

2007 DRAFTING REQUEST

Bill

Received: **11/30/2007**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Leah Vukmir (608) 266-9180**

By/Representing: **Dean Cady**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Insurance - miscellaneous
Insurance - health**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Vukmir@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Requirements for out-of-state health insurers

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 12/14/2007	kfollett 01/03/2008		_____			State
/P1			nmatzke 01/04/2008	_____	sbasford 01/04/2008		State
/P2	pkahler 01/23/2008	kfollett 01/25/2008	jfrantze 01/28/2008	_____	lparisi 01/28/2008		State
/1	pkahler	kfollett	pgreensl	_____	mbarman	cduerst	State

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	01/30/2008	01/30/2008	01/31/2008	_____	01/31/2008	02/04/2008	
/2	pkahler 02/20/2008	kfollett 02/21/2008	jfrantze 02/21/2008	_____	lparisi 02/21/2008	lparisi 02/21/2008	

FE Sent For:

*at
intro*

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/1	pkahler	kfollett 12/16/07 2/2/08	pgreensl nmw 2/2/08	_____	mbarman	cduerst	

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Handwritten notes and signatures:

- Under Reviewed (kfollett): 1/15/08, 1/30
- Under Typed (jfrantze): 1/31, pg
- Under Proofed: 1/31, pg/JR

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Handwritten signatures and dates: 1/26, 1/28, and the word <END>

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/?	pkahler	1/11/07 1/30	mm 1/4	mmn/ky 1/4			

FE Sent For:

<END>

Kahler, Pam

From: Sweet, Richard
Sent: Friday, November 30, 2007 11:34 AM
To: Kahler, Pam
Cc: Vukmir, Leah; Cady, Dean
Subject: FW: Out of State Insurers

Pam,

Dean Cady from Rep. Vukmir's office is going to give you a call about this drafting request. They have revised the last bullet point so that s. 632.88 and s. 632.897(1) would still apply to the out-of-state health insurers.

Thanks.

Dick

From: Cady, Dean
Sent: Wednesday, November 28, 2007 3:44 PM
To: Sweet, Richard
Subject: FW: Out of State Insurers

Hi Dick. Here is what Leah would like to do legislatively regarding out-of-state-providers. Could you take a quick look at it before I send it over to drafting. Leah told me to tell you that the information you sent over was very helpful - Thank You. Cheers,
deano

From: Vukmir, Leah
Sent: Wednesday, November 28, 2007 1:01 PM
To: Cady, Dean
Subject: Out of State Insurers

Insurance from any provider (Out-of-State Insurers)

- Allow the purchase of insurance that complies with the laws of the insurer's domiciliary state. Providers would be required to disclose the difference between benefits and coverage as compared to Wisconsin mandated coverage (group and individual). These plans would be available for all group and individuals policies.
- These policies would be available for all group and individual plans provided that the insurer offers the plan to groups and individuals in their domiciliary state (for example, if an insurer does not offer individual coverage in their own state, they cannot offer it here, etc.)
- Insurers would require a state license and must meet minimal financial qualifications (to protect against bad actors). *current law?*
- Insurers would be required to deposit HIRSP payments. *current law?*
- Insurers would have to provide applicants a written explanation in plain language explaining the difference between the plan being offered and a similar plan being offered by a domiciliary insurer in compliance with Wisconsin law. This written document should be approved by the

Commissioner of Insurance.

- Out of state insurers would be exempt from Chapters 609, 625, 635
- Out of state insurers would be exempt from 632.835(4)(5)(6m)(7)(8)(9), 632.87, 632.875, ~~632.88~~, 632.89, 632.895 [but not exempt from 632.895(5)(a)(b)(c)(d)], 632.896, 632.897(1m)(4)(bm), 632.899

doesn't really make sense

no sense (not included in study?)

is a "domestic" insurer an "out-of-state" insurer?

