

**CR 10-097****ORDER OF THE STATE OF WISCONSIN,  
DEPARTMENT OF FINANCIAL INSTITUTIONS, DIVISION OF BANKING  
ADOPTING RULES**

1 The Wisconsin Department of Financial Institutions, Division of Banking by this order  
2 rennumbers s. DFI—Bkg 74.01(4), and creates ss. DFI—Bkg 74.01(4) and (5), relating to the  
3 exemption of health care billing companies from the definition of a collection agency.

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**Analysis Prepared by the Wisconsin Department of Financial Institutions, Division of Banking**

Statute(s) interpreted: s. 218.04(1)(a), Stats.

Statutory authority: ss. 218.04(7)(d), and 227.11(2), Stats.

Related statute or rule: s. 146.81(1), Stats., provides a definition of “health care provider” as used in this rule.

Explanation of agency authority: Pursuant to s. 218.04, Stats., the department regulates collections agencies.

Summary of proposed rule: The objective of the rule is to renumber s. DFI—Bkg 74.01(4), and create ss. DFI—Bkg 74.01(4) and (5), relating to the exemption of health care billing companies from the definition of a collection agency. The purpose of the rule is to provide definitions regarding this exemption. Pursuant to 2009 Wisconsin Act 404, the legislature has determined that the definition of a collection agency as set forth in s. 218.04(1)(a) does not include health care billing companies. The rule provides the definitions necessary to effectuate this exemption.

Summary of and preliminary comparison with existing or proposed federal regulation: 42 CFR 416.2 provides the definition of “ambulatory surgery center,” and 21 CFR 803.3 provides the definition of “outpatient diagnostic facility” as used in this rule.

Comparison with rules in adjacent states: Illinois, Michigan, Minnesota and Iowa do not have comparable rules.

Summary of factual data and analytical methodologies: Because the department regulates collection agencies for the state, the division could also rely on extensive staff expertise and experience in drafting regulations for these entities. The department is also experienced with

health care billing companies as collection agencies because, until the enactment of 2009 Wisconsin Act 404, the department licensed these companies as collection agencies.

Analysis and supporting documentation used to determine effect on small business: The rule removes health care billing companies from state regulation and provides clarity regarding entities affected by this exemption. The rule therefore does not have a significant economic impact on small business.

Summary of Final Regulatory Flexibility Analysis: This proposed rule will have no adverse impact on small businesses.

Summary of Comments received by Legislative Review Committees: No comments were received.

### Agency Contact Persons

To obtain a copy of the rule or fiscal estimate at no charge or for questions regarding the agency's internal processing of the rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705, e-mail mark.schlei@wisconsin.gov. A copy of the rule may also be obtained and reviewed at the Department of Financial Institution's website, www.wdfi.org.

For substantive questions on the rule, contact Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707-7876.

Pursuant to the statutory authority referenced above, the Department of Financial Institutions, Division of Banking adopts the following:

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4 SECTION 1. Sec. DFI—Bkg 74.01(4) is renumbered DFI—Bkg 74.01(6).

5 SECTION 2. Secs. DFI—Bkg 74.01(4) and (5) are created to read:

6 **DFI—Bkg 74.01(4)** “Health care billing companies” in s. 218.04(1)(a), Stats., means a person  
7 under contract with a health care provider to collect or attempt to collect an account, which is not  
8 in default when forwarded from the health care provider, using only the health care provider's  
9 name, and directing all payments to the health care provider or depositing all monies received  
10 directly into the health care provider's account at a financial institution.

11 **DFI—Bkg 74.01(5)** “Health care provider” means any of the following:

- 12 (a) An ambulatory surgery center as defined in 42 CFR 416.2.
- 13 (b) A health care provider as defined in s. 146.81(1), Stats.
- 14 (c) An outpatient diagnostic facility as defined in 21 CFR 803.3.
- 15 (d) A person designated as a health care provider in writing by the division.

16           **Effective date.** This rule shall take effect on the first day of the month following  
17 publication in the *Wisconsin Administrative Register* as provided in s. 227.22 (2) (intro.), Stats.

Dated: \_\_\_\_\_ Agency: \_\_\_\_\_