

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING,
AMENDING, REPEALING AND CREATING AND CREATING A RULE**

To repeal Ins 6.59(7) & (9) and 6.63(2); To amend Ins 6.57(1), (2), (5) & (6), 6.58(intro), (1), (2), (3)(a)3. & 4., (5) & (6), 6.59(4)(am), (5)(a), (c) & (d), 6.61(3)(e), 6.63(3) to (5), 6.75(2)(e) & (n), 26.04(1), (2)(a) & (f), 26.06(3), 28.04(1) & (2)(a), 28.06(1) and 28.09; To repeal and create Ins 6.50(2) and 6.61(16); and to create Ins 6.50(3), 6.57(2)(a), (b) and (c), 6.58(1m), 6.59(5)(d)1. to 14. & (e), 6.595, 6.75(2)(o), 26-Appendix 2m, 28.06(7)(c) and 28.07(4) Wis. Adm. Code, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41(3), 628.02 to 628.11, 628.40 and 628.34(12), Stats.

Statutes interpreted: ss. 628.02 to 628.11 and 628.40, Stats.

Under the recently enacted federal Gramm Leach Bliley Act (the "GLBA"), Wisconsin and other states must become reciprocal or uniform in certain licensing practices. These changes would accomplish reciprocity.

The changes would also attempt to make insurance producer licensing more uniform and simplify multi-state licensing. If Wisconsin and at least 27 other states do not enact "reciprocal" or "uniform" rules regarding licensing, a federal licensing body similar to the "National Association of Securities Dealers" would be created to take over insurance agent licensing functions from the states. The National Association of Insurance Commissioners (the "NAIC") model Producer Act was developed by state insurance regulatory bodies to accomplish this and this rule adopts many provisions of the NAIC model.

New limited lines licenses are created for rental car insurance and legal expense insurance. Certain modifications in the licensing procedures are required by new agent licensing software purchased and currently being installed by OCI. The following analysis discusses the specific changes.

The lines of intermediary licenses issued by Wisconsin have been changed to reflect the lines required for reciprocity and 2 new limited lines. Reciprocity requires Wisconsin to issue licenses for the same authority which a non resident applicant has in their home state. The NAIC model sets out the major lines required including the

new "personal lines" license and this rule change conforms Wisconsin to these. In addition, to deal with the various limited line licenses issued by other states, the rules creates a Miscellaneous Limited line which grants the nonresident agent only the authority which the resident state granted under its limited line license.

Provisions were added regarding rental car insurance sold that would exempt the counter sales persons if certain requirements were complied with including supervision by an agent holding a limited line rental car insurance license.

New software purchased by OCI requires that insurers appoint agents by line of authority so that a cross check can be made to insure that both the agent and the insurer hold the authorities being requested. These revisions do not change the amount of fees required to be paid. Insurers will be billed for each appointment submitted for an agent. An additional appointment may have to be submitted if the insurer doesn't not specify all lines of authority in the initial appointment or the agent later is granted additional authority and thus the insurer would need to add this new authority with an additional appointment. Currently, this additional authority is granted without additional fees, but new software purchased for agent licensing will not accommodate this. The current term, "listing," used for these "appointments" is changed to conform to the description used by most other states. The effective date of the appointment is made to be 15 prior to the date it is entered on the OCI system to conform to the NAIC model. Also, in conformance with the NAIC model, insurers must appoint agents when they contract with the intermediary or when they receive an application from the intermediary.

The NAIC model changes the information that OCI currently collects regarding possible problems encountered by insurers with agents. The model only requires insurers to categorize terminations as "Not for Cause" or "For Cause." This change adopts that procedure but still requires insurers to inform OCI in writing of the same possible problems encountered by the insurer as currently reported.

OCI licenses intermediary corporations or other "unnatural" persons on a voluntary basis but requires the licensing of all individuals in the firm who solicit insurance. (This corporate licensing is done primarily so that Wisconsin firms can get licensed in other states which require licensing in the corporation's resident state.) This rule broadens the definition of what entities can receive a "firm" license to conform to the NAIC model.

The GLBA requires that states accept either the NAIC model nonresident application (which OCI has done for many years) or the application that the nonresident originally submitted to their resident state. This rule conforms Wisconsin to this requirement. Specific NAIC standards for denial of licensure and defining "for cause" terminations by insurers are incorporated. A licensing requirement that an applicant is over age 18 is also added.