Kahler, Pam

From: Cady, Dean
Sent: Monday, December 03, 2007 12:05 PM
To: Kahler, Pam
Subject: RE: Drafting request

Hi Pam, that's just fine. :)

From: Kahler, Pam
Sent: Friday, November 30, 2007 11:41 AM
To: Cady, Dean
Subject: Drafting request

Dean:

I took a quick look at the bullet points. Do I have permission to speak with OCI when I get to this draft? The reason I'm asking is because I think at least some of these things already apply to out-of-state insurers, but I would want to verify that.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Guidry, Jim R - OCI [Jim.Guidry@wisconsin.gov]
Sent: Thursday, December 06, 2007 11:23 AM
To: Kahler, Pam
Subject: RE: Out of state insurers

Thanks.

You are correct in your assumption on the association between out-of-state and non-domestic. We use the latter term. The focus of state regulation is on the product, or the policy. If a policy is sold in Wisconsin, it must comply with Wisconsin law. Companies that wish to sell in Wisconsin must be licensed to do so, as a domestic or non-domestic. There are differences in premium and franchise taxes between the two, but the products they sell are all compliant to the same set of rules for products, market conduct and solvency (although I'm less certain about the solvency).

Also, physical presence is generally not a factor. For example, e-insurance is a Wisconsin domestic, but their corporate HQ is in San Francisco. They do have a claims processing center in Madison.

Whatever you want (or are permitted) to send to help us answer your questions would be helpful.

Jim Guidry
Legislative Liaison
Office of the Commissioner of Insurance
125 South Webster Street
PO Box 7873
Madison, WI 53707-7873

Work: (608) 264-6239
Cell: (608) 209-6309

From: Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]
Sent: Thursday, December 06, 2007 10:53 AM
To: Guidry, Jim R - OCI
Subject: RE: Out of state insurers

Mary just contacted me. Thanks very much. The instructions are really informal but the issues I want to address are related to how "out-of-state" insurers are regulated when they cover state residents. What exactly is an "out-of-state" insurer, is it a nondomestic insurer? Does it just have to do with where the insurer's main corporate office is? Also, I want to go through the provisions that they do and do not want to apply to "out-of-state" insurers to see if they apply to them under current law. If you want, I could fax over what I have, but it's probably not necessary.

From: Guidry, Jim R - OCI [mailto:Jim.Guidry@wisconsin.gov]
Sent: Thursday, December 06, 2007 10:21 AM
To: Kahler, Pam
Subject: Out of state insurers

Pam,

Is there any information or materials you can forward in advance of the meeting? Has someone been in contact

12/06/2007

with you to set it up?

Jim Guidry
Legislative Liaison
Office of the Commissioner of Insurance
125 South Webster Street
PO Box 7873
Madison, WI 53707-7873

Work: (608) 264-6239
Cell: (608) 209-6309

meeting at OCI (Jim G, Julie W, Alison M, Susan E)

What is "out-of-state"

& non-domestic

foreign insurers

← the same?
preferred term?

are non-domestic subject to
all ins. laws & regs
if res is to insure res?

* focus on policy (Jim G.)

sort of
inconsistent to say the insurance must be consistent
w/ the non-dom insurer's
state

& then to specify what WI
states do not have to
comply with

(So is the idea that must be considered
w/ our state and WI except
in certain state > what
if a conflict between
the 2?)

how would it work currently?

had to comply only w/ state in
which policy is sold?

insurers are subject to different laws? what if conflict?

foreign or nonresident
↓ (include alien)

See any problems w/ this

618.36

618.28

individual
all Wis laws

group plan - depends on
whose policy
is issued
(like a GR -
another state)

financial qualifications

clarify that premium tax still goes to WI

ch 609 → lots of consumer rights stuff
625 →
635 →

subcl III

76.60

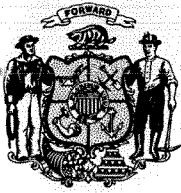
ms

76.655

76.63

clarify that the
business
is subject to this

search stats for 618



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3560/2

PJK: [signature]

File 1-4
marty edit.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 12-14)
D-vote

you cat

1 AN ACT ~~...~~; relating to: allowing out-of-state insurers to offer health care plans
2 that are exempt from certain laws to employers and individuals in this state.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
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:

