



MARY FELZKOWSKI

STATE SENATOR • 12TH SENATE DISTRICT

Testimony on SB 432
Senate Committee on Insurance and Small Business
September 21, 2023

Fellow Members of the Committee:

Thank you for the opportunity to give testimony on Senate Bill 432.

Senate Bill 432 is a very technical piece of legislation that provides clarity to the Office of the Commissioner of Insurance (OCI), ensures that OCI can maintain a healthy and well-regulated insurance industry in Wisconsin, and updates Wisconsin law to provide parity with federal regulations. As many of you know from past experience, every other session or so, OCI puts forth a request for technical changes in our state statute. As a regulatory body, OCI has a duty to make sure the Wisconsin insurance environment is compliant with all national requirements and standards, as well as substantial consumer protection responsibilities.

At a 10,000 foot view, we're eliminating obsolete language, amending statute to match current practice, helping the industry transition into the technical era, saving taxpayers money, and clarifying language regarding licenses. With that being said, OCI will be testifying right after us, and, for this reason, I'm not going to get into any details, because they will do a much better job of explaining the different provisions than I could.

Thank you again for the opportunity to testify on Senate Bill 432.



Wisconsin Office of the
COMMISSIONER
OF INSURANCE

Tony Evers, Governor of Wisconsin
Nathan Houdek, Commissioner of Insurance

DATE: September 21, 2023

TO: Senator Mary Felzkowski, Chair
Senator Rob Hutton, Vice-Chair
Members, Senate Committee on Insurance and Small Business

FROM: Lauren U. Van Buren, Chief Legal Counsel
Office of the Commissioner of Insurance

SUBJECT: Public Hearing on Senate Bill 432

Chair Felzkowski and members of the committee, thank you for considering passage of Senate Bill 432 (SB 432), our agency's technical changes bill.

Each session, the Office of the Commissioner of Insurance (OCI) works with stakeholders and agency leadership to put together a technical changes bill to clean up Wisconsin's insurance statutes. These changes are intended to be small, non-controversial improvements.

One of the changes in SB 432 allows the commissioner to appoint a designee to the Wisconsin Retirement Board. Current statutes require that the commissioner's designee be an "experienced actuary in the office" but OCI does not employ an actuary, so no such designation is possible. This change will allow OCI to be present at more Wisconsin Retirement Board meetings through an appropriate designee.

The bill also provides the commissioner with a limited ability to enter into consultant contracts when OCI is coordinating a review on a regulatory matter with another state department of insurance or United States jurisdiction and that other entity has already procured the services of that consultant. Currently, OCI is generally subject to the procurement requirements of Wis. Stat. ch. 16 and OCI's inability to directly enter into consultant contracts may impede time-sensitive inter-state regulatory reviews. This limited procurement authority will remove that barrier.

SB 432 also repeals portions of Wisconsin statutes related to the development of uniform employee application forms and a uniform application for individual health insurance policies. These forms are no longer necessary given the creation of a federally mandated application.

This bill also clarifies statutes related to confidentiality of information shared with guaranty funds. Current law provides a list of entities with which OCI may confidentially share information including

other states' guaranty funds, but this list does not explicitly include the Wisconsin Insurance Security Fund (WISF). This change adds WISF to the list of entities.

SB 432 provides that, when an insurer's authority to do business in this state is revoked, the insurer shall notify its agents of such and shall provide a copy of that notice to OCI, rather than OCI mailing such a notice to agents as occurs under current law.

2021 Wis. Act 114 increased the amount of forfeiture from \$1,000 to \$5,000 for violations of insurance statutes that involve a consumer who is an adult at risk or an individual who is at least 60 years of age. SB 432 ensures consistency by establishing a penalty of \$5,000 for instances of fraud or misrepresentation.

2021 Wis. Act 258, Wisconsin's new business entity law, created forum selection provisions under which corporations may require claims pertaining to internal affairs to be brought solely and exclusively in Wisconsin. This bill will apply these provisions to Wisconsin domestic stock and mutual insurance corporations.

This bill eliminates the commissioner's remaining responsibility regarding dissolution of the former Health Insurance Risk-Sharing Plan which was previously eliminated in rule. This deletion will ensure consistency between statute and rule.

SB 432 also eliminates the outdated requirement that the commissioner study and provide a report to the legislature and governor on certain health insurance policies and their cost impact. The bill also eliminates the requirement that the commissioner must promulgate rules depending on the results of those studies.

The bill clarifies statutory provisions to provide that termination of an insurance agent license may be based on incompetence or lack of trustworthiness to create more cohesion between the standards for granting a license. This change will aid in the fair and efficient enforcement of Wisconsin insurance statutes if Wisconsin law explicitly matched OCI practice for applying these standards.

Currently, individuals or entities seeking licensure as navigators must furnish a bond or provide other evidence of financial responsibility, but the commissioner has the authority to define alternative requirements and OCI has not found this requirement necessary or applicable. This bill repeals this requirement and codifies existing practice.

Currently, health maintenance organizations (HMO) that participate in the family care program are *not* required to make a deposit into the insolvency fund. Instead, OCI issues separate orders to each HMO to subject it to the deposit provisions of § 648.75. SB 432 amends Wis. Stat. § 609.98, the "special deposit" provision for defined network plans, to require HMOs acting as Care Management Organizations (CMOs) to be subject to the deposit provisions of § 648.75 eliminating the need for separate orders.

Finally, SB 432 makes several changes to ch. 646 related to the WISF. It codifies WISF's authority to work with other guaranty associations through a mutual assistance arrangement and WISF's current practice of merging the life and the annuity accounts for accounting purposes. This bill also amends Wis. Stat. § 646.51(3)(b) to change the assessment base calculation for life and annuities, from a percentage of annual premium for the three most recent years preceding liquidation to a percentage based on the immediately preceding year. This change will ensure that the assessment is appropriate in cases of long-term liquidations.

We appreciate your consideration of these proposed technical changes and would be happy to take any questions.