

2013 DRAFTING REQUEST

Bill

Received: **10/25/2013** Received By: **tdodge**
Wanted: **As time permits** Same as LRB:
For: **Frank Lasee (608) 266-3512** By/Representing: **Rob Kovach**
May Contact: Drafter: **tdodge**
Subject: **Insurance - other insurance** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Lasee@legis.wisconsin.gov**
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**
pam.kahler@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Modifying rules related to long-term care insurance.

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>
/?	tdodge 12/19/2013			_____			
/P1	tdodge 1/15/2014	scalvin 12/20/2013	jmurphy 12/20/2013	_____	srose 12/20/2013		
/P2	tdodge 1/22/2014	scalvin 1/21/2014	rschluet 1/21/2014	_____	sbasford 1/21/2014		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/I		scalvin 1/23/2014	rschluet 1/23/2014	_____	sbasford 1/23/2014	sbasford 1/23/2014	

FE Sent For:

NOT
NEEDED

<END>

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Pre Topic:

No specific pre topic given

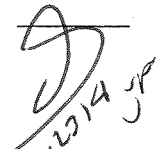
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Instructions:

See attached

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/?	tdodge 12/19/2013			_____			
/P1	tdodge 1/15/2014	scalvin 12/20/2013	jmurphy 12/20/2013	_____	srose 12/20/2013		
/P2		scalvin 1/21/2014	rschlue 1/21/2014	_____	sbasford 1/21/2014		
		1 sac 01/23/2014	11 sac 01/23/2014				

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<END>

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Extra Copies:

Submit via email: YES
Requester's email: Sen.Lasee@legis.wisconsin.gov
Carbon copy (CC) to: tamara.dodge@legis.wisconsin.gov
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Instructions:

See attached

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/?	tdodge 12/19/2013			_____			
/P1		scalvin 12/20/2013	jmurphy 12/20/2013	_____	srose 12/20/2013		
FE Sent For:		/P2 sac 01/21/2014	/P2 sac 01/21/2014				

<END>

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Extra Copies:

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Pre Topic:

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Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge	/PI sac 12/20/2013	/PI sac 12/20/2013	_____	_____	_____	_____

Jm
12/20

FE Sent For:

<END>

Dodge, Tamara

From: LRB.Legal
Sent: Thursday, October 17, 2013 1:44 PM
To: Gary, Aaron; Tradewell, Becky; Hoesly, Bruce; Hanaman, Cathlene; Duchek, Michael; Mueller, Eric; Knepp, Fern; Malaise, Gordon; Kuesel, Jeffery; Kreye, Joseph; Shovers, Marc; Kunkel, Mark; Gibson-Glass, Mary; Gallagher, Michael; Nelson, Robert; Kahler, Pam; Hurley, Peggy; Grant, Peter; Champagne, Rick; Kite, Robin; Shea, Elisabeth; Miller, Steve; Dodge, Tamara; Kuczenski, Tracy
Subject: FW: Long Term Care Commission
Attachments: Long Term Care Commission Legislative Draft (00061726-2).doc

-2176

From: Kovach, Robert
Sent: Thursday, October 17, 2013 1:38 PM
To: LRB.Legal
Subject: Long Term Care Commission

Dear LRB staff,

Senator Lasee would like a draft that amends the laws regarding Long Term Care insurance. See the attached language that points the drafter in the direction that Senator Lasee is interested in.

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

Long-Term Care Commission

SECTION 1. 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265 since the compilation of the preceding register, including emergency rules filed under s. 227.24 (3).

SECTION 2. 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been affected by rules filed with legislative reference bureau under s. 227.20 (1) or modified under s. 227.265, in accordance with sub. (3) (e) 1.

SECTION 3. 35.93 (3) of the statutes is amended to read:

35.93 (3) The legislative reference bureau shall compile and deliver to the department for printing copy for a register which shall contain all the rules filed under s. 227.20 or modified under s. 227.265 since the compilation of rules for the preceding issue of the register was made and those executive orders which are to be in effect for more than 90 days or an informative summary thereof. The complete register shall be compiled and published before the first day of each month and a notice section of the register shall be compiled and published before the 15th day of each month. Each issue of the register shall contain a title page with the name "Wisconsin administrative register", the number and date of the register, and a table of contents. Each page of the register shall also contain the date and number of the register of which it is a part in addition to the other necessary code titles and page numbers. The legislative reference bureau may include in the register such instructions or information as in the bureau's judgment will help the user to correctly make insertions and deletions in the code and to keep the code current.

SECTION 4. 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the appropriate chapters of the Wisconsin administrative code each permanent rule filed with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265 and, for each chapter of the administrative code affected by a rule, do all of the following:

SECTION 5. 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register in accordance with the filing deadline for publication established in the rules procedures manual published under s. 227.15 (7) or, in an end-of-month register agreed to by the submitting

agency and the legislative reference bureau, or, in the case of a rule modified under s. 227.265, in the end-of-month register for the month in which the bill modifying the rule is enacted.