3 SECTION 1. 600.03 (23c) of the statutes is renumbered 600.03 (23c) (am), and
4 600.03 (23c) (am) (intro.), as renumbered, is amended to read:

5 600.03 (23c) (am) (intro.) "Health Except as provided in par. (bm), "health
6 maintenance organization insurer" means an insurer that satisfies all of the
7 following:

History: 1971 c. 260; 1973 c. 22; Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 223, 371, 374, 375, 421; 1977 c. 339; 1979 c. 89 ss. 383, 543; 1979 c. 102 ss. 49 to 53, 236 (22); 1979 c. 177; 1981 c. 38, 82; 1983 a. 120, 189, 274, 358; 1985 a. 29; 1987 a. 167, 247; 1989 a. 23, 31; 1989 a. 187 s. 29; 1993 a. 201; 1995 a. 225; 1999 a. 30; 2001 a. 65; 2003 a. 261.

8 SECTION 2. 600.03 (23c) (bm) of the statutes is created to read:

1 600.03 (23c) (bm) "Health maintenance organization insurer" does not include
2 a foreign insurer that engages in the types of insurance business described in s.
3 609.03 (3) but that has elected to be exempt from ch. 609 under s. 618.29 (2) (a) 1.

4 History: 1985 a. 29; 1989 a. 23; 1997 a. 237; 2001 a. 16; 2005 a. 441 ss. 107, 108.

4 **SECTION 3.** 609.02 of the statutes is created to read:

5 **609.02 Election by foreign insurer to be exempt.** This chapter does not
6 apply to a foreign insurer, or to a health care plan offered by a foreign insurer, that
7 has elected to be exempt from this chapter under s. 618.29 (2) (a) 1.

8 **SECTION 4.** 618.02 (4) of the statutes is created to read:

9 618.02 (4) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.

10 **SECTION 5.** 618.11 (12m) of the statutes is created to read:

11 618.11 (12m) If the insurer is a foreign insurer that intends to offer health care
12 plans to employers or individuals in this state, any chapters or sections specified
13 under s. 618.29 (2) (a) from which the insurer elects to be exempt and any proposed
14 written explanation required under s. 618.29 (2) (b);

15 **SECTION 6.** 618.28 (1) (intro.) of the statutes is amended to read:

16 618.28 (1) EXEMPTIONS. (intro.) Any Except as provided in s. 618.29 (2) (a), any
17 nondomestic insurer authorized to do business in this state may apply for and the
18 commissioner may make an order exempting it from any requirement otherwise
19 applicable to it, if the commissioner finds after a hearing:

20 History: 1971 c. 260; 1991 a. 316.

20 **SECTION 7.** 618.29 of the statutes is created to read:

21 **618.29 Sale by foreign insurer of health insurance that is exempt from**
22 **certain requirements. (1) REQUIREMENTS FOR OFFERING COVERAGE. (a)** A foreign
23 insurer may offer and provide coverage to employers in this state under group health
24 care plans, and may offer and provide coverage to individuals in this state under

1 individual health care plans, that are exempt from any of the requirements under
2 sub. (2) (a), if all of the following are satisfied:

3 1. The insurer is in compliance with the laws and other requirements of its
4 domiciliary state that apply to the insurer.

5 2. The insurer has been issued a certificate of authority or a new certificate of
6 authority to do business in this state under s. 618.12 and, subject to sub. (2), is in
7 compliance with the laws and other requirements of this state that apply to the
8 insurer, including subch. III of ch. 76.

9 3. The insurer offers coverage in its domiciliary state under any group or
10 individual health care plan under which it offers coverage in this state.

11 (b) Notwithstanding par. (a) 1. and 2., if there is a conflict between an applicable
12 law or requirement of the insurer's domiciliary state and an applicable law or
13 requirement of this state, the law or requirement of (which state?) applies.

****NOTE: How do you want to deal with conflicts?

14 (2) ELECTION OF EXEMPTIONS. (a) A foreign insurer that satisfies the
15 requirements under sub. (1) may, with respect to any health care plan that the
16 insurer offers or intends to offer in this state, do any or all of the following:

17 1. Elect to be exempt from chs. 609, 625, and 635, or any of those chapters.

