

1977 Assembly Bill 855

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CHAPTER 363, Laws of 1977

AN ACT to amend 628.04 (3) and 628.10 (2) (a); and to create 628.04 (3m) of the statutes, relating to authorizing the commissioner of insurance to set continuing education standards for licensed intermediaries and granting rule-making authority subject to legislative review.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 628.04 (3) of the statutes is amended to read:

628.04 (3) CLASSIFICATION AND EXAMINATION. The commissioner may by rule prescribe classifications of intermediaries in addition to those provided in s. 628.02 (2) to (5), by kind of authority, or kind of insurance, or in other ways, and may prescribe different standards of competence, including examinations and educational prerequisites, for each class. The commissioner may by rule set annual continuing education standards, but may not require a licensed intermediary to complete a course of study requiring more than 15 hours, per license, of approved continuing education, including continuing education programs approved by the commissioner and presented by the insurers, in any one-year period. The commissioner may, by rule, exempt any class of intermediaries from the continuing education requirements. So far as practicable, the commissioner shall issue a single license to each individual intermediary for a single fee.

SECTION 1m. 628.04 (3m) of the statutes is created to read:

628.04 (3m) APPROVAL OF RULES. This subsection does not apply to emergency rules adopted under s. 227.027.

(a) *Role of legislative council.* Prior to any public hearing on a proposed rule under sub. (3), or if no public hearing is required, prior to notification of the standing committees, the commissioner shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the commissioner and the revisor of statutes to:

1. Review the statutory authority under which the commissioner intends to adopt the rule. The legislative council shall notify the commissioner, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules.

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) *Legislative council to assist standing committees.* The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the commissioner submits under this subsection.

(c) *Notification of standing committees.* The commissioner shall notify appropriate standing committees when proposed rules under sub. (3) are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The commissioner may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of her or his intention not to promulgate the rule.

(d) *Form of notice.* The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) *Standing committee review.* 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the commissioner to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the commissioner to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The commissioner may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the commissioner may promulgate the rule.

(f) *Joint committee for the review of administrative rules.* 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The commissioner may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The commissioner may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the commissioner for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the commissioner may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

SECTION 2. 628.10 (2) (a) of the statutes is amended to read:

628.10 (2) (a) (title) *For nonpayment of fees or failure to comply with continuing education requirements.* ~~Whenever~~ If a licensed intermediary fails to pay a fee on time or fails to produce evidence of compliance with the continuing education standards set by the commissioner, the commissioner may by order suspend the license.

SECTION 3. **Transition.** Licensed intermediaries shall not be required to produce evidence of compliance with continuing education requirements established under section 628.04 (3) of the statutes, as affected by this act, prior to January 1, 1981. Rules adopted by the commissioner of insurance under section 628.04 (3) of the statutes, as affected by this act, shall grant licensed intermediaries credit for approved courses completed after the effective date of this act and prior to January 1, 1981.
