

## EXISTING ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Repeal     Modification

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2. Administrative Rule Chapter, Title and Number

Sections Ins 6.57, 6.58, 6.59, 6.595, 6.61, 6.63, 6.92, 6.93, 26.03, 26.04, 26.05, 26.06, 26.07, 26.09, 28.01, 28.03, 28.04, 28.05, 28.06, 28.07, and 28.08, Wis. Adm. Code.

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3. Date Rule promulgated and/or revised; Date of most recent Evaluation

In 2009 the Office of the Commissioner of Insurance (OCI) promulgated a rule, CR 09-022, making significant revisions to the agent licensing process including the appointment of agents under s. Ins 6.57, the licensing application under ss. Ins 6.58 and 6.59, regulation charges under s. Ins 6.63, prelicensing education requirements under ch. 26, and continuing education requirements under ch. 28, Wis. Adm. Code. Alternatively, provisions regarding navigator and navigator entities under ss. Ins 6.92 and 6.93, Wis. Adm. Code, were first promulgated in 2013 and provisions regarding exemptions from the licensing of intermediaries were promulgated in 2002.

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4. Plain Language Analysis of the Rule, its Impact on the Policy Problem that Justified its Creation and Changes in Technology, Economic Conditions or Other Factors Since Promulgation that alter the need for or effectiveness of the Rule.

The Office of the Commissioner of Insurance (OCI) switched to the National Association of Insurance Commissioner's (NAIC) State Based System (SBS), which is a comprehensive web-based application that was developed to assist state regulators with many services relating to the agent licensing process. SBS was created by the NAIC in coordination with the National Insurance Producers Registry (NIPR) as an initiative to promote greater national licensing uniformity. Accordingly, the switch to SBS is creating greater uniformity between OCI's agent licensing process and those in other states.

The switch to SBS also provides OCI with a more efficient and effective tool for administering the agent licensing process by affording a streamlined process in which many aspects of agent licensing, including pre-licensing requirements, applications, company appointments and billings, terminations, notices, and continuing education are consolidated in one place. The comprehensive nature of the SBS application is necessary to facilitate an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate with each other through electronic means.

### General Changes to chs. 6, 26, and 28: Electronic Communications, Flexibility, and Uniformity

One of the key challenges with the switch to SBS and the agent licensing process is modernization in which new technology is being utilized to create more effective and efficient processes—largely in the form of consolidated services and electronic communications. Accordingly, the proposed rule seeks to utilize electronic means as the primary form of communication, particularly the use of e-mail. Current notice provisions, including provisions relating to renewal fees, appointment fees, and continuing education requirements, all require the notice to be sent through the mail, which is inefficient and expensive. The proposed rule will permit the Commissioner to specify the manner in which notices shall be provided to the individuals and entities. This will allow our office to shift to e-mail in the short-term while providing the flexibility to adopt new forms of communication as they develop in the future (i.e. an online platform). In addition, the proposed rule will require individuals and entities to provide a contact e-mail address.

Similarly, the proposed rule will also permit the Commissioner to specify the manner in which applications, forms, and notices shall be filed. Under the current rules, applications and forms are generally required to be filed with OCI; for example, appointment requests and notices and intermediary licenses under ss. Ins 6.57, 6.58, and 6.59, Wis. Adm.

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Code., all require filing applications with OCI. However, under SBS many of these services will be handled through the SBS platform. Moreover, the proposed rule removes any reference to OCI specific applications or forms in favor of NAIC Uniform Applications to ensure uniformity with other states.

Finally, the proposed rule makes a distinction between the different causes for license revocation, which are governed by s. 628.10, Wis. Stats. Under the proposed rule, revocations for failing to comply with continuing education requirements or failing to pay regulation fees are referred to as terminations, while revocations for delinquent taxes and unemployment contributions are still referred to as revocations. This revision is not meant to create a substantive distinction, but rather is a way to more accurately reflect how the different revocations are both treated and viewed. For example, under s. Ins 6.61 (16) (a), Wis. Adm. Code, read in combination with s. Ins 6.61 (3) (e), Wis. Adm. Code, intermediaries are required to notify the Commissioner of any revocation for delinquent taxes or for failing to pay unemployment contributions, but they do not have to report revocations for failing to comply with continuing education requirements or failing to pay regulation fees.

