

**STATE OF WISCONSIN OFFICE OF THE
COMMISSIONER OF INSURANCE**

AGENCY PRIMER: “WHAT YOU NEED TO KNOW”

JANUARY 2023



**INSTITUTE FOR
REFORMING GOVERNMENT**



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FROM THE DESK OF CJ SZAFIR

Freedom and Opportunity. Those are ideals that bind us together as a state. Unfortunately, the size and scope of state government too often gets in the way of individuals and families being able to achieve their full potential as they build their share of the American Dream.

We can do better, and we must do better. We all should ask, – “Is the mission of state government, — of each and every agency, bureau, and division —, aligned with the vision that everyday Wisconsinites have for Wisconsin? Is state government set up to help citizens succeed, or is it a roadblock to success? We need a conservative vision for state government, indeed for each and every agency.

Last spring, with support from our donors and Board of Directors, the Institute for Reforming Government started an ambitious project to help answer those questions about the biggest state agencies to help answer those questions because we believe the best way to enhance liberty is to improve transparency. This project was the work of eight experts in Wisconsin state government, including three senior-level cabinet officials, a budget director, and subject matter experts. In addition, our team had regular meetings with former top officials in state government as well as business leaders and other experts outside of government. We looked at past revenue and spending trends. The findings are not surprising.

State agencies are massive. They spend record amounts of taxpayer dollars year over year. They too often get in the way of individual success and are set up as enforcement agents instead of partners in creating a better Wisconsin. They need reform. We need leaders to bring forward conservative visions to the agencies.

In these briefings, we shine light onto state agencies to help all citizens diagnose what is broken. Later, based on these and discussions with people all over Wisconsin, we'll offer government reform ideas and detailed budget analysis to help chart a new course for Wisconsin, - one where each and every individual in our state has the freedom and opportunity to succeed.

Sincerely,

CJ Szafir

President

Institute for Reforming Government

“Light and liberty go together”

Thomas Jefferson, In a letter to Tench Coxe, 1795

This document prepared by the Institute for Reforming Government (IRG) is intended to inform policy makers and the public of the full scope of the Wisconsin Office of the Commissioner of Insurance (OCI). Our partners at the IRG Action Fund will release conservative, free market, and liberty minded policy reforms specifically for OCI in a separate document.

For the general public, the executive branch of Wisconsin state government can be a mystery. There are countless agencies with billions of tax dollars flowing through them. Although some may have an understanding of an agency because of their daily work or real world experience, few people in Wisconsin have a handle on the entirety of the executive branch. Each agency has its own mission, functions, and programs. Some agencies generate their own revenue, some rely on state tax dollars and many of them take some sort of federal funding. Each agency has unique powers and authorities. The goal of this briefing document is to pull back the veil and show Wisconsinites how their government taxes, spends, and regulates.

Over the course of months, a team of policy experts at IRG poured through all of the information on Wisconsin's biggest agencies. In this briefing document, you will see agency functions, budget trends, a list of past appointees, and policy concerns. These items create a basis for understanding the scope and history of each agency in an effort to inform policy makers in Madison as they carry out their work in the coming legislative session. By doing this, we hope to inspire the next generation of policy makers and cast a conservative vision for Wisconsin.

The Office of the Commissioner of Insurance (OCI) was vested with broad powers to ensure the insurance industry responsibly and adequately meet the insurance needs of Wisconsin citizens. OCI works to protect insurance consumers while also ensuring a competitive insurance environment. Among many duties, OCI monitors the financial solvency of licensed companies to make sure that consumers have the insurance coverage they expect when they need it. OCI also operates a State Life Insurance Fund and an Injured Patients and Families Compensation Fund, which insures health care providers for medical malpractice.



OCI was created by the legislature in 1870 and was a department within the secretary of state's office. The department at the time licensed agents. Upon complaint, the department also examined the books of fire and inland navigation insurance companies. From 1878, the legislature created a separate Department of Insurance with a commissioner appointed by the governor. In 1881 through 1911, the commissioner was an elected position but changed back to an appointed position in 1911 to which it stands today.

Since 1947, responsibilities of the department included review of all insurance policy forms and filings of most premium rates. In 1967, the Department of Insurance became the Office of the Commissioner of Insurance and continued its independent duties.

Today, OCI's mission is to protect and educate Wisconsin consumers by maintaining and promoting a strong insurance industry.

OCI is a member of the National Association of Insurance Commissioners (NAIC). This national organization provides regulatory support and is governed by chief insurance regulators from all 50 states, D.C., and the five U.S. territories. Through NAIC, state insurance regulators establish standards, best practices and coordinate regulatory oversight.

