



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

June 7, 2011

Legal Unit
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Report From Agency

REPORT ON section Ins 6.07, Wis. Adm. Code, relating to readability and electronic access to insurance policies.

Clearinghouse Rule No. 11-021

Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:

The proposed rule implements s. 631.22 (2), Stats., that requires the Office to promulgate rules establishing standards for the determination of compliance with the requirements for coherence, commonly understood language, legible, appropriately divided and captioned by its various sections in a meaningful sequence. The rule reinstates the readability score to a 40 Flesch score except for Medicare supplement policies that are required to maintain a Flesch score of 50. The proposed rule is more closely aligned with its statutory authority and as such limits unnecessary expense and duplicate efforts.

(b) Summary of the public comments and the agency's responses to those comments:

Comment: The Office received approximately 54 letters and emails written using substantially similar words requesting the readability score at least remain at 50 for health care policies.

Response: Most health insurance policies exceed the current Flesch score of 40 and all Medicare supplement policies are required to be written at a 50 Flesch score. Although not noticed, it is believed that a standard national Flesch score is being developed and would necessitate, if implemented, Wisconsin licensed insurers to modify policy forms more than once in a relatively short time period increasing costs that are shifted to the insureds.

Comment: Require the Office to develop uniform definitions and terms for use in policy forms.

Response: The Office could develop definitions, however, especially in the group insurance market employers and insurers need flexibility. Standardized terms and definitions would hinder that flexibility.

Comment: Several comments raised concerns related to literacy of Wisconsin citizens and national trends and that readability scores should be increased to follow these trends.

Response: The Office appreciates the efforts of literacy assistants and health care providers and is aware that one's level of literacy affects one's life in many ways including reading insurance policy forms. The Office strives to reach out as a resource to insurance consumers to assist in understanding insurance issues.

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Insurers are still required to produce readable, understandable and coherent policies.

(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:

No modifications were made.

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

Appearances for:

None

Appearances against:

Erin Agesen, Wisconsin Literacy, Inc.
Paul Smith, MD
Edward Kuharski
Bobby Peterson, ABC for Health
Monica Hale
Jeff Burkhart, Literacy Network

Appearances for information:

None

Registrations for:

None

Registrations against:

Megan Duncan, Wisconsin Literacy and UW-Whitewater

Registrations neither for nor against:

Phil Dougherty, Wisconsin Association of Health Plans
Tim Stumm, Wisconsin Health News
Kathryn Ambelang, Wisconsin Physicians Service Insurance Corp.
Michael Meulemans, Write Resources/wwwInsurance.About.com

Letters received:

Testimony, email and survey, submitted by Paul Smith MD
"How to Write Plain English" by Rudolf Flesch, submitted by Mr. Kuharski
Testimony by Bobby Peterson, Attorney, ABC for Health, Inc.
Testimony by Monica Hale
Email Ann Sitrick
Email Mary Beth Kelley-Lowe
Emails Erin Agesen
Email Dipesh Navsaria, MPH, MD
Email David Hahn, MD MS
Email CJ Aspenson RN, BSN
Email Michele Erikson
Email Jennifer Edgoose MD, MPH
Email James Demin, MD
Email Stephanie Stark

Email Miedra North
Email and letter Robin Krumholz Health Tradition Health Plan
Email Carole Edland
Email Gini Davis
Email Teresa Hosterman
Email Jose Salazar
Email Kevin Hoff
Email Tatiana Maida
Email Sandra Dykstra
Email Sally Petrowski
Email Cheri Stoffel
Email Kaye Crampton
Email Bonnie Wilcox
Email Claudia Scholl
Email Helen Dale
Email Judy Norrish
Email Carla Junk
Email Liz Bade
Email Lois Oswald
Email Georgia Lieber
Email Ellen Borst
Email Kristi Fossum Jones
Email Margarete Cook
Email David Magness
Email George Morris MD, FAAN
Email James Campbell
Email Steven Bergin, MD
Email Karren Jeske
Letter Emma Swan
Letter Gloria Rodgers
Letter Betty Rodgers
Letter Marilyn Byrd
Letter Rev. Martin Childs
Letter Fredna Odom
Letter Cherly Scott
Letter Glaris Jefferson
Letter Pauar Kull
Letter Bessie Johnson
Letter Esra Williams
Letter Theresa Kirk
Letter Murphy Swan
Letter Leona Hale
Letter Esther Loper
Letter Victoria Butler
Letter Nathaniel Butler

(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.

None

(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:

All comments were complied with and corrected.

(g) The response to the report prepared by the small business regulatory review board:

The small business regulatory review board did not prepare a report.

(h) Final Regulatory Flexibility Analysis

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

(i) Fiscal Effect

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations
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