SECTION 6. 227.01 (13) (intro.) of the statutes is amended to read:

227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy, or general order of general application which has the effect of law and which is issued by an agency to implement, interpret, or make specific legislation enforced or administered by the agency or to govern the organization or procedure of the agency. “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and s. 227.10 does not apply to, any action or inaction of an agency, whether it would otherwise meet the definition under this subsection, which:

SECTION 7. 227.11 (2) (intro.) of the statutes is amended to read:

227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency as follows:

SECTION 8. 227.265 of the statutes is created to read:

227.265 Repeal or modification of rules. If a bill to repeal or modify a rule is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply. Instead, the legislative reference bureau shall publish the repeal or modification in the Wisconsin administrative code and register as required under s. 35.93, and the repeal or modification shall take effect as provided in s. 227.22.

SECTION 9. 227.27 (2) of the statutes is amended to read:

227.27 (2) The code shall be prima facie evidence in all courts and proceedings as provided by s. 889.01, but this does not preclude reference to or, in case of a discrepancy, control over a rule filed with the legislative reference bureau ~~or the secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy of a rule shall also and in the same degree be prima facie evidence in all courts and proceedings.

SECTION 10. Ins. 3.46(13) of the administrative code is amended to read:

13) Commission Limits for Long-Term Care, Nursing Home and Home Health Care Policies

(a) An insurer may provide compensation to an intermediary or other representative, and an intermediary or representative may accept compensation for the sale of a long-term care policy or certificate only if:

- ~~1. The first year compensation for the sale does not exceed 400% of the compensation paid in the 2nd year or period for the sale or for servicing the policy or certificate; and~~

2. ~~The~~ compensation provided in subsequent years is the same as provided in the 2nd year or period and is provided for at least 5 years.

(b) Except as provided in paragraph (c), below, No person may provide compensation to an intermediary, representative or producer, and no intermediary, representative or producer may accept compensation, relating to the replacement of a long-term care policy or certificate which is greater than the renewal compensation provided by the replacing insurer for the replacing policy or certificate. Long-term care policies this paragraph applies to include, but are not limited to, long-term care policies, nursing home policies and home health care policies issued prior to June 1, 1991.

(c) A person may provide compensation to an intermediary, representative or producer, and an intermediary, representative or producer may accept compensation, relating to the replacement of a long-term care policy or certificate which is no greater than the first year compensation provided by the replacing insurer for the replacing policy or certificate if, in addition to requirements contained in paragraph (14) of this rule:

1. The replacing insurer has established reasonable standards for which first year compensation is appropriate for the replacement;

2. The standards referenced in subparagraph 1., above shall include at least the following:

- a. The replacing policy is suitable for the applicant;

- b. The replacing policy materially improves the position of the applicant, including but not limited to the coverage, price, premium stability or financial strength ratings of the insurer;

- c. The intermediary, representative or producer has done an assessment of the replacement transaction justifying the replacement according to the insurer's replacement standards and this subparagraph, and submits such assessment to the insurer as part of the application;

- d. The insurer evaluates each replacement and affirmatively approves or denies the replacement's qualification for first year compensation of the replacing policy; and

- e. The standards and methodology are subject to OCI review.

3. The replacing insurer has an established and auditable methodology for evaluating replacements that qualify for first year compensation.

4. Long-term care policies this paragraph applies to include, but are not limited to, long-term care policies, nursing home policies and home health care policies and certificates issued prior to June 1, 1991.

SECTION 11. Effective dates. This act takes effect on the day after publication.

DATA

Long-Term Care Commission

SECTION 1. 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265 since the compilation of the preceding register, including emergency rules filed under s. 227.24 (3).

SECTION 2. 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been affected by rules filed with legislative reference bureau under s. 227.20 (1) or modified under s. 227.265, in accordance with sub. (3) (e) 1.

SECTION 3. 35.93 (3) of the statutes is amended to read:

35.93 (3) The legislative reference bureau shall compile and deliver to the department for printing copy for a register which shall contain all the rules filed under s. 227.20 or modified under s. 227.265 since the compilation of rules for the preceding issue of the register was made and those executive orders which are to be in effect for more than 90 days or an informative summary thereof. The complete register shall be compiled and published before the first day of each month and a notice section of the register shall be compiled and published before the 15th day of each month. Each issue of the register shall contain a title page with the name "Wisconsin administrative register", the number and date of the register, and a table of contents. Each page of the register shall also contain the date and number of the register of which it is a part in addition to the other necessary code titles and page numbers. The legislative reference bureau may include in the register such instructions or information as in the bureau's judgment will help the user to correctly make insertions and deletions in the code and to keep the code current.

SECTION 4. 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the appropriate chapters of the Wisconsin administrative code each permanent rule filed with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265 and, for each chapter of the administrative code affected by a rule, do all of the following:

SECTION 5. 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act 20, is amended to read:

35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register in accordance with the filing deadline for publication established in the rules procedures manual published under s. 227.15 (7) or, in an end-of-month register agreed to by the submitting agency

2. ~~The~~ compensation provided in subsequent years is the same as provided in the 2nd year or period and is provided for at least 5 years.

(b) Except as provided in paragraph (c), below, No person may provide compensation to an intermediary, ~~representative or producer~~, and no intermediary, ~~representative or producer~~ may accept compensation, relating to the replacement of a long-term care policy or certificate which is greater than the renewal compensation provided by the replacing insurer for the replacing policy or certificate. Long-term care policies this paragraph applies to include, but are not limited to, long-term care policies, nursing home policies and home health care policies issued prior to June 1, 1991.

