

8. Offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same underwriting, earnings or occupational classification under a disability income contract;

9. Establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract.

(5) RATES. When rates are differentiated on the basis of sex, the insurer must:

(a) File a brief letter of explanation along with a rate filing.

(b) Maintain written substantiation of such rate differentials in its home office.

(c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.

(d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) PENALTY. Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

**Ins 6.57 Listing of insurance agents by insurers.** (1) Submission of an application for an intermediary-agent appointment shall initiate the listing of an agent in accordance with s. 628.11, Stats. The application shall be submitted to the office of the commissioner of insurance on or before the date of appointment. A listing shall become valid upon receipt of the agent listing validation report by the person submitting the listing. The effective date of a valid listing is the date on which the listing was mailed by the insurer. The agent validation report is a computer-generated report prepared by the office of the commissioner of insurance. Billing for initial listing shall be done annually at the same time and at the same rate as renewal listings.

(2) Notice of termination of appointment of individual intermediary-agent in accordance with s. 628.11, Stats., shall be filed prior to or within 15 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 7 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be listed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule, the annual listing fee defined in s. Ins 6.57 (4), within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agents for such insurer, according to the commissioner's records as of the notice date. A billing schedule shall be adopted by the commissioner under which listing notices shall be sent to insurers. This schedule shall also designate the calendar month of billing for the various insurers and/or insurer groups.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats., are hereby established to be:

Resident individual intermediary-agents	\$ 5.00
Nonresident individual intermediary-agents	\$ 15.00

(5) No insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

(6) No intermediary-agent shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer unless the agent is listed with that insurer.

Note: Copies of forms OCI 11-001, for use under sub. (1), and OCI 11-011, for use under sub. (2), may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and rec. Register, March, 1978, No. 267, eff. 4-1-78; cr., (5) and (6), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) and (3), Register, September, 1981, No. 309, eff. 1-1-82; am. (5), Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, April, 1986, No. 364, eff. 5-1-86; am. (1) and (2), Register, January, 1992, No. 433, eff. 2-1-92.

**Ins 6.58 Licensing of corporations and partnerships as insurance intermediaries.** (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for licensure of corporations and partnerships as insurance intermediaries.

(2) **LICENSE.** Any corporation or partnership may obtain a license under this section.

(3) **PROCEDURE.** Application for a permanent intermediary license for a corporation or partnership shall be made on application form 11-50 and filed with the commissioner of insurance.

(a) The application must be accompanied by:

1. A licensing fee of \$100.00 as authorized by s. 601.31 (1) (1) 2, Stats.;
2. Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary;
3. Certification that the corporation or partnership will transact business in such a way that all acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. 628.04, Stats., and functioning within the scope of the license, and a list of such persons;
4. If the corporation or partnership is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the corporation's or partnership's insurance activities in this state, on the basis of service of process under ss. 601.72 and 601.73, Stats.; and
5. A list of all partners, directors or principal officers or persons in fact having comparable power.
6. In the case of a corporation the application must be signed by an officer. In the case of a partnership the application must be signed by a partner.

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(b) Determination of the acceptance or rejection of a completed application shall be made within 60 business days. A completed application consists of form 11-50 and other required material described in par. (a).

(4) **STANDARDS OF COMPETENCE AND TRUSTWORTHINESS.** (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, those standards as set forth in s. Ins 6.59 (5), shall apply in lieu of the standards set forth in this subsection.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, the following criteria may be used in assessing trustworthiness and competence:

1. **Criminal record.** The conviction for crimes which are substantially related to insurance marketing.

2. **Accuracy of information.** Any material misrepresentation in the information submitted on form 11-50.

3. **Regulatory action.** Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

4. **Other criteria** which the commissioner considers evidence of untrustworthiness or incompetence.

(5) **FEES.** (a) Biennially, on or before January 1 of even numbered years, a regulation fee of \$10.00 for resident and \$30.00 for non-resident intermediaries will be billed as authorized by s. 601.31 (1) (m), Stats.