According to the 2021 Wisconsin Insurance Report, there are 2,008 insurers authorized to write business in Wisconsin with total assets of more than \$612 billion. Of those, 329 insurers were domiciled in Wisconsin. There are over 197,000 agents licensed to do business in Wisconsin - over 35,000 of those are Wisconsin residents.

OCI is located in Madison, Wisconsin. There are no other physical locations in the state.

AGENCY DESCRIPTION, MISSION, & FUNCTION

Information in this section was pulled directly from public sources on the Department of Administration and OCI websites.

Agency Descriptions

The agency was created by the Legislature in 1870, and the original intent of the agency has not changed drastically over the past 145 years. The agency is vested with broad powers to ensure that the insurance industry responsibly and adequately meets the insurance needs of Wisconsin citizens. The agency performs a variety of tasks to protect insurance consumers and ensure a competitive insurance environment. The agency's major functions include: reviewing insurance policies that are sold in Wisconsin to make sure they meet the requirements set forth in Wisconsin law; conducting examinations of domestic and foreign insurers to ensure compliance with Wisconsin laws and rules; monitoring the financial solvency of licensed companies to make sure that consumers have the insurance coverage they expect when they need it; issuing licenses to the various parties involved in selling and marketing insurance products; assisting insurance consumers with their insurance problems; researching special insurance issues to understand and assess their impact on Wisconsin; providing technical assistance on legislation and promulgating administrative rules to interpret insurance laws; creating and distributing public information and consumer education pieces to educate people about insurance; and operating a state life insurance fund and an injured patients and families compensation fund insuring health care providers for medical malpractice.

Mission

The mission of the agency is to protect and educate Wisconsin consumers by maintaining and promoting a strong insurance industry.



Function

The office supervises the insurance industry and is responsible for examining the industry's financial practices and market conduct, licensing insurance agents, reviewing policy forms for compliance with state insurance statutes and regulations, investigating consumer complaints, and providing consumer information.

The office administers two segregated insurance funds: the State Life Insurance Fund and the Injured Patients and Families Compensation Fund. The State Life Insurance Fund offers up to \$10,000 of low-cost life insurance protection to any Wisconsin resident who meets prescribed risk standards. The Injured Patients and Families Compensation Fund provides medical malpractice coverage for qualified health care providers on claims in excess.

Today, OCI is organized between two major divisions, two offices, and two units:

Division of Financial Regulation

The Division of Financial Regulation (DFR) is responsible for monitoring the financial solvency of insurers licensed to do business in Wisconsin. DFR conducts financial examinations of domestic insurers' operations, financial analysis on all licensed insurers, administers insurer rehabilitations and liquidations, audits and collects insurer premium taxes and fees, licenses insurance companies, reviews holding company transactions, reviews change of control transactions, and collects funds from insurers under the fire department dues program. Along with the Division of Market Regulation and Enforcement, this division has a major role in the agency's participation in the NAIC.

Division of Market Regulation and Enforcement

The Division of Market Regulation and Enforcement (DMR) performs market conduct examinations and market analysis of licensed insurers, determines compliance with applicable laws and rules, handles consumer contacts and consumer complaints about licensees, initiates administrative actions against licensees who violate Wisconsin's insurance laws, staffs several risk-sharing plans, investigates agent activities, and administers the insurance licensing and continuing education program. DMR also processes, reviews, and, when applicable, approves all rate and form filings, and processes Vehicle Protect Plans and Warranties. OCI's managed care specialist assigned to this division investigates complex managed care complaints that OCI receives, educates consumers on their rights under managed care plans, and administers the state's independent review program.

The Division of Market Regulation and Enforcement is also responsible for establishing and enforcing rate filing requirements, reviewing comprehensive individual and small group rate filings, and monitoring trends in the Wisconsin comprehensive health insurance marketplace. Along with the the Division of Financial Regulation, this division plays a major role in the agency's participation in NAIC.

Office of Operational Management

The Office of Operational Management is responsible for operational functions of the agency including project management, budget, accounting, facilities management, and serving as a liaison between the agency and the Department of Administration, Division of Enterprise Technology for Information Technology services and support.

Office of Administrative Services

The Office of Administrative Services is responsible for administrative functions within OCI. This includes serving as a liaison between the agency and the Department of Administration, Division of Personnel Management, for staff development and human resource services. This Office is also responsible for the Central File and Reception Unit, which includes records management and training, and provides administrative services to the Injured Patients and Families Compensation Fund and the State Life Insurance Fund.

