev)~~ request as prescribed by the commissioner.

SECTION 20. Ins 26.04 (2) (f) is amended to read:

Ins 26.04 (2) (f) An applicant applying for an original resident license who held a license within the previous 12 months as a resident insurance agent in another state for each of the lines applied for in Wisconsin is exempt from prelicensing education and examination requirements. ~~The applicant must submit an original resident license application on form OCI 11-041R (rev), the appropriate fee and any documentation required in answer to the questions on the application.~~ An application shall be filed in a manner prescribed by the commissioner using the NAIC Uniform Application. A completed application shall include: the NAIC Uniform Application; payment of any fees; and any documentation required in answer to questions on the application. If confirmation of the previous home state, as defined by s. Ins 28.03 (3m), license status is not attainable from the National Insurance Producer Registry, evidence of licensing from the previous home state is required.

SECTION 21. Ins 26.04 (3) is amended to read:

Ins 26.04 (3) If an applicant is exempt under sub. (2), the applicant shall submit an exemption ~~form request~~ with all supporting documentation on form OCI 11-026 (rev) in a manner prescribed by the commissioner.

SECTION 22. Ins 26.05 (1) (intro) is amended to read:

Ins 26.05 (1) APPROVAL OF CREDIT COURSES. An accredited institution of higher education seeking initial approval or reapproval of individual credit courses shall submit its application for course approval ~~on the form provided~~ in a manner prescribed by the commissioner. The commissioner may require the following information and materials:

SECTION 23. Ins 26.05 (3) is amended to read:

Ins 26.05 (3) EVIDENCE OF ATTENDANCE. The commissioner shall accept an official transcript or student grade report as evidence of satisfactory completion of credit courses. Certificates of prelicensing education shall be provided to each student in a hard copy or electronically.

SECTION 24. Ins 26.05 (5) is repealed.

SECTION 25. Ins 26.06 (1) (intro) is amended to read:

Ins 26.06 (1) APPROVAL OF NONCREDIT EDUCATIONAL PROGRAMS. An entity seeking initial approval or reapproval from the commissioner of an insurance noncredit program shall submit an application ~~on the forms provided in a manner prescribed~~ by the commissioner. The commissioner may require the following information and materials:

SECTION 26. Ins 26.06 (3) is amended to read:

Ins 26.06 (3) APPLICATION APPROVAL AND EXPIRATION OF APPROVAL. Upon receipt of an application for approval of a noncredit program, the commissioner shall determine if the application meets the requirements and if the program provides for instruction of appendices 1 to 4 in a manner required by this rule. The commissioner shall issue his or her decision on approval of an application no later than 60 days following the receipt of the completed application and all information required. Noncredit program approval shall expire on ~~every August 30 of the next odd numbered year, every two years starting on the August 30 after approval. Each school shall submit an application for approval for the next period to the commissioner on or before July 15 of each odd numbered year.~~

SECTION 27. Ins 26.07 (1) (a) is amended to read:

Ins 26.07 (1) (a) Noncredit classroom, correspondence, self-study, audio, video or on-line programs shall provide an original certificate of prelicensing education to each student upon satisfactory completion of a noncredit program. Additional individual certificates of prelicensing education shall be provided to a student upon request and at no additional charge.

SECTION 28. Ins 26.07 (2) is repealed.

SECTION 29. Ins 26.09 (1) and (3) are amended to read:

Ins 26.09 (1) Correspondence, self-study, audio, video, and on-line courses may be approved if they meet the criteria under s. Ins 26.06 and the subsequent course requirements in appendices 1 to 4, and include successful completion of a certified proctored examination.

Ins 26.09 (3) An approved proctor is an impartial, disinterested third party or currently licensed agent with no family or financial relationship to the student. The proctor shall verify the agent's applicant's identity and complete an affidavit supplied by the approved provider testifying that the agent applicant received no outside assistance. Membership in a professional association or organization does not constitute a financial relationship.

SECTION 30. Ins 28.01 is amended to read:

Ins 28.01 Purpose. To provide necessary information regarding insurance, insurance ethics and insurance laws, the commissioner of insurance finds that continuing education shall be required of all resident insurance intermediaries for the major lines of insurance of property, casualty, life, accident and health insurance, and the limited line of automobile.

SECTION 31. Ins 28.03 (3m) is created to read:

Ins 28.03 (3m) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

SECTION 32. Ins 28.04 (1) (f) is amended to read:

Ins 28.04 (1) (f) Not less than 60 days prior to the reporting date set forth in par. (b) of each reporting period, the commissioner shall ~~notify~~ provide each intermediary, ~~who the commissioner's~~

~~records indicates is lacking the necessary continuing education credit hours, of the number of continuing education credit hours needed to comply with this section. Notice shall be mailed to the intermediary's residence address on file with the commissioner by first class mail with a renewal notice containing instructions for the intermediary to review his or her education transcript for compliance.~~

SECTION 33. Ins 28.04 (1) (g) is amended to read:

Ins 28.04 (1) (g) If the required credit hours are not banked by the ~~reporting~~ license expiration date set forth in par. (b), the license of the intermediary shall ~~be revoked with notice to the agent by first class mail~~ terminate on the license expiration date.

SECTION 34. Ins 28.04 (1) (h) is amended to read:

Ins 28.04 (1) (h) Any individual intermediary whose license has ~~been revoked~~ terminated for failure to fulfill the continuing education requirement, shall, in order to be relicensed, satisfy the licensing requirements established by ss. Ins 6.59 and 6.63.