(b) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(c) The license will be revoked if payment is not made within 60 days after suspension.

(6) **NOTIFICATION OF CHANGES.** Each intermediary corporation or partnership shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in Ins 6.61 (1).

Application for the licensing of corporations and partnerships is made on form 11-50. Copies can be obtained at the office of the commissioner of insurance.

History: Cr: Register, August, 1980, No. 296, eff. 9-1-80; am. (5) (a), Register, September, 1981, No. 309, eff. 10-1-81; cr. (6), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (2), r. (3) and (8), renum. (4) to (7) to be (3) to (6), Register, April, 1982, No. 316, eff. 5-1-82; r. form 11-50, Register, October, 1982, No. 322, eff. 11-1-82; am. (3) (a) to (f), Register, December, 1984, No. 348, eff. 1-1-85; correction in (5) made under s. 13.93 (am) (b) 7, Stats., Register, December, 1984, No. 348.

**Ins 6.59 Licensing of individuals as agents.** (s. 628.04, Stats.) (1) **PURPOSE.** The purpose of this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent.

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(2) **EXAMINATION.** An examination is required of each resident applicant for each kind of agent license authority listed in s. Ins 6.50. Each examination will test the applicant's basic knowledge of the kinds of insurance to be solicited and the applicant's basic understanding of the applicable laws and regulations.

(3) **FEES.** The following fee schedule is established for residents and non-residents:

Application for one or 2 lines of authority	\$40
Application for 3 or 4 lines of authority	\$80

(4) **PROCEDURE.** (a) *Application.* Application for a permanent agent license or an enlargement of authority shall be made on the form specified by the office of the commissioner of insurance and filed with the testing vendor. The testing vendor shall forward a copy of the application to the office of the commissioner of insurance. A completed application consists of receipt by the office of the commissioner of insurance of the required form and examination score report.

(b) *Time of filing.* Applications and appropriate fees shall be filed with the testing vendor, at least 30 days prior to the scheduled date of the written examination.

(c) *Issuance of license.* An applicant for an original license or a license enlargement who passes the written examination, pays the fees, submits a satisfactory application and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued an agent license for those kinds of authority for which the applicant is qualified. Determination of the acceptance or rejection of a completed application shall be made within 60 business days.

(5) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used in assessing trustworthiness and competence:

(a) *Criminal record.* The conviction for crimes which are substantially related to insurance marketing.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on the application form.

(c) *Regulatory action.* Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(6) **FREQUENCY AND LOCATION.** Examinations for each kind of agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner at the following examination centers: Eau Claire, Green Bay, LaCrosse, Oshkosh, Madison, Rhinelander, Racine, Superior, and Stevens Point. Examinations will be administered twice a month in Milwaukee and at least one other center.

(7) **EXEMPTIONS.** A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3 and 612.33

(2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

(8) CHANGE IN RESIDENCY STATUS. (a) A licensed nonresident agent, after becoming a Wisconsin resident, may retain authority under the nonresident agent license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease.

(b) A licensed resident agent, after becoming a resident of another state, may retain authority under the resident agent license for a maximum of 60 days, at which time all authority granted under the resident license shall cease.

(c) If an agent changes residency status and becomes licensed under the new status, all authority granted by the license issued under the former status shall terminate on the date the new license is issued.

(d) Criteria used by the insurance commissioner to establish residency shall include, but not be limited to:

1. Jurisdiction for payment of state taxes.
2. Jurisdiction for automobile driver's license and motor vehicle registration.
3. Location of voter registration.
4. Location of principal residence, such as owned or rented dwelling, condominium or apartment.

Note: A copy of the form referenced in subs. (4) (a) and (5) (b), OCI 11-041, may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renum. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), cr. (8), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), (3), (4) (a) and (b) and (6), Register, May, 1987, No. 377, eff. 7-1-87; am. (4) (a) and (5) (b), Register, January, 1992, No. 433, eff. 2-1-92.