(c) A person may provide compensation to an intermediary, ~~representative or producer~~, and an intermediary, ~~representative or producer~~ may accept compensation, relating to the replacement of a long-term care policy or certificate which is no greater than the first year compensation provided by the replacing insurer for the replacing policy or certificate if, in addition to requirements contained in paragraph (14) of this rule:

1. The replacing insurer has established reasonable standards for which first year compensation is appropriate for the replacement;

2. The standards referenced in subparagraph 1., above shall include at least the following:

- a. The replacing policy is suitable for the applicant;

- b. The replacing policy materially improves the position of the applicant, including but not limited to the coverage, price, premium stability or financial strength ratings of the insurer;

- c. The intermediary, ~~representative or producer~~ has done an assessment of the replacement transaction justifying the replacement according to the insurer's replacement standards and this subparagraph, and submits such assessment to the insurer as part of the application;

- d. The insurer evaluates each replacement and affirmatively approves or denies the replacement's qualification for first year compensation of the replacing policy;
and

- e. The standards and methodology are subject to OCI review.

3. The replacing insurer has an established and auditable methodology for evaluating replacements that qualify for first year compensation.

4. Long-term care policies this paragraph applies to include, but are not limited to, long-term care policies, nursing home policies and home health care policies and certificates

Document comparison done by DeltaView on Friday, November 22, 2013 3:32:30 PM

Input:	
Document 1	file:///polaw2013/public2/Docs/1060/1060.003/00061726.D OC
Document 2	file:///polaw2013/public2/DOCS/1060/1060.003/00062711.D OC
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	2
Deletions	9
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	11

Dodge, Tamara

From: Kelley, Margit
Sent: Friday, December 06, 2013 9:30 AM
To: Dodge, Tamara
Cc: Kovach, Robert; Bowers2, Jim
Subject: FW: Long Term Care Commission

Hi Tami,

This information, below, is for part of our discussion next week on the companion bills revising the long term care sales commissions.

Margit Kelley
Wisconsin Legislative Council
608-266-9280
Margit.Kelley@legis.wi.gov

From: Kovach, Robert
Sent: Tuesday, December 03, 2013 4:22 PM
To: Connie O'Connell; Bowers2, Jim
Cc: Kelley, Margit
Subject: RE: Long Term Care Commission

I think those changes look good. Margit, can you get this change drafted?

Thanks,

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Connie O'Connell [<mailto:coconnell@parrettoconnell.com>]
Sent: Tuesday, December 03, 2013 3:54 PM
To: Bowers2, Jim; Kovach, Robert
Cc: Kelley, Margit
Subject: Long Term Care Commission

After last week's Assembly Insurance Committee hearing, there was some discussion re: the wording of the long term care commission draft. It was pointed out that since we deleted (13)(a)1, we need to modify the remaining language in (13)(a)2 that refers back to 1. Margit Kelley of Leg Council also questioned this section. We suggest the draft be revised to use the following language:

- 13) Commission Limits for Long-Term Care, Nursing Home and Home Health Care Policies
 - (a) An insurer may provide compensation to an intermediary, and an intermediary may accept compensation for the sale of a long-term care policy or certificate only if the compensation provided in the 2nd year or period and subsequent years is the same and is provided for at least 5 years.

I am copying Margit on this e-mail because I understand that she is coordinating with the drafter to ensure the versions from each house are consistent.

Let me know if you have any questions.

Connie O'Connell

**Parrett &
O'Connell, LLP**

ATTORNEYS AT LAW

10 East Doty Street, Suite 621

Madison, WI 53703

Telephone: (608) 251-1968

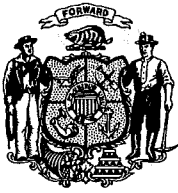
Mobile: (608) 225-4695

Fax: (608) 251-1996

E-mail: coconnell@parrettoconnell.com

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3514?
TJD:.....

RMK *Sec*

In: 12/19

Dul Fri
12/20 if possible

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert L3

gen act

1 AN ACT **relating to:** modifying administrative rules related to long-term care
2 insurance.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. Ins 3.46 (13) (a) (intro.) and 2. of the administrative code are
4 consolidated, renumbered Ins 3.46 (13) (a) and amended to read:

5 Ins 3.46 (13) (a) An insurer may provide compensation to an intermediary or
6 ~~other representative~~, and an intermediary ~~or representative~~ may accept
7 compensation for the sale of a long-term care policy or certificate only if: ~~2. The~~ the
8 compensation provided in the 2nd year or period and subsequent years is the same
9 as ~~provided in the 2nd year or period~~ and is provided for at least 5 renewal years.

1 **SECTION 2.** Ins 3.46 (13) (a) 1. of the administrative code is repealed.

2 **SECTION 3.** Ins 3.46 (13) (b) of the administrative code is amended to read:

3 Ins 3.46 (13) (b) ~~No~~ Except as provided in par. (c), no person may provide
4 compensation to an intermediary, ~~representative or producer~~, and no intermediary,
5 ~~representative or producer~~ may accept compensation, relating to the replacement of
6 a long-term care policy or certificate which is greater than the renewal compensation
7 provided by the replacing insurer for the replacing policy or certificate. Long-term
8 care policies this paragraph ~~applies~~ and par. (c) apply to include, but are not limited
9 to, long-term care policies, nursing home policies and home health care policies
10 issued prior to June 1, 1991.

