

**2005 DRAFTING REQUEST**

**Bill**

Received: 03/06/2006

Received By: pkahler

Wanted: Soon

Identical to LRB:

For: Glenn Grothman (608) 266-7513

By/Representing: Ron Sklansky

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Insurance - health

Extra Copies: CMH

Submit via email: YES

Requester's email: Sen.Grothman@legis.state.wi.us

Carbon copy (CC:) to: ron.sklansky@legis.state.wi.us

**Pre Topic:**

No specific pre topic given

**Topic:**

Suspending certain OCI rules

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 03/08/2006	lkunkel 03/09/2006		_____			State
/1			jfrantze 03/09/2006	_____	mbarman 03/09/2006		State
/2	pkahler 03/09/2006	lkunkel 03/09/2006	pgreensl 03/09/2006	_____	lnorthro 03/09/2006	lnorthro 04/06/2006	

FE Sent For:

↳ At Intro.

<END>

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/?	pkahler 03/08/2006	lkunkel 03/09/2006	<i>3</i> <i>7/9/06</i>	<i>3/9</i> <i>pk</i>			State
/1			jfrantze 03/09/2006		mbarman 03/09/2006		

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### Topic:

Suspending certain OCI rules ✓

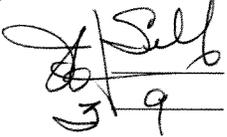
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### Instructions:

See Attached

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/?	pkahler	1/mk 3/9					

FE Sent For:

<END>

**Kahler, Pam**

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**From:** Sklansky, Ron  
**Sent:** Friday, March 03, 2006 11:04 AM  
**To:** Kahler, Pam; Hanaman, Cathlene  
**Subject:** JCRAR suspension bill on ppo's

**Attachments:** jcrar motion Ins 9.doc

Pam and Cathlene:

JCRAR adopted the attached motions on ch. Ins 9 on Wednesday. Consequently, the committee must meet by the end of the month in order to introduce bills to sustain the suspensions. Given your work on this topic with Joyce, a comparison of the motions with ch. Ins 9 probably will tell you what you need to know in drafting a bill. But if not, give me a call. At any rate, we need the typical JCRAR legislation that prohibits the Office of the Commissioner of Insurance from promulgating the substance of the suspensions. The senate requester is Sen. Grothman and the assembly requester is Rep. Gottlieb. Thanks.

Ron

6-1946



jcrar motion Ins  
9.doc (33 KB)...

copy to Ron

## Motions

1. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 1., 3., and 6. and 227.26 (2) (d), Stats., suspends all of the following:

✓ a. Section Ins 9.01 (10m).

✓ b. The phrase "or limited scope plan" in ss. Ins 9.01 (5) and (9m), 9.07, and 9.20 (intro.) (second occurrence).

✓ c. The phrase "or limited scope" in ss. Ins. 9.01(13), 9.20 (intro.) (first and second occurrences), and 9.42 (1).  
9.41, 9.42(5)(a)?

✓ 2. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.25 (4).

✓ 3. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends part of s. Ins 9.32 (2) (a) as follows:

Ins 9.32 (2) (a) Provide covered benefits by participating providers with reasonable promptness with respect to geographic location; ~~hours of operation, waiting times for appointments in provider offices and after hours care. The hours of operation, waiting times, and availability of after hours care shall reflect the usual practice in the local area.~~ Geographic availability shall reflect the usual medical travel times within the community. This does not require an insurer offering a preferred provider plan to offer geographic availability of a choice of participating providers.

✓ 4. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.32 (2) (c) and (e) 1. and the phrase "(c) and" in s. Ins 9.33.