### Specific Changes to chs. 6, 26, and 28: Clarity, Efficiency, and Uniformity

In addition to the general changes outlined above, the proposed rule will also make a number of revisions that clarify, simplify, and/or remove existing requirements that are confusing and outdated. These changes seek to streamline various aspects of the agent licensing process by removing unnecessary language and requirements and to create greater uniformity with other states.

First, under s. Ins 6.57 (1), Wis. Adm. Code, the proposed rule will clarify that appointment requests must be made either within 15 days of the date the agent contract is executed or the date the first insurance application is submitted. The same language is also added to subs. (5) and (6) in order to clarify appointment requirements regarding an insurer accepting business from an agent and for an agent soliciting on behalf of and submitting business to an insurer. In addition, the proposed rule also specifies that billing shall be done at the time of initial appointment. Finally, the proposed rule will remove specific fees details under subs. (4) and instead reference the statutory citation that governs the fees.

The proposed rule will make a number of changes to OCI's individual and firm intermediary licensing provisions under ss. Ins 6.58 and 6.59, Wis. Adm. Code, which are intended to streamline the licensing procedures and create greater uniformity with other states. First, under s. Ins 6.58, Wis. Adm. Code, the proposed rule will allow travel intermediaries to apply for firm licensure, remove the certification requirement for the articles of incorporation, permit the application to be either signed or submitted by an officer or partner as opposed to being signed by an officer or partner, and require the intermediary firm to designate a responsible licensed producer (DRLP).

Under s. Ins 6.59, Wis. Adm. Code, the proposed rule requires applicants: to provide a copy of the certificate of prelicensing that was presented to the exam proctor in order to sit for the exam; removes the requirement that applicants notify the testing vendor one day in advance of their scheduled examination; and increases the time period in which exam scores are valid from 30 to 180 days. In addition, the proposed rule clarifies the meaning of criminal "conviction" under ss. Ins 6.58 (4) (b) 1. and 6.59 (5) (a), Wis. Adm. Code, to align with the meaning of criminal "conviction" in the NAIC's Uniform Applications. Finally, s. Ins 6.59 (8), Wis. Adm. Code, currently requires nonresident intermediaries to provide OCI with a letter of certification when they become a resident of a new state, which is an outdated practice. The proposed rule replaces "new state of residence" with "home state" as a matter of uniformity and will only require the letter of certification if OCI cannot independently verify the nonresident license status in the new home state first.

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The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is provided for by statute under s. 628.10 (2) (cm), Wis. Stat. In addition, the proposed rule eliminates the last sentence in s. Ins 6.63 (4), Wis. Adm. Code, which outlines the requirements for re-licensure depending on the length of time the license was terminated or revoked. This sentence is unnecessary as the requirement is already set forth by statute under s. 628.10 (5) (a), Wis. Stat.

Finally, the proposed rule will make a number of revisions to the current provisions governing prelicensing education and continuing education, which will simplify and/or eliminate unnecessary requirements that exist in the current code. In general, these changes seek to streamline the processes for prelicensing and continuing education.

The proposed rule will eliminate the “banking” of prelicensing credits by education providers under ss. 26.05 (5) and 26.07 (2), Wis. Adm. Code, which is no longer necessary with the switch to SBS. The elimination of “banking” may reduce potential fees to applicants and providers for uploading the credits while also eliminating the need for providers to collect the full social security number of pre-licensing students, which can be costly to secure. In addition, the proposed rule clarifies that approval of noncredit courses will expire on August 30 every two years starting on the August 30 after approval, and removes the requirement that applications for the next period be made on or before July 15 under s. Ins 26.06 (3), Wis. Adm. Code. Finally, the proposed rule permits noncredit programs to be offered in an audio or video format.

Similarly, the proposed rule will also clarify that approval for continuing education programs will expire on July 31 every two years starting on the July 31 after approval, and removes the requirement that applications for the next period be made on or before June 1 pursuant to s. Ins 28.06 (4), Wis. Adm. Code. In addition, the proposed rule moves communication skills, personnel management, and agency management into the category of subjects that may qualify for approval. Finally, the proposed rule also permits continuing education programs to be offered in an audio or video format.

