

COMMISSIONER OF INSURANCE

302-1

Ins 6

(11) **SPECIAL REQUIREMENTS FOR TITLE INSURANCE.** Each intermediary who is employed by, or is, an affiliate of a producer of title insurance shall maintain records for three years for each application or order for title insurance accepted in this state. The records shall state whether the application or order was directly or indirectly referred as provided by s. Ins 3.32 (5) by a producer of title insurance which is an affiliate as defined by s. Ins 3.32 (3) (a), (bm) and (c) and the name of each producer of title insurance who is an affiliate and acts as broker, agent, lender, representative or attorney in the transaction which resulted in the application or order. Each intermediary who is an affiliate of a producer of title insurance shall maintain a record of gross revenue from operations in this state from title insurance by quarter calendar year which shall separately show gross revenue from operations in this state derived from applications or orders for title insurance directly or indirectly referred by the affiliate.

(12) **PLACE OF MAINTAINING RECORDS.** The intermediary shall maintain records required by subs. (8), (9), (10) and (11) at the business address of the intermediary or the insurer recorded with the commissioner of insurance, or at another location only if the intermediary provides written notice of the other location to the commissioner of insurance.

(13) **UPDATING RECORDS.** The intermediary shall update all intermediary records at reasonable intervals or as necessary and shall maintain all financial intermediary records according to accepted accounting principles.

(14) **MAINTAINING POLICYHOLDER RECORDS.** The intermediary shall retain policyholder records for a period of at least three years after termination or lapse of the policy.

(15) **CHANGE OF ADDRESS.** Each intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's business or residence address or any change of address of location of the intermediary's records.

(16) **NOTIFICATION OF CONVICTION OR DISCIPLINARY ACTION.** Except for action taken by the Wisconsin office of the commissioner of insurance, each intermediary shall notify the commissioner in writing within 30 days of any felony conviction or any formal disciplinary action against the intermediary taken by any state's insurance regulatory agency, commission or board. The notification shall give a description of the conviction or disciplinary action.

(17) **RECORDS MAINTAINED BY INSURERS.** An insurer shall inform its intermediaries in writing of the requirements of this section and may, by written agreement, assume the responsibility to maintain these records for an individual intermediary if the records can be made immediately available to the commissioner of insurance on demand.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am., Register, March, 1979, No. 279, eff. 4-1-79; cr. (5), Register, September, 1981, No. 309, eff. 10-1-81; cr. (2m), Register, November, 1986, No. 371, eff. 12-1-86; r. and recr. Register, December, 1987, No. 384, eff. 1-1-88.

Ins 6.63 Regulation charge. (1) The regulation amount to be paid biennially, by each licensed individual intermediary-agent is established to be as follows:

Resident agent	\$ 10.00
Non-resident agent	\$ 30.00

(2) The commissioner shall mail notification on form OCI 11-51 of the biennial regulation charge due and payable to each agent to the resident address on file with the office of the commissioner of insurance.

(3) Biennially on or before January 1 of each even numbered year the 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.

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, 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.

(6) Any individual intermediary-agent whose license has been revoked shall, in order to be relicensed, satisfy the examination and licensing requirements established by Ins 6.59.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) to (3), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (4) to (6), Register, October, 1981, No. 310, eff. 11-1-81.

Next page is numbered 303

Ins 6.66 Proper exchange of business. (s. 628.61, Stats.). (1) Proper exchange of business means the forwarding of insurance business from one agent who cannot, after due consideration, place the business with any of the insurers for which the agent is listed because of capacity problems, the refusal of the company to accept the risk or the onerous conditions it imposes on the insured, to another agent licensed for those lines of insurance whose insurers are able to accommodate the risk under conditions more favorable to the insured. The agent forwarding the business is entitled to split the commission involved. Proper exchange of business is not the regular course of business and such forwarding of business is thereby distinguished from brokerage by its occasional and exceptional nature.

(2) No agent may properly exchange business with another agent, unless:

(a) The agent forwarding the business to a listed agent is licensed for the lines of business that are being exchanged;

(b) The agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(c) Both the agent forwarding the business and the agent who places the business with the insurer sign the insurance application, or if no application is completed, the names of the agents involved in the transaction appear on the policy issued.

(3) No agent shall accept business solicited by another intermediary-agent which he or she knows, or has reason to know, is not exchanged in compliance with the provisions of this rule.

(5) **LIMITATIONS.** (a) In the absence of evidence to the contrary, an intermediary-agent shall be presumed to have exceeded the occasional exchange of business if he or she places more than 5 insurance risks per calendar year with any single insurer with which he or she is not listed as an intermediary-agent, or exchanges in total more than 25 insurance risks per calendar year.