Legal Unit

The Legal Unit represents the agency in administrative procedures, provides legal advice to staff, represents or supervises representation of the agency in litigation and insurance company receiverships, and develops legislative proposals and administrative rules. It provides legal services for the Injured Patients and Families Compensation Fund, Wisconsin Health Care Liability Insurance Plan, and State Life Insurance Fund.

Public Affairs Unit

The Public Affairs Unit provides advice on executive matters affecting the agency's goals and initiatives including directing the agency's legislative initiatives and communications activities. This unit uses a variety of communication tools to engage and educate consumers on insurance issues.



AGENCY BUDGET TRENDS

The state budget process begins in September of every even year when each agency sends its budget requests to the Department of Administration. The Governor then has several months to put together the executive budget proposal that is forwarded to the Legislature. The Legislature, through the work of the Joint Finance Committee, then holds hearings and votes on the budget through the spring and summer of the odd year. This culminates with the signing of the budget document that summer. While technically due by July 1 of the budget year, often budget debates will drag into the Summer and sometimes the Fall. However, the government does not shut down in Wisconsin as it does at the federal level when there is a budget impasse - it simply continues on the current spending plan until a new budget is adopted.

OCI retains all revenue from licenses, services, and various other items. Taxes are remitted to the general fund and fire department dues are remitted to Wisconsin fire departments. Forfeitures are remitted to the Common School Fund.

In 2021, OCI remitted \$440,414 in forfeitures to Wisconsin's Common School Fund administered by the Board of Commissioners of Public Lands. Earnings from the Fund are distributed to all public K-12 schools in the state and are used to purchase library materials and computers. The Fund distributed \$40.6 million across every Wisconsin public school district in 2021.

OCI administers the Wisconsin Healthcare Stability Plan, which receives funding for reinsurance payments with federal and state funds. In 2019, the first year of the program, actual reinsurance payments totaled \$174,252,400. Of that amount, \$127,726,300 was paid with federal passthrough funds and \$46,528,100 was paid from the general fund.

According to the 2021 Wisconsin Insurance Report, the decrease in total revenue from the prior fiscal year is due to a decrease in premiums.

Agency Budget Trend

Fund	2017 ACT 59	2019 ACT 9	2021 ACT 58
GPR		\$72,273,700	\$75,778,000
FED	\$1,202,000	\$127,726,300	\$307,722,000
PR	\$37,179,200	\$39,480,400	\$39,336,300
SEG	\$183,484,800	\$122,426,700	\$131,411,400
TOTAL	\$221,866,000	\$361,907,100	\$554,247,700

FTE POSITION SUMMARY

Fund	2017 ACT 59	2019 ACT 9	2021 ACT 58
GPR			
FED	5.1		
PR	120.15	124.15	123.15
SEG	11.75	10.68	10.68
TOTAL	137	134.83	133.83



As the head of the Office, the Commissioner is appointed by the Governor with the advice and consent of the Senate and serves at the pleasure of the Governor. Similar to other cabinet agencies, the Commissioner must appoint the other members of their team to help them carry out the duties and responsibilities of the Office. The leadership team is generally considered to be the Commissioner, Deputy Commissioner, and the Director of Public Affairs. Under Chapter. 645, Wis. Stat., the Commissioner also has sole authority to appoint a Special Deputy Commissioner responsible for insurer rehabilitation.

Commissioner

Appointed by the governor and confirmed by the senate, the OCI Commissioner serves as the state's chief regulator of insurance and oversees the operations of the Office of the Commissioner of Insurance. The Commissioner is also chair of the Injured Patients and Families Compensation Fund Board of Governors and vice chair of the state Group Insurance Board.

Deputy Commissioner

Appointed by the Commissioner of Insurance, the Deputy Commissioner is responsible for assisting the Commissioner in operations of the Office of the Commissioner of Insurance and performs other duties and powers as the Commissioner delegates and assigns. When the Office of the Commissioner is vacant, or when the Commissioner is unable to perform his or her duties because of mental or physical disability, the Deputy Commissioner shall be Acting Commissioner.

Director Of Public Affairs

The Director of Public Affairs is responsible for overseeing communications, public outreach, and legislative affairs.

Chief Legal Counsel

The Chief Legal Counsel serves at the pleasure of the Secretary and provides legal counsel and support involving the agency's affairs.