✓ 5. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.32 (2) (f).

corrected version (per Ron Sklawsky)

Motions

1. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 1., 3., and 6. and 227.26 (2) (d), Stats., suspends all of the following:

- a. Section Ins 9.01 (10m).
- b. The phrase "or limited scope plan" in ss. Ins 9.01 (9m), 9.20 (intro.) (second occurrence), and 9.42 (1) (second occurrence).
- c. The phrase "or limited scope" in ss. Ins. 9.01 (5) and (13), 9.07, 9.20 (intro.) (first and second occurrences), 9.41, and 9.42 (1) (first occurrence) and (5) (a).

2. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.25 (4).

3. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends part of s. Ins 9.32 (2) (a) as follows:

Ins 9.32 (2) (a) Provide covered benefits by participating providers with reasonable promptness with respect to geographic location; ~~hours of operation, waiting times for appointments in provider offices and after hours care. The hours of operation, waiting times, and availability of after hours care shall reflect the usual practice in the local area.~~ Geographic availability shall reflect the usual medical travel times within the community. This does not require an insurer offering a preferred provider plan to offer geographic availability of a choice of participating providers.

4. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.32 (2) (c) and (e) 1. and the phrase "(c) and" in s. Ins 9.33.

5. That the Joint Committee for Review of Administrative Rules, pursuant to ss. 227.19 (4) (d) 6. and 227.26 (2) (d), Stats., suspends s. Ins 9.32 (2) (f).



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-4802/8

PJK.....

lnk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Friday

gencat

✓+

- 1 AN ACT ~~relating to~~; relating to: prohibiting the office of the commissioner of insurance
- 2 from promulgating certain rules related to limited-scope dental or vision plans
- 3 and preferred provider plans.

***Analysis by the Legislative Reference Bureau***

Current law contains various provisions that apply specifically to defined network plans and preferred provider plans, including one chapter that deals primarily with those plans. A defined network plan is a hospital or medical policy or certificate that requires, or provides incentives for, enrollees to obtain health care services from providers that are managed, owned, under contract with, or employed by the insurer offering the policy or certificate (participating providers). Limited-scope dental or vision plans, however, are specifically excluded, as are certain other types of plans. A health maintenance organization is an example of a defined network plan. Except for a type of preferred provider plan that is specifically excluded from the description of a defined network plan, such as a limited-scope dental or vision plan, a preferred provider plan, which covers either comprehensive or limited health care services provided by either participating or nonparticipating providers, is also a defined network plan because obtaining services from participating providers usually requires lower levels of cost-sharing than obtaining services from nonparticipating providers. This bill prohibits the commissioner of insurance (commissioner) from promulgating, under the chapter of the statutes that deals primarily with defined network plans and preferred provider plans, rules relating to limited-scope dental or vision plans. The bill also prohibits the commissioner from promulgating rules that impose certain specific requirements on preferred provider plans.

The bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending, on March 1, 2006, all of the following rules of the Office of the Commissioner of Insurance:

1. Section INS 9.01 (10m), Wis. Adm. Code.
2. Portions of ss. INS 9.01 (5), (9m), and (13), 9.07 (1), 9.20 (intro.), 9.32 (2) (a), 9.33, 9.41, and 9.42 (1) and (5) (a), Wis. Adm. Code.
3. Section 9.25 (4), Wis. Adm. Code.
4. Section 9.32 (2) (c), (e) 1., and (f), Wis. Adm. Code.

Some of the suspended rules related to limited-scope dental and vision plans. The remainder of the suspended rules imposed requirements on preferred provider plans related to: 1) requiring participating providers to disclose all providers who would be involved in a procedure and whether each provider is a participating or nonparticipating provider; 2) coverage of, and payment rates for, emergency medical services rendered by nonparticipating providers in certain circumstances; 3) treating a preferred provider plan as a defined network plan on the basis of its use of utilization management for denying access to nonparticipating providers; and 4) the provision of covered benefits with respect to hours of operation, waiting times for appointments, and after hours care.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 609.20 (3) of the statutes is created to read:

2 609.20 (3) The commissioner may not promulgate any of the following rules for preferred provider plans:

3 (a) A rule that imposes requirements for the provision of benefits by participating providers with respect to hours of operation, waiting times for appointments in provider offices, and the availability of after hours care.

