

98-078-INS. 28 - CONTINUING EDUC. - INS. AGENTS

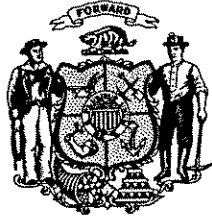
WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

RULES CLEARINGHOUSE

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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 98-078

AN ORDER to repeal Ins 28 Appendix I; to renumber Ins 28.06 (6) (b) 10.; to amend Ins 6.58 (3) and (b), 6.59 (4) (am), 28.04 (1) (a), (b), (d) and (2) (c), 28.07 (1) (b) and (2) and 28.09; and to create Ins 28.06 (6) (b) 10. and 11. and 28.06 (7) (b), relating to the requirements for continuing education for insurance intermediaries.

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

05-28-98 RECEIVED BY LEGISLATIVE COUNCIL.

06-25-98 REPORT SENT TO AGENCY.

RNS:DLS:kjf;rv

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)]

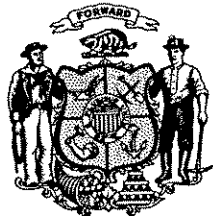
Comment Attached YES NO

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CLEARINGHOUSE RULE 98-078

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. In the treatment clause to SECTION 1, the various sections of Ins (i.e., ss. Ins 6.58, 6.59 and 28.04) being affected should each be dealt with in a separate SECTION in the rule. [See s. 1.04 (2) (a) (1), Manual.]

b. Section Ins 6.58 (3) should be restructured as follows (and the treatment clause revised to reflect the restructuring) by combining the current sub. (3) (intro.) and sub. (3) (a):

Ins 6.58 (3) (intro.) PROCEDURE. (a) Application for a permanent intermediary license . . . and filed with the commissioner of insurance. The application must shall be accompanied by:

1. A licensing fee of \$100.

2. . . .

(b) Determination of the acceptance or rejection

c. In sub. (3) (intro.) and elsewhere in the rule where this language appears, should "states that" replace "states who"? Presumably it is the states, not the residents, signing the declaration.

d. "NAIC" should be spelled out in a definition and then the abbreviation may be used.

e. If a rule requires a new form, a copy of the form must be attached to the rule or a statement must be included indicating where a copy of the form may be obtained at no charge. [See s. 1.09, Manual.] This has not been done for the National Association of Insurance Commissioners form.

f. In s. Ins 6.59 (4) (am), the title should be underscored. [See s. 1.05 (2) (d), Manual.]

g. The treatment clause of SECTION 2 should read: "SECTION 2. Ins 28.06 (6) (b) 10. is renumbered Ins 28.06 (6) (b) 12."

h. In SECTION 4, on page 4, the two sections in the treatment clause (i.e., ss. Ins 28.07 and 28.09) should be dealt with in different SECTIONS in the rule. [See s. 1.04 (2), Manual.]

i. There is a second SECTION 4 on page 5 of the rule. This should be numbered SECTION 5 and the subsequent SECTIONS should be renumbered. Also, in the treatment clause of this SECTION 4, "of chapter Ins 28" should be inserted after "I".

j. Should SECTION 5 (Initial Applicability) read: "This rule first applies to intermediaries . . ."? Also, since the reporting period is biennial, should "2000" replace "2001"?

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

With reference to the effective date, is there any reason why the rule should not take effect on the first day of the month commencing after the date of publication (which is the date specified in s. 227.22 (2) (intro.), Stats., and thus incorrectly cited in the rule)? If the agency intends January 1, 1999 to be the date, the reference should be to sub. (2) (b) in s. 227.22, Stats.

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

a. With reference to the new language in s. Ins 6.58 (3) and elsewhere in the rule, what is a "declaration of uniform treatment"? This should be defined in the text of the rule to make it clear.

b. In s. Ins 28.04 (1) (b), do the education requirements of the other state have to be comparable to the Wisconsin education requirements? If so, this should be clearly indicated (e.g., use the term "substantially comparable" or "substantially similar" and state that this determination must be made by the commissioner).

c. In s. Ins 28.04 (1) (d), the first new sentence is not clear. Should this say: "Courses completed from January 1 to April 16 of the odd-numbered year of a new reporting period may be counted toward either the previous biennial reporting period or the new reporting period."? As drafted, it is not clear what is intended?

Also, if under other provisions in sub. (1), the biennial reports must be made on or before February 15 of each odd-numbered year, should there be a provision in the rule indicating the time limit and method for reporting course credit hours accumulated from February 15 to April 16 that the licensee wishes to claim for the previous biennium?

d. In s. Ins 28.04 (1) (d), "banked" should be replaced by a better term or phrase. What does "banked" mean?

PROPOSED ORDER OF THE COMMISSIONER OF INSURANCE

REPEALING, RENUMBERING, AMENDING AND CREATING A RULE

The office of the commissioner of insurance proposes an order to repeal s. Ins 28 Appendix I; to renumber s. Ins 28.06 (6) (b) (10); to amend s. Ins 6.58 (3) and (3) (b), s. Ins 6.59 (4) (am), s. Ins 28.04 (1) (a), (b), (d) and (2) (c), s. Ins 28.07 (1) (b) and (2) and s. Ins 28.09; and to create s. Ins 28.06 (6) (b) 10. and 11., and 28.06 (7) (b), Wis. Adm. Code, relating to the requirements for continuing education for insurance intermediaries.

ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 628.04 (3), and 628.10 (2) (a), Stats.

Statutes interpreted: s. 628.04 (3), Stats.