11 **SECTION 4.** Ins 3.46 (13) (c) of the administrative code is created to read:

12 Ins 3.46 (13) (c) A person may provide to an intermediary, and an intermediary
13 may accept, compensation relating to the replacement of a long-term care policy or
14 certificate, including a long-term care policy, nursing home policy, or home health
15 care policy or certificate issued before June 1, 1991; which compensation is no greater
16 than the first-year compensation provided by the replacing insurer for the replacing
17 policy or certificate if, in addition to requirements contained in sub. (14), all of the
18 following criteria are satisfied:

19 1. The replacing insurer has established reasonable standards for which
20 first-year compensation is appropriate for the replacement.

21 2. The standards referenced in subd. 1. include all of the following standards,
22 at least:

23 a. The replacing policy is suitable for the applicant.

1 b. The replacing policy materially improves the position of the applicant,
2 including, but not limited to, the coverage, price, premium stability, or financial
3 strength ratings of the insurer.

4 c. The intermediary has done an assessment of the replacement transaction
5 justifying the replacement according to the insurer's replacement standards and this
6 subd. 2. c. and submits that assessment to the insurer as part of the application for
7 replacement.

8 d. The insurer evaluates each replacement and affirmatively approves or
9 denies the replacement's qualification for first-year compensation of the replacing
10 policy.

11 e. The standards and methodology are subject to review by the office of the
12 commissioner of insurance.

13 3. The replacing insurer has established an auditable methodology for
14 evaluating replacements that qualify for first-year compensation.

15

(END)

Insert
3-15

publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 1-3

1 **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:

2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
3 227.265 affect the same unit of the Wisconsin administrative code without taking
4 cognizance of the effect thereon of the other rules and if the legislative reference
5 bureau finds that there is no mutual inconsistency in the changes made by each such
6 rule, the legislative reference bureau shall incorporate the changes made by each
7 rule into the text of the unit and document the incorporation in a note to the unit.
8 For each such incorporation, the legislative reference bureau shall include in a
9 correction bill a provision formally validating the incorporation. Section 227.27 (2)
10 is not affected by printing decisions made by the legislative reference bureau under
11 this paragraph.

12 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

13 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
14 administrative code a note explaining any change made under par. (b) or (bm).

15 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

16 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
17 apply to any change made by the legislative reference bureau under par. (b) or (bm).

18 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

19 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
20 record of each change made under par. (b) or (bm).

1 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

2 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
3 of each change made under par. (b) or (bm).

4 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
5 is amended to read:

6 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
7 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
8 preceding register, including emergency rules filed under s. 227.24 (3).

9 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
10 is amended to read:

11 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
12 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
13 modified under s. 227.265, in accordance with sub. (3) (e) 1.

14 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

15 35.93 (3) The legislative reference bureau shall compile and deliver to the
16 department for printing copy for a register which shall contain all the rules filed
17 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
18 preceding issue of the register was made and those executive orders which are to be
19 in effect for more than 90 days or an informative summary thereof. The complete
20 register shall be compiled and published before the first day of each month and a
21 notice section of the register shall be compiled and published before the 15th day of
22 each month. Each issue of the register shall contain a title page with the name
23 “Wisconsin administrative register”, the number and date of the register, and a table
24 of contents. Each page of the register shall also contain the date and number of the
25 register of which it is a part in addition to the other necessary code titles and page

1 numbers. The legislative reference bureau may include in the register such
2 instructions or information as in the bureau's judgment will help the user to correctly
3 make insertions and deletions in the code and to keep the code current.

4 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
5 Act 20, is amended to read:

6 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
7 appropriate chapters of the Wisconsin administrative code each permanent rule filed
8 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
9 and, for each chapter of the administrative code affected by a rule, do all of the
10 following:

11 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
12 20, is amended to read:

13 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
14 in accordance with the filing deadline for publication established in the rules
15 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
16 agreed to by the submitting agency and the legislative reference bureau, or, in the
17 case of a rule modified under s. 227.265, in the end-of-month register for the month
18 in which the bill modifying the rule is enacted.

19 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

20 227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,
21 or general order of general application which has the effect of law and which is issued
22 by an agency to implement, interpret, or make specific legislation enforced or
23 administered by the agency or to govern the organization or procedure of the agency.
24 "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and

1 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
2 otherwise meet the definition under this subsection, which:

3 SECTION 12. 227.11 (2) (intro.) of the statutes is amended to read:

4 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
5 as follows:

6 SECTION 13. 227.265 of the statutes is created to read:

7 227.265 Repeal or modification of rules. If a bill to repeal or modify a rule
8 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
9 Instead, the legislative reference bureau shall publish the repeal or modification in
10 the Wisconsin administrative code and register as required under s. 35.93, and the
11 repeal or modification shall take effect as provided in s. 227.22.

12 SECTION 14. 227.27 (2) of the statutes is amended to read:

13 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
14 as provided by s. 889.01, but this does not preclude reference to or, in case of a
15 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
16 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
17 of a rule shall also and in the same degree be prima facie evidence in all courts and
18 proceedings. (End Insert 1-3)

19 SECTION 15. Effective dates. This act takes effect on the day after publication,
20 except as follows:

21 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
22 of the statutes takes effect on January 1, 2015. (End insert 3-15)

Insert
3-15

Dodge, Tamara

From: Kovach, Robert
Sent: Thursday, January 02, 2014 11:48 AM
To: Dodge, Tamara
Subject: FW: Draft review: LRB -3514/P1 Topic: Modifying rules related to long-term care insurance.