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#### 5. Describe the Rule's Enforcement Provisions and Mechanisms

The proposed rule does not create any new enforcement provisions or authority for OCI; however, the proposed rule does make one change to align current enforcement provisions in the administrative code with current statute. The proposed rule adds failure to pay unemployment insurance contributions as a basis for license revocation under s. Ins 6.63 (3) and (4), Wis. Adm. Code, which is currently set forth in s. 628.10 (2) (cm), Wis. Stat.

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6. Repealing or Modifying the Rule Will Impact the Following (Check All That Apply)
- |   |   |
|---|---|
| <input type="checkbox"/> State's Economy        | <input checked="" type="checkbox"/> Specific Businesses/Sectors |
| <input type="checkbox"/> Local Government Units | <input type="checkbox"/> Public Utility Rate Payers             |
|   | <input checked="" type="checkbox"/> Small Businesses            |

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#### 7. Summary of the Impacts, including Compliance Costs, identifying any Unnecessary Burdens the Rule places on the ability of Small Business to conduct their Affairs.

The proposed rule will likely have a positive impact on small businesses, including insurance agencies, and pre-licensing and continuing education providers by reducing fees and administrative costs, eliminating unnecessary requirements, and streamlining processes. First, the proposed rule will eliminate the banking of prelicensing credits by education providers, which may reduce potential fees to applicants and providers for uploading the credits to SBS. In addition, the proposed rule will also eliminate the need for providers to collect the full social security number of prelicensing students, which can be costly to secure.

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The proposed rule may also positively impact small business by reducing administrative costs through more effective and efficient processes. One of the key changes under the proposed rule is utilizing electronic means as the primary form of communication, which is faster and less expensive than providing paper copies through the mail. Finally, the switch to SBS will also allow small businesses to license new agents in less than 24 hours as compared to 13 days prior to the switch to SBS, and processing fees charged on applications are \$1 less than the previous vendor charged.

The changes made in the proposed rule could have a positive fiscal effect of \$190,360 for small businesses. These savings are the result of the \$1 fee reduction for licensing applications and the elimination of the banking of preclicensing course credits in which each applicant needs to complete a course consisting of 20 credits and each credit cost a dollar to upload. In 2017, OCI received 30,200 applications resulting in \$30,200 in savings due to the \$1 fee reduction per application. Similarly, in 2017 applicants completed 8008 courses resulting in \$160,160 (8008 x 20) in upload fees, which would be eliminated under the proposed rule. Accordingly, \$30,200 in savings from the licensing fee reduction and the \$160,160 in savings from the elimination of banking preclicensing course credits results in an overall savings for small businesses of \$190,360.

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8. List of Small Businesses, Organizations and Members of the Public that commented on the Rule and its Enforcement and a Summary of their Comments.

OCI solicited comments generally through publication on OCI's website. In addition, OCI also solicited comments by utilizing the agency's public list servers, which are email lists open to any individual or entity who is interested in receiving notices from OCI regarding issues relating agent licensing, life insurance and annuities, property and casualty, and health and disability insurance.

OCI received one comment submitted by Jordan Lamb on behalf of the Professional Insurance Agents (PIA) of Wisconsin supporting the proposed rule for the same reasons OCI outline in the scope statement. In particular, the PIA noted the switch to electronic communication would increase communication, efficiency and flexibility with Wisconsin agents.

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9. Did the Agency consider any of the following Rule Modifications to reduce the Impact of the Rule on Small Businesses in lieu of repeal?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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10. Fund Sources Affected

- GPR    FED    PRO    PRS    SEG    SEG-S

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11. Chapter 20, Stats. Appropriations Affected

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12. Fiscal Effect of Repealing or Modifying the Rule

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> No Fiscal Effect | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs                      |
| <input type="checkbox"/> Indeterminate    | <input type="checkbox"/> Decrease Existing Revenues | <input type="checkbox"/> Could Absorb Within Agency's Budget |
|   |   | <input checked="" type="checkbox"/> Decrease Cost            |

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13. Summary of Costs and Benefits of Repealing or Modifying the Rule