The definitions of some terms used to define when a license is required and exemptions to licensing are defined using the same language as the NAIC model. The exemptions to licensing in the model are very similar to the current exemptions contained in s. 628.02, Stats.

The reporting requirements of agents to inform OCI of administrative actions, criminal proceedings and lawsuits against the agent involving misrepresentation, fraud, theft etc, are conformed to the NAIC model and clarified to more clearly define the actions to be reported and what information must be submitted.

Since a new major line of authority called "Personal Lines" has been created in the NAIC model, prelicensing educational requirements are defined for this line. The continuing education requirements are defined for all the new major and limited lines of insurance created. Three new self study courses are listed as being recognized for continuing education. The requirements for crediting continuing education for courses taken to maintain an identified designation are clarified to allow this only for individuals who currently hold that designation.

SECTION 1. Section Ins 6.50(2) is repealed and recreated to read:

Ins 6.50(2) LINES OF LICENSES. The following individual licenses may be issued, each authorizing the solicitation of the line of insurance or the function indicated:

(a) Major lines are all of the following:

1. Life insurance—insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
2. Accident and health insurance—insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.
3. Property insurance—insurance coverage for the direct or consequential loss or damage to property of every kind.
4. Casualty insurance—insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

5. Personal lines insurance—property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(b) Limited lines are all of the following:

1. Credit insurance—credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

2. Title insurance—as described in s. Ins 6.75 (2) (h);

3. Legal expense insurance—insurance that covers only legal expenses incurred by or provided to an individual or business

4. Rental car insurance—insurance which is provided in connection with and incidental to the lease or rental of a motor vehicle which do not require a commercial license to operate for a total period of 90 consecutive days or less and not exceeding the lease or rental period.

5. Miscellaneous Limited Line insurance—insurance for an insurer authorized to do business in Wisconsin which is permitted as a limited line of insurance in a Wisconsin nonresident intermediary's home state and is not described in this section shall have the same scope of authority as granted under the limited license issued by the producer's resident state which shall be briefly described on the license issued.

Note: All intermediaries holding the limited line automobile authority on the effective date of this rule and all intermediaries holding the limited line town mutual non-property insurance on May 1, 1991 are grandfathered for these authorities.

SECTION 2. Section Ins 6.50(3) is created to read:

6.50(3) Other Licenses issued to individuals are:

- (a) Reinsurance intermediary-broker-activities only as described in ch. Ins 47.
- (b) Reinsurance intermediary-manager-activities only as described in Ins ch. 47.
- (c) Managing general agent-activities as defined in s. Ins 42.01 (3).

SECTION 3. Section Ins 6.57(1) & (2) are amended to read:

Ins 6.57 **Listing Appointment of insurance agents by insurers.** (1)
Submission of an application for an intermediary-agent appointment shall initiate the listing appointment of an agent in accordance with s. 628.11, Stats. The application shall be submitted to the office of the commissioner of insurance on or before the date of appointment and shall show the lines of authority being requested for that agent. A listing An appointment shall become valid upon receipt of the agent listing appointment validation report by the person submitting the Listing- appointment and is valid only for the lines of insurance requested. The effective date of a valid appointment listing is 15 days prior to the date on which the ~~was mailed by the insurer.~~ appointment is entered on the OCI licensing system. The agent validation report is a computer-generated report prepared by the office of the commissioner of

insurance. Billing for initial ~~listing~~ appointment shall be done annually at the same time and at the same rate as renewal ~~listings-~~ appointments.

(2) Notice of termination of appointment of individual ~~intermediary-agent~~ intermediary in accordance with s. 628.11, Stats., shall be filed prior to or within ~~15~~ 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within ~~7~~ 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be listed 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 in any capacity.

SECTION 4. Section Ins 6.57(2)(a), (b) and (c) are created to read:

Ins 6.57(2) (a) If the reason for termination is one of the reasons listed as other criteria in s. 6.59(5)(d) or 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. 6.59(5)(d), the insurer must submit complete explanations and documentation in writing to OCI within 30 days of the termination.

(2)(b) If the insurer has knowledge of complaints received or problems experienced by the company involving company indebtedness, forgery, altering policies, fraud, misappropriation, misrepresentation, failure to promptly submit applications or premiums, poor policyholder service involving 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 situation where possible violations exist. The Office of the Commissioner of Insurance will investigate these situations and take appropriate action based upon the investigation.