Dear Tami,

Can you make the changes listed below or give me a call on why they should stay the way you drafted them?

Thanks!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Connie O'Connell [<mailto:coconnell@parrettoconnell.com>]
Sent: Friday, December 27, 2013 8:47 AM
To: Kovach, Robert
Cc: susancallanan@northwesternmutual.com; Bill McClenahan; larrymeihsner@northwesternmutual.com
Subject: Fwd: Draft review: LRB -3514/P1 Topic: Modifying rules related to long-term care insurance.

Rob,

Thank you for the early Christmas present. It was a great gift! We only have a couple comments on the changes to the draft. Let me know if LRB has concerns. Again, thank you so much for all of your help with this.

1. We think the revised language on page 6, lines 13-14 (using both "all" and "at least") is confusing. We believe the original language is clearer: "2. The standards referenced in subparagraph 1., above shall include at least the following:".
2. The reference on Page 6, lines 6-7 to "including a long-term care policy... 1991" seems unnecessary given that p 5, line 24 says paragraph (c) applies to these policies.

Connie O'Connell

<image001.jpg>

10 East Doty Street, Suite 621
Madison, WI 53703
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Fax: (608) 251-1996
E-mail: coconnell@parrettoconnell.com

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3514/P1
TJD:sac:jm

In: 1/15

Due
~~1/22/14~~
1/22/14

&GMM

RMR

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

rule-making procedures and

gen out

1 AN ACT *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and *to create* 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** modifying administrative rules related to
5 long-term care insurance.

and creating

Insert
Analysis

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 13.92 (4) (bm) of the statutes is created to read:
7 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
8 227.265 affect the same unit of the Wisconsin administrative code without taking
9 cognizance of the effect thereon of the other rules and if the legislative reference

1 bureau finds that there is no mutual inconsistency in the changes made by each such
2 rule, the legislative reference bureau shall incorporate the changes made by each
3 rule into the text of the unit and document the incorporation in a note to the unit.
4 For each such incorporation, the legislative reference bureau shall include in a
5 correction bill a provision formally validating the incorporation. Section 227.27 (2)
6 is not affected by printing decisions made by the legislative reference bureau under
7 this paragraph.

8 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

9 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
10 administrative code a note explaining any change made under par. (b) or (bm).

11 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

12 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
13 apply to any change made by the legislative reference bureau under par. (b) or (bm).

14 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

15 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
16 record of each change made under par. (b) or (bm).

17 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

18 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
19 of each change made under par. (b) or (bm).

20 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
21 is amended to read:

22 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
23 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
24 preceding register, including emergency rules filed under s. 227.24 (3).

1 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
2 is amended to read:

3 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
4 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
5 modified under s. 227.265, in accordance with sub. (3) (e) 1.

6 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

7 35.93 (3) The legislative reference bureau shall compile and deliver to the
8 department for printing copy for a register which shall contain all the rules filed
9 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
10 preceding issue of the register was made and those executive orders which are to be
11 in effect for more than 90 days or an informative summary thereof. The complete
12 register shall be compiled and published before the first day of each month and a
13 notice section of the register shall be compiled and published before the 15th day of
14 each month. Each issue of the register shall contain a title page with the name
15 “Wisconsin administrative register”, the number and date of the register, and a table
16 of contents. Each page of the register shall also contain the date and number of the
17 register of which it is a part in addition to the other necessary code titles and page
18 numbers. The legislative reference bureau may include in the register such
19 instructions or information as in the bureau’s judgment will help the user to correctly
20 make insertions and deletions in the code and to keep the code current.

21 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
22 Act 20, is amended to read:

23 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
24 appropriate chapters of the Wisconsin administrative code each permanent rule filed
25 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265

1 and, for each chapter of the administrative code affected by a rule, do all of the
2 following:

3 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
4 20, is amended to read:

5 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
6 in accordance with the filing deadline for publication established in the rules
7 procedures manual published under s. 227.15 (7) or, in an end-of-month register
8 agreed to by the submitting agency and the legislative reference bureau, or, in the
9 case of a rule modified under s. 227.265, in the end-of-month register for the month
10 in which the bill modifying the rule is enacted.

11 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

12 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
13 or general order of general application which has the effect of law and which is issued
14 by an agency to implement, interpret, or make specific legislation enforced or
15 administered by the agency or to govern the organization or procedure of the agency.
16 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
17 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
18 otherwise meet the definition under this subsection, which:

19 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

20 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
21 as follows:

22 **SECTION 13.** 227.265 of the statutes is created to read:

23 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
24 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
25 Instead, the legislative reference bureau shall publish the repeal or modification in

1 the Wisconsin administrative code and register as required under s. 35.93, and the
2 repeal or modification shall take effect as provided in s. 227.22.

3 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

4 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
5 as provided by s. 889.01, but this does not preclude reference to or, in case of a
6 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
7 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
8 of a rule shall also and in the same degree be prima facie evidence in all courts and
9 proceedings.

10 **SECTION 15.** Ins 3.46 (13) (a) (intro.) and 2. of the administrative code are
11 consolidated, renumbered Ins 3.46 (13) (a) and amended to read:

12 Ins 3.46 (13) (a) An insurer may provide compensation to an intermediary ~~or~~
13 ~~other representative~~, and an intermediary ~~or representative~~ may accept
14 compensation for the sale of a long-term care policy or certificate only if: ~~2. The~~ the
15 compensation provided in the 2nd year or period and subsequent years is the same
16 ~~as provided in the 2nd year or period~~ and is provided for at least 5 renewal years.