This order amends the continuing education requirements for individuals licensed as insurance intermediaries in the four major lines of property, casualty, life, accident and health, and the limited line of automobile. In order to satisfy the continuing education requirements, an applicant shall biennially complete 24 credit hours of study as described in s. Ins 28. These changes do the following:

- Eliminate the 12 credit hour requirement of continuing education that was in effect for the period that ended February 15, 1997,
- allow nonresident agents to furnish evidence of compliance with another state's continuation program as proof of compliance with the continuing education requirement in Wisconsin,
- detail how courses completed between January 1 and April 16 of odd-numbered years are credited,
- add additional types of courses which will not qualify as continuing education courses,
- add more recognized programs of study and limit the fees that are paid for recognized courses,

- eliminate the requirement that providers transmit course participant's social security numbers to the office of the commissioner of insurance after course completion,
- eliminate the specific format for the course completion certificate and instead describe the information to be included in the certificates issued to agents completing approved courses,
- allow for the use of a national application and
- extend the time a home state letter of certification for original licensing and for compliance with continuing education requirements is accepted from 60 to 90 days.

SECTION 1. Ins 6.58 (3), (3) (b), 6.59 (4) (am), and Ins 28.04 (1)

(a), (b), (d) and (2) (c) are amended to read:

Ins 6.58 (3) PROCEDURE. Application for a permanent intermediary license, reinsurance intermediary license or managing general agent license for a corporation or partnership shall be made on application form 11-50 or, for residents of states who 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.

(3) (b) Determination of the acceptance or rejection of a completed application shall be made within 60 business days. A completed application consists of form 11-50 or, for residents of states who have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Business Entity Non-Resident License/Registration form and other required material described in par.

(a).

Ins 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 who have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Individual Non-Resident License form and filed with the

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office of the commissioner of insurance. A completed application consists of a completed OCI 11-041N(rev.) or, for residents of states who have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Individual Non-Resident License form giving the current address for the residence of the applicant; an original certificate of licensing from the state of residence dated not more than 60 90 days prior to the application date; payment of the fees; and any documentation required in answer to questions on the application.

Ins 28.04 (1) (a) Each intermediary licensed in any of the major lines of property, casualty, life, or accident and health insurance, and the limited line of automobile shall biennially complete 24 credit hours of continuing education approved by the commissioner in accordance with this chapter. ~~For the initial period ending February 15, 1997, 12 credit hours are required.~~

(b) Every resident and nonresident intermediary shall, on a biennial basis, on or before February 15 of each odd-numbered year, furnish evidence to the commissioner in a manner prescribed by the commissioner that the continuing education requirements of this section have been satisfied. A nonresident whose home state does not have a continuing education requirement but is licensed for the same lines of authority in another state which does have a continuing education requirement may comply with this section by furnishing evidence of compliance with the other state's requirement.

(d) Excess credit hours accumulated during any biennium may not be carried forward to the next biennium. Courses completed from January 1 through April 16 of each odd-numbered year may only be counted to either the current or following reporting period. Courses are banked in the order they are completed.

Ins 28.04 (2) (c) A nonresident intermediary who furnishes an original letter of certification not more than 60 90 days old when received by the commissioner, which provides evidence of compliance with continuing education requirements in his or her state of residence, provided that the state of residence grants similar exemptions to Wisconsin residents who have satisfied Wisconsin's continuing education requirements under this section.

SECTION 2. Ins 28.06 (6) (b) 10. is renumbered to 12.

SECTION 3. Ins 28.06 (6) (b) 10. and 11. and (7) (b) are created to

read:

Ins 28.06 (6) (b) 10. Repair procedures

11. Cleaning Techniques

is this (a)? → (7) (b) The fee to be paid for each course submission by each provider for recognized programs of study identified in s. Ins 28.09 shall be the same as provided in (a), ^{PM.} not to exceed eight times the credit hour fee per course. X

SECTION 4. Ins 28.07 (1) (b) and (2), ^{Do separately - not renumber to} and 28.09 are amended to read:

Ins 28.07 (1) (b) Certificates of continuing education shall be issued to each agent completing an approved course and shall contain the information specified in Appendix 1 and shall be printed the agent's name, Wisconsin license 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.

(2) Providers shall submit to the commissioner a computerized list of course attendees, which includes the intermediary's name, Wisconsin license number, date of birth, ~~social security 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. Accompanying the computerized list shall be a letter signed by a person authorized to sign certificates of continuing education certifying that the students listed personally attended the reported class room instruction. The computerized list shall be furnished to the commissioner within 30 days following the date of completion of continuing education programs, except during the period January 1 through May 1 of each odd-numbered year, at which time computerized lists shall be furnished to the commissioner within 10 days following the date of completion of the programs.

rule book

X

Ins 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 Employe Benefit Specialist (CEBS); Certified Financial Planner (CFP); Fellow of the Life Management Institute (FLMI); and Fraternal Insurance Counselor (FIC).

SECTION 4, Appendix I ^{of Ins 28.09} is repealed. *first*

SECTION 5. INITIAL APPLICABILITY. This rule applies to all intermediaries required to complete continuing education beginning with the reporting period starting on January 1, 1999 and ending December 31, 2001. *3 yr. period*

SECTION 6. EFFECTIVE DATE. This rule shall take effect on January 1, 1999, as provided in s. 227.22 (2) (intro.), Stats. *} ?*

Dated at Madison, Wisconsin, this 28th day of May, 1998.

Randy Blumer
Randy Blumer
Commissioner of Insurance

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