18 2. Elect to be exempt from ss. 632.835 (4), (5), (6m), (7), (8), and (9), 632.87,
19 632.875, 632.89, and 632.895, excluding sub. (5) (a) to (d), and from ss. 632.896 and
20 632.897 (1m) and (4) (bm), or any of those sections.

21 (b) A foreign insurer that elects to be exempt from any of the chapters or
22 sections specified in par. (a) with respect to a health care plan that the insurer offers
23 or intends to offer in this state, shall provide with an application form for the health
24 care plan, and to each policyholder and certificate holder under any health care plan

1 under which the insurer provides coverage, a written explanation, in plain language,
2 of the differences between the coverage and benefits provided under the health care
3 plan and the coverage and benefits that would be provided under the health care plan
4 if the insurer had not elected to be exempt from any of the chapters or sections under
5 par. (a) from which the insurer has elected to be exempt. A foreign insurer that
6 intends to offer a health care plan under this section to employers or individuals in
7 this state and that elects to be exempt from any of the chapters or sections specified
8 in par. (a) shall obtain the approval of the commissioner of any written explanation
9 required under this paragraph before the insurer offers the health care plan.

10 SECTION 8. 618.36 (1) of the statutes is amended to read:

11 618.36 (1) CONTINUANCE OF REGULATION. ~~A~~ Except as provided in s. 618.29 (2)
12 (a), a nondomestic insurer authorized under this chapter is subject to regulation
13 under the applicable provisions of chs. 600 to 646 until released from regulation
14 under this section.

15 History: 1971 c. 260; 1977 c. 339; 1979 c. 89 s. 543; 1979 c. 102 s. 236 (5), (7).

SECTION 9. 625.03 (1m) (d) of the statutes is amended to read:

16 625.03 (1m) (d) Variable and fixed annuities; and

17 History: 1973 c. 3; 1975 c. 147 s. 54; 1975 c. 373; 1999 a. 85.

SECTION 10. 625.03 (1m) (e) of the statutes is amended to read:

18 625.03 (1m) (e) Group and blanket accident and sickness insurance other than
19 credit accident and sickness insurance; and

History: 1973 c. 3; 1975 c. 147 s. 54; 1975 c. 373; 1999 a. 85.

****NOTE: This is somewhat dated language, but I believe it refers to group health
care plans, making them exempt from ch. 625 anyway.

20 SECTION 11. 625.03 (1m) (f) of the statutes is created to read:

21 625.03 (1m) (f) Individual health care plans, as defined in s. 628.36 (2) (a) 1.,
22 offered by a foreign insurer that has elected to be exempt from this chapter under s.
23 618.29 (2) (a) 1. with respect to those health care plans.

1 **SECTION 12.** 632.835 (10) of the statutes is created to read:

2 632.835 (10) INAPPLICABILITY. Subsections (?) do not apply to a foreign insurer
3 that has elected to be exempt from those subsections under s. 618.29 (2) (a) 2., or to
4 a health care plan offered by a foreign insurer that has elected to be exempt from
5 those subsections under s. 618.29 (2) (a) 2. with respect to the health care plan.

 ****NOTE: See my d-note. I have some questions about why you want to be exempt
from certain subsections.

6 **SECTION 13.** 632.87 (7) of the statutes is created to read:

7 632.87 (7) This section does not apply to a foreign insurer that has elected to be
8 exempt from this section under s. 618.29 (2) (a) 2., or to a health care plan, as defined
9 in s. 628.36 (2) (a) 1., offered by a foreign insurer that has elected to be exempt from
10 this section under s. 618.29 (2) (a) 2. with respect to the health care plan.

11 **SECTION 14.** 632.875 (5) (c) of the statutes is created to read:

12 632.875 (5) (c) A health care plan, as defined in s. 628.36 (2) (a) 1., offered
13 by a foreign insurer that has elected to be exempt from this section under s. 618.29
14 (2) (a) 2. with respect to the health care plan.