17 **SECTION 16.** Ins 3.46 (13) (a) 1. of the administrative code is repealed.

18 **SECTION 17.** Ins 3.46 (13) (b) of the administrative code is amended to read:

19 Ins 3.46 (13) (b) ~~No~~ Except as provided in par. (c), no person may provide
20 compensation to an intermediary, ~~representative or producer~~, and no intermediary,
21 ~~representative or producer~~ may accept compensation, relating to the replacement of
22 a long-term care policy or certificate which is greater than the renewal compensation
23 provided by the replacing insurer for the replacing policy or certificate. Long-term
24 care policies this paragraph ~~applies~~ and par. (c) apply to include, but are not limited

1 to, long-term care policies, nursing home policies and home health care policies
2 issued prior to June 1, 1991.

3 **SECTION 18.** Ins 3.46 (13) (c) of the administrative code is created to read:

4 Ins 3.46 (13) (c) A person may provide to an intermediary, and an intermediary
5 may accept, compensation relating to the replacement of a long-term care policy or

6 certificate, including a long-term care policy, nursing home policy, or home health

7 care policy or certificate issued before June 1, 1991, which compensation is no greater

8 than the first-year compensation provided by the replacing insurer for the replacing

9 policy or certificate if, in addition to requirements contained in sub. (14), all of the

10 following criteria are satisfied:

11 1. The replacing insurer has established reasonable standards for which
12 first-year compensation is appropriate for the replacement.

13 2. The standards referenced in subd. 1. include all of the following standards,

14 (at least):

15 a. The replacing policy is suitable for the applicant.

16 b. The replacing policy materially improves the position of the applicant,
17 including, but not limited to, the coverage, price, premium stability, or financial
18 strength ratings of the insurer.

19 c. The intermediary has done an assessment of the replacement transaction
20 justifying the replacement according to the insurer's replacement standards and this
21 subd. 2. c. and submits that assessment to the insurer as part of the application for
22 replacement.

23 d. The insurer evaluates each replacement and affirmatively approves or
24 denies the replacement's qualification for first-year compensation of the replacing
25 policy.

1 e. The standards and methodology are subject to review by the office of the
2 commissioner of insurance.

3 3. The replacing insurer has established an auditable methodology for
4 evaluating replacements that qualify for first-year compensation.

5 **SECTION 19. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

7 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
8 of the statutes takes effect on January 1, 2015.

9 (END)

1 INSERT ANALYSIS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

Compensating intermediaries for sale of long-term care insurance

Under current rules promulgated by the Office of the Commissioner of Insurance, an insurer may provide compensation to an insurance intermediary or other representative, and the intermediary or other representative may accept compensation, for the sale of a long-term care policy or certificate only if 1) the first-year compensation for the sale does not exceed 400 percent of the compensation paid in the 2nd year or period for the sale or for servicing the policy or certificate and 2) the compensation provided in subsequent years is the same as provided in the 2nd year or period and is provided for at least 5 renewal years. The current rules prohibit any person from providing compensation to an intermediary, representative, or producer, and prohibit any intermediary, representative, or producer from accepting compensation, relating to the replacement of a long-term care policy or certificate for which the compensation is greater than the renewal compensation provided by the replacing insurer for the replacing policy or certificate.

The bill removes references to compensation for any other individual than an intermediary. Under the bill, instead of the current compensation restrictions, an

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insurer may compensate an intermediary, and an intermediary may accept compensation, for the sale of a long-term care policy or certificate only if the compensation provided in the 2nd year or period and subsequent years is the same and is provided for at least 5 renewal years. The bill adds an exemption to the prohibition on certain compensation for replacement of a long-term care policy. Under that exemption, a person may provide to an intermediary, and an intermediary may accept, compensation relating to the replacement of a long-term care policy or certificate for which the compensation is not greater than the first-year compensation provided by the replacing insurer for the replacing policy or certificate, if certain criteria that are created in the bill and certain requirements that are in the current rules are satisfied.

(END INSERT ANALYSIS)

Dodge, Tamara

From: Kovach, Robert
Sent: Wednesday, January 22, 2014 3:50 PM
To: Dodge, Tamara
Cc: Kelley, Margit; Bowers2, Jim
Subject: RE: LTC final Draft

No other changes requested! I already received a call that everything else is good to go!

Thanks for modifying the analysis.

After that is changed, can you have my version of the bill jacketed for Senate?

Thank you!

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Dodge, Tamara
Sent: Wednesday, January 22, 2014 3:48 PM
To: Kovach, Robert
Cc: Kelley, Margit; Bowers2, Jim
Subject: RE: LTC final Draft

Rob,

As you know, the analysis is the "property" of the LRB. In this instance, however, I can make a change to that portion of the analysis to make it more precise. I can refer to the removal of the terms "representative and producer" and retaining the term "intermediary." I most likely will not word this change exactly as requested, but I will, as I said, make it more precise and more similar to the suggested change.

I assume I'm still waiting to see if there are further changes, correct?

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Kovach, Robert
Sent: Wednesday, January 22, 2014 2:01 PM
To: Dodge, Tamara
Cc: Kelley, Margit; Bowers2, Jim
Subject: FW: LTC final Draft

Dear Tami,

We received this feedback regarding the analysis. Is this something you can amend for the introducible version?