Division Administrators

Division Administrators, appointed by the Commissioner, are responsible for providing leadership, personnel management and guidance on day-to-day operations for their assigned division. These positions typically report to the Deputy Commissioner, communicating activities and providing advice to ensure the division is in line with the agency's mission.

These appointments may change during the 4-year term of a governor. Listed here are the teams serving under Gov. Evers in mid-2022, as well as the team that served at the end of Gov. Walker's final term.

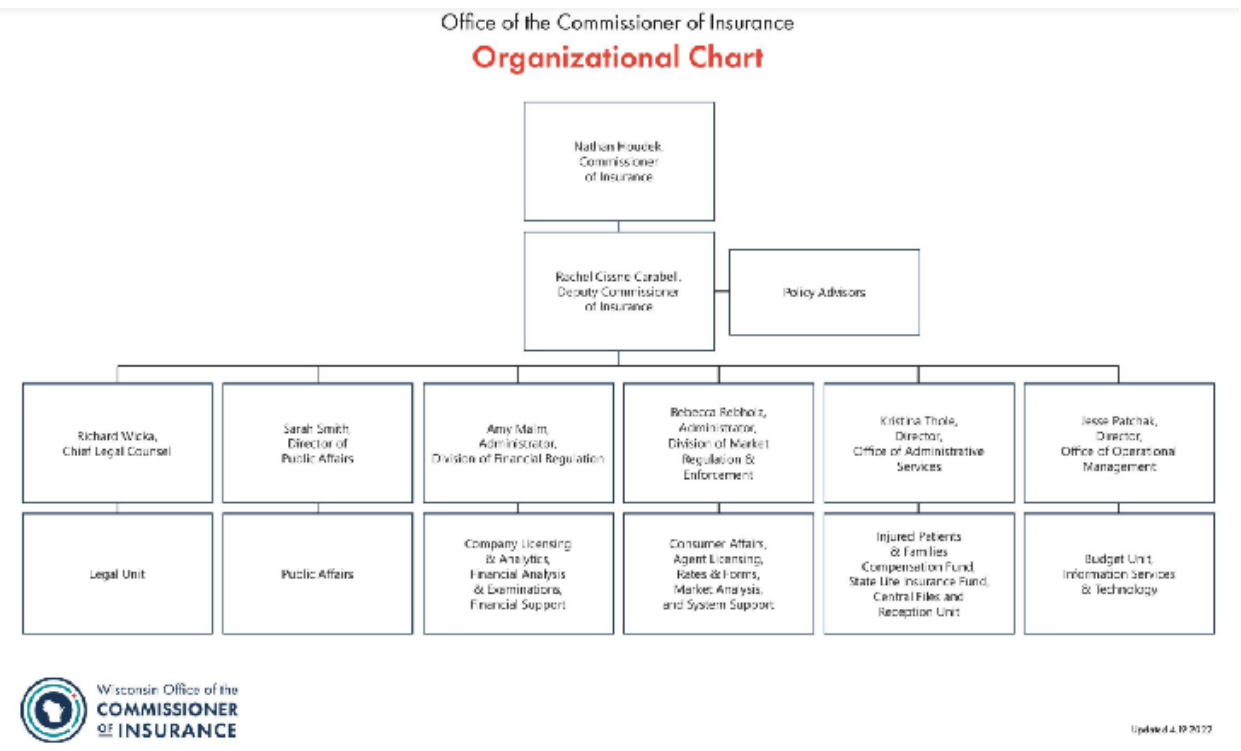
Agency Leadership

POSITION	EVERS	WALKER
COMMISSIONER	Nathan Houdek	Ted Nickel
DEPUTY COMMISSIONER	Rachel Cissne Carabel	J.P. Wieske
CHIEF LEGAL COUNSEL	Richard Wicka	Zach Bemis
DIRECTOR OF PUBLIC AFFAIRS	Sarah Smith	N/A
COMMUNICATIONS DIRECTOR & LEGISLATIVE LIAISON	N/A	Elizabeth Evenson
DIVISION ADMINISTRATORS (LIST ALL)		
DIVISION OF REGULATION AND ENFORCEMENT, ADMINISTRATOR	N/A	Cari Lee
FUNDS AND PROGRAM MANAGEMENT, ADMINISTRATOR	N/A	Kate Ludlum
DIVISION OF FINANCIAL REGULATION	Amy Malm	N/A
DIVISION OF MARKET REGULATION AND ENFORCEMENT	Rebecca Rebholz	N/A
THE OFFICE OF ADMINISTRATIVE SER- VICES, DIRECTOR	Kristina Thