



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

DATE: June 29, 2018
TO: All Insurers, Agents, and Interested Parties
FROM: Theodore K. Nickel, Commissioner of Insurance
SUBJECT: Act 241 and Evidence of Insurance

2017 Wisconsin Act 241 defined new unfair marketing practices and imposed new restrictions surrounding the misuse of evidence of insurance, including certificates of insurance.

"Certificates of insurance" are typically used to provide proof of liability insurance and to summarize the terms of the policy for a third party instead of providing a complete copy of the policy.

In August 2012, the Office of the Commissioner of Insurance (OCI) issued a bulletin clarifying the use of certificates of insurance by intermediaries and insurers within the State of Wisconsin. The 2012 bulletin recognized that under Wisconsin law, modifications to certificates of insurance will not amend or alter the underlying policy. The bulletin gave notice that language included in the certificate that amends or extends coverage or terms of the policy, such as stating that coverage is in force when it is not or stating that a notice of policy cancellation will be given when it will not, is a misrepresentation under s. 628.34 (1), Wis. Stat.

Act 241, through the creation of s. 628.34 (14), Wis. Stats., provides new unfair marketing practices to prevent confusion or misrepresentation surrounding the use of certificates of insurance. The provisions of Act 241 apply broadly to any person— insurers, intermediaries, and consumers, alike.

Specifically, no person may issue, request, or require a certificate of insurance that contains false, misleading, deceptive, or unfairly discriminatory information, or that otherwise violates public policy or law, as determined by the Commissioner. Additionally, no person may prepare, issue, request, or require a certificate of insurance that purports to either alter, amend, or extend insurance coverage, or alter any notice requirements under the policy that is the subject of the certificate.

OCI reiterates its guidance from the 2012 bulletin that, in order to ensure compliance with the law and understanding of what a certificate of insurance represents, insurers or agents should consider including a statement, similar to that included on preprinted ACORD and ISO certificate of insurance forms, such as:

"This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by the policies described herein."

Additionally, in light of Act 241, insurers or agents may consider adding an additional statement to certificates of insurance, such as:

“Preparing, issuing, requesting, or requiring this certificate of insurance be altered to include false or misleading information, to purport to modify coverage provided by the underlying policy, or alter terms and conditions of notice requirements, may be an unfair marketing practice in violation of s. 628.34 (14), Wis. Stats.”

An insurer, agent, or person violating s. 628.34 (1) and (14), Wis. Stats. may be subject to administrative penalties, including fines and possible license suspension or revocation.

Under existing law, a person who prepares, makes, or subscribes to a false or fraudulent document, such as a certificate of insurance, knowing that the document may be presented or used in support of an insurance claim, may be guilty of a Class A misdemeanor if the value of the claim does not exceed \$2,500, and a Class I felony if the value of the claim exceeds \$2,500.

Class A misdemeanors in Wisconsin are punishable by up to 9 months in jail and/or a \$10,000 fine, per Wis. Stat. § 939.51. Class I felonies are punishable by a prison term of up to 3 years and 6 months and/or a fine up to \$10,000, per Wis. Stat. § 939.50.

Please review the statutory language of [Act 241](#) relating to certificates of insurance and [Wis. Stat. 628.34 \(14\)](#) to determine how these changes affect you or your company. If you have questions or would like to report a potential violation, please contact [Rebecca Rebholz](#), Director of Market Regulation, at 608-264-8111, or visit ociaccess.oci.wi.gov/complaints/public.