SECTION 35. Ins 28.04 (2) (b) is amended to read:

Ins 28.04 (2) (b) A nonresident intermediary whose ~~state of residence~~ home state grants similar exemptions to Wisconsin residents.

SECTION 36. Ins 28.05 is amended to read:

Ins 28.05 Waiver of continuing education requirements. The requirements of this section may be waived in writing by the commissioner for good cause shown. "Good cause" includes long-term illness or incapacity, serving full-time in the armed forces of the United States of America on active duty outside of the state of Wisconsin during a substantial part of the biennium, and other emergency situations deemed appropriate by the commissioner. Requests for waivers of continuing education requirements shall be made in ~~writing in a form and~~ a manner prescribed by the commissioner, and shall be submitted to the commissioner no later than 90 days prior to the end of the biennium for which such waiver is requested. Within 30 days of receipt, the commissioner shall act upon the waiver request and provide written notice of the decision to the applicant. Any waiver granted pursuant to this section shall be valid only for the biennium for which waiver application was made.

SECTION 37. Ins 28.06 (1) is amended to read:

Ins 28.06 (1) LICENSING OF CONTINUING EDUCATION PROVIDERS. An entity or individual seeking initial approval or reapproval from the commissioner as a continuing education provider shall submit an application ~~on forms provided in a manner prescribed~~ by the commissioner. The commissioner may require the following information and materials:

- (b) A description of the experience and education that the applicant believes qualifies the applicant to be a provider;
- (c) A description of the provider's organizational structure, registration policies, fee schedules, and promotional materials;
- (d) A description of the provider's student record systems including a description of the methods for documenting attendance;
- (e) The method used by the provider for evaluating instructors;
- (f) An original signature of the person or persons authorized to sign certifications;

(g) A certificate format that the applicant proposes to use to comply with Appendix 1; and

(h) Other information as specified by the commissioner.

SECTION 38. Ins 28.06 (4) is amended to read:

Ins 28.06 (4) APPLICATION APPROVAL AND EXPIRATION OF APPROVAL. Upon receipt of an application for approval of a provider and the appropriate fee, the commissioner shall determine if the application meets the requirements and if the program provides for instruction of courses in a manner required by this chapter. The commissioner shall issue a decision on approval of an application no later than 60 days following the receipt of the completed application and all required information. Provider approval shall expire on July 31 ~~of the next even-numbered year, every two years starting on the July 31~~ after approval. ~~Each provider shall submit a renewal application for approval for the next period to the commissioner on or before June 1 of each even-numbered year.~~

SECTION 39. Ins 28.06 (5) (c) 3. is amended to read:

Ins 28.06 (5) (c) 3. Name, telephone number, e-mail address, and signature of the contact person for the provider;

SECTION 40. Ins 28.06 (6) (b) 5. is renumbered Ins 28.06 (6) (a) 25. and amended to read:

Ins 28.06 (6) (a) 25. Communication skills relating to the business of insurance

SECTION 41. Ins 28.06 (6) (b) 7. is renumbered Ins 28.06 (6) (a) 26. and amended to read

Ins 28.06 (6) (a) 26. Personnel Management relating to the business of insurance

SECTION 42. Ins 28.06 (6) (b) 13. is renumbered Ins 28.06 (6) (a) 27. and amended to read:

Ins 28.06 (6) (a) 27. Agency Insurance agency management

SECTION 43. Ins 28.07 (1) (a), (b), (d) and (f) are amended to read:

Ins 28.07 (1) (a) Providers shall provide an original certificate of continuing education to each intermediary within a reasonable period after completion of a continuing education course. Original certificates may be provided electronically unless a hard copy is requested by the intermediary. One additional original individual certificate of continuing education shall be provided to a student upon request and at no additional charge. Every intermediary shall maintain a record of all courses attended by keeping the original certificates of completion for 4 years after the end of the year of attendance.

(b) Certificates of continuing education shall be issued on company letterhead to each agent completing an approved course and shall contain the agent's name, ~~Wisconsin license number~~ National Producer Number, course title and number, date the course was completed, number of approved credit hours, name of provider and provider license number, signature of authorized provider representative, and the date issued in a form acceptable to the commissioner.

(d) The date indicated on the certificate of continuing education shall be the date of the class attended by the student, or ~~on~~ the date on which the intermediary successfully completed an examination for courses identified in s. Ins 26.06 (2) (b) 4., 5., and 6.

(f) Intermediaries may not claim credit for prelicensing education currently approved as a continuing education course to be applied toward their continuing education requirements for an original license. Individuals may receive credit if they are adding qualifications to an existing license and the provider and course has been approved for continuing education credit.

SECTION 44. Ins 28.07 (2) is amended to read:

Ins 28.07 (2) Providers shall submit to the commissioner a ~~computerized~~ an electronic list of course attendees, which includes the intermediary's last name, Wisconsin license number, course number, course title, date and location of the course, and number of credit hours for which the course has been approved in a format specified by the commissioner, of all persons satisfactorily completing continuing education programs and National Producer Number. Submission of the course completion information will certify that the students listed personally completed the reported instruction. The ~~computerized~~ electronic list shall be furnished to the commissioner within 10 days following the date of completion of continuing education programs.

SECTION 45. Ins 28.07 (3) is amended to read:


Ins 28.07 (3) The provider of a continuing education program shall maintain attendance records for 4 years after the end of the year of attendance.

SECTION 46. Ins 28.08 (1) is amended to read:

Ins 28.08 (1) Correspondence, self-study, audio or video, and on-line training courses may be approved if they meet the criteria under s. Ins 28.06 (6) and include successful completion of a certified proctored examination.