Rob Kovach

Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

From: Connie O'Connell [<mailto:coconnell@parrettoconnell.com>]
Sent: Wednesday, January 22, 2014 1:42 PM
To: Kovach, Robert; susancallanan@northwesternmutual.com; Bill McClenahan; larrymeihnsner@northwesternmutual.com
Cc: Bowers2, Jim
Subject: RE: LTC final Draft

Rob and Jim,

I will give the rest of the team time to review to make sure I didn't miss any issues. Upon my initial review, I think the draft addresses the concerns we raised and looks good. We will get our final comments to you asap and certainly no later than Friday.

One change we recommend is in the LRB analysis. On page 2, the final paragraph states "The bill removes references to compensation for any individual other than an intermediary." It makes it sound like we are exempting others. As you may recall, OCI asked that the bill delete "representative or producer" because OCI only issues a license for an "intermediary". Therefore, this term encompasses everyone who is licensed. When Mollie Zito, OCI General Counsel, requested this change she stated: "We suggest deleting "representative or producer" because we only have a license for an intermediary. I know the term "representative" is already in the code but thought since we were changing the rest of it we should correct that as well."

Perhaps the LRB draft could be revised to state: The bill removes references to compensation for "representatives" and "producers" to reflect that the proper term for licensed individuals is "intermediary."

In the meantime, we wanted to share with you a draft cosponsorship memo for your consideration. See attached.

Connie O'Connell

**Parrett &
O'Connell, LLP**
ATTORNEYS AT LAW

10 East Doty Street, Suite 621
Madison, WI 53703
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Mobile: (608) 225-4695
Fax: (608) 251-1996
E-mail: coconnell@parrettoconnell.com

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From: Kovach, Robert [<mailto:Robert.Kovach@legis.wisconsin.gov>]

Sent: Wednesday, January 22, 2014 12:53 PM

To: susancallanan@northwesternmutual.com; Bill McClenahan; larrymeihnsner@northwesternmutual.com; Connie O'Connell

Cc: Bowers2, Jim

Subject: LTC final Draft

Dear Everyone,

I just wanted feedback from all of you whether this version of the draft is ready for circulation.

Can you let Jim Bowers and I know your feedback on the current language by Friday?

Thanks!

Rob Kovach

Policy Advisor/Committee Clerk

Office of Senator Frank Lasee

(608) 266-3512



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3514/P2
TJD&GMM:sac:ts

In: 1/22

DW Thurs
am 1/23

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 BILL

Please
Jacket
for
Senate

P2 analysis changes
are only changes

1 AN ACT *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and *to create* 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** rule-making procedures and modifying
5 and creating administrative rules related to long-term care insurance.

Analysis by the Legislative Reference Bureau

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.
2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.
3. Subject to certain exceptions, a public hearing is held on the proposed rule.
4. The final draft of the proposed rule is submitted to the governor for approval.
5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are

submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

Compensating intermediaries for sale of long-term care insurance

Under current rules promulgated by the Office of the Commissioner of Insurance, an insurer may provide compensation to an insurance intermediary or other representative, and the intermediary or other representative may accept compensation, for the sale of a long-term care policy or certificate only if 1) the first-year compensation for the sale does not exceed 400 percent of the compensation paid in the second year or period for the sale or for servicing the policy or certificate and 2) the compensation provided in subsequent years is the same as provided in the second year or period and is provided for at least five renewal years. The current rules prohibit any person from providing compensation to an intermediary, representative, or producer, and prohibit any intermediary, representative, or producer from accepting compensation, relating to the replacement of a long-term care policy or certificate for which the compensation is greater than the renewal compensation provided by the replacing insurer for the replacing policy or certificate.

From the rules

The bill removes references to compensation for any individual other than an intermediary. Under the bill, instead of the current compensation restrictions, an insurer may compensate an intermediary, and an intermediary may accept compensation, for the sale of a long-term care policy or certificate only if the compensation provided in the second year or period and subsequent years is the same and is provided for at least five renewal years. The bill adds an exemption to the prohibition on certain compensation for replacement of a long-term care policy. Under that exemption, a person may provide to an intermediary, and an intermediary may accept, compensation relating to the replacement of a long-term care policy or certificate for which the compensation is not greater than the first-year compensation provided by the replacing insurer for the replacing policy or certificate, if certain criteria that are created in the bill and certain requirements that are in the current rules are satisfied.

Other representatives or producers while retaining references to intermediaries.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 13.92 (4) (bm) of the statutes is created to read:

1 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
2 227.265 affect the same unit of the Wisconsin administrative code without taking
3 cognizance of the effect thereon of the other rules and if the legislative reference
4 bureau finds that there is no mutual inconsistency in the changes made by each such
5 rule, the legislative reference bureau shall incorporate the changes made by each
6 rule into the text of the unit and document the incorporation in a note to the unit.
7 For each such incorporation, the legislative reference bureau shall include in a
8 correction bill a provision formally validating the incorporation. Section 227.27 (2)
9 is not affected by printing decisions made by the legislative reference bureau under
10 this paragraph.

11 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

12 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
13 administrative code a note explaining any change made under par. (b) or (bm).

14 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

15 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
16 apply to any change made by the legislative reference bureau under par. (b) or (bm).

17 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

18 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
19 record of each change made under par. (b) or (bm).