**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 3 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 3 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, misdemeanor conviction other than a misdemeanor conviction related to the use of a motor vehicle or the violation of a fish and game regulation, 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.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am., Register, March, 1979, No. 279, eff. 4-1-79; cr. (5), Register, September, 1981, No. 309, eff. 10-1-81; cr. (2m), Register, November, 1986, No. 371, eff. 12-1-86; r. and recr. Register, December, 1987, No. 384, eff. 1-1-88; am. (16), Register, August, 1988, No. 392, eff. 9-1-88.

**Ins 6.62 Filing requirements for multiple employer trusts and associations.** (1) In this section:

(a) "Intermediary" has the meaning provided under s. 628.02 (1), Stats.

(b) 1. "Multiple employer trust or association," except as provided by subd. 2, means a trust, association or other person which provides or offers to provide health care benefits or coverage to employes of 2 or more employers and which is:

a. A multiple employer welfare arrangement as defined by 29 U.S.C. 1002 (40);

b. Represented as an employe welfare benefit plan which is subject to the Employee Retirement Income Security Act, 29 U.S.C. 1001 to 1461; or

c. Located outside this state and is not organized and regulated as an insurer domiciled in the United States.

2. "Multiple employer trust or association" does not include a person which:

a. Provides benefits or coverage under or pursuant to a collective bargaining agreement;

b. Is, or which provides benefits or coverage which are fully insured by, an insurer licensed to do business in this state;

c. Provides health care benefits or coverage solely to employes of governmental units;

d. Is an individual; or

e. The commissioner exempts in writing.

(2) No intermediary may solicit, advertise, or market in this state or accept an application or place coverage for a person who resides in this state with a multiple employer trust or association unless prior to solicitation, advertising, marketing, acceptance of the application, or placing the coverage:

(a) The multiple employer trust or association files with the office the information required under sub. (5); or

(b) The intermediary files the information required under sub. (5).

(3) No multiple employer trust or association may solicit, advertise, or market in this state or accept an application for coverage from a person who is a resident, or who has employes who are residents, of this state unless prior to soliciting, advertising, marketing, or accepting an application it files with the office the information required under sub. (5).

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(4) If subsequent to a filing under sub. (2) or (3) changes occur so that the information contained in the filing is no longer accurate, the multiple employer trust or association or intermediary which made the filing shall within 15 days of the date the change is effective make a filing under sub. (5) with the correct information.

(5) A multiple employer trust or association or intermediary required to file information under sub. (2), (3), or (4) shall file a properly completed form prescribed by the commissioner and shall attach:

(a) A copy of any insurance policy or contract covering benefits or coverage offered by the multiple employer trust or association;

(b) A copy of the organizational documents of the multiple employer trust or association, including the articles of incorporation, bylaws or trust instrument; and

(c) A statement that the benefits or coverage are fully insured or a description of the extent to which they are not fully insured.

(6) A violation of sub. (2), (3), or (4) is an unfair and deceptive trade practice under s. 628.34 (12), Stats., constitutes a method or practice in the conduct of business which endangers the legitimate interests of customers and the public under s. 628.10 (2), Stats., and, if the multiple employer trust or association is an unauthorized insurer, establishes that the person violating the rule should have known that the multiple employer trust or association is an unauthorized insurer for the purpose of ss. 618.39 and 618.44, Stats.

(7) This section is in addition to any provision of chs. 600 to 646, Stats.

Note: This rule requires use of a reporting form "Multiple Employer Trust Filing" which may be obtained from the Office of the Commissioner of Insurance, 121 E. Wilson Street, P.O. Box 7873, Madison, Wisconsin, 53707-7873.

