

State of Wisconsin



2019 Senate Bill 482

Date of enactment: **November 25, 2019**
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2019 WISCONSIN ACT 66

AN ACT *to repeal* 618.416 (1) (c); *to amend* 600.03 (23), 610.80 (8), 614.19 (3) (b), 616.54 (8), 655.27 (3) (b) 2. and 655.275 (2); and *to create* 601.465 (1m) (c) 10., 614.78 and 614.79 of the statutes; **relating to:** various changes to insurance laws.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 600.03 (23) of the statutes is amended to read:

600.03 (23) A “group insurance policy” is a policy covering a group of persons, and issued to a policyholder ~~in~~ on behalf of the group for the benefit of group members who are selected under procedures defined in the policy or agreements collateral thereto, with or without members of their families or dependents.

SECTION 2. 601.465 (1m) (c) 10. of the statutes is created to read:

601.465 (1m) (c) 10. A fund or other entity in another state, or an association acting on behalf of the fund or other entity, that is organized for the same purpose as the security fund created under ch. 646.

SECTION 3. 610.80 (8) of the statutes is amended to read:

610.80 (8) INITIAL FILING DEADLINE. ~~Notwithstanding the June 1 deadline under sub. (2)(a), an~~ An insurer, or the insurance holding company system of which the insurer is a member, that is required to file a corporate governance annual disclosure under this section shall file its first corporate governance annual disclosure no later than ~~60 days~~ the first June 1 that occurs after the date the final rules implementing this section are promulgated.

SECTION 4. 614.19 (3) (b) of the statutes is amended to read:

614.19 (3) (b) Except as provided in s. 614.24 (1m), every fraternal shall contain in its laws and in each certificate of insurance it issues, a provision, to which every certificate of insurance issued by the fraternal shall be subject, that if the financial position of the fraternal becomes impaired, the board of directors or the supreme governing body may, on an equitable basis, apportion the deficiency among the members of the fraternal, the insured employees or the owners, or any combination thereof. A member, insured employee or owner may then either pay the member’s, insured employee’s or owner’s share of the deficiency, or accept the imposition of a lien on the certificate of insurance, to bear interest at the rate charged on policy loans under the certificate, compounded annually until paid, or may accept a proportionate reduction in benefits under the certificate. The fraternal may specify the manner of the election and which alternative is to be presumed if no election is made. No assessment of shares of a deficiency under this paragraph may take effect until 90 days after the date the commissioner is notified of the assessment, unless the commissioner approves an earlier effective date. The commissioner may disapprove the assessment of shares of a deficiency under this paragraph if the commissioner

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

finds that the assessment is not adopted in conformity with this chapter or is contrary to the interests of the members of the domestic fraternal.

SECTION 5. 614.78 of the statutes is created to read:

614.78 Maintenance of solvency. (1) ORDER DECLARING HAZARDOUS CONDITION. When a domestic fraternal has an authorized control level event, as defined by the commissioner by rule, under circumstances the commissioner determines will not be promptly remedied, the commissioner, in addition to taking any other action required or allowed by law, may issue an order declaring the domestic fraternal to be in a hazardous condition and may order the fraternal to remedy the authorized control level event. This order may include authorization to the fraternal to negotiate an agreement to transfer, subject to sub. (2), all members, certificates, and other assets and liabilities of the fraternal to another fraternal or other insurer through merger, consolidation, assumption, or other means.

(2) SPECIFICATIONS REGARDING TRANSFER. (a) Any transfer under sub. (1) shall constitute a novation of the transferring fraternal's certificates that is effective on the date of transfer. The fraternal shall ensure the transfer is concluded within the time agreed to by the commissioner and subject to the approval by the commissioner. The transfer agreement under this paragraph is considered to be fully approved by the domestic fraternal upon a majority vote of the fraternal's board of directors, notwithstanding s. 614.73 and any other law or regulation that requires notice to or approval by the fraternal's members or supreme governing body. Any law of a fraternal requiring notice to or approval by the fraternal's members or supreme governing body shall be suspended by this section. The transferring fraternal shall provide notice to its members of the transfer by mail or in the manner provided by s. 614.41 (1) no later than 30 days after the transfer is approved by the commissioner.

(b) If the fraternal seeks to make a transfer under sub. (1) to an organization that does not have a certificate of authority in this state, the commissioner may grant the organization a limited certificate of authority to service the existing certificates and fulfill all obligations owed to certificate holders following the transfer but not to otherwise transact insurance business in this state.

(c) By order of the commissioner and notwithstanding any law or rules to the contrary and any laws of the fraternal, the board of directors of the fraternal may suspend or modify the qualifications for membership in the fraternal as necessary to facilitate a transfer under sub. (1).

