

CR 87-55

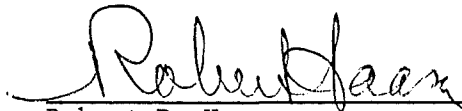
STATE OF WISCONSIN )  
 )  
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order repealing and creating a rule relating to the records of intermediaries was issued by this office October 22, 1987.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 22nd day of October, 1987.

  
Robert D. Haase  
Commissioner of Insurance

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RECEIVED

OCT 22 1987

3:10 pm  
Revisor of Statutes  
Bureau

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OCT 22 1987

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

ORDER OF THE COMMISSIONER OF INSURANCE

REPEALING AND RECREATING A RULE

To repeal and recreate Ins 6.61 relating to the records of intermediaries.

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ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3) and 601.42 (1), Stats.

Statutes interpreted: ss. 601.42 and 628.34, Stats.

The purpose of this rule is to protect Wisconsin's insurance consumer by strengthening the requirements for agents' records. This will facilitate the insurance commissioner's efforts to document that an agent or other intermediary has violated one or more of the Wisconsin insurance statutes or rules. In the past, inadequate recordkeeping by some agents made the office's efforts to enforce Wisconsin's insurance laws difficult. This rule should correct these problems.

The rule requires intermediaries to maintain specified documents for up to three years. These records include application registers, cash receipt and disbursement records, commission statements and policyholder records. The

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rule also requires insurance companies to inform their intermediaries of the requirements of this rule and to assist the intermediaries in maintaining the required records.

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SECTION 1. Ins 6.61 is repealed and recreated to read:

Ins 6.61 INTERMEDIARY RECORDS. (1) PURPOSE. This section protects insurance policyholders by prescribing minimum standards and techniques of accounting and data handling of intermediaries to ensure that timely and reliable information will exist and be available to the commissioner. This section implements and interprets ss. 601.42 and 628.34, Stats., by establishing minimum records to be maintained by intermediaries.

(2) SCOPE. This section applies to all intermediaries transacting insurance business in this state and to Wisconsin insurance transactions of nonresident intermediaries unless the nonresident is required to maintain records in a similar specified manner by the intermediary's state of domicile.

(3) DEFINITIONS. As used in this section:

(a) "Business checking account" means any account utilized by an intermediary for insurance-related transactions.

(b) "Cash disbursed record" means a record showing all monies paid out by the intermediary in connection with insurance.

(c) "Cash receipts record" means a record showing all monies received by the intermediary in connection with insurance.

(d) "Commission statements" means records or statements which show the commissions and fees allocated to the intermediary for insurance transactions.

(e) "Formal disciplinary action" means consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures or actions limiting the intermediary's method of conducting an insurance business.

(f) "Intermediary" means any person, partnership or corporation requiring a license under the provisions of ch. 628, Stats.

(g) "Personnel records" means those records pertaining to anyone who is directly retained or employed by an intermediary in connection with insurance including subagents, secretaries, phone solicitors, and independent contractors.

(h) "Policyholder records" means all records, applications, request for changes, claims, and complaints associated with a policy generated by or through the intermediary.

(4) CASH DISBURSED RECORD. The cash disbursed record shall show the name of the party to whom the payment was made, date of payment, and reason for payment.

(5) CASH RECEIPTS RECORD. The cash receipts record shall show the name of the party who remitted the money, date of receipt, and reason for payment.

(6) COMMISSION STATEMENTS. The commission statements shall show the insured name, policy number, premium, amount of commission, and date allocated or paid or both.

(7) PERSONNEL RECORDS. Personnel records shall include dates of employment, position, description of principal duties, name of employe, and last known address and phone number of employe.

(8) RECORDKEEPING REQUIREMENTS. Beginning on January 1, 1988, each intermediary shall maintain, for a 3-year period, unless a specific period is provided elsewhere, the following records:

- (a) Cash receipts record.
- (b) Cash disbursed record.
- (c) Commission statements.
- (d) Policyholder records.
- (e) Business checking account.
- (f) Personnel records.