History: Emerg. cr. eff. 1-1-90; cr. Register, May, 1990, No. 413, eff. 6-1-90

**Ins 6.63 Regulation charge.** (1) The regulation amount to be paid biennially, by each licensed individual intermediary-agent is established to be as follows:

Resident agent	\$ 10.00
Non-resident agent	\$ 30.00

(2) The commissioner shall mail notification on form OCI 11-51 of the biennial regulation charge due and payable to each agent to the resident address on file with the office of the commissioner of insurance.

(3) Biennially on or before January 1 of each even numbered year the regulation fee is billed, and shall be paid within 30 days after the mailing by the office of the commissioner of insurance of a notification that the charge is due.

Note: A copy of form OCI 11-51 can be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707.

(4) If payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. If payment is made during the suspension, the license will be reinstated.

(5) The license will be revoked if payment is not made within 60 days after suspension.

(6) Any individual intermediary-agent whose license has been revoked shall, in order to be relicensed, satisfy the examination and licensing requirements established by Ins 6.59.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) to (3), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (4) to (6), Register, October, 1981, No. 310, eff. 11-1-81.

**Ins 6.66 Proper exchange of business.** (1) The purpose of this rule is to interpret s. 628.61, Stats., regarding the proper exchange of business between agent intermediaries.

(2) Proper exchange of business means the forwarding of insurance business from one agent who cannot, after due consideration, place the business with any of the insurers for which the agent is listed because of capacity problems, the refusal of the company to accept the risk or the onerous conditions it imposes on the insured, to another agent licensed for those lines of insurance whose insurers are able to accommodate the risk under conditions more favorable to the insured. The agent forwarding the business is entitled to split the commission involved. Proper exchange of business is not the regular course of business and such forwarding of business is thereby distinguished from brokerage by its occasional and exceptional nature.

(3) No agent may properly exchange business with another agent, unless:

(a) The agent forwarding the business to a listed agent is licensed for the lines of business that are being exchanged;

(b) The agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(c) Both the agent forwarding the business and the agent who places the business with the insurer sign the insurance application, or if no application is completed, the names of the agents involved in the transaction appear on the policy issued.

(4) No agent shall accept business solicited by another intermediary-agent which he or she knows, or has reason to know, is not exchanged in compliance with the provisions of this rule.

(5) (a) In the absence of evidence to the contrary, an intermediary-agent shall be presumed to have exceeded the occasional exchange of business if he or she places more than 5 insurance risks per calendar year with any single insurer with which he or she is not listed as an intermediary-agent, or exchanges in total more than 25 insurance risks per calendar year.

(b) The burden of showing that specialty lines, non-standard and professional liability business placed through surplus lines intermediaries in accordance with s. 618.41, Stats., or written on an excess rate or other individually rated risk basis beyond the limits prescribed for other exchanges of business in par. (a) is occasional and otherwise in compliance with this rule, shall be upon the intermediary-agent soliciting and forwarding such business.

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(6) The exchange of business among intermediary-agents and participation by intermediaries in risk sharing plans approved according to ch. 619, Stats., shall not be limited in any way by this section.

History: Cr. Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (d), Register, May, 1979, No. 281, eff. 6-1-79; am. (1), (2) (intro.) and (3), r. (2) (a) and (4), renum. (2) (b), to (d) to be (2) (a) to (c) and am., Register, September, 1982, No. 321, eff. 10-1-82; renum. (1) to (3) and (7) to be (2) to (4) and (6) and am. (6), cr. (1), r. (6), Register, August, 1988, No. 392, eff. 9-1-88.

**Ins 6.67 Unfair discrimination in life and disability insurance.** (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices in life and disability insurance found to be unfairly discriminatory under s. 628.34 (3) (b), Stats.

**Note:** The need for a rule has arisen because of questions as to whether life and disability insurers are in all cases fairly "charging different premiums or offering different terms of coverage except on the basis of classifications related to the nature and degree of the risk covered." (s. 628.34 (4), Stats.) The main purpose of the rule is to make clear that life and disability insurers cannot classify individuals arbitrarily—without a rational basis for each decision.