15 **SECTION 15.** 632.89 (2) (e) of the statutes is amended to read:

16 632.89 (2) (e) *Exclusion.* This subsection does not apply to a health care plan
17 offered by a limited service health organization, as defined in s. 609.01 (3), or to a
18 health care plan, as defined in s. 628.36 (2) (a) 1., offered by a foreign insurer that
19 has elected to be exempt from this subsection under s. 618.29 (2) (a) 2. with respect
20 to the health care plan.

History: 1975 c. 223, 224, 375; 1977 c. 203 s. 106; 1979 c. 175, 221; 1981 c. 20 s. 2202 (20) (q); 1981 c. 39 ss. 14, 15, 22; 1981 c. 314; 1983 a. 27; 1983 a. 189 s. 329 (5);
1985 a. 29, 176; 1987 a. 195, 403; 1991 a. 39, 250; 1993 a. 27, 270; 1995 a. 27 ss. 7047, 9126 (19); 1997 a. 27; 1999 a. 9; 2003 a. 178.

21 **SECTION 16.** 632.895 (1m) of the statutes is created to read:

22 632.895 (1m) EXEMPTION. Except for sub. (5), this section does not apply to a
23 health care plan, as defined in s. 628.36 (2) (a) 1., offered by a foreign insurer that

1 has elected to be exempt from this section, except for sub. (5), under s. 618.29 (2) (a)

2 2. with respect to the health care plan.

3 SECTION 17. 632.896 (7) of the statutes is created to read:

4 632.896 (7) EXEMPTION. This section does not apply to a health care plan, as

5 as defined in s. 628.36 (2) (a) 1., offered by a foreign insurer that has elected to be

6 exempt from this section under s. 618.29 (2) (a) 2. with respect to the health care plan.

7 SECTION 18. 635.01 of the statutes is renumbered 635.01 (1) and amended to

8 read:

9 635.01 (1) This Except as provided in sub. (2), this chapter applies to all group

10 health insurance plans, policies, or certificates, written on risks or operations in this

11 state, providing coverage for employees of a small employer, or employees of a small

12 employer and the employer, and to individual health insurance policies, written on

13 risks or operations in this state, providing coverage for employees of a small

14 employer, or employees of a small employer and the employer when 3 or more are sold

15 to or through a small employer.

16 History: 1991 a. 39; 1997 a. 27.

17 SECTION 19. 635.01 (2) of the statutes is created to read:

18 635.01 (2) This chapter does not apply to a group or individual ^{health} care plan, as

19 defined in s. 628.36 (2) (a) 1., that is offered by a foreign insurer that has elected to

20 be exempt from this chapter under s. 618.29 (2) (a) 1. with respect to the health care

21 plan.

22 SECTION 20. Initial applicability.

23 (1) This act first applies to foreign insurers that apply for a certificate of

authority under section 618.11 of the statutes, as affected by this act, or that apply

***NOTE: I may need to amend some parts of s. 632.897, but first I need to understand the exemptions you want. See my d-note.

1 for a new certificate of authority under section 618.12 (4) of the statutes, on the
2 effective date of this subsection.

3 (END)

D. note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3560/7dn

PJK:.....

Date

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?

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?

Pamela J. Kahler
 Senior Legislative Attorney
 Phone: (608) 266-2682
 E-mail: pam.kahler@legis.wisconsin.gov

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3560/P1dn
PJK:kjf:nwn

January 4, 2008

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?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Vukmir, Leah
Sent: Friday, January 11, 2008 11:54 AM
To: Kahler, Pam
Cc: Cady, Dean
Subject: RE: Draft review: LRB 07-3560/P1 Topic: Requirements for out-of-state health insurers

Pamela,

My broad intent is that these out of state insurers be able to offer coverage that meets the laws of their home state. With a few exceptions, HIRSP, etc. Essentially, an out-of-state insurer should find itself exempt from Wisconsin's health insurance regulations to the same extent that a self-insured business finds itself exempt under ERISA.

