

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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As I understand the instructions, you want the foreign insurers to comply with the laws of their domiciliary states and with Wisconsin laws except for the ones from which they are specifically exempt. If that is the case, there could be conflicts, which I addressed in proposed s. 618.29 (2) (b). However, I did not indicate which state's law would apply in the case of a conflict.

Instead of providing that an insurer is automatically exempt from certain provisions, I provided that the insurer may elect to be exempt from any of them and inform the commissioner of the statutes from which it has elected to be exempt when the insurer applies for its certificate of authority. Is this ok?

If you do want Wisconsin laws to apply to foreign insurers, except for the laws from which they elect to be exempt, under current law they would be subject to licensure and financial requirements under Wisconsin law and would be required to pay into HIRSP.

I didn't understand why you want a foreign insurer to be exempt from the following provisions:

1. Section 632.835 (4) provides that the commissioner will certify independent review organizations. It doesn't make sense for the insurer to be exempt from that. Do you want the insurer to be exempt from the requirement that the independent review organizations used by the insurer must be certified by the commissioner?
2. Section 632.835 (5) requires the commissioner to promulgate rules. Is it the rules promulgated under that subsection from which you want the insurer to be exempt? Only certain rules?
3. Section 632.835 (6m) specifies requirements for clinical peer reviewers. Do you want the insurer to be exempt from the requirement of using independent review organizations with clinical peer reviewers that satisfy the specified requirements? Are all of the specified criteria objectionable, or only certain ones?
4. Section 632.835 (7) gives immunity to certified independent review organizations and health benefit plans that are the subject of a review. I'm not sure why you would object to immunity for foreign insurers for complying with a decision of an independent review organization. Is your objection to the apparent requirement that the independent review organization must be certified?

5. Section 632.835 (8) requires the commissioner to provide notice of when at least one independent review organization has been certified and the independent review procedure would begin operating. From which part of that do you want the insurer to be exempt?

6. Section 632.835 (9) provides that someone who receives notice of the disposition of a grievance after December 1, 2000, but before June 15, 2002, must request independent review by October 15, 2002. Why do you want the insurer to be exempt from that? It doesn't seem to be relevant.

7. You want the insurer to be subject to the requirement under s. 632.895 (5) to cover newly born children from the moment of birth, but you want the insurer to be exempt from s. 632.895 (5) (e), which just provides that the coverage requirement applies to all policies issued or renewed after a certain date in 1976. Why do you want the insurer to be exempt from that?

8. Section 632.897 (1m) makes s. 632.897 applicable to certain group plans that it would otherwise not be applicable to under s. 600.01 (1) (b) 3. Since a foreign insurer under this draft would be providing coverage to employers in this state, s. 600.01 (1) (b) 3. is not applicable anyway. I don't understand why you want an exemption from s. 632.897 (1m).

9. Section 632.897 (4) (bm) requires the commissioner to specify standards for conversion policies for long-term care insurance. I don't understand why you want an exemption from this provision. I thought this draft was limited to health insurance. Am I mistaken?

10. Section 632.899 requires the commissioner to conduct a study if the federal government enacts legislation providing for an income tax exemption to amounts deposited in a medical savings account. From what in that section do you want the insurer to be exempt?

Do you want to require the commissioner to promulgate rules to administer s. 618.29?

Finally, I limited the provision to foreign insurers, which are insurers organized in other states, and did not include alien insurers, which are insurers domiciled in other countries. Is this ok?

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