20 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

21 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
22 of each change made under par. (b) or (bm).

23 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,

24 is amended to read:

1 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
2 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
3 preceding register, including emergency rules filed under s. 227.24 (3).

4 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
5 is amended to read:

6 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
7 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
8 modified under s. 227.265, in accordance with sub. (3) (e) 1.

9 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

10 35.93 (3) The legislative reference bureau shall compile and deliver to the
11 department for printing copy for a register which shall contain all the rules filed
12 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
13 preceding issue of the register was made and those executive orders which are to be
14 in effect for more than 90 days or an informative summary thereof. The complete
15 register shall be compiled and published before the first day of each month and a
16 notice section of the register shall be compiled and published before the 15th day of
17 each month. Each issue of the register shall contain a title page with the name
18 “Wisconsin administrative register”, the number and date of the register, and a table
19 of contents. Each page of the register shall also contain the date and number of the
20 register of which it is a part in addition to the other necessary code titles and page
21 numbers. The legislative reference bureau may include in the register such
22 instructions or information as in the bureau’s judgment will help the user to correctly
23 make insertions and deletions in the code and to keep the code current.

24 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
25 Act 20, is amended to read:

1 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
2 appropriate chapters of the Wisconsin administrative code each permanent rule filed
3 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
4 and, for each chapter of the administrative code affected by a rule, do all of the
5 following:

6 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
7 20, is amended to read:

8 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
9 in accordance with the filing deadline for publication established in the rules
10 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
11 agreed to by the submitting agency and the legislative reference bureau, or, in the
12 case of a rule modified under s. 227.265, in the end-of-month register for the month
13 in which the bill modifying the rule is enacted.

14 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

15 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
16 or general order of general application which has the effect of law and which is issued
17 by an agency to implement, interpret, or make specific legislation enforced or
18 administered by the agency or to govern the organization or procedure of the agency.
19 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
20 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
21 otherwise meet the definition under this subsection, which:

22 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

23 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
24 as follows:

25 **SECTION 13.** 227.265 of the statutes is created to read:

1 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
2 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
3 Instead, the legislative reference bureau shall publish the repeal or modification in
4 the Wisconsin administrative code and register as required under s. 35.93, and the
5 repeal or modification shall take effect as provided in s. 227.22.

6 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

7 **227.27 (2)** The code shall be prima facie evidence in all courts and proceedings
8 as provided by s. 889.01, but this does not preclude reference to or, in case of a
9 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
10 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
11 of a rule shall also and in the same degree be prima facie evidence in all courts and
12 proceedings.

13 **SECTION 15.** Ins 3.46 (13) (a) (intro.) and 2. of the administrative code are
14 consolidated, renumbered Ins 3.46 (13) (a) and amended to read:

15 Ins 3.46 (13) (a) An insurer may provide compensation to an intermediary ~~or~~
16 ~~other representative~~, and an intermediary ~~or representative~~ may accept
17 compensation for the sale of a long-term care policy or certificate only if: ~~2. The~~ the
18 compensation provided in the 2nd year or period and subsequent years is the same
19 ~~as provided in the 2nd year or period~~ and is provided for at least 5 renewal years.

20 **SECTION 16.** Ins 3.46 (13) (a) 1. of the administrative code is repealed.

21 **SECTION 17.** Ins 3.46 (13) (b) of the administrative code is amended to read:

22 Ins 3.46 (13) (b) ~~No~~ Except as provided in par. (c), no person may provide
23 compensation to an intermediary, ~~representative or producer~~, and no intermediary,
24 ~~representative or producer~~ may accept compensation, relating to the replacement of
25 a long-term care policy or certificate which is greater than the renewal compensation

1 provided by the replacing insurer for the replacing policy or certificate. Long-term
2 care policies this paragraph applies and par. (c) apply to include, but are not limited
3 to, long-term care policies, nursing home policies and home health care policies
4 issued prior to June 1, 1991.

5 **SECTION 18.** Ins 3.46 (13) (c) of the administrative code is created to read:

6 Ins 3.46 (13) (c) A person may provide to an intermediary, and an intermediary
7 may accept, compensation relating to the replacement of a long-term care policy or
8 certificate; which compensation is no greater than the first-year compensation
9 provided by the replacing insurer for the replacing policy or certificate if, in addition
10 to requirements contained in sub. (14), all of the following criteria are satisfied:

11 1. The replacing insurer has established reasonable standards for which
12 first-year compensation is appropriate for the replacement.

13 2. The standards referenced in subd. 1. include all of the following standards:

14 a. The replacing policy is suitable for the applicant.

15 b. The replacing policy materially improves the position of the applicant,
16 including, but not limited to, the coverage, price, premium stability, or financial
17 strength ratings of the insurer.

18 c. The intermediary has done an assessment of the replacement transaction
19 justifying the replacement according to the insurer's replacement standards and this
20 subd. 2. c. and submits that assessment to the insurer as part of the application for
21 replacement.

22 d. The insurer evaluates each replacement and affirmatively approves or
23 denies the replacement's qualification for first-year compensation of the replacing
24 policy.

1 e. The standards and methodology are subject to review by the office of the
2 commissioner of insurance.

3 3. The replacing insurer has established an auditable methodology for
4 evaluating replacements that qualify for first-year compensation.

5 **SECTION 19. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

7 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
8 of the statutes takes effect on January 1, 2015.

9 (END)