Consumer protections are important – particularly a plain language disclosure for an applicant about differences in the plan being offered and the plans available from Wisconsin Insurers. The process of allowing an insurer to make elections is important.

Thank you for raising the questions in your note. I have addressed them below. If you have additional questions, please contact Dean in my office.

Thanks,
 Leah

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?

That would be fine.

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?

Most states appear to have a review process. My thought was that the insurer, in most states are bound to that state's review process. It would be very difficult and probably unnecessary to have our OCI certify this process that other states have set up.

I would accept a modification that requires that these out-of-state insurers must have some form of review process. Those that don't must establish one and the OCI must certify it.

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?

No. Unless you can find a way to limit it to deceptive or dishonest practices - fraud. We start from the perspective that other states don't allow insurers to rip-off consumers and we don't want OCI adding to the list of regulations an insurer must already comply with in their own states.

01/14/2008

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.

I agree with your points – Section 632.835 should apply to out of state insurers.

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?

I agree with your points – it should apply to out of state insurers.

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).

Agreed.

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?

Agreed, thanks for pointing that out.

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?

No. Again, you make a good point, there is no need for an exemption.

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

The commissioner may promulgate rules. Again, my biggest concern is that OCI could establish roadblocks against these insurers that will make it difficult for them to offer policies. We don't want to make these insurers bound to more regulation than they already face in their own states. Having said that, I can see a need for OCI to have some latitude in promulgating rules.

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?

Yes. Perfect.

From: Basford, Sarah

Sent: Fri 1/4/2008 11:09 AM

To: Rep.Vukmir

Subject: Draft review: LRB 07-3560/P1 Topic: Requirements for out-of-state health insurers

Following is the PDF version of draft LRB 07-3560/P1 and drafter's note.

Kahler, Pam

From: Cady, Dean
Sent: Friday, January 11, 2008 2:39 PM
To: Kahler, Pam
Subject: RE: priority

Hey Pam. Why don't you finish the out-of-state insurers, then move on to the Ala Carte one. Any questions give me a shout. Also, Leah asked me to let you know that she will be sending over instructions for two additional bills; I would do them in the order they arrive.
Thank You so much.
dean

From: Kahler, Pam
Sent: Fri 1/11/2008 2:32 PM
To: Cady, Dean
Subject: priority

Dean:

Today I received some feedback on LRB-3560 (on out-of-state health insurers) as well as new drafting instructions for "ala carte health insurance." Both drafts will require time-consuming concentration. Which one has more priority for you, since I cannot work on both of them at the same time? Thanks.

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Kahler, Pam
Sent: Friday, January 11, 2008 4:39 PM
To: Cady, Dean
Subject: LRB-3560

Dean:

I still have a number of questions about the redraft instructions for this out-of-state health insurer draft.

First, I need to have clarified what Wisconsin statutes they are automatically subject to. The original instructions said, essentially, HIRSP, state licensure, and minimal financial requirements, and then gave a number of statutes that they are specifically exempt from, which is why I assumed they were subject to all except the specific exemptions. If they are not subject to any except certain ones, we only need to be concerned about the ones they are subject to. So, I assume they are subject to HIRSP, state licensure, and financial requirements. Are they then exempt from all others? Are there any others that you want them to be subject to besides those mentioned? The redraft instructions say exempt from all state "health insurance regulations." Does that mean they are subject to all insurance statutes except the ones that relate to health insurance, and if so, I would need to know specifically which ones you consider are related to health insurance?

What is meant by "*minimal* financial requirements"? Do you want them to be subject to the financial requirements that apply to other insurers in this state? And if not, what financial requirements do you want to impose?

The redraft instructions said that allowing the insurers to make elections was important, but I'm not sure now what elections they are supposed to make. Do they elect to be subject to certain statutes or do they elect to be exempt from certain statutes? The whole thing boils down to exactly what you want them to be subject to in the first place. If they are exempt from all but certain ones (the three mentioned above), then there probably is no need for elections unless they can elect to be subject to the ones they want to, except for the ones they are automatically subject to.