(2) **APPLICABILITY AND SCOPE.** This rule shall apply to all life and disability insurance policies delivered or issued for delivery in Wisconsin on or after January 1, 1980 and to all existing life and disability group, blanket and franchise insurance policies subject to Wisconsin insurance law which are amended or renewed on or after January 1, 1980.

(2m) **DEFINITIONS.** In this section:

(a) "Disability insurance" has the meaning given under s. Ins 6.75 (1) (c).

(b) "Territorial classification" means an arrangement of persons into categories based upon geographic characteristics other than zip code.

(3) **SPECIFIC EXAMPLES.** The following are specific examples of unfair discrimination under s. 628.34 (3) (b), Stats.

(a) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual or charging a different rate for the same coverage solely because of physical or mental impairment, other than blindness or partial blindness, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(b) Except as provided in subds. 1. and 2., refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

1. Individuals who are blind or partially blind may be subject to standards based on sound actuarial principles or actual or reasonably anticipated experience with respect to any other condition they may have, including a condition which is the cause of the blindness or partial blindness.

2. Refusal to insure under sub. (3) includes a denial of disability insurance on the basis that the policy presumes disability if the insured loses his or her eyesight. However, an insurer may exclude from coverage, or apply a waiting period, to coverage of treatment of blindness or partial blindness if that condition exists at the time the policy is issued.

(4) **INSURER RESPONSIBILITY.** An insurer has the burden of proof to show that an act, standard or practice of the insurer is based on sound actuarial principles or is related to actual or reasonably anticipated experience in any action to enforce s. 628.34 (3) (b), Stats. For the anticipated experience to be reasonable it must be based on medical or actuarial research on morbidity or mortality.

(5) **SEXUAL ORIENTATION.** (a) An insurer may not use sexual orientation in the underwriting process or in the determination of insurability, premium, terms of coverage, or nonrenewal.

(b) No insurer may include any inquiry about the applicant's or insured's sexual orientation in an application for disability or life insurance coverage or directly or indirectly investigate in connection with an application for disability or life insurance coverage the applicant's or insured's sexual orientation.

(c) No insurer may use the marital status, occupation, gender, medical history, beneficiary designation, or the zip code or territorial classification of an applicant or insured or any other factor to establish, or aid in establishing, the applicant's or insured's sexual orientation.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; r. (4) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1), r. and recr. (3), cr. (4), Register, April, 1987, No. 376, eff. 5-1-87; correction in (2), (3) (b) 2. and (4) made under s. 13.93 (2m) (b) 14, 12 and 1 Stats., Register, April, 1987, No. 376; cr. (5), Register, May, 1987, No. 377, eff. 6-1-87.

**Ins 6.68 Unfair discrimination based on geographic location or age of risk.** (s. 628.34, Stats.) (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices found to be unfair trade practices that are unfairly discriminatory under s. 628.34, Stats.

(2) **APPLICABILITY AND SCOPE.** This rule shall apply to property and casualty insurance contracts delivered or issued for delivery in Wisconsin on or after the effective date of the rule.

(3) **SPECIFIC EXAMPLES OF UNFAIR TRADE PRACTICES UNDER S. 628.34, STATS.** The following are hereby identified as specific acts or practices which are unfairly discriminatory.

(a) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

1. The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or
2. The refusal, cancellation or limitation is required by law or regulatory mandate.

Note: Paragraph (a) is intended to prohibit insurance underwriting shortcuts which unfairly label risks as poor risks because of their geographic location. A refusal, nonrenewal, cancellation or limitation of insurance coverage is prohibited if the reason for such refusal, nonrenewal, cancellation or limitation is the geographic location of the risk. An exception to this general rule is provided, however, in situations where the refusal, nonrenewal, cancellation or limitation is based upon a legitimate business need and the refusal, nonrenewal, cancellation or limitation is not a mere pretext for unfair discrimination. Examples of such situations include refusals to insure when the risk is located in areas prone to natural catastrophes, i.e., earthquakes, floods, hurricanes, and refusals to insure because the insurer already has a very high concentration of risks in a particular geographic area. It is intended that the person

charged with a violation of this rule be given the burden of proof in establishing any "business purpose" exception. The burden of proving that a refusal, nonrenewal, cancellation or limitation of insurance coverage is not subterfuge for unfair discrimination should likewise fall upon the person charged with a violation of this rule.

