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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-093

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. Ins 57.04 (intro.), the phrase “The following” should be replaced by the phrase “All of the following.” All of the introductory statements in the rule should be reviewed for the appropriate use of phrases like “all of” or “any of” in order to consistently and clearly alert the reader as to when all or any of the subunits following the introductory material must be met.

b. In s. Ins 57.05 (3), the use of parentheses and the notation “i.e.” should be avoided. [See s. Ins 57.05 (1) (d) and s. 1.01 (6) and (9), Manual.]

c. In s. Ins 57.30 (2) (h), the words “State” and “Medicaid” should be placed in lowercase.

d. In s. Ins 57.31 (2), the phrase “the effective date of this rule” should be replaced by the phrase “the effective date of this section .... [LRB inserts date].”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. In the analysis, under heading 3., “chapter 648, Wis. Stat.” should be replaced with “ch. 648, Stats.” In the first paragraph under heading 5., “Ch. 648, Wis. Stats.” should be replaced with “Chapter 648, Stats.”

b. In s. Ins 57.04 (5) (intro.), “subs.” should be replaced with “sub.”

c. In s. Ins 57.20 (1), “subch. I of this chapter” should be replaced with “this chapter” because there are no subchapters. This comment also applies to ss. Ins 57.30 (2) (k), 57.31 (1) (a) and (3) (intro.), 57.32 (1) (intro.), and 57.37 (intro.) and (2).

d. In s. Ins 57.32 (2), both instances of “paragraph” should be replaced with “subsection.”

e. In s. Ins 57.40, “(1)” should be deleted.

f. Section Ins 57.41 cites s. Ins 57.08 (2) (a), but there is no s. Ins 57.08.

g. In Form B, item 1., the citation to s. 648.45 (2), Stats., should be to s. 648.45, Stats.

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the rule preface, in the first sentence of the first paragraph under heading 5., “establishes” should be replaced with “establish.” Also in the rule preface, the plain language analysis and summary of the proposed rule adequately discusses current law, but it would be helpful to have a more complete description of the provisions of the proposed rule.

b. In item 8 of the rule preface, the first occurrence of the word “engaged” should be deleted. Also, the second sentence should conclude with a period.

c. In item 11 of the rule preface, the second occurrence of the word “effect” should be replaced by the word “affect” and the third sentence should conclude with a period.

d. Section Ins 57.01 should include definitions for “department” and “MCO.”

e. In s. Ins 57.01 (2), the quotation marks around “commissioner of insurance” should be deleted.

f. In s. Ins 57.01 (3), “in this state” should be inserted after “American Institute of Certified Public Accountants.”

g. In s. Ins 57.01 (8), “but are not limited to” should be deleted. This comment also applies to ss. Ins 57.05 (1) (a), 57.10 (2) (e), and 57.32 (1) (intro.). Also, the word “include” should be replaced by the word “includes.”

h. In s. Ins 57.04 (4) (b) 4., “in other ways than” should be replaced with “in ways other than.”

i. In s. Ins 57.04 (5) (intro.), “will” should be replaced with “shall.” This comment also applies to s. Ins 57.05 (1) (intro.) and (8).

j. In s. Ins 57.05 (1) (a), will the reader know what is meant by the “Bring Care Under Management Plan”? Also, that phrase should not be capitalized.

k. In s. Ins 57.05 (1) (e), after “care management organization” in the second sentence, “information” should be inserted. Also, “Board of Directors” should not be capitalized.

l. In s. Ins 57.05 (4) (intro.), it appears that “will be” should be replaced with “are.” This comment also applies to subs. (6) (intro.) and (10).

m. In s. Ins 57.05 (8) (title), what is a “SWOT analysis”?

n. In s. Ins 57.06, are the terms “substantial” and “material” intended to mean the same thing? If so, a consistent term should be used. If the terms do not mean the same thing, what point is being made by stating that a series of certain transactions will be deemed “material”?

o. In s. Ins 57.07 (2), the comma after “shall file with the commissioner” should be deleted.

p. In s. Ins 57.10, the use of “person” is confusing. In some cases it appears that “person” means an individual, but in phrases such as: “No person other than the care management organization may enter into an agreement”, it appears that “person” means an entity such as a corporation, as well. Please review this section. Also, in sub. (1) (a) (intro.), the first occurrence of the word “the” should be replaced by the word “a.”