(2)(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.

SECTION 5. Section Ins 6.57(5) & (6) and 6.58(intro) & (1) are amended to read:

Ins 6.57(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 listed with that ~~insurer.~~ company.

6.57(6) No ~~intermediary-agent~~ 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 listed with that insurer.

Ins 6.58 ~~Licensing of corporations and partnerships insurance~~ intermediary firms as insurance agents. (1) PURPOSE. The purpose of this rule is to establish procedures for licensure of ~~corporations and partnerships~~ insurance

intermediary firms as insurance intermediaries, reinsurance intermediaries or managing general agents.

SECTION 6. Section Ins 6.58(1m) is created to read:

6.58(1m) DEFINITION In this section "firm" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

SECTION 7. Section Ins 6.58(2), (3)(a)3. & 4., (5) and (6) and 6.59(4)(am) & (5)(a), (c) and (d) are amended to read:

6.58(2) LICENSE. Any ~~corporation or partnership~~ firm may obtain a an insurance intermediary firm license under this section.

(3)(a)3. Certification that the ~~corporation or partnership~~ 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;

(3)(a)4. If the ~~corporation or partnership~~ 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 ~~corporation's or partnership's~~ 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

6.58(5) FEES. (a) Biennially, ~~on or before January 1~~ at least 30 days prior to February 15 of even numbered years, a regulation fee of \$25.00 for resident and \$50.00 for nonresident ~~intermediaries,~~ insurance intermediary firm, reinsurance intermediaries and managing general agents will be ~~billed.~~ sent to each person at the address on file with the office of the commissioner of insurance.

(b) If payment of the biennial regulation fee is not made ~~within 30 days after the date of billing,~~ prior to February 15, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

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

(6) NOTIFICATION OF CHANGES. Each ~~corporation or partnership~~ 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, location of the business records, or a change in the name and address of the designated representative.

6.59(4)(am) *Application for nonresident intermediary agents.* Application for a permanent nonresident agent license or an enlargement of authority shall be made on form OCI 11-041N(rev.) or, for residents of states that have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Individual Non-Resident License form and filed with the office of the commissioner of ~~insurance.~~ insurance or a copy of the application submitted to their current state of residence. A completed application consists of a completed OCI 11-041N(rev.) or, for residents of

states that have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Individual Non-Resident License form or a copy of the application submitted to their current state of residence giving the current address for the residence of the applicant; an original certificate of licensing from the state of residence dated not more than 90 days prior to the application date; payment of the fees; and any documentation required in answer to questions on the application.

(5)(a) *Criminal record.* The conviction for crimes which are substantially related to ~~insurance or reinsurance~~, the circumstances of holding an insurance license.

(5)(c) *Regulatory action.* Any regulatory action taken with regard to any occupational license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence, including but not limited to:

SECTION 8. Section Ins 6.59(5)(d)1. to 14. and 6.59(5)(e) are created to read:

1. Providing incorrect, misleading, incomplete or materially untrue information in the license application.
2. Violating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner.
3. Obtaining or attempting to obtain a license through misrepresentation or fraud;
4. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business.
5. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
6. Having been convicted of a felony or misdemeanor substantially related to the circumstances of holding an insurance license.
7. Having admitted or been found to have committed any insurance unfair trade practice or fraud.
8. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.
9. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.
10. Forging another's name to an application for insurance or to any document related to an insurance transaction.
11. Improperly using notes or any other reference material to complete an examination for an insurance license.
12. Knowingly accepting insurance business from an individual who is not licensed.
13. Failing to comply with an administrative or court order imposing a child support obligation.

14. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

Ins 6.59(5)(e) *Age*. Is at least eighteen (18) years of age

SECTION 9. Section Ins 6.59(7) and (9) are repealed.

SECTION 10. Section Ins 6.595 is created to read:

Ins 6.595 **Exemption of licensing of individuals as intermediaries**

(1) DEFINITIONS. In this section:

(a) "Negotiate" means to confer directly with or offer advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(b) "Sell" or "Place" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(c) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(2) EXEMPTIONS. The following persons are not required to obtain an intermediary license:

(a) A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3. and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

(b) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and any of the following apply:

1. The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance.

2. The officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance.

3. The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance.

(c) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;

(d) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(e) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(f) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(g) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(h) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(i) Counter employees or counter representatives at rental car sales offices of Rental Car Firms if all the following are complied with:

1. The counter employee asks if the car renter desires various rental car insurance coverages, describes the types and limits of the rental car insurance coverage, discloses how much each rental car insurance coverage costs and, if there any questions about the coverages, offers a brochure with information about various rental car insurance coverages available.