(b) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk of 4 units or less, or the personal property contained therein, because of the age of the residential property, unless:

1. The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation or limitation is required by law or regulatory mandate.

(c) Refusing to insure a risk solely because the applicant was previously denied coverage, terminated by another insurer or had obtained coverage in a residual market.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79; r. (4) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

**Ins 6.70 Combinations of lines and classes of insurance.** This rule defines and delimits the permissible combinations of the lines and classes of insurance defined and delimited by s. Ins 6.75 which may be written in the same policy. Except as provided in this rule, lines and classes of insurance may not be combined in the same policy.

(1) **COMBINATION WITH SEPARATE PREMIUM CHARGES.** Subject to s. Ins 2.05, any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75, except for those described in s. Ins 6.75 (2) (h), (i) and (k), may be written in the same policy if a statement of separate premium charge is shown on the declarations page or on the face of the policy or in a separate written statement furnished to the policyholder. The requirement for a statement of separate premium charge does not prohibit such charges equitably reflecting differences in expected losses or expenses as contemplated by s. 625.11 (4), Stats.

(2) **COMBINATION WITH OR WITHOUT SEPARATE PREMIUM CHARGES.** Any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75 (2) (a), (b), (d), (e), (f) and (j) may be written in the same policy with or without showing separate premium charges.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1977, No. 260, eff. 9-1-77.

**Ins 6.72 Risk limitations.** (1) Except as otherwise provided by law or by order of the commissioner, no single risk assumed by any insurance company shall exceed 10% of surplus as regards policyholders, except that in an assessable mutual company it may be a greater amount not exceeding 3 times the average policy or  $\frac{1}{4}$  of 1% of the insurance in force, whichever is the greater. Upon the business mentioned in s. Ins 6.75 (2) (h), the maximum single risk may be a greater amount not exceeding 50% of the admitted assets. Any reinsurance taking effect simultaneously with the policy shall be deducted from the original risk assumed in determining compliance with this subsection.

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(2) In a mutual company organized for the insurance or guaranty of depositors or deposits in banks or trust companies, the maximum single risk may be fixed at a higher amount by the bylaws. Any such company may effect reinsurance in any authorized or unauthorized company that complies with s. 627.23, Stats. Insurance in any unauthorized company shall be reported annually and the same taxes paid upon the premiums as are paid by authorized companies.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1981, No. 308, eff. 9-1-81; am. (1), Register, January, 1992, No. 433, eff. 2-1-92.

**Ins 6.73 Reinsurance.** (1) **PURPOSE.** The purpose of this section is to establish requirements for determining an authorized reinsurer under s. 627.23 (1), Stats., and to define the criteria that must be met to permit an insurer to include credit for reinsurance ceded in the annual statement blank filed with the commissioner of insurance. This rule does not limit or change the requirements set forth in ss. 612.31 and 612.33, Stats., for town mutuals.

(2) **SCOPE.** This section shall apply to all insurers authorized to transact business in this state under chs. 611 through 618, Stats., including the state life insurance fund.

(3) **AUTHORIZED REINSURER.** (a) A single reinsurer is authorized to assume reinsurance if it is in compliance with one of the following:

1. The reinsurer is authorized to transact business in Wisconsin under chs. 611, 612, 614, or 618, Stats.

2. The reinsurer is licensed to transact business in another jurisdiction of the United States and its capital and surplus meets or exceeds the maximum capital and surplus required under s. 611.19, Stats.

3. The reinsurer is an underwriter at Lloyds, London, the United States government or any agency of the United States government.

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