SECTION 47. Effective Date. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this 2nd day of JANUARY, 2020.



Mark V. Afable
Commissioner of Insurance

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Repeal Modification

2. Administrative Rule Chapter, Title and Number

Sections Ins 6.57, 6.58, 6.59, 6.595, 6.61, 6.63, 6.92, 6.93, 26.03, 26.04, 26.05, 26.06, 26.07, 26.09, 28.01, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08, Wis. Adm. Code.

3. Date Rule promulgated and/or revised; Date of most recent Evaluation

In 2009 the Office of the Commissioner of Insurance (OCI) promulgated a rule, CR 09-022, making significant revisions to the agent licensing process including the appointment of agents under s. Ins 6.57, the licensing application under ss. Ins 6.58 and 6.59, regulation charges under s. Ins 6.63, prelicensing education requirements under ch. 26, and continuing education requirements under ch. 28, Wis. Adm. Code. Alternatively, provisions regarding navigator and navigator entities under ss. Ins 6.92 and 6.93, Wis. Adm. Code, were first promulgated in 2013 and provisions regarding exemptions from the licensing of intermediaries were promulgated in 2002.

4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The Office of the Commissioner of Insurance (OCI) switched to the National Association of Insurance Commissioner's (NAIC) State Based System (SBS), which is a comprehensive web-based application that was developed to assist state regulators with many services relating to the agent licensing process. SBS was created by the NAIC in coordination with the National Insurance Producers Registry (NIPR) as an initiative to promote greater national licensing uniformity. Accordingly, the switch to SBS is creating greater uniformity between OCI's agent licensing process and those in other states.

The switch to SBS also provides OCI with a more efficient and effective tool for administering the agent licensing process by affording a streamlined process in which many aspects of agent licensing, including pre-licensing requirements, applications, company appointments and billings, terminations, notices, and continuing education are consolidated in one place. The comprehensive nature of the SBS application is necessary to facilitate an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate with each other through electronic means.

General Changes to chs. 6, 26, and 28: Electronic Communications, Flexibility, and Uniformity

One of the key challenges with the switch to SBS and the agent licensing process is modernization in which new technology is being utilized to create more effective and efficient processes—largely in the form of consolidated services and electronic communications. Accordingly, the proposed rule seeks to utilize electronic means as the primary form of communication, particularly the use of e-mail. Current notice provisions, including provisions relating to renewal fees, appointment fees, and continuing education requirements, all require the notice to be sent through the mail, which is inefficient and expensive. The proposed rule will permit the Commissioner to specify the manner in which notices shall be provided to the individuals and entities. This will allow our office to shift to e-mail in the short-term while providing the flexibility to adopt new forms of communication as they develop in the future (i.e. an online platform). In addition, the proposed rule will require individuals and entities to provide a contact e-mail address.

Similarly, the proposed rule will also permit the Commissioner to specify the manner in which applications, forms, and notices shall be filed. Under the current rules, applications and forms are generally required to be filed with OCI; for example, appointment requests and notices and intermediary licenses under ss. Ins 6.57, 6.58, and 6.59, Wis. Adm.

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Code., all require filing applications with OCI. However, under SBS many of these services will be handled through the SBS platform. Moreover, the proposed rule removes any reference to OCI specific applications or forms in favor of NAIC Uniform Applications to ensure uniformity with other states.

Finally, the proposed rule makes a distinction between the different causes for license revocation, which are governed by s. 628.10, Wis. Stats. Under the proposed rule, revocations for failing to comply with continuing education requirements or failing to pay regulation fees are referred to as terminations, while revocations for delinquent taxes and unemployment contributions are still referred to as revocations. This revision is not meant to create a substantive distinction, but rather is a way to more accurately reflect how the different revocations are both treated and viewed. For example, under s. Ins 6.61 (16) (a), Wis. Adm. Code, read in combination with s. Ins 6.61 (3) (e), Wis. Adm. Code, intermediaries are required to notify the Commissioner of any revocation for delinquent taxes or for failing to pay unemployment contributions, but they do not have to report revocations for failing to comply with continuing education requirements or failing to pay regulation fees.

Specific Changes to chs. 6, 26, and 28: Clarity, Efficiency, and Uniformity

In addition to the general changes outlined above, the proposed rule will also make a number of revisions that clarify, simplify, and/or remove existing requirements that are confusing and outdated. These changes seek to streamline various aspects of the agent licensing process by removing unnecessary language and requirements and to create greater uniformity with other states.

First, under s. Ins 6.57 (1), Wis. Adm. Code, the proposed rule will clarify that appointment requests must be made either within 15 days of the date the agent contract is executed or the date the first insurance application is submitted. The same language is also added to subs. (5) and (6) in order to clarify appointment requirements regarding an insurer accepting business from an agent and for an agent soliciting on behalf of and submitting business to an insurer. In addition, the proposed rule also specifies that billing shall be done at the time of initial appointment. Finally, the proposed rule will remove specific fees details under subs. (4) and instead reference the statutory citation that governs the fees.

The proposed rule will make a number of changes to OCI's individual and firm intermediary licensing provisions under ss. Ins 6.58 and 6.59, Wis. Adm. Code, which are intended to streamline the licensing procedures and create greater uniformity with other states. First, under s. Ins 6.58, Wis. Adm. Code, the proposed rule will allow travel intermediaries to apply for firm licensure, remove the certification requirement for the articles of incorporation, permit the application to be either signed or submitted by an officer or partner as opposed to being signed by an officer or partner, and require the intermediary firm to designate a responsible licensed producer (DRLP).