2. The counter employee's insurance activities are conducted under the supervision of a managing employee who holds a limited line rental car insurance license. The counter employee refers all questions, if any, regarding the rental car insurance coverage to a Rental Car Firm managing employee who holds a limited line rental car insurance license and is properly appointed under s. 6.57(1) with each insurer underwriting the coverage and refers any questions regarding the renters existing insurance coverage to the renters existing agent. The licensed managing employees do not have to be present at each business location.

4. The Rental Car Firm makes available sufficient numbers of licensed managing employees during all business hours to answer insurance questions related to insurance coverage by potential renters.

5. The licensed managing employees and the Rental Car Firm must require the display of clearly readable information where the insurance coverages are sold or describe in each insurance brochure the process by which the renter can contact the Rental Car Firm's licensed agent to get rental car insurance questions answered and refers any questions regarding the renters existing insurance coverage to the renters existing agent.

6. The licensed managing employees reviews and approves the training program and the Rental Car Firm assumes responsibility for training and the insurance activities of its unlicensed counter employees or counter representatives.

7. The licensed managing employees and the Rental Car Firm do not pay any unlicensed employee or representative any compensation, fee, or commission that is dependent solely on the placement of rental car insurance but may make production payments or incentive payments which are not solely dependent on the sale of rental car insurance.

SECTION 11. Section Ins 6.61(3)(e) is amended to read:

Ins 6.61(3)(e) "Formal ~~disciplinary~~ administrative action" means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, ~~forfeitures~~ forfeitures, settlement agreements, license restrictions or actions limiting the intermediary's method of conducting an insurance business but does not include administrative actions based solely on failing to comply with continuing education requirements or solely on failing to pay a regulation fee for licensing.

SECTION 12. Section Ins 6.61(16) is repealed and recreated to read:

Ins 6.61(16) NOTIFICATION OF FORMAL ADMINISTRATIVE ACTIONS, CRIMINAL PROCEEDINGS AND LAWSUITS. Each intermediary shall notify the commissioner in writing of the following within 30 days:

(a) Except for action taken by the Wisconsin office of the commissioner of insurance, any formal administrative action against the intermediary taken by any state's insurance regulatory agency, commission or board or other regulatory agency which licenses the person for any occupational activity. The notification shall include a description of the basis for the administrative action and any action taken as a result of the proceeding, a copy of the notice of hearing and other documents describing the problem, a copy of the order, consent to order, stipulation, final resolution and other relevant documents.

(b) Any initial pretrial hearing date related to any criminal prosecution of the intermediary taken in any jurisdiction, other than a misdemeanor charge related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint filed, the order resulting from the hearing and any other relevant legal documents.

(c) Any felony conviction or misdemeanor conviction in any jurisdiction, other than a misdemeanor conviction related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint or criminal charging document filed, the judgement of conviction, the sentencing document, the intermediary's explanation of what happened to cause criminal proceedings, the intermediary's reasons why no action should be taken regarding the intermediary's license and any other relevant legal documents.

(d) Any lawsuit filed against the licensee or the licensee's business in which there are allegations of misrepresentation, fraud, theft or embezzlement involving the licensee or the licensee's business. The notification shall include a copy of the initial suit documents, the intermediary's explanation of what happened to cause the civil proceedings, the intermediary's reasons why no action should be taken regarding the intermediary's license and any other relevant legal documents.

SECTION 13. Section Ins 6.63(2) is repealed.

SECTION 14. Section Ins 6.63(3) to (5) and 6.75(2)(e) & (n) are amended to read:

Ins 6.63(3) ~~Biennially on or before January 1~~ Biennially, at least 30 days prior to February 15 of each even numbered year ~~the a regulation fee is billed, and shall be paid within 30 days after the mailing by the office of the commissioner of insurance of a notification that the charge is due.~~ notification on form OCI 11-51 will be sent to each intermediary at the resident address on file with the office of the commissioner of insurance.

Note: A copy of form OCI 11-51 can be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707.

