



2023 ASSEMBLY BILL 437

September 20, 2023 - Introduced by Representatives CALLAHAN and DITTRICH,
cosponsored by Senator FELZKOWSKI. Referred to Committee on Insurance.

1 **AN ACT to repeal** 49.45 (12) (a), 601.41 (8), 601.41 (10), 601.415 (12), 601.56,
2 601.57, 628.92 (5) and 635.10; **to renumber and amend** 601.64 (3) (c); **to**
3 **amend** 15.165 (3) (b) 9., 49.45 (12) (b), 601.415 (3), 601.63 (2), 628.10 (2) (b),
4 646.11 (2), 646.51 (1m), 646.51 (3) (am), 646.51 (3) (ar) and 646.51 (3) (b); and
5 **to create** 601.41 (13), 601.465 (1m) (c) 9m., 601.64 (3) (c) 2. a., b. and c., 609.98
6 (5), 611.12 (5) and 646.13 (2) (h) of the statutes; **relating to:** various changes
7 to insurance laws and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill modifies various insurance statutes that are generally administered by the Office of the Commissioner of Insurance. Specifically, the bill does all of the following:

1. Allows the commissioner of insurance to appoint the deputy commissioner, chief legal counsel, or chief financial regulator in OCI to serve as a member on the Wisconsin Retirement Board, rather than limiting the commissioner's designee to an experienced actuary in OCI.

2. Eliminates the requirement that the commissioner develop a uniform employee application form that small employer insurers must use when a small employer applies for coverage under a group health benefit plan, including the requirement that small employer insurers must use the form.

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3. Eliminates the requirement that the commissioner prescribe, by rule, uniform questions and the format for applications for individual major medical health insurance policies and the requirement that all insurers may use only those questions and that format for individual major medical health insurance policy applications.

4. Allows the commissioner to enter directly into a contract for the services of a consultant if OCI is coordinating a review on a regulatory matter with another state's or U.S. territory's insurance department that has already procured the services of the consultant.

5. Eliminates the commissioner's remaining responsibility regarding dissolution of the former Health Insurance Risk-Sharing Plan.

6. Adds the insurance security fund to the list of persons with whom OCI may confidentially share or from whom OCI may confidentially obtain information. Current law includes on that list a similar fund or other entity in another state but does not expressly include this state's fund.

7. Eliminates the requirement that the commissioner study, and provide a report to the legislature and governor on, a) whether the cost of health care administration is likely to be reduced by health insurers' compliance with certain standards in their transactions with health care providers and b) the feasibility and cost-effectiveness of certain requirements related to uniform health insurance identification cards. The bill also eliminates the requirement that the commissioner must promulgate rules depending on the results of those studies.

8. Changes the procedures for providing notice of the revocation of an insurer's authority to do business in this state.

9. Increases the forfeiture amount, from \$1,000 to \$5,000 per violation, for a violation of an insurance statute or rule that involves or constitutes fraud.

10. Requires a health maintenance organization that participates in the Family Care Program to make a monetary deposit, in an amount determined by the Department of Health Services, to pay for services on behalf of an insolvent or financially hazardous care management organization. The Family Care Program provides community-based long-term care services to eligible individuals. Current law requires a care management organization that provides services under the Family Care Program to make the deposit.

11. Allows a domestic stock or mutual insurance corporation to include certain forum selection provisions in its articles of incorporation or bylaws.

12. Changes a standard under which the commissioner may revoke, suspend, or limit the license of an insurance marketing intermediary or individual navigator from finding that the licensee "is not of good character" to finding that the licensee "is not competent or trustworthy." Under current law, proof of competence and trustworthiness are required for the initial issuance of a license.

13. Eliminates the financial responsibility requirement under current law that applies to navigators.

14. Reduces the number of segregated accounts that compose the insurance security fund, from six to five, by merging the life insurance and annuities accounts. The bill retains the current law requirement that the board of directors of the fund,

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when it authorizes assessments of insurers that have been ordered liquidated, must continue to estimate the amounts necessary to make payments from the fund and must authorize assessments separately for life insurance policies and for annuity contracts in the merged life insurance and annuities account.