4 (b) A rule that requires contracts with participating providers to include a requirement for the provider to disclose to an enrollee, at the time an elective procedure or other nonemergency care is scheduled, the name of each provider that will or may be involved with providing the care and whether each provider is a participating provider or a nonparticipating provider.

*relating to*  
↑

1 (c) A rule that imposes requirements relating to coverage of emergency services  
2 rendered by a nonparticipating provider and the rate at which the insurer offering  
3 the preferred provider plan must pay the nonparticipating provider. ✓

4 (d) Any rule that relates to, references, or is contingent upon any requirement  
5 prohibited under pars. (a) to (c). ✓

6 SECTION 2. 609.21 of the statutes is created to read: ✓

7 **609.21 Rules for limited-scope plans prohibited.** The commissioner may  
8 not promulgate a rule under this chapter that relates to a health care plan that  
9 provides limited-scope dental or vision benefits under a separate policy, certificate,  
10 or contract of insurance, as described in s. 609.01 (1g) (b) 9. ✓

11 SECTION 3. 609.35 of the statutes is renumbered 609.35 (1). ✓

12 SECTION 4. 609.35 (2) of the statutes is created to read:

13 609.35 (2) The commissioner may not promulgate a rule that subjects a  
14 preferred provider plan to the requirements specified in sub. (1) on the basis of the  
15 utilization management practices of the insurer offering the preferred provider plan, ✓  
16 including the use of utilization management to deny access to or coverage of services  
17 of nonparticipating providers. ✓

18 (END)

**Kahler, Pam**

---

**From:** Sklansky, Ron  
**Sent:** Thursday, March 09, 2006 2:01 PM  
**To:** Kahler, Pam  
**Subject:** RE: LRB-4802/1

Pam:

The bill draft looks good to me. I'd replace "INS" with "Ins".

Ron

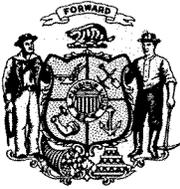
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**From:** Kahler, Pam  
**Sent:** Thursday, March 09, 2006 1:36 PM  
**To:** Sklansky, Ron  
**Subject:** LRB-4802/1

Ron:

I noticed that I need to add "INS" after "Section" in two places in the analysis on page two. Let me know if you think any other changes are needed before I do the Assembly companion. Thanks!

Pam



State of Wisconsin  
2005 - 2006 LEGISLATURE

revision 2  
LRB-4802/1  
PJK:lmk:jf  
"Kay" stays

Friday, please  
P2

2005 BILL

Rosen

1 AN ACT to renumber 609.35; and to create 609.20 (3), 609.21 and 609.35 (2) of  
2 the statutes; relating to: prohibiting the Office of the Commissioner of  
3 Insurance from promulgating certain rules related to limited-scope dental or  
4 vision plans and preferred provider plans.

*Analysis by the Legislative Reference Bureau*

Current law contains various provisions that apply specifically to defined network plans and preferred provider plans, including one chapter that deals primarily with those plans. A defined network plan is a hospital or medical policy or certificate that requires, or provides incentives for, enrollees to obtain health care services from providers that are managed, owned, under contract with, or employed by the insurer offering the policy or certificate (participating providers). Limited-scope dental or vision plans, however, are specifically excluded, as are certain other types of plans. A health maintenance organization is an example of a defined network plan. Except for a type of preferred provider plan that is specifically excluded from the description of a defined network plan, such as a limited-scope dental or vision plan, a preferred provider plan, which covers either comprehensive or limited health care services provided by either participating or nonparticipating providers, is also a defined network plan because obtaining services from participating providers usually requires lower levels of cost-sharing than obtaining services from nonparticipating providers. This bill prohibits the commissioner of insurance (commissioner) from promulgating, under the chapter of the statutes that deals primarily with defined network plans and preferred provider plans, rules

BILL

INS

relating to limited-scope dental or vision plans. The bill also prohibits the commissioner from promulgating rules that impose certain specific requirements on preferred provider plans.