q. In s. Ins 57.10 (2) (a) 3., it would be helpful to replace the commas after “if shorter” and “person’s subsidiaries” with semicolons.

r. In s. Ins 57.10 (2) (d), “under” should be inserted after “Any plans or proposals.”

s. In s. Ins 57.12 (1), the paragraphs should be rewritten to work grammatically with the introductory paragraph. For example, par. (a) should read: “Section 648.45 (5) and (6), Stats.” Paragraph (b) should read: “Allocate to the care management organization expenses incurred and payment received for the transaction in conformity with customary accounting practices consistently applied.”

t. In s. Ins 57.12 (2) (b), “Loans or extensions of credit or guarantees” should be replaced with “Loans, extensions of credit, or guarantees.”

u. In s. Ins 57.13, “as provided” should be inserted before “under s. 601.465, Stats.”

v. In s. Ins 57.20 (2) (b), “inches” should be inserted after “8 ½ x 11.”

w. In s. Ins 57.22 (1), “within 3 years” should be replaced with “within the preceding 3 years.” Also, in the last sentence, “shall not” should be replaced with “may not.”

x. In s. Ins 57.22 (2), in the last sentence, “, a copy of which is filed” should be replaced with “that were filed.”

y. In s. Ins 57.24 (4), “the period intervening from the last annual statement filed with the commissioner and the end of the month” should be replaced with “the period between the date on which the last annual statement was filed with the commissioner and the last day of the month.”

z. In s. Ins 57.24 (5), the “and” following “the care management organization’s net assets” should be replaced with a comma, and a comma should be inserted after “outstanding liabilities.”

aa. In s. Ins 57.26 (3), “due date” should be replaced with “the date specified under sub. (1).”

bb. In s. Ins 57.30 (1), “the year then ended” should be replaced with “that year.” Also, “care management” after the period should be deleted.

cc. In s. Ins 57.30 (2) (g) and (h), the phrase “as required” should specify who or what is requiring the report.

dd. In s. Ins 57.30 (2) (h), “and/or” should be replaced with “or.”

ee. In s. Ins 57.30 (2) (i) and (j), “Management” and “Management Letter” should not be capitalized.

ff. In s. Ins 57.31 (3) (a) and (b), “insurance department” and “department” should be replaced with “office of the commissioner of insurance” and “office.”

gg. In s. Ins 57.31 (4) (b) (intro.), “of the dismissal or resignation” should be inserted after “15 business days.”

hh. In s. Ins 57.31 (4) (c), the provision should specify the date from which the 15 business days are counted.

ii. In s. Ins 57.32 (1) (intro.), “and” after “audited financial report required under this subchapter” should be replaced with a comma.

jj. In s. Ins 57.32 (2), “shall not” should be replaced with “may not.” Also, the comma after the word “organization” should be deleted.

kk. In s. Ins 57.37 (2), a comma should be inserted after the first occurrence of the word “experience.”

ll. In s. Ins 57.37 (4), “available” should follow “work papers.”

mm. In s. Ins 57.38 (1), in the first sentence, “by the commissioner” should be inserted after “make available for review.”

nn. In s. Ins 57.38 (2), “records/working papers” should be replaced with “records or working papers.”

oo. In s. Ins 57.39 (1) (intro.), “shall” should be replaced with “may.” This comment also applies to (2) (intro.). Also, please review s. Ins 57.39 (1) (b). It is very confusing as written.

pp. In s. Ins 57.39 (2) (intro.), a phrase such as “and include all of the following” needs to be inserted before the colon. Depending on what phrase is inserted, the subsequent paragraphs may need to be rewritten to work grammatically with the introductory paragraph. Also, in par. (b), it may be clearer to state: “Fail to use generally accepted auditing standards or other professional standards when performing an audit, review, or other procedures.”

qq. In s. Ins 57.40, it appears that “, after consultation with the department” should be deleted because it could be read as requiring the organization to consult with the department.

rr. In Form B, under item 3., in the last sentence in the first paragraph, "consideration" should be inserted before "other than cash." Also, in the last paragraph, "(a)" should be deleted or "(b)" should be inserted before "10% of net assets."