(b) The burden of showing that specialty lines, non-standard and professional liability business placed through surplus lines intermediaries in accordance with s. 618.41, Stats., or written on an excess rate or other individually rated risk basis beyond the limits prescribed for other exchanges of business in par. (a) is occasional and otherwise in compliance with this rule, shall be upon the intermediary-agent soliciting and forwarding such business.

(6) The forwarding of business from an intermediary-agent to an intermediary-broker shall be deemed an exchange of business within this section. This section shall not limit in any way the amount of business that an intermediary-broker may place or forward to any intermediary-agent.

(7) The exchange of business among intermediary-brokers and participation by intermediaries in risk sharing plans approved according to ch. 619, Stats., shall not be limited in any way by this section.

History: Cr. Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (d), Register, May, 1979, No. 281, eff. 6-1-79; am. (1), (2) (intro.) and (3), r. (2) (a) and (4), renum. (2) (b), to (d) to be (2) (a) to (c) and am., Register, September, 1982, No. 321, eff. 10-1-82.

Register, May, 1987, No. 377

Ins 6

Ins 6.67 Unfair discrimination in life and disability insurance. (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices in life and disability insurance found to be unfairly discriminatory under s. 628.34 (3) (b), Stats.

Note: The need for a rule has arisen because of questions as to whether life and disability insurers are in all cases fairly "charging different premiums or offering different terms of coverage except on the basis of classifications related to the nature and degree of the risk covered." (s. 628.34 (4), Stats.) The main purpose of the rule is to make clear that life and disability insurers cannot classify individuals arbitrarily—without a rational basis for each decision.

(2) **APPLICABILITY AND SCOPE.** This rule shall apply to all life and disability insurance policies delivered or issued for delivery in Wisconsin on or after January 1, 1980 and to all existing life and disability group, blanket and franchise insurance policies subject to Wisconsin insurance law which are amended or renewed on or after January 1, 1980.

(2m) **DEFINITIONS.** In this section:

(a) "Disability insurance" has the meaning given under s. Ins 6.75 (1) (c).

(b) "Territorial classification" means an arrangement of persons into categories based upon geographic characteristics other than zip code.

(3) **SPECIFIC EXAMPLES.** The following are specific examples of unfair discrimination under s. 628.34 (3) (b), Stats.

(a) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual or charging a different rate for the same coverage solely because of physical or mental impairment, other than blindness or partial blindness, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(b) Except as provided in par. 1. and 2., refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

1. Individuals who are blind or partially blind may be subject to standards based on sound actuarial principles or actual or reasonably anticipated experience with respect to any other condition they may have, including a condition which is the cause of the blindness or partial blindness.

2. Refusal to insure under sub. (3) includes a denial of disability insurance on the basis that the policy presumes disability if the insured loses his or her eyesight. However, an insurer may exclude from coverage, or apply a waiting period, to coverage of treatment of blindness or partial blindness if that condition exists at the time the policy is issued.

(4) **INSURER RESPONSIBILITY.** An insurer has the burden of proof to show that an act, standard or practice of the insurer is based on sound actuarial principles or is related to actual or reasonably anticipated experience in any action to enforce s. 628.34 (3) (b), Stats. For the anticipated experience to be reasonable it must be based on medical or actuarial research on morbidity or mortality.

(5) **SEXUAL ORIENTATION.** (a) An insurer may not use sexual orientation in the underwriting process or in the determination of insurability, premium, terms of coverage, or nonrenewal.

(b) No insurer may include any inquiry about the applicant's or insured's sexual orientation in an application for disability or life insurance coverage or directly or indirectly investigate in connection with an application for disability or life insurance coverage the applicant's or insured's sexual orientation.

(c) No insurer may use the marital status, occupation, gender, medical history, beneficiary designation, or the zip code or territorial classification of an applicant or insured or any other factor to establish, or aid in establishing, the applicant's or insured's sexual orientation.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; r. (4) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1), r. and recr. (3), cr. (4), Register, April, 1987, No. 376, eff. 5-1-87; correction in (2), (3) (b) 2. and (4) made under s. 13.93 (2m) (b) 14, 12 and 1 Stats., Register, April, 1987, No. 376; cr. (5), Register, May, 1987, No. 377, eff. 6-1-87.

Ins 6.68 Unfair discrimination based on geographic location or age of risk. (s. 628.34, Stats.) (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices found to be unfair trade practices that are unfairly discriminatory under s. 628.34, Stats.

Next page is numbered 305