The bill is introduced as required by s. 227.26 (2) (f), stats., in support of the action of the Joint Committee for Review of Administrative Rules in suspending, on March 1, 2006, all of the following rules of the Office of the Commissioner of Insurance:

1. Section ~~INS~~ 9.01 (10m), Wis. Adm. Code.
2. Portions of ss. ~~INS~~ 9.01 (5), (9m), and (13), 9.07 (1), 9.20 (intro.), 9.32 (2) (a), 9.33, 9.41, and 9.42 (1) and (5) (a), Wis. Adm. Code.
3. Section 9.25 (4), Wis. Adm. Code.
4. Section 9.32 (2) (c), (e) 1., and (f), Wis. Adm. Code.

Some of the suspended rules related to limited-scope dental and vision plans. The remainder of the suspended rules imposed requirements on preferred provider plans related to: 1) requiring participating providers to disclose all providers who would be involved in a procedure and whether each provider is a participating or nonparticipating provider; 2) coverage of, and payment rates for, emergency medical services rendered by nonparticipating providers in certain circumstances; 3) treating a preferred provider plan as a defined network plan on the basis of its use of utilization management for denying access to nonparticipating providers; and 4) the provision of covered benefits with respect to hours of operation, waiting times for appointments, and after hours care.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1           SECTION 1. 609.20 (3) of the statutes is created to read:
- 2           609.20 (3) The commissioner may not promulgate any of the following rules
- 3 relating to preferred provider plans:
- 4           (a) A rule that imposes requirements for the provision of benefits by
- 5 participating providers with respect to hours of operation, waiting times for
- 6 appointments in provider offices, and the availability of after hours care.
- 7           (b) A rule that requires contracts with participating providers to include a
- 8 requirement for the provider to disclose to an enrollee, at the time an elective
- 9 procedure or other nonemergency care is scheduled, the name of each provider that

**BILL**

1 will or may be involved with providing the care and whether each provider is a  
2 participating provider or a nonparticipating provider.

3 (c) A rule that imposes requirements relating to coverage of emergency services  
4 rendered by a nonparticipating provider and the rate at which the insurer offering  
5 the preferred provider plan must pay the nonparticipating provider.

6 (d) Any rule that relates to, references, or is contingent upon any requirement  
7 prohibited under pars. (a) to (c).

8 **SECTION 2.** 609.21 of the statutes is created to read:

9 **609.21 Rules for limited-scope plans prohibited.** The commissioner may  
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11 provides limited-scope dental or vision benefits under a separate policy, certificate,  
12 or contract of insurance, as described in s. 609.01 (1g) (b) 9.

13 **SECTION 3.** 609.35 of the statutes is renumbered 609.35 (1).

14 **SECTION 4.** 609.35 (2) of the statutes is created to read:

15 **609.35 (2)** The commissioner may not promulgate a rule that subjects a  
16 preferred provider plan to the requirements specified in sub. (1) on the basis of the  
17 utilization management practices of the insurer offering the preferred provider plan,  
18 including the use of utilization management to deny access to or coverage of services  
19 of nonparticipating providers.

20 (END)

## **Basford, Sarah**

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**From:** LRB.Legal  
**Sent:** Thursday, April 06, 2006 9:40 AM  
**To:** Emerson, James  
**Subject:** RE: Draft Review: LRB 05-4802/2 Topic: Suspending certain OCI rules

We have not jacketed this yet, but before we can, we need the JCRAR report. Thanks.

**Sarah Basford**  
Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
PH: (608) 266-3561/FAX: (608) 264-6948  
[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)

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**From:** Emerson, James  
**Sent:** Thursday, April 06, 2006 9:29 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 05-4802/2 Topic: Suspending certain OCI rules

Please Jacket LRB 05-4802/2 for the SENATE.