(9) SPECIAL REQUIREMENTS FOR NEWLY ISSUED CONTRACTS. Each intermediary shall maintain records for a 3-year period giving the effective date of the coverage on all newly issued contracts.

(10) SPECIAL REQUIREMENTS FOR INDIVIDUALLY-ISSUED LIFE AND ACCIDENT AND HEALTH CONTRACTS. Each intermediary shall maintain records for a 3-year period indicating that the necessary suitability inquiry and replacement procedures required by ss. Ins 2.07, 2.14 (5) (f), 2.15 (9) (f), 3.27 (7), and 3.29 were followed for each individually-issued life and accident and health contract written or replaced or both.

(11) SPECIAL REQUIREMENTS FOR TITLE INSURANCE. Each intermediary who is employed by, or is, an affiliate of a producer of title insurance shall maintain records for three years for each application or order for title insurance accepted in this state. The records shall state whether the application or order was directly or indirectly referred as provided by s. Ins 3.32 (5) by a producer of title insurance which is an affiliate as defined by s. Ins 3.32 (3) (a), (bm) and (c) and the name of each producer of title insurance who is an affiliate and acts as broker, agent, lender, representative or attorney in the transaction which resulted in the application or order. Each intermediary who is an affiliate of a producer of title insurance shall maintain a record of gross revenue from operations in this state from title insurance by quarter calendar year which shall

separately show gross revenue from operations in this state derived from applications or orders for title insurance directly or indirectly referred by the affiliate.

(12) PLACE OF MAINTAINING RECORDS. The intermediary shall maintain records required by subs. (8), (9), (10) and (11) at the business address of the intermediary or the insurer recorded with the commissioner of insurance, or at another location only if the intermediary provides written notice of the other location to the commissioner of insurance.

(13) UPDATING RECORDS. The intermediary shall update all intermediary records at reasonable intervals or as necessary and shall maintain all financial intermediary records according to accepted accounting principles.

(14) MAINTAINING POLICYHOLDER RECORDS. The intermediary shall retain policyholder records for a period of at least three years after termination or lapse of the policy.

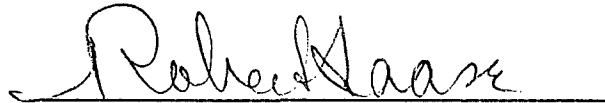
(15) CHANGE OF ADDRESS. Each intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's business or residence address or any change of address of location of the intermediary's records.

(16) NOTIFICATION OF CONVICTION OR DISCIPLINARY ACTION. Except for action taken by the Wisconsin office of the commissioner of insurance, each intermediary shall notify the commissioner in writing within 30 days of any felony conviction or any formal disciplinary action against the intermediary taken by any state's insurance regulatory agency, commission or board. The notification shall give a description of the conviction or disciplinary action.

(17) RECORDS MAINTAINED BY INSURERS. An insurer shall inform its intermediaries in writing of the requirements of this section and may, by written agreement, assume the responsibility to maintain these records for an individual intermediary if the records can be made immediately available to the commissioner of insurance on demand.

EFFECTIVE DATE. Pursuant to s. 227.22 (2) (b), Stats., this rule shall first apply on January 1, 1988.

Dated at Madison, Wisconsin, this 22<sup>nd</sup>-day of October, 1987.



Robert D. Haase  
Commissioner of Insurance



**The State of Wisconsin**  
**Office of the Commissioner of Insurance**

**Robert D. Haase**  
**Commissioner**  
**(608) 266-3585**

DATE: October 22, 1987  
TO: Gary Poulson  
FROM: Fred Nepple, General Counsel  
Office of the Commissioner of Insurance  
SUBJECT: Ins 6.61, Clearinghouse No. 87-55

Enclosed are two copies of an Order of the Commissioner of Insurance repealing and recreating Ins 6.61, Clearinghouse No. 87-55 relating to the records of intermediaries.

FN:LH:imk  
Enclosure  
9144K-2