(d) Upon the effective date of a transfer to an organization that is not a fraternal and in consideration for the transfer, each member of the fraternal is considered to agree that any terms of a certificate subjecting the certificate to the laws of the fraternal or providing for the maintenance of the fraternal's solvency, except to the extent of

any outstanding lien not released by the terms of the transfer, shall be null and void and the assuming organization shall endorse the certificate accordingly.

SECTION 6. 614.79 of the statutes is created to read:

614.79 Rehabilitation and liquidation. (1) GROUNDS FOR REHABILITATION OR LIQUIDATION. In addition to the grounds for rehabilitation under s. 645.31 and the grounds for liquidation under s. 645.41, any of the following is grounds for rehabilitation under s. 645.31 or liquidation under s. 645.41:

(a) Failure by a domestic fraternal to comply with an order of the commissioner under s. 614.78.

(b) Failure by a domestic fraternal to remedy within the time specified by the commissioner a hazardous condition as determined by the commissioner under s. 614.78.

(2) CRITERIA FOR REHABILITATION. For purposes of a proceeding commenced under this section, rehabilitation under s. 645.31 is presumed to be futile and to serve no useful purpose, unless the commissioner reasonably believes that rehabilitation has a high probability of returning the fraternal to long-term viability or will facilitate a transfer to another fraternal or insurer.

(3) ASSESSMENTS UNDER LIQUIDATION. Notwithstanding ss. 614.19 (3) and 645.68, after a petition for liquidation of a fraternal is filed, the fraternal may not assess payment of shares of a deficiency under s. 614.19. (3) (b), unless the commissioner determines that the assessment is for the purpose of satisfying the obligations of the fraternal to creditors described in s. 645.68 (1) and (3). The fraternal may not make an assessment for the purpose of any deficiency related to other claims including those described in s. 645.68 (3c), (3m), (3r), (4), (5), (6), (7), (8), (9), (10), or (11).

(4) CONDUCT OF LIQUIDATION PROCEEDINGS. Liquidation proceedings under this section for a fraternal shall be conducted consistent with the purposes of s. 645.01 (4) (c) in a manner designed to conserve assets, limit liquidation expenses, and avoid any assessment of shares of a deficiency.

(5) TRANSFER BY LIQUIDATOR. The liquidator of a fraternal under this section shall attempt to transfer policies or certificates of the liquidating fraternal under s. 645.46 (8) by way of assignment, assumption, or other means to a qualified fraternal, either domestic or foreign, or, if no qualified fraternal will accept the transfer, to an insurer authorized to transact life insurance business in this state. In determining whether a fraternal or insurer is qualified to accept a transfer under this subsection, the liquidator shall consider the solvency of the fraternal or other insurer among other things. No fraternal shall be obligated to accept a transfer under this subsection. Upon the effective date of a transfer under this subsection to an insurer that is not a fraternal and in consideration for the transfer, each member of the fraternal and owner of a policy or certificate being transferred is considered to agree

that any terms of the insurance policy or certificate that provide for the maintenance of the fraternal's solvency or that subject the policy or certificate to the policies of the fraternal shall be null and void and to agree to any other changes to terms of the policy or certificate that are determined by the liquidator to be necessary to effectuate the transfer. The insurer accepting transfer shall endorse the policy or certificate accordingly. Any transfer under this subsection is a novation of the policy or certificate that is effective on the date of transfer.

SECTION 7. 616.54 (8) of the statutes is amended to read:

616.54 (8) FINANCIAL STATEMENTS. A provider using a deposit or irrevocable letter of credit as specified in sub. (7) to satisfy sub. (5) shall, by ~~the end of the 5th month following the end of each fiscal year of the provider~~ each March 31, submit financial statements for the most recent fiscal year to the commissioner that are prepared on an accrual basis in accordance with generally accepted accounting principles and that are audited by an independent certified public accountant.

SECTION 8. 618.416 (1) (c) of the statutes is repealed.

SECTION 9. 655.27 (3) (b) 2. of the statutes is amended to read:

655.27 (3) (b) 2. With respect to fees paid by physicians, the commissioner shall provide for ~~not more~~ no fewer than 4 payment classifications, based upon the amount of surgery performed and the risk of diagnostic and therapeutic services provided or procedures performed.

SECTION 10. 655.275 (2) of the statutes is amended to read:

655.275 (2) APPOINTMENT. The board of governors shall appoint the members of the council. Section 15.09, except s. 15.09 (4) and (8), does not apply to the council. The board of governors shall designate the chairperson who shall be a physician, vice chairperson and secretary of the council and the terms to be served by council members. The council shall consist of 5 persons, not more than 3 of whom are physicians who are actively engaged in the practice of licensed and in good standing to practice medicine in this state and one of whom is a nurse anesthetist who is licensed and in good standing to practice nursing in this state. The chairperson ~~shall be a physician and or another peer review council member designated by the chairperson~~ shall serve as an ex officio nonvoting member of the medical examining board and may attend meetings of the medical examining board, as appropriate.