The changes made in this proposed rule could have an overall positive fiscal effect of \$220,090. These savings are the result of the \$30,200 in savings from the licensing fee reduction and the \$160,160 in savings from the elimination of

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banking prelicensing course credits described in Section 7 equaling \$190,360. In addition, OCI will save approximately \$30,000 in mailing expenses each year. Alternatively, the proposed rule could result in approximately \$270 in charges for town mutual insurers (total, not individually) due to a small fee NIPR charges for processing appointments online, which they did not have to do previously. NIPR charges a minimum fee of \$5 for online processing, OCI pulled data on 10 of the 54 town mutual insurers in Wisconsin and none appointed enough agents to meet the \$5.00 minimum threshold. Accordingly, OCI assigned the \$5.00 minimum processing fee to all 54 town mutual insurers, which resulted in an estimated cost of \$270 for town mutual insurers for the online processing of agent appointments. Therefore, the \$220,360 in savings (\$30,200 + \$160,160 + \$30,000) minus the \$270 in costs results in an overall positive fiscal effect of \$220,090.

In addition to the fiscal savings, the proposed rule will also have numerous other positive benefits, which have thoroughly been described in Sections 4 and 7. In particular, the switch to electronic communications will create a more effective and efficient means of communicating, which could not only reduce administrative costs by eliminating the need to print and mail information, but also could cut down the time it takes for applications/appointments to be processed making it easier and faster to conduct business.

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14. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes    No

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15. Long Range Implications of Repealing or Modifying the Rule

One of the key changes involved in the proposed rule is the utilization of new technology to create more effective and efficient processes, largely in the form of consolidated services and electronic communications. The proposed rule will allow OCI to shift to e-mail in the short-term while providing the flexibility in the long-term to adopt new forms of communication as they develop in the future. Ultimately, the goal of SBS is to develop an integrated online platform that will allow OCI and licensees to easily locate, update, and track important information, access and process licensing requirements, and more effectively and efficiently communicate through the online platform.

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16. Compare With Approaches Being Used by Federal Government

There is no similar federal regulation covering these activities. Insurance is generally regulated on the state level with the NAIC enacting model rules, procedures, and programs for states.

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17. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

The four adjacent states have substantially similar requirements relating to the agent licensing process, which generally follow the NAIC "Producer Licensing Model Act." Where variations among the four adjacent states exist is generally in how the agent licensing process is administered (i.e. how and when documents and information are filed or communicated). However, a direct comparison among the states is difficult because states have developed processes that work best for their department based on their resources and due to differences in how much of the licensing process is specified by statute or code for each state. The changes being made in this proposed rule are generally meant to clarify confusing language and/or requirements and to maximize OCI's resources to make Wisconsin's agent licensing process more efficient and cost-effective. Accordingly, the proposed rule is not aimed at making changes to the substantive requirements or procedures that are substantially similar among the adjacent states with limited exceptions, in particular: (1) eliminating the requirement that nonresident producers provided a certification from their new home state and (2) eliminating the "banking" of prelicensing credits. OCI's position is that these requirements are not only outdated, but also create an unnecessary burden on and cost to insurance agents and entities.

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Illinois: the agent licensing provisions are generally found in 215 ILCS 5/500-5 to 215 ILCS 5/500-150 and ILL. ADMIN. CODE tit. 50 Subch. ii.

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Iowa: the agent licensing provisions are generally found in IOWA CODE §§ 522B.1 to 522B.18, and 522E.3 and

Agent Licensing Software: SBS.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: requires “banking” of prelicensing credits.

Michigan: the agent licensing provisions are generally found in MICH. COMP. LAWS §§ 500.1201 to 500.1204b and §§ 500.1204d to 500.1247.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: has a provision similar to Wisconsin’s current provision providing for “banking” of prelicensing credits.

Minnesota: the agent licensing provisions are generally found in Minn. Stat. §§ 60K.30 to 60K.56.

Agent Licensing Software: SIRCON.

New Home State: requires nonresident producers to provide certification from new home state.

Prelicensing Credits: OCI’s review did not find any provisions addressing the “banking” of prelicensing credits.

18. Contact Name

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19. Contact Phone Number

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