15. Changes the manner in which the board calculates assessment amounts for the merged life insurance and annuities account. Under current law, the amount is calculated as a percentage of average annual premiums received in this state by an insurer for life insurance policies and for annuity contracts for the three most recent years. Under the bill, the amount is calculated as a percentage of premiums for the year immediately preceding the year in which the board authorizes the assessment or, if that data is not available, for the most recent year for which that data is available.

16. Adds to the powers of the insurance security fund the authority to negotiate and contract with other guaranty associations to provide and receive administrative, claims, and other services that are usual to guaranty associations.

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.** 15.165 (3) (b) 9. of the statutes is amended to read:

2 15.165 (3) (b) 9. The commissioner of insurance or ~~an experienced actuary in~~
3 ~~the office of the commissioner designated by the commissioner~~ the commissioner's
4 designee under s. 601.415 (3).

5 **SECTION 2.** 49.45 (12) (a) of the statutes is repealed.

6 **SECTION 3.** 49.45 (12) (b) of the statutes is amended to read:

7 49.45 (12) (b) If the commissioner of insurance promulgates rules under s.
8 601.57 (2), 2021 stats., establishing a health insurance identification card system
9 and its computerized support system, the department shall develop a plan to
10 coordinate a system of machine-readable identification cards for medical assistance
11 recipients with the systems established by the commissioner and shall submit the
12 plan to the governor, and to the legislature under s. 13.172 (2), before issuing a
13 request for proposals under par. (c).

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1 **SECTION 4.** 601.41 (8) of the statutes is repealed.

2 **SECTION 5.** 601.41 (10) of the statutes is repealed.

3 **SECTION 6.** 601.41 (13) of the statutes is created to read:

4 601.41 **(13)** INTERSTATE REGULATORY REVIEWS; CONSULTANT CONTRACTS.

5 Notwithstanding ss. 16.70 to 16.78, the commissioner may enter into a contract for
6 the services of a consultant if all of the following apply:

7 (a) The office and the insurance department of another state are coordinating
8 a review on a regulatory matter.

9 (b) The other state's insurance department has already procured the services
10 of the consultant.

11 **SECTION 7.** 601.415 (3) of the statutes is amended to read:

12 601.415 **(3)** WISCONSIN RETIREMENT BOARD. The commissioner or ~~an experienced~~
13 actuary the deputy commissioner, chief legal counsel, or chief financial regulator in
14 the office designated by the commissioner shall serve as a member of the Wisconsin
15 retirement board under s. 15.165 (3) (b).

16 **SECTION 8.** 601.415 (12) of the statutes is repealed.

17 **SECTION 9.** 601.465 (1m) (c) 9m. of the statutes is created to read:

18 601.465 **(1m)** (c) 9m. The security fund created under ch. 646.

19 **SECTION 10.** 601.56 of the statutes is repealed.

20 **SECTION 11.** 601.57 of the statutes is repealed.

21 **SECTION 12.** 601.63 (2) of the statutes is amended to read:

22 601.63 **(2)** NOTIFICATION TO AGENTS OF REVOCATION OF CERTIFICATE OF AUTHORITY
23 OF INSURER. Upon issuance of any order ~~limiting, suspending or revoking~~ an insurer's
24 authority to do business in this state, the ~~commissioner~~ insurer shall within 10
25 business days and by separate written notice ~~notify by mail~~ all agents of appointed

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1 with the insurer of whom and shall provide a copy of the notice to the commissioner
2 has record. The commissioner shall also publish a class 1 notice of the order under
3 ch. 985 revocation in whatever reasonable form the commissioner designates.

4 **SECTION 13.** 601.64 (3) (c) of the statutes is renumbered 601.64 (3) (c) 1. and
5 amended to read:

6 601.64 (3) (c) 1. Whoever violates an insurance statute or rule or s. 149.13, 2011
7 stats., intentionally aids a person in violating an insurance statute or rule or s.
8 149.13, 2011 stats., or knowingly permits a person over whom he or she has authority
9 to violate an insurance statute or rule or s. 149.13, 2011 stats., shall forfeit to the
10 state not more than \$1,000 for each violation, ~~except that.~~

11 2. Notwithstanding subd. 1., whoever violates an insurance statute or rule,
12 intentionally aids a person in violating an insurance statute or rule, or knowingly
13 permits a person over whom he or she has authority to violate an insurance statute
14 or rule shall, ~~if the violation specifically involves a consumer who is an adult at risk,~~
15 ~~as defined in s. 55.01 (1e), or an individual who is at least 60 years of age, forfeit to~~
16 ~~the state not more than \$5,000 for each violation. if any of the following applies:~~

17 3. If the statute or rule violated under subd. 1. or 2. imposes a duty to make a
18 report to the commissioner, each week of delay in complying with the duty is a new
19 violation.

