

Clearinghouse Rule 08-064

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE REPEALING, REPEALING AND CREATING A RULE

To repeal s. Ins 8.10.

To repeal and recreate s. Ins 6.79; Wis. Adm. Code

Relating to advisory councils and committees.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 15.04, 15.09 and 601.20, Stats.

2. Statutory authority:

ss. 227.13 and 601.20, Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

The OCI is specifically granted authority to create advisory councils and committees and is permitted to establish by rule the governance, duties and termination of any council or committee that are established.

4. Related statutes or rules:

The topics addressed by the OCI's committees and councils are not duplicative of other state efforts.

5. The plain language analysis and summary of the proposed rule:

The proposed rule implements s. 601.20, Stats., and establishes the structure, governance, duties and termination of councils or committees that the commissioner of insurance ("commissioner"), determines will be of assistance to the OCI in carrying out its duty of regulation. The proposed rule repeals s. Ins 8.10, Wis. Adm. Code, as the council on employee welfare plans no longer functions. Section Ins 6.79, Wis. Adm. Code, is repealed and recreated to more specifically define the structure of advisory councils and committees including duties, meetings, membership, officers and term of the council or committee. Although the listing of specific councils is repealed, the commissioner has continued to utilize councils and committees that focus on topics of life, health and property and casualty insurance issues. The proposed rule provides the structure to continue existing councils and committees and to establish new committees or councils with a focus and composition reflecting the subjects that are being considered by the OCI when needed.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no federal regulation that addresses the content of this rule.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: No similar rule, although the Illinois Department of Financial and Professional Regulation is required to use advisory boards or councils for very specific topics. For example, the Illinois Department is authorized to convene an advisory committee for providing counsel and gathering clinical advice relating to mandated dental care issues. (See., 50 IL Admin Code 5425.40.) However, Illinois does not have a regulation similar to what is being proposed.

Iowa: No similar rules or laws.

Michigan: No similar rules or laws

Minnesota: No similar rules or laws.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

No data analyzed as this addresses the role of advisory councils and committees and not specific regulatory oversight or actions of the OCI.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The proposed rule is simply to describe the structure of advisory councils or committees, not specific regulatory action so there is no effect on small businesses.

10. See the attached Private Sector Fiscal Analysis.

11. A description of the Effect on Small Business:

This rule will have no effect on small businesses.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: inger.williams@wisconsin.gov

Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474

Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 10th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

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The proposed rule changes are:

SECTION 1. Section Ins 6.79 is repealed and recreated to read:

Ins 6.79 **Advisory councils and committees.** (1) **PURPOSE.** The purpose of this section is to delineate the process by which the commissioner may create advisory councils and committees under s. 15.04 (1) (c), Stats., to assist in dealing with regulatory problems pursuant to s. 601.20, Stats., and may include assistance with rule-making pursuant to s. 227.13, Stats.

(2) **DUTIES.** Each council or committee shall advise the commissioner on matters relating to specific issues or subjects presented to the members for study and review by the commissioner of insurance.

(3) **EXPENSE REIMBURSEMENT.** Members of the councils and committees shall receive no salary or compensation for service on the councils or committees but shall be reimbursed for their actual and necessary expenses in attending meetings or while performing other duties as directed by the commissioner.

(4) **MEETINGS.** The councils or committees shall meet as needed or at such times as requested by the commissioner.

(5) **MEMBERSHIP.** For each council or committee created by the commissioner, membership may not exceed 15 members and shall be representative of the various interested parties and include persons who possess expertise or interest on the issue or topic of the council or committee.

(6) **CHAIRS.** The commissioner shall appoint the chair, unless the commissioner authorizes a different process for selection. The commissioner shall appoint an employee of the office as a non-voting member to assist the council or committee with its duties. The commissioner or a designee shall keep a record of all proceedings, transactions, communications, and other official acts of the councils and committees. The commissioner or a designee appointed by the commissioner shall serve as a voting member when the council or committee is convened in accordance with s. 15.04 (1) (c), Stats. The files and records of the councils and committees shall be maintained at the office of the commissioner of insurance.

(7) **TERM.** Members of the councils and committees serve at the pleasure of the commissioner.

SECTION 2. Section Ins 8.10 is repealed.

SECTION 3. This rule shall take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this ____ day of _____, 2008.

Sean Dilweg
Commissioner of Insurance

**Office of the Commissioner of Insurance
Private Sector Fiscal Analysis**

For sections Ins 6.79 and 8.10 relating to advisory councils and committees

This rule change will have no effect on the private sector regulated by OCI.