(4) If payment of the biennial regulation fee is not made ~~within 30 days after the date of billing,~~ prior to February 15, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

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

Ins 6.75(2)(e) ~~Automobile and aircraft insurance~~ — insurance against loss, medical or other expense, and liability for damages arising out of the ownership, maintenance or use of any ~~automobile, aircraft~~ automobile or other motor vehicle;

Ins 6.75(2) (n) Miscellaneous — insurance against any other property or casualty insurance risk which lawfully may be the subject of insurance not specifically defined in any other paragraph of this ~~rule.~~ rule;

SECTION 15. Section Ins 6.75(2)(o) is created to read:

Ins 6.75(2)(o) Aircraft insurance — insurance against loss, medical or other expense, and liability for damages arising out of the ownership, maintenance or use of any aircraft.

SECTION 16. Section Ins 26.04(1), (2)(a) & (f) and 26.06(3) are amended to read:

Ins 26.04 **Prelicensing requirement.** (1) Each applicant for a property, casualty, personal lines, life, or accident and health insurance license shall complete, not more than one year earlier than the date tested, at least 20 hours of a preliminary educational program approved by the commissioner in accordance with this chapter.

Ins 26.04(2)(a) Any applicant applying for a limited line insurance license for automobile, credit life/credit accident and health, credit insurance, legal expense insurance, rental car insurance, miscellaneous limited line, or title.

Ins 26.04(2)(f) An applicant applying for an original resident license who held a license within the previous 6 months as a resident insurance agent in another state for each of the lines applied for in Wisconsin. The applicant must submit an original resident state letter of clearance dated not more than ~~60~~ 90 days prior to the date of application as evidence of previous licensure.

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 ~~July 31~~ August 30 of the next odd numbered year after approval. Each school shall submit an application for approval for the next period to the commissioner on or before ~~June 1~~ July 15 of each odd numbered year.

SECTION 17. Section Ins 26 Appendix 2m is created to read:

**Ins 26 APPENDIX 2m — PERSONAL LINES INSURANCE COURSE REQUIREMENTS
SECTION A**

I. Principles of Insurance — 1 Hour

- A. Definition of risk
- B. Risk management
- C. Insurable and noninsurable risk
- D. Pooling concept—law of large numbers
- E. Types of insurance companies
- F. Reinsurance

II. General Wisconsin Insurance Laws — 4 Hours

- A. Duties and powers of Insurance Commissioner—statutory and rule-making
- B. Knowledge of administrative action process, including hearings and penalties
- C. Purpose of licensing, including procedures and who must be licensed
- D. Record keeping and changes in agent status, including change of name or address
- E. Agent license expiration, revocation, suspension, and limitation
- F. General regulations regarding misrepresentation, knowledge of acts of agent, rebating

- G. Regulation of specific insurance contract changes regarding cancellation, nonrenewal, notice of proof of loss, and payment of claims
- H. Unfair claims methods and practices—timely payment of claims
- I. Fair rating practices
- J. Home and telephone solicitation requirements
- K. Section 628.32, Wis. Stat., written disclosure of fees other than commissions
- L. Controlled business
- M. Proper exchange of business
- N. Unfair marketing practices
 - 1. Misrepresentation
 - 2. Unfair inducement
 - 3. Unfair discrimination
 - 4. Extra charges
 - 5. Influencing employers
 - 6. Unfair use of official position
 - 7. Returning indicia of agency
 - 8. Churning
 - 9. Twisting
 - 10. Restraint of competition
 - 11. Unfair restriction of contracting parties choice of insurer
- O. Insurance contracts in Wisconsin

III. Ethics — 3 Hours

- A. Fiduciary duties, and responsibilities
- B. Conflict of interest
- C. Ethical marketing practices, including fair and ethical treatment of policyholders
- D. Appropriate claims practices
- E. Suitability of product to client
- F. Social responsibility of insurance agent
- G. Agent/company relationships
- H. Maintaining appropriate insurance expertise

SECTION B

IV. Terms, Concepts and Policies — 10 Hours

- A. Insurance terms and related concepts
 - 1. Insurance
 - 2. Risks
 - 3. Peril (causes of loss)
 - a. Specified (named) perils
 - (1) Standard fire
 - (2) Extended coverage
 - (3) Broad form
 - b. Open perils (all physical loss)

