
Wisconsin Legislative Council

ACT MEMO



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2019 Wisconsin Act 66 [2019 Senate Bill 482]

Various Changes to Insurance Laws

2019 Wisconsin Act 66 makes various substantive and operational changes, described below, relating to the administration of insurance.

FRATERNALS

Wisconsin law, retained by the act, requires each fraternal (also called a “fraternal benefit society” or “mutual benefit society”) to provide for apportionment of a deficiency on an equitable basis in the event that the fraternal’s financial position becomes impaired.

The act creates additional statutory procedures and an oversight role for the Office of the Commissioner of Insurance (OCI) that apply when a fraternal is in financial trouble. Specifically, the act authorizes OCI to disapprove the assessment of shares of a deficiency, if it finds that the assessment does not conform to statutory requirements or is contrary to the interests of the fraternal’s members. In addition, the act authorizes OCI to issue an order declaring a fraternal to be in a hazardous condition and requiring a fraternal to remedy an “authorized control level event,” as defined by OCI by rule. Such an order may authorize a fraternal to negotiate the transfer of members, certificates, and other assets and liabilities to another fraternal or other insurer. The act further specifies certain additional requirements and procedures governing assessments and transfers during a liquidation.

In addition, the act provides statutory grounds for rehabilitation or liquidation of a fraternal, which supplement general grounds for rehabilitation or liquidation of an insurer. Specifically, the act specifies that either of the following constitutes grounds for a fraternal’s rehabilitation or liquidation:

- Failure by the fraternal to comply with an OCI order, described above, regarding an “authorized control level event.”
- Failure by the fraternal to remedy a hazardous condition within the time specified by OCI.

The act specifies that, in such circumstances, rehabilitation is presumed to be futile and to serve no useful purpose, unless OCI 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.

THE INJURED PATIENTS AND FAMILIES COMPENSATION FUND

The Injured Patients and Families Compensation Fund provides medical malpractice coverage for physicians and certified registered nurse anesthetists in excess of the amounts provided by primary medical malpractice coverage. Under **prior law**, generally unaffected by the act, a peer review council makes recommendations to the Commissioner of Insurance and the Injured Patients and Families Compensation Fund’s board of governors regarding claims brought under the fund. The council consists of five persons, not more than three of whom are physicians. One of the physician members must serve as chair of the council. Members of the council are appointed by the fund’s board of governors. [s. 655.275, Stats.]

The act specifies that one member of the peer review council must be a nurse anesthetist who is licensed and in good standing to practice nursing in this state. The act also requires the physician members of the peer review council to be licensed and in good standing to practice medicine, rather than “actively engaged in the practice of medicine” as under prior law. The act also allows the chair of the council to designate another council member to serve as the *ex officio* member of the Medical Examining Board in the chair’s place.

In addition, with respect to the fee classification schedule for the fund, the act specifies that OCI must specify at least four classifications, rather than a maximum of four classification under prior law.

OTHER SUBSTANTIVE CHANGES

Filing Deadline for Annual Corporate Governance Filings

The act requires insurers to file initial corporate governance disclosure documents with OCI no later than June 1 after rules implementing corporate governance annual disclosures are implemented, rather than within 60 days of final promulgation of those rules under prior law. That change makes the initial filing date consistent with the filing date for subsequent disclosure filings.

Certified Copies Provided by Surplus Lines Insurers

Prior law prohibited an intermediary from placing surplus line insurance with an unauthorized insurer unless, among other requirements, the unauthorized insurer provided a certified copy of its current annual statement to OCI.

The act repeals the requirement that an unauthorized insurer must provide a certified copy of its current annual statement before an intermediary may place surplus line insurance with the unauthorized insurer. The act retains other provisions of prior law, which have the effect of giving OCI access to such statements.

Nondisclosure of Certain Documents

The act specifies that OCI may confidentially share information with 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 insurance security fund created under ch. 646, Stats. That authority mirrors nondisclosure authority OCI has with respect to information shared with specified other entities.

Deadline for Submission of Property Service Contract Providers’ Financial Statements

Prior law required a person contractually obligated to a property service contract holder to submit certain financial statements to OCI by the end of the fifth month following the end of the person’s fiscal year.

The act instead requires such statements, pertaining to the person’s most recent fiscal year, to be submitted to OCI by March 31 each year.

Effective date: December 2, 2019

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