

CR 11-021

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING,
REPEALING AND RECREATING A RULE

To repeal Ins 6.07 (4) (a) 8., (4) (d), and (9);

To repeal and recreate Ins 6.07 (4) (a) 1., 2., and 5., Wis. Adm. Code,

Relating to relating to readability and electronic access to insurance policies.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 600.01, 628.34 (12), 631.20 (2) (a), 631.22 (2), Stats.

2. Statutory authority:

ss. 601.41 (3), 628.34 (12), 631.20 (2) (a), 631.22 (2), Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

Section 631.22 (2), Stats., requires insurers to provide policies that are coherent, written in commonly understood language, legible, appropriately divided and captioned by its various sections and presented in a meaningful sequence. Section 631.22 (2), Stats., directs OCI to promulgate rules establishing standards for the determination of compliance with the requirements for coherence, commonly understood language, legible, appropriately divided and captioned by its various sections in a meaningful sequence.

4. Related statutes or rules:

This proposed rule revises the current rules, s. Ins 6.07, Wis. Adm. Code, governing filing readability and access to electronic versions of policy forms.

5. The plain language analysis and summary of the proposed rule:

The proposed rule repeals and recreates s. Ins 6.07 (4) (a) 1., modifying the readability score as determined by using a Flesch or equivalent score, to a score of 40 across product lines and 50 for Medicare supplement policy requirements. The proposed rule repeals newly instituted requirements related to the use of active voice

in policy forms, s. Ins 6.07 (4) (a) 8., and the creation of a single section containing all exclusions and limitations, s. Ins 6.07 (4) (a) 5. Additionally, the proposed rule repeals s. Ins 6.07 (4) (d), that exempted certain accident and health and property and casualty insurance policies from the requirements of active voice and consolidated exclusion sections. The rule as proposed requires insurers to list all exclusions in one section or permits insurers to list exclusions throughout the policy if the point-type for the exclusions are of equal size and equal prominence in the policy form.

Finally the proposed rule repeals the requirement that insurers make available to an insured within specified time periods their complete insurance policy through a notice on the insurers website and upon renewal. Insurers remain subject to the requirements of s. 631.11 (4m), Stats., to provide the insured or policyholder a copy of their policy upon request.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no existing or proposed federal regulations that address the topic of this proposed rule.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: Illinois requires products to be readable but does not set a score. Illinois is pending legislative changes to participate in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Illinois does not have a website notice provision for insureds to access a complete copy of their policy.

Iowa: Iowa requires products to be readable but does not set a score. Iowa participates in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Iowa does not have a website notice provision for insureds to access a complete copy of their policy.

Michigan: Michigan requires forms to achieve a Flesch score of not less than 45 under Mich. Admin. Code s. 500.2236 r. 2003 (1956). Michigan participates in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Michigan does not have a website notice provision for insureds to access a complete copy of their policy.

Minnesota: Minnesota requires under Minn. Stat. Ch. 72C, a Flesch score of more than 40 for life and health forms. Minnesota participates in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Minnesota does not have a website notice provision for insureds to access a complete copy of their policy.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

OCI proposes this rule will ease financial constraints not anticipated with prior rule-making. The OCI has received numerous inquiries regarding implementation and concerns related to cost of implementation. By returning to prior requirements the OCI is able to balance consumer protection and appropriate level of industry oversight without being overly burdensome.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The effect of the proposed rule on small business is positive as it reverts back to prior requirements thereby negating the need to modify existing policies or means of accessing prior copies of an insured's policy.

10. See the attached Private Sector Fiscal Analysis.

These changes will not have a significant fiscal effect on the private sector as the proposed rule reverts back to prior requirements thereby imposing no costs on insurers or intermediaries that could be passed on to the private sector.

11. A description of the Effect on Small Business:

This rule will have little to no fiscal effect on regulated small businesses as the proposed rule imposes no new requirements and returns all Flesch scores and access requirements back to 2010 standards.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110
Email: inger.williams@wisconsin.gov
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 10th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

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The proposed rule changes are:

SECTION 1. Ins 6.07 (4) (a) (intro.), 1. and 2. are repealed and recreated to read:

Ins 6.07 (4) (a) In addition to any other requirements of law, no consumer insurance policy, unless excepted under sub. (5), shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this section, unless:

1. The text achieves a minimum score of 50 for those policies labeled as Medicare supplement policies as defined by s. Ins 3.39 and a minimum score of 40 for all other policies included under this rule, on the Flesch reading ease test as described in par. (b), or an equivalent score on any other comparable test as provided in par. (c) or this subsection unless a lower score is authorized under sub. (7);
2. It is printed, except for specification pages, schedules and tables, in not less than 10 point type, one point leaded;

SECTION 2. Ins 6.07 (4) (a) 5. is repealed and recreated to read:

Ins 6.07 (4) (a) 5. It contains a single section listing exclusions or the exclusions are listed within the form and given at least equal prominence including same type size;

SECTION 3. Ins 6.07 (4) (a) 8. is repealed.

SECTION 4. Ins 6.07 (4) (d) is repealed.

SECTION 5. Ins 6.07 (9) is repealed.

SECTION 6. This rule may be enforced under ss. 601.41, 601.64, 601.65, 628.10, 631.20 (4m), Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 7. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 18th day of July, 2011.

Theodore K. Nickel
Commissioner of Insurance

**Office of the Commissioner of Insurance
Private Sector Fiscal Analysis**

for Section Ins 6.07 relating to readability and electronic access to insurance policies.

This rule change will have no significant effect on the private sector regulated by OCI.