The redraft instructions went into detail addressing my d-note, but first I need to know how you want to treat the statutes that are not the three mentioned, i.e., they (the insurers) are automatically subject to *certain, specified* others, they can *elect* to be subject to certain, specified others, they are automatically exempt from *all* others, they can elect to be subject to any or all others, they are subject to all others except for those that relate to health insurance (and I'd have to know which those are), but may elect to be subject to any or all health insurance-related stats., etc.

So, before I can begin to think about how to structure the draft differently, I need to know exactly what statutes do and don't apply, and which they can make elections about, and what the election is - to be subject to or to be exempt from.

While you are working on these questions, I can look over the instructions for the "ala carte" draft and formulate any questions I need answered before I can begin drafting that one. Thanks!

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682

Kahler, Pam

From: Cady, Dean
Sent: Thursday, January 17, 2008 5:33 PM
To: Kahler, Pam
Subject: LRB 3560 - follow-up

Hi Pam, Leah asked that I shoot the following over to you. As always Thank You for your assistance, and any questions, just give me a shout.
Dean

✓ The insurer must be domiciled in the United States.

✓ The insurer would be authorized to sell plans in Wisconsin's individual and group markets.

✓ The insurer must be in compliance with the laws of the insurer's domiciliary state,

The insurer is exempt from 600 to 646 and any rules promulgated under these chapters, except the insurer must comply with: 610.70, Chapter 628, Subchapter I of Chapter 631, 631.27, 631.28, 631.90, 631.93, 632.715, 632.785 and:

what about states in other chapters, such as subchapter 8 ch 76?

what happens if they apply

✓ If the domiciliary state does not require the insurer to establish and follow grievance and independent claims review procedures than the insurer shall be required to comply with 632.83 & 632.835.

✓ The insurer also must pay a HIRSP assessment on the policies issued to Wisconsin residents or to Wisconsin employers.

✓ The insurer may not discriminate between licensed providers as follows:

No policy, plan or contract may exclude coverage for diagnosis and treatment of a condition or complaint by a licensed health care provider within the scope of that licensed health care provider's professional license, if the policy, plan or contract covers diagnosis and treatment of the condition or complaint by a different licensed health care provider, even if the different nomenclature is used to describe the condition or complaint.

Co-payments, deductibles, co-insurance, or other mechanisms by which insured's are responsible for the payment of a portion of their licensed care provider services shall be applied equally with regard to the type of health care services being provided.

Cost containment or quality assurance measures shall be applied consistently without regard to the type of health care provider providing the health care services

✓ As a condition of granting a certificate of authority, the OCI may consider the insurer's financial condition, marketing practices and compliance with the laws and regulations in the insurer's domiciliary state. The OCI may not apply these factors in a way that would put a greater burden on non-domestic insurers than domestic insurers.

note

The insurer may elect to comply with any parts of 600 to 646 in order to resolve or avoid conflicts between the laws of the domiciliary state and other parts of Wisconsin law.

The application and the policy must disclose in plain language, information about how the policy may differ

from the provisions of a policy issued in compliance with chapters 600 to 646. The disclosure must include a statement that indicates which state's laws govern the issuance of the policy.

In particular, such a disclosure shall specify in bold or other method that highlights the content: significant differences between the policy being offered and one issued under the requirements of the State of Wisconsin as it relates to Preexisting conditions, renewability, portability, contract termination, coverage and benefits, and rate regulation.

OCI shall promulgate rules regarding this section, however the OCI shall not have the authority to require that such an insurer modify coverage and benefit requirements or restrict rate increases in any way that would exceed the domiciliary state's laws and regulations.

OCI shall not promulgate rules using the authority it has in state law to expand its authority over non-domestic insurers in a way that conflicts with this section.

OCI shall not promulgate rules that use any other parts of state law that conflict with the purpose of applying limitations in 600 to 646 of this section

The OCI may, release from regulation, domestic insurers who believe that the such a release would allow them to be more competitive with non-domestic providers.

no "financial requirements" of this state?
what about taxes under subch III of
ch. 76?

1-14

remove from LRB-2323/7, the authority

and

ok this for
new draft
through 14

any further?

Oechler, Jennifer