4. Hazards
5. Loss
 - a. Direct
 - b. Indirect
6. Accident
7. Occurrence
8. Indemnity
9. Insurable interest
10. Actual cash value
11. Deductible
12. Limits of liability
13. Replacement cost
14. Negligence
 - a. Contributory
 - b. Comparative
15. Proximate cause
16. Warranties
17. Representations
18. Concealment
19. Liability
20. Bodily injury liability
21. Property damage liability
22. Personal injury liability
23. Incidental contracts
24. Binders
25. Coinsurance
26. Pair and set clause
27. Extensions of coverage
28. Additional coverages
29. Cancellation
30. Nonrenewal
31. Vacancy and unoccupancy
32. Right of salvage
33. Abandonment
34. Negligence

B. Policy provisions

1. Elements of a contract
2. Declarations
3. Insuring agreement
4. Sources of insurability information
5. Conditions

6. Exclusions
7. Limitations
8. Warranties, representations, and concealment
 - a. Warranty
 - b. Affirmative
9. Promissory
10. Breach of warranty
11. Concealment
12. Binders
13. Definition of the insured
14. Duties of the insured
15. Obligations of the insurance company
16. Mortgagee rights
17. Cancellation and nonrenewal provisions
18. Supplementary payment (additional coverages)
19. Proof of loss
20. Notice of claim
21. Appraisal
22. Assignment
23. Arbitration
24. Pro rata liability (other insurance)
25. Salvage
26. Consent to settle a loss
27. Subrogation
28. Compliance with provisions of Fair Credit Reporting Act

C. Types of policies and related terms

1. Automobile Insurance – personal & family auto
 - a. Bodily injury
 - b. Property damage
 - c. Limits
 - (1) Split
 - (2) Single
 - d. Medical payments
 - e. Supplementary payments
 - f. Physical damage
 - (1) Collision
 - (2) Comprehensive
 - g. Uninsured motorist
 - h. Underinsured motorist
 - i. Named insureds
 - j. Insureds

- k. Owned automobile
- l. Nonowned automobile
- m. Temporary substitute auto
- n. Hired auto
- o. Cancellation and nonrenewal
- p. Towing and labor
- q. Personal auto policy
- r. Family auto policy
- 2. Personal Watercraft
- 3. Standard fire
- 4. Personal lines
 - a. Dwelling (DP forms)
 - b. Homeowners (HO) forms
 - c. Mobile homes
- 5. Homeowners policy
- 6. Farm and ranch insurance
- 7. Flood insurance
- 8. Inland marine - Personal floaters
- 9. Earthquake insurance
- 10. Personal Umbrella/excess liability

V. Wisconsin Property and Casualty Insurance Law — 2 Hours

- A. General rate standards
- B. Prohibited classification of risks
- C. Surplus lines
 - 1. Definition
 - 2. Prohibitions and restrictions
 - 3. Responsibilities of agents and brokers
- D. Oral contracts
- E. Automobile liability
 - 1. Financial responsibility
 - a. Definition
 - b. Persons required to show proof
 - 2. Required coverages and prohibited exclusions
 - a. Uninsured motorist
 - 3. Cancellation or nonrenewal
 - 4. Responsibility for minors operating motor vehicles
 - 5. Wisconsin Automobile Insurance Plan
- F. Definition of loss
- G. Wisconsin Insurance Plan
- H. Valued policy law
- I. Vacancy rule

J. Time period for filing claim

SECTION 18. Section Ins 28.04(1)(a) & (2)(a) and 28.06(1) are amended to read:

Ins 28.04(1)(a) Each intermediary licensed in any of the major lines of property, casualty, life, or accident and health insurance, listed in s. 6.50(2)(a) and the grandfathered limited line of automobile shall biennially complete 24 credit hours of continuing education approved by the commissioner in accordance with this chapter.

(2)(a) Any intermediary exclusively holding a limited line insurance license in the following lines: ~~credit life, credit accident and health, credit insurance, legal expense insurance, rental car insurance, miscellaneous limited line~~, managing general agent, and title insurance.

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 a ~~notarized~~ an application on forms provided by the commissioner.

SECTION 19. Section Ins 28.06(7)(c) and 28.07(4) are created to read:

Ins 28.06(7)(c) The fee to be paid for each course renewal by each provider shall not exceed 4 times the credit hour fee per course.