Under s. Ins 6.59, Wis. Adm. Code, the proposed rule requires applicants: to provide a copy of the certificate of preclicensing that was presented to the exam proctor in order to sit for the exam; removes the requirement that applicants notify the testing vendor one day in advance of their scheduled examination; and increases the time period in which exam scores are valid from 30 to 180 days. In addition, the proposed rule clarifies the meaning of criminal "conviction" under ss. Ins 6.58 (4) (b) 1. and 6.59 (5) (a), Wis. Adm. Code, to align with the meaning of criminal "conviction" in the NAIC's Uniform Applications. Finally, s. Ins 6.59 (8), Wis. Adm. Code, currently requires nonresident intermediaries to provide OCI with a letter of certification when they become a resident of a new state, which is an outdated practice. The proposed rule replaces "new state of residence" with "home state" as a matter of uniformity and will only require the letter of certification if OCI cannot independently verify the nonresident license status in the new home state first.

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The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is provided for by statute under s. 628.10 (2) (cm), Wis. Stat. In addition, the proposed rule eliminates the last sentence in s. Ins 6.63 (4), Wis. Adm. Code, which outlines the requirements for relicensure depending on the length of time the license was terminated or revoked. This sentence is unnecessary as the requirement is already set forth by statute under s. 628.10 (5) (a), Wis. Stat.

Finally, the proposed rule will make a number of revisions to the current provisions governing prelicensing education and continuing education, which will simplify and/or eliminate unnecessary requirements that exist in the current code. In general, these changes seek to streamline the processes for prelicensing and continuing education.

The proposed rule will eliminate the “banking” of prelicensing credits by education providers under ss. 26.05 (5) and 26.07 (2), Wis. Adm. Code, which is no longer necessary with the switch to SBS. The elimination of “banking” may reduce potential fees to applicants and providers for uploading the credits while also eliminating the need for providers to collect the full social security number of pre-licensing students, which can be costly to secure. In addition, the proposed rule clarifies that approval of noncredit courses will expire on August 30 every two years starting on the August 30 after approval, and removes the requirement that applications for the next period be made on or before July 15 under s. Ins 26.06 (3), Wis. Adm. Code. Finally, the proposed rule permits noncredit programs to be offered in an audio or video format.

Similarly, the proposed rule will also clarify that approval for continuing education programs will expire on July 31 every two years starting on the July 31 after approval, and removes the requirement that applications for the next period be made on or before June 1 pursuant to s. Ins 28.06 (4), Wis. Adm. Code. In addition, the proposed rule moves communication skills, personnel management, and agency management into the category of subjects that may qualify for approval. Finally, the proposed rule also permits continuing education programs to be offered in an audio or video format.

5. Describe the Rule's Enforcement Provisions and Mechanisms

The proposed rule does not create any new enforcement provisions or authority for OCI; however, the proposed rule does make one change to align current enforcement provisions in the administrative code with current statute. The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is currently set forth in s. 628.10 (2) (cm), Wis. Stat.

6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)

- State's Economy
 Local Government Units

- Specific Businesses/Sectors
 Public Utility Rate Payers
 Small Businesses

7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

The proposed rule will likely have a positive impact on small businesses, including insurance agencies, and pre-licensing and continuing education providers by reducing fees and administrative costs, eliminating unnecessary requirements, and streamlining processes. First, the proposed rule will eliminate the banking of prelicensing credits by education providers, which may reduce potential fees to applicants and providers for uploading the credits to SBS. In addition, the proposed rule will also eliminate the need for providers to collect the full social security number of prelicensing students, which can be costly to secure.

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The proposed rule may also positively impact small business by reducing administrative costs through more effective and efficient processes. One of the key changes under the proposed rule is utilizing electronic means as the primary form of communication, which is faster and less expensive than providing paper copies through the mail. Finally, the switch to SBS will also allow small businesses to license new agents in less than 24 hours as compared to 13 days prior to the switch to SBS, and processing fees charged on applications are \$1 less than the previous vendor charged.

The changes made in the proposed rule could have a positive fiscal effect of \$190,360 for small businesses. These savings are the result of the \$1 fee reduction for licensing applications and the elimination of the banking of prelicensing course credits in which each applicant needs to complete a course consisting of 20 credits and each credit cost a dollar to upload. In 2017, OCI received 30,200 applications resulting in \$30,200 in savings due to the \$1 fee reduction per application. Similarly, in 2017 applicants completed 8008 courses resulting in \$160,160 (8008 x 20) in upload fees, which would be eliminated under the proposed rule. Accordingly, \$30,200 in savings from the licensing fee reduction and the \$160,160 in savings from the elimination of banking prelicensing course credits results in an overall savings for small businesses of \$190,360.

8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

OCI solicited comments generally through publication on OCI's website. In addition, OCI also solicited comments by utilizing the agency's public list servers, which are email lists open to any individual or entity who is interested in receiving notices from OCI regarding issues relating agent licensing, life insurance and annuities, property and casualty, and health and disability insurance.

OCI received one comment submitted by Jordan Lamb on behalf of the Professional Insurance Agents (PIA) of Wisconsin supporting the proposed rule for the same reasons OCI outline in the scope statement. In particular, the PIA noted the switch to electronic communication would increase communication, efficiency and flexibility with Wisconsin agents.

9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

10. Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

11. Chapter 20, Stats. Appropriations Affected

12. Fiscal Effect of Repealing or Modifying the Rule

- | | | |
|---|---|--|
| <input type="checkbox"/> No Fiscal Effect | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs |
| <input type="checkbox"/> Indeterminate | <input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Could Absorb Within Agency's Budget |
| | | <input checked="" type="checkbox"/> Decrease Cost |

13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The changes made in this proposed rule could have an overall positive fiscal effect of \$220,090. These savings are the result of the \$30,200 in savings from the licensing fee reduction and the \$160,160 in savings from the elimination of

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

banking preclicensing course credits described in Section 7 equaling \$190,360. In addition, OCI will save approximately \$30,000 in mailing expenses each year. Alternatively, the proposed rule could result in approximately \$270 in charges for town mutual insurers (total, not individually) due to a small fee NIPR charges for processing appointments online, which they did not have to do previously. NIPR charges a minimum fee of \$5 for online processing, OCI pulled data on 10 of the 54 town mutual insurers in Wisconsin and none appointed enough agents to meet the \$5.00 minimum threshold. Accordingly, OCI assigned the \$5.00 minimum processing fee to all 54 town mutual insurers, which resulted in an estimated cost of \$270 for town mutual insurers for the online processing of agent appointments. Therefore, the \$220,360 in savings (\$30,200 + \$160,160 + \$30,000) minus the \$270 in costs results in an overall positive fiscal effect of \$220,090.

In addition to the fiscal savings, the proposed rule will also have numerous other positive benefits, which have thoroughly been described in Sections 4 and 7. In particular, the switch to electronic communications will create a more effective and efficient means of communicating, which could not only reduce administrative costs by eliminating the need to print and mail information, but also could cut down the time it takes for applications/appointments to be processed making it easier and faster to conduct business.

14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No

15. Long Range Implications of Repealing or Modifying the Rule

One of the key changes involved in the proposed rule is the utilization of new technology to create more effective and efficient processes, largely in the form of consolidated services and electronic communications. The proposed rule will allow OCI to shift to e-mail in the short-term while providing the flexibility in the long-term to adopt new forms of communication as they develop in the future. Ultimately, the goal of SBS is to develop an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate through the online platform.

16. Compare With Approaches Being Used by Federal Government

There is no similar federal regulation covering these activities. Insurance is generally regulated on the state level with the NAIC enacting model rules, procedures, and programs for states.

17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The four adjacent states have substantially similar requirements relating to the agent licensing process, which generally follow the NAIC "Producer Licensing Model Act." Where variations among the four adjacent states exist is generally in how the agent licensing process is administered (i.e. how and when documents and information are filed or communicated). However, a direct comparison among the states is difficult because states have developed processes that work best for their department based on their resources and due to differences in how much of the licensing process is specified by statute or code for each state. The changes being made in this proposed rule are generally meant to clarify confusing language and/or requirements and to maximize OCI's resources to make Wisconsin's agent licensing process more efficient and cost-effective. Accordingly, the proposed rule is not aimed at making changes to the substantive requirements or procedures that are substantially similar among the adjacent states with limited exceptions, in particular: (1) eliminating the requirement that nonresident producers provided a certification from their new home state and (2) eliminating the "banking" of preclicensing credits. OCI's position is that these requirements are not only outdated, but also create an unnecessary burden on and cost to insurance agents and entities.

EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

Illinois: the agent licensing provisions are generally found in 215 ILCS 5/500-5 to 215 ILCS 5/500-150 and ILL. ADMIN. CODE tit. 50 Subch. ii.

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Iowa: the agent licensing provisions are generally found in IOWA CODE §§ 522B.1 to 522B.18, and 522E.3 and

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Michigan: the agent licensing provisions are generally found in MICH. COMP. LAWS §§ 500.1201 to 500.1204b and §§ 500.1204d to 500.1247.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: has a provision similar to Wisconsin’s current provision providing for “banking” of prelicensing credits.

Minnesota: the agent licensing provisions are generally found in Minn. Stat. §§ 60K.30 to 60K.56.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: OCI’s review did not find any provisions addressing the “banking” of prelicensing credits.

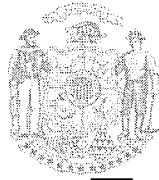
18. Contact Name

Timothy L. Cornelius

19. Contact Phone Number

608-266-0082

This document can be made available in alternate formats to individuals with disabilities upon request.



Tony Evers

Office of the Governor | State of Wisconsin

December 20, 2019

By Electronic Mail Only

Dear Secretaries and Agency Heads:

On this day, I approved the following statements of scope pursuant to Wis. Stat. § 227.135(2):

- A proposed scope by the Department of Natural Resources, submitted on December 11, 2019, relating to cooling water intake structures (Wis. Admin. Code ch. NR 111); and
- A proposed scope by the Department of Agriculture, Trade and Consumer Protection, submitted on December 16, 2019, relating to residential rental practices (Wis. Admin. Code ch. ATCP 134).

On this day, I approved the following proposed administrative rules pursuant to Wis. Stat. § 227.185:

- A statement of rule by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Professional Land Surveyors, submitted December 10, 2019, relating to professional engineer registration (Wis. Admin. Code ch. A-E 4); and
- A statement of rule by the Athletic Trainers Affiliated Credentialing Board, submitted September 25, 2019, relating to requirements for license renewal and reinstatement (Wis. Admin. Code ch. AT 2); and
- A statement of rule by the Department of Natural Resources, submitted December 11, 2019, relating to processes for waterbody assessments and impaired waters listing (Wis. Admin. Code chs. NR 102 and 217).
- A proposed rule by the Department of Natural Resources, submitted on December 12, 2019, relating to commercial fisheries of Lake Whitefish in Lake Michigan (Wis. Admin. Code ch. NR 25); and
- A proposed rule by the Department of Natural Resources, submitted on December 11, 2019, relating to site-specific phosphorus water quality criteria (Wis. Admin. Code chs. NR 102 and 119); and
- A proposed rule by the Office of the Commissioner of Insurance, submitted on December 10, 2019, relating to changes in the agent licensing process (Wis. Admin. Code chs. INS 6 and 28).

