



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor  
Theodore K. Nickel, Commissioner

Wisconsin.gov

June 7, 2011

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## Report From Agency

REPORT ON section Ins 6.07, Wis. Adm. Code, relating to readability and electronic access to insurance policies.

**Clearinghouse Rule No. 11-021**  
Submitted Under s. 227.19 (3), Stats.

(The proposed rule-making order is attached.)

**(a) A detailed statement of basis for the proposed rule and how the rule advances relevant statutory goals or purposes:**

The proposed rule implements s. 631.22 (2), Stats., that requires the Office to promulgate rules establishing standards for the determination of compliance with the requirements for coherence, commonly understood language, legible, appropriately divided and captioned by its various sections in a meaningful sequence. The rule reinstates the readability score to a 40 Flesch score except for Medicare supplement policies that are required to maintain a Flesch score of 50. The proposed rule is more closely aligned with its statutory authority and as such limits unnecessary expense and duplicate efforts.

**(b) Summary of the public comments and the agency's responses to those comments:**

**Comment: The Office received approximately 54 letters and emails written using substantially similar words requesting the readability score at least remain at 50 for health care policies.**

Response: Most health insurance policies exceed the current Flesch score of 40 and all Medicare supplement policies are required to be written at a 50 Flesch score. Although not noticed, it is believed that a standard national Flesch score is being developed and would necessitate, if implemented, Wisconsin licensed insurers to modify policy forms more than once in a relatively short time period increasing costs that are shifted to the insureds.

**Comment: Require the Office to develop uniform definitions and terms for use in policy forms.**

Response: The Office could develop definitions, however, especially in the group insurance market employers and insurers need flexibility. Standardized terms and definitions would hinder that flexibility.

**Comment: Several comments raised concerns related to literacy of Wisconsin citizens and national trends and that readability scores should be increased to follow these trends.**

Response: The Office appreciates the efforts of literacy assistants and health care providers and is aware that one's level of literacy affects one's life in many ways including reading insurance policy forms. The Office strives to reach out as a resource to insurance consumers to assist in understanding insurance issues.

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Insurers are still required to produce readable, understandable and coherent policies.

**(c) An explanation of any modifications made in proposed rule as a result of public comments or testimony received at a public hearing:**

No modifications were made.

**(d) Persons who appeared or registered regarding the proposed rule:**

**Appearances for:**

None

**Appearances against:**

Erin Agesen, Wisconsin Literacy, Inc.  
Paul Smith, MD  
Edward Kuharski  
Bobby Peterson, ABC for Health  
Monica Hale  
Jeff Burkhart, Literacy Network

**Appearances for information:**

None

**Registrations for:**

None

**Registrations against:**

Megan Duncan, Wisconsin Literacy and UW-Whitewater

**Registrations neither for nor against:**

Phil Dougherty, Wisconsin Association of Health Plans  
Tim Stumm, Wisconsin Health News  
Kathryn Ambelang, Wisconsin Physicians Service Insurance Corp.  
Michael Meulemans, Write Resources/wwwInsurance.About.com

**Letters received:**

Testimony, email and survey, submitted by Paul Smith MD  
"How to Write Plain English" by Rudolf Flesch, submitted by Mr. Kuharski  
Testimony by Bobby Peterson, Attorney, ABC for Health, Inc.  
Testimony by Monica Hale  
Email Ann Sitrick  
Email Mary Beth Kelley-Lowe  
Emails Erin Agesen  
Email Dipesh Navsaria, MPH, MD  
Email David Hahn, MD MS  
Email CJ Aspenson RN, BSN  
Email Michele Erikson  
Email Jennifer Edgoose MD, MPH  
Email James Demin, MD  
Email Stephanie Stark

Email Miedra North  
Email and letter Robin Krumholz Health Tradition Health Plan  
Email Carole Edland  
Email Gini Davis  
Email Teresa Hosterman  
Email Jose Salazar  
Email Kevin Hoff  
Email Tatiana Maida  
Email Sandra Dykstra  
Email Sally Petrowski  
Email Cheri Stoffel  
Email Kaye Crampton  
Email Bonnie Wilcox  
Email Claudia Scholl  
Email Helen Dale  
Email Judy Norrish  
Email Carla Junk  
Email Liz Bade  
Email Lois Oswald  
Email Georgia Lieber  
Email Ellen Borst  
Email Kristi Fossum Jones  
Email Margarete Cook  
Email David Magness  
Email George Morris MD, FAAN  
Email James Campbell  
Email Steven Bergin, MD  
Email Karren Jeske  
Letter Emma Swan  
Letter Gloria Rodgers  
Letter Betty Rodgers  
Letter Marilyn Byrd  
Letter Rev. Martin Childs  
Letter Fredna Odom  
Letter Cherly Scott  
Letter Glaris Jefferson  
Letter Pauar Kull  
Letter Bessie Johnson  
Letter Esra Williams  
Letter Theresa Kirk  
Letter Murphy Swan  
Letter Leona Hale  
Letter Esther Loper  
Letter Victoria Butler  
Letter Nathaniel Butler

**(e) An explanation of any changes made to the plain language analysis of the rule under s. 227.14 (2), Stats., or to any fiscal estimate prepared under s. 227.14 (4), Stats.**

None

**(f) The response to the Legislative Council staff recommendations indicating acceptance of the recommendations and a specific reason for rejecting any recommendation:**

All comments were complied with and corrected.

**(g) The response to the report prepared by the small business regulatory review board:**

The small business regulatory review board did not prepare a report.

**(h) Final Regulatory Flexibility Analysis**

A Final Regulatory Flexibility Analysis is Not Required because the rule will not have a significant economic impact on a substantial number of small businesses.

**(i) Fiscal Effect**

See fiscal estimate attached to proposed rule.

Attachment: Legislative Council Staff Recommendations  
June 7, 2011