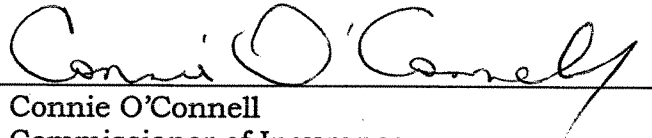
28.07(4) No credit will be given to an intermediary for completion of a course that is certified for self study to maintain a designation identified in Ins 28.09 unless the provider certifies that the intermediary holds that designation.

SECTION 20. Section Ins 28.09 is amended to read:

28.09 **Recognized programs of study.** Programs of study leading to and maintaining any of the following designations may be approved by the commissioner under s. Ins 28.06 (5) as a course: Chartered Financial Consultant (ChFC); Certified Insurance Counselor (CIC); Chartered Property and Casualty Underwriter (CPCU); Registered Health Underwriter (RHU); Chartered Life Underwriter (CLU); Life Underwriter Training Council Fellow (LUTCF); Certified Employee Benefit Specialist (CEBS); Certified Financial Planner (CFP); Fellow of the Life Management Institute (FLMI); Registered Employee Benefits Counselor (REBC); Health Insurance Associate (HIA); Associate in Claims (AIC); Associate in Risk Management (ARM); Associate in Underwriting (AU); Certification in Long Term Care (CLTC); Registered Professional Liability Underwriting (RPLU); Certified Insurance Service Representative (CISR), Associate in Loss Control Management (ALCM) and Fraternal Insurance Counselor (FIC).

SECTION 21. 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 4th day of September, 2001.



Connie O'Connell
Commissioner of Insurance



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor
Connie L. O'Connell, Commissioner
Wisconsin.gov

September 4, 2001

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REPORT ON Section Ins 6.59, 6.50, 6.57, 6.58, 6.595, 6.61, 6.63, 26 & 28, Wis. Adm. Code, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model

Clearinghouse Rule No 01-074
Submitted Under s. 227.19 (3), Stats.
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

This rule revises the Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model. This is required under federal law to avoid a form of national insurance regulation. In addition, OCI is purchasing new agent licensing software that requires some modification of existing rules in order to work.

(b) Modifications made in proposed rule based on testimony at public hearing:

Provisions were added regarding rental car insurance sold which would exempt the counter sales persons if certain requirements were complied with including supervision by an agent holding a limited line rental car insurance license and an additional continuing education provider was added to the list of self study programs in Ins 28.

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

Appearances For: None

Appearances Against:

William Wallschlaeger Wisconsin Rental Car Alliance
Kevin O'Callaghan Thrifty Car Rental
Charles T. Rubin Avis, Hertz, National, Alamo, Budget etc.
Brian Mitchell Wisconsin Rental Car Alliance
Bruce Werschem Midwest Car Corp

Appearances For Information: None

Registrations For: None

Registrations Against:

Jim Loomer Enterprise Car Rental
Eric Hoffman Enterprise Car Rental
Mike Daury Mayfair Rent-A-Car

John G. Wattoli
Daniel Ewald

Hertz
Mayfair Rent-A-Car

Registrations Neither for nor against: None

Letters received:

Don Cleasby	National Association of Independent Insurers
Richard Solowan	GEICO Insurance Company
Larry Kibbee	Alliance of American Insurers
John T. Kinsler	Empire Fire & Marine Letter
Karen B. Kapen	American Council of Life Ins
William Wallschlaeger	Wisconsin Rental Car Alliance
Karen Geiger	Blue Cross Blue Sheild of Wisconsin
Tim Mullen	NAIC
Charles T. Rubin	Avis, Hertz, National, Alamo, Budget etc.

(d) Response to Legislative Council staff recommendations: All comments were complied with and corrected

(e) Regulatory flexibility analysis

1. None of the methods specified under s. 227.14 (2), Stats., for reducing the rule's impact on small businesses were included because all must be treated equally and thus it is not possible to have different rules for one segment of the population.
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 additional measures or investments by small businesses.
5. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.
6. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.

Note: At the rule hearing representatives of the rental car industry contested that there was no effect on small businesses because they viewed the rule as requiring a license where none was currently required. OCI has maintained that there currently is a requirement for licenses for many sales employees of rental car firms and the proposed rules relax this requirement by exempting most of these employees and only requiring the licensing of supervising agents rather than each employee.

(f) Fiscal Effect See fiscal estimate attached to proposed rule.

Enclosure: Legislative Council Staff Recommendations