Please direct any questions about this letter to my policy director, Jenni Dye.

Sincerely,

A handwritten signature in black ink that reads "Tony Evers". The signature is written in a cursive, flowing style.

Tony Evers
Governor

Cc: Ryan Nilsestuen, chief legal counsel (ryan.nilsestuen1@wisconsin.gov)
Jenni Dye, policy director (jenni.dye@wisconsin.gov)
DOA State Budget Office (SBOAdminRules@spmail.enterprise.wistate.us).
Bradford Steine, DATCP (bradford.steine1@wisconsin.gov)
DSPS (DSPSAdminRules@wisconsin.gov)
Cheryl Heilman, DNR (cheryl.heilman@wisconsin.gov)
Nathan Houdek, OCI (nathan.houdek@wisconsin.gov)



**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Scott Grosz
Clearinghouse Director

Jessica Karis-Ruplinger
Legislative Council Acting Director

Margit S. Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 19-025

AN ORDER to repeal Ins 6.59 (4) (b), 26.05 (5), 26.07 (2), and 28.06 (5) (f); to renumber and amend Ins 28.06 (6) (b) 5., 7., and 13.; to amend Ins 6.57, 6.58, 6.59 (2), (4) (a), (am), (an), (ap), (as), (av), (ax), and (c), (5) (a), and (8) (e), 6.61 (15), 6.63 (2), (3), and (4), 6.92 (2) (a), (4) (a), and (6) (a) and (c), 6.93 (1) (a), and (2), 26.03 (3m) and (5), 26.04 (2) (f), and (3), 26.05 (1) and (3), 26.06 (1) and (3), 26.07 (1) (a), 26.09 (1) and (3), 28.01, 28.04 (1) (f), (g), and (h), and (2) (b), 28.05, 28.06 (1), (4), and (5) (c) 3., 28.07 (1) (a), (b), (d), and (f), (2), and (3), and 28.08 (1); and to create Ins 6.595 (am) and 28.03 (3m), relating to changes in the agent licensing process and affecting small business.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

03-15-2019 RECEIVED BY LEGISLATIVE COUNCIL.

04-11-2019 REPORT SENT TO AGENCY.

SG:DM

2019 APR 11 PM 1:52
RECEIVED
OFFICE OF THE COMMISSIONER OF INSURANCE

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 19-025

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

a. The agency cites to s. 600.01 (2), Stats., as authority for this rulemaking; however, it is not readily apparent how this statute provides authority for this rulemaking and the agency does not explain the relationship of this statute to its authority for this rulemaking in its explanation of authority to promulgate the proposed rule. The agency should explain why s. 600.01 (2) was listed as authority for this rulemaking.

b. The agency cites to s. 628.34, Stats., as authority for this rulemaking and in its explanation of authority explains that this statute, read in combination with the Commissioner’s general rulemaking authority under s. 601.41 (2) and (3), “authorize the Commissioner to establish minimum standards for intermediary records, which includes requiring intermediaries to update any name, e-mail or address changes”. Section 628.34, Stats., pertains to unfair marketing practices and s. 628.34 (12), allows the Commissioner to “define specific unfair trade practices by rule, after a finding that they are misleading, deceptive, unfairly discriminatory, provide an unfair inducement, or restrain competition unreasonably”. The agency should explain why s. 628.34, Stats., was cited as providing authority for the Commissioner to establish minimum standards for intermediary records.

2. Form, Style and Placement in Administrative Code

a. The introductory clause lists s. Ins 6.59 (2) among the rules treated by this rulemaking. Section Ins 6.59 (2) is not treated in this rulemaking, so this reference should be removed from the

introductory clause. Additionally, the introductory clause indicates the rule creates s. Ins 6.595 (am); this reference should be corrected to reflect instead the creation of s. Ins 6.595 (1) (am).

b. Broadly, significant portions of current ch. Ins 28, related to SECTIONS 37 to 42 of the proposed rule, do not follow the format prescribed by the Manual. The agency should consider generally updating these provisions to conform to the format prescribed in s. 1.03 (3) and (4), Manual.

c. SECTION 48 of the proposed rulemaking, which refers to the effective date of emergency rules, is not necessary and can be removed. This proposed rulemaking was not promulgated under the emergency rulemaking procedures.

d. Throughout the proposed rule, the agency has replaced specific requirements with the general phrase “in a manner prescribed by the commissioner”. The agency should review throughout the proposed rule to ensure these changes do not authorize the commissioner to prescribe by policy what would otherwise require rulemaking.

4. Adequacy of References to Related Statutes, Rules and Forms

Throughout the rule, the agency has removed notes that explain that a free copy of forms and applications referenced in the rules may be obtained from the agency or the agency’s website. Will the applicable forms and applications continue to be available from the agency? Is it necessary to specify where they may be obtained? [See, also, comment 2. d., above.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In proposed s. Ins 6.58 (5) (b), the reference to “every even numbered year” is awkward because termination will be triggered if the payment is not made by February 15 of a particular year, not if the payment is not made by February 15 “of every even numbered year”. The department might instead consider revising proposed s. Ins. 6.58 (5) (a) to specify that the regulation fee is due by February 15 of each even numbered year and then replacing “of every even numbered year”, in proposed Ins. 6.58 (5) (b) with “of the year in which it is due”.

b. In SECTION 31 of the proposed rule, the department might consider replacing the “and” after “the District of Columbia” with “or”.