20 **SECTION 14.** 601.64 (3) (c) 2. a., b. and c. of the statutes are created to read:

21 601.64 (3) (c) 2. a. The violation specifically involves a consumer who is an adult
22 at risk, as defined in s. 55.01 (1e).

23 b. The violation specifically involves an individual who is at least 60 years of
24 age.

25 c. The violation involves or constitutes fraud or misrepresentation.

ASSEMBLY BILL 437**SECTION 15**

1 **SECTION 15.** 609.98 (5) of the statutes is created to read:

2 609.98 (5) FAMILY CARE PROGRAM; DEPOSIT REQUIRED. (a) In this subsection,
3 “family care program” means the program under ss. 46.2805 to 46.2895 that provides
4 the family care benefit, as defined in s. 46.2805 (4).

5 (b) A health maintenance organization participating in the family care
6 program is subject to s. 648.75.

7 **SECTION 16.** 611.12 (5) of the statutes is created to read:

8 611.12 (5) FORUM SELECTION PROVISIONS. Section 180.0145 applies to stock
9 corporations, and s. 181.0163 applies to mutuals.

10 **SECTION 17.** 628.10 (2) (b) of the statutes is amended to read:

11 628.10 (2) (b) *For other reasons.* Except as provided in pars. (c) to (d), after a
12 hearing, the commissioner may revoke, suspend, or limit in whole or in part the
13 license of any intermediary or individual navigator if the commissioner finds that the
14 licensee is unqualified as an intermediary or navigator, is not of good character
15 competent or trustworthy under s. 628.04 (1) (b) 2., or has repeatedly or knowingly
16 violated an insurance statute or rule or a valid order of the commissioner under s.
17 601.41 (4), or if the intermediary’s or navigator’s methods and practices in the
18 conduct of business endanger, or financial resources are inadequate to safeguard, the
19 legitimate interests of customers and the public. Nothing in this paragraph limits
20 the authority of the commissioner to suspend summarily an intermediary’s or
21 individual navigator’s license under s. 227.51 (3).

22 **SECTION 18.** 628.92 (5) of the statutes is repealed.

23 **SECTION 19.** 635.10 of the statutes is repealed.

24 **SECTION 20.** 646.11 (2) of the statutes is amended to read:

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1 646.11 (2) ACCOUNTS. The fund shall be composed of ~~6~~ 5 segregated accounts,
2 one for life insurance, ~~one for~~ and annuities, one for disability insurance other than
3 policies issued or coverage provided by a health maintenance organization insurer,
4 one for health maintenance organization insurers, one for all other kinds of
5 insurance subject to this chapter, and an administrative account.

6 **SECTION 21.** 646.13 (2) (h) of the statutes is created to read:

7 646.13 (2) (h) Negotiate and contract with other guaranty associations to
8 provide and receive administrative, claims, and other services that are usual to
9 guaranty associations.

10 **SECTION 22.** 646.51 (1m) of the statutes is amended to read:

11 646.51 (1m) DUTY TO ASSESS. ~~As soon as practicable~~ To meet the board's
12 obligations under this chapter, after a liquidation order has been issued, the board
13 shall estimate separately for each of the accounts of s. 646.11 (2) and separately for
14 life insurance policies and for annuity contracts in the life insurance and annuities
15 account, the amounts necessary to make the payments provided by this chapter ~~and~~.
16 The board shall authorize assessments separately for each account and separately
17 for life insurance policies and for annuity contracts in the life insurance and
18 annuities account.

19 **SECTION 23.** 646.51 (3) (am) of the statutes is amended to read:

20 646.51 (3) (am) *General*. Except as provided in pars. (ar), (b), and (c), the board
21 shall calculate the assessments ~~shall be calculated~~ as a percentage of premium
22 premiums written in this state by each insurer in the classes protected by the
23 accounts under s. 646.11 (2) for the year immediately preceding the year in which the
24 board authorizes the assessment ~~is authorized by the board~~.

25 **SECTION 24.** 646.51 (3) (ar) of the statutes is amended to read:

