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# Wisconsin Legislative Council

## ACT MEMO

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**2021 Wisconsin Act 111**  
[2021 Senate Bill 482]

**Travel Insurance**

### **PRIOR LAW**

Prior law, enacted in 2013 Wisconsin Act 212, allowed the Office of the Commissioner of Insurance (OCI) to regulate travel insurance. The law defined “travel insurance” as limited lines coverage for personal risks that may occur with planned travel, including coverage for trip cancellation, loss of baggage, damages to accommodations or vehicles, or sickness.

Under that law, a licensed travel insurance producer, who is sometimes referred to as an “agent” or “intermediary,” could sell, solicit, or negotiate travel insurance, subject to a number of requirements and conditions. A travel insurance producer could offer those services only through a firm that was licensed to sell, solicit, or negotiate travel insurance.

A retailer that was in the business of arranging and offering travel services could offer travel insurance along with its services, if it was working through a licensed firm, and the firm had a designated travel insurance producer who was responsible for ensuring compliance with the law.

### **2021 WISCONSIN ACT 111**

2021 Wisconsin Act 111 maintains OCI oversight of travel insurance, but modifies certain roles and requirements to align with the travel insurance model act adopted by the National Association of Insurance Commissioners (NAIC) in 2018.

### **Roles**

The act removes the role of a licensed firm and instead specifies that a travel services retailer must work directly through a travel insurance producer.

The act expands who may act as a travel insurance producer, and specifies that OCI may issue a limited lines travel insurance producer license to a person who is licensed as an intermediary, managing general agent, or third-party administrator, or to a person who is a “travel administrator,” as described below. As under prior law, a person who is licensed in a major line of authority may act as a travel insurance producer without an additional limited lines travel insurance producer license.

A “travel administrator” is a new role that is not itself licensed, but a person acting as a travel administrator must be licensed as a property and casualty insurance intermediary, managing general agent, or third-party administrator. A travel administrator may obtain a limited lines travel insurance producer license. The act defines a “travel administrator” as a person who directly or indirectly

underwrites, collects charges or premiums, or adjusts or settles claims, relating to travel insurance.<sup>1</sup> An insurer is responsible for the acts of a travel administrator.

## **Coverage**

The act expands the definition for “travel insurance” from coverage for trip cancellation, loss of baggage, damages to accommodations or vehicles, or sickness, to also include coverage for emergency evacuation, repatriation of remains, and any other contractual obligation that covers a determinable emergency related to travel as determined by OCI.

The act also specifies that travel assistance services and cancellation fee waivers are not “travel insurance,” but may be offered in a combined “travel protection plan.” Travel assistance services include items such as travel reservations, event planning, document replacement assistance, international legal and medical referrals, and destination information.

## **Disclosures**

The act maintains the requirement from prior law for brochures and other written materials to contain certain disclosures about the travel insurance, and adds that the insurer must approve the brochures and other materials. The act also specifies that all documents provided to a prospective purchaser must be consistent with the travel insurance policy, and the policy must disclose whether the coverage is primary or secondary. A travel services retailer or travel insurance producer must provide a description of the material terms of the policy as soon as practicable after purchase.

The act requires certain disclosures related to a combined travel protection plan that offers travel insurance, travel assistance services, and cancellation fee waivers for one price. In particular, a plan must clearly disclose the items included in the plan, and a person must have an opportunity at or prior to the time of purchase to obtain additional information regarding the features and pricing of each item.

If a travel insurance policy contains a preexisting condition exclusion, information about the exclusion must be provided prior to the time of purchase.

The act specifies that a summary of coverage for a travel insurance policy that is provided on an insurer’s internet site, or on an aggregate internet site for products from more than one insurer, is not an unfair marketing practice if the summary is accurate and provides access to the policy’s full provisions through electronic means.

## **Other Marketing Practices**

The act requires a purchaser to affirmatively select coverage when purchasing a trip. A travel services retailer or travel insurance producer may not use an “opt out” process that requires a purchaser to affirmatively deselect travel insurance coverage when purchasing a trip.

Under the act, if a destination requires insurance coverage, it is not an unfair marketing practice to require a person to purchase the required coverage. However, a person must have the option to purchase the required coverage with the trip or travel package, or obtain and provide proof of the required coverage before the departure.

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<sup>1</sup> The act specifies that the following persons are not travel administrators: a person who is a travel retailer; an intermediary selling insurance or engaging in activities within the scope of the person’s license; an attorney acting within the person’s professional capacity; or a person working under a travel administrator’s supervision and control. A business entity that is affiliated with a licensed insurer and acting as a travel administrator for the insurer is also not a “travel administrator.”

Also under the act, if a person cancels a combined travel protection plan, a full refund must be provided if certain conditions are met. A full refund must be provided if the cancellation is made within 15 days after fulfillment materials are delivered by mail, or within 10 days after delivery by hand or by electronic means. A policy may provide a greater number of days within which a refund will be provided. A refund is not required if the purchaser has started the covered trip or has filed a claim under the travel insurance coverage.

Lastly, the act specifies that the following actions are prohibited as unfair marketing practices:

- Marketing a blanket travel insurance policy as “free,” when the policy covers a group of persons without separate, individual charges for each member.
- Offering or selling a travel insurance policy that could never result in payment of any claims.

### **Underwriting and Insurance Line Classification**

The act specifies that an insurer may establish and use eligibility and underwriting standards for travel insurance based on individual or identified marketing or distribution channels so long as the standards meet any requirements for inland marine insurance.

The act classifies travel insurance under the inland marine line of insurance for insurance taxes and rate and form filing purposes. However, rates and forms may be filed under either an inland marine line of insurance or an accident and health line of insurance, if the travel insurance provides coverage for emergency evacuation or repatriation of remains, for sickness, accident, disability, or death, or for incidental limited property and casualty benefits.

**Effective date:** March 1, 2022

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