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor
Mark V. Afable, Commissioner

Wisconsin.gov

December 11, 2019

Legal Unit
125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 267-9586 • Fax: (608) 264-6228
oci.wi.gov

Report on Sections Ins 6.57, 6.58, 6.59, 6.595, 6.61, 6.63, 6.92, 6.93, 26.03, 26.04, 26.05, 26.06, 26.07, 26.09, 28.01, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08, Wis. Adm. Code, relating to changes in the agent licensing process and affecting small business.

Clearinghouse Rule No. 19-025
Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:

The Office of the Commissioner of Insurance (OCI) recently switched to the National Association of Insurance Commissioner's (NAIC) State Based System (SBS), which is a comprehensive web-based application that was developed to assist state regulators with many services relating to the agent licensing process. SBS was created by the NAIC in coordination with the National Insurance Producers Registry (NIPR) as an initiative to promote greater national licensing uniformity. Accordingly, the switch to SBS is creating greater uniformity between OCI's agent licensing process and those in other states.

The switch to SBS also provides OCI with a more efficient and effective tool for administering the agent licensing process by affording a streamlined process in which many aspects of agent licensing, including pre-licensing requirements, applications, company appointment and billings, terminations, notices, and continuing education are consolidated in one place. The comprehensive nature of the SBS application is necessary to facilitate an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate with each other through electronic means.

General Changes to chs. 6, 26, and 28: Electronic Communications, Flexibility, and Uniformity

One of the key challenges with the switch to SBS and the agent licensing process in general is modernization in which new technology is being utilized to create more effective and efficient processes—largely in the form of consolidated services and electronic communications. Accordingly, the proposed rule seeks to utilize electronic means as the primary form of communication, particularly the use of e-mail. Current notice provisions, including provisions relating to renewal fees, appointment fees, and continuing education requirements, all require the notice to be sent through the mail, which is inefficient and expensive. The proposed rule will permit the Commissioner to specify the manner in which notices shall be provided to the individuals and entities. This will allow our office to shift to e-mail in the short-term while providing the flexibility to adopt new forms of communication as

they develop in the future (i.e. an online platform). In addition, the proposed rule will require individuals and entities to provide a contact e-mail address.

Similarly, the proposed rule will also permit the Commissioner to specify the manner in which applications, forms, and notices shall be filed. Under the current rules, applications and forms are generally required to be filed with OCI; for example, appointment requests and notices and intermediary licenses under ss. Ins 6.57, 6.58, and 6.59, Wis. Adm. Code., all require filing applications with OCI. However, under SBS many of these services will be handled through the SBS platform. Moreover, the proposed rule removes any reference to OCI specific applications or forms in favor of NAIC Uniform Applications to ensure uniformity with other states.

Finally, the proposed rule makes a distinction between the different causes for license revocation, which are governed by s. 628.10, Wis. Stats. Under the proposed rule, revocations for failing to comply with continuing education requirements or failing to pay regulation fees are referred to as terminations, while revocations for delinquent taxes and unemployment contributions are still referred to as revocations. This revision is not meant to create a substantive distinction, but rather is a way to more accurately reflect how the different revocations are both treated and viewed. For example, under s. Ins 6.61 (16) (a), Wis. Adm. Code, read in combination with s. Ins 6.61 (3) (e), Wis. Adm. Code, intermediaries are required to notify the Commissioner of any revocation for delinquent taxes or for failing to pay unemployment contributions, but they do not have to report revocations for failing to comply with continuing education requirements or failing to pay regulation fees.

Specific Changes to chs. 6, 26, and 28: Clarity, Efficiency, and Uniformity

In addition to the general changes outlined above, the proposed rule will also make a number of revisions that clarify, simplify, and/or remove existing requirements that are confusing and outdated. In general, these changes seek to streamline various aspects of the agent licensing process by removing unnecessary language and requirements and to create greater uniformity with other states.

Section Ins 6.57, Wis. Adm. Code—Appointment of Agents

First, under s. Ins 6.57 (1), Wis. Adm. Code, the proposed rule will clarify that appointment requests must be made either within 15 days of the date the agent contract is executed or the date the first insurance application is submitted. The same language is also added to subs. (5) and (6) in order to clarify appointment requirements regarding an insurer accepting business from an agent and for an agent soliciting on behalf of and submitting business to an insurer. In addition, the proposed rule also specifies that billing shall be done at the time of initial appointment. Finally, the proposed rule will remove specific fees details under subs. (4) and instead reference the statutory citation that governs the fees.

Sections Ins 6.58 and 6.59, Wis. Adm. Code—Firm and Individual Intermediary Licensing

The proposed rule will make a number of changes to OCI's individual and firm intermediary licensing provisions under ss. Ins 6.58 and 6.59, Wis. Adm. Code, which are intended to streamline the licensing procedures and create greater uniformity with other states. First, under s. Ins 6.58, Wis. Adm. Code, the proposed rule will allow travel intermediaries to apply for firm licensure, remove the certification requirement for the articles of incorporation, permit the application to be either signed or submitted by an officer or partner as opposed to being

signed by an officer or partner, and require the intermediary firm to designate a responsible licensed producer (DRLP).

Under s. Ins 6.59, Wis. Adm. Code, the proposed rule requires applicants to provide a copy of the certificate of prelicensing that was presented to the exam proctor in order to sit for the exam, removes the requirement that applicants notify the testing vendor one day in advance of their scheduled examination, and increases the time period in which exam scores are valid from 30 to 180 days. In addition, the proposed rule clarifies the meaning of criminal "conviction" under ss. Ins 6.58 (4) (b) 1. and 6.59 (5) (a), Wis. Adm. Code, to align with the meaning of criminal "conviction" in the NAIC's Uniform Applications. Finally, s. Ins 6.59 (8), Wis. Adm. Code, currently requires nonresident intermediaries to provide OCI with a letter of certification when they become a resident of a new state, which is an outdated practice. The proposed rule replaces "new state of residence" with "home state" as a matter of uniformity and will only require the letter of certification if OCI cannot independently verify the nonresident license status in the new home state first.

Section Ins 6.63, Wis. Adm. Code—Regulation Changes

The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is provided for by statute under s. 628.10 (2) (cm), Wis. Stat. In addition, the proposed rule eliminates the last sentence in s. Ins 6.63 (4), Wis. Adm. Code, which outlines the requirements for re-licensure depending on the length of time the license was terminated or revoked. This sentence is unnecessary as the requirement is already set forth by statute under s. 628.10 (5) (a), Wis. Stat.

Chapters Ins 26 and 28, Wis. Adm. Code—Prelicensing Education and Continuing Education

Finally, the proposed rule will make a number of revisions to the current provisions governing prelicensing education and continuing education, which will simplify and/or eliminate unnecessary requirements that exist in the current code. In general, these changes seek to streamline the processes for prelicensing and continuing education.

The proposed rule will eliminate the "banking" of prelicensing credits by education providers under ss. 26.05 (5) and 26.07 (2), Wis. Adm. Code, which is no longer necessary with the switch to SBS. The elimination of "banking" may reduce potential fees to applicants and providers for uploading the credits while also eliminating the need for providers to collect the full social security number of pre-licensing students, which can be costly to secure. In addition, the proposed rule clarifies that approval of noncredit courses will expire on August 30 every two years starting on the August 30 after approval, and removes the requirement that applications for the next period be made on or before July 15 under s. Ins 26.06 (3), Wis. Adm. Code. Finally, the proposed rule permits noncredit programs to be offered in an audio or video format.

Similarly, the proposed rule will also clarify that approval for continuing education programs will expire on July 31 every two years starting on the July 31 after approval, and removes the requirement that applications for the next period be made on or before June 1 pursuant to s. Ins 28.06 (4), Wis. Adm. Code. In addition, the proposed rule moves communication skills, personnel management, and agency management into the category of subjects that may qualify for approval. Finally, the proposed rule also permits continuing education programs to be offered in an audio or video format.

(b) Summary of the public comments and the agency's responses to those comments:

N/A

(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:

N/A

(d) Persons who appeared or registered regarding the proposed rule:

Appearances for:

None

Appearances against:

None

Appearances for information:

None

Registrations for:

None

Registrations against:

None

Registrations neither for nor against:

Melissa Duffy
Representing Common Ground Health Care

Letters received:

(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.

N/A

(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:

All comments were complied with and corrected except the following:

1. Section 2. b.: The Legislative Council noted that portions of the current ch. Ins 28, Wis. Adm. Code, do not follow the format prescribed by the Manual in terms of using introductory sections and punctuation and suggested updating the provisions. After reviewing this recommendation, OCI believes that such an update would go beyond the scope and decrease clarity in the current proposed rule. Rather, an update of this nature would be better addressed in a future rule where OCI could make wholesale revisions by utilizing Repeal/Replace, which will be much easier to follow. In terms of the provisions already being amended in the current proposed rule that do not follow the prescribe format, OCI is not changing the format in order maintain consistency with the current format of ch. Ins 28, Wis. Adm. Code.

2. Section 2. d.: In this section the Legislative Council suggests reviewing a number of revisions, which replace specific requirements with “in a manner specified by the commissioner” to ensure the changes do not authorize the commissioner to prescribe by policy what would otherwise require rulemaking. The revised language addresses administrative processes such as how/where to file forms or how various information should be communicated between OCI and licensees, not substantive requirements pertaining to licensure. Our Office reviewed these revisions and does not believe they authorize the Commissioner to substitute rulemaking with policy decisions.
3. Section 4: OCI will continue to provide clear guidance and access to applicable forms on our website.
4. Section 5. b.: The Legislative Council suggests changing an “and” to an “or” in the definition of “Home state.” Since this definition is from an NAIC Model Act OCI is keeping the current language in order to maintain uniformity with other states and the Model Act language.

(g) The response to the report prepared by the small business regulatory review board:

The small business regulatory review board did not prepare a report.

(h) Final Regulatory Flexibility Analysis

1. None of the methods specified under s. 227.14 (2), Stats., were included because all must be treated equally and thus it is not possible to have different rules for one segment of the population. Moreover, the proposed rule will likely have a positive impact on small businesses, including insurance agencies, pre-licensing and continuing education providers, and small insurance companies by reducing fees and administrative costs, eliminating unnecessary requirements, and streamlining processes.
2. No issues were raised by small businesses during the hearing on the proposed rule.
3. The proposed rule does not impose any additional reporting requirements on small businesses.
4. The proposed rule does not require any significant additional measures or investments by small businesses.
5. OCI does not need any additional funds to administer or enforce the proposed rule using the methods specified in s. 227.114 (2), Stats.
6. There is no impact on public health, safety and welfare caused by including in the rule any of the methods specified under s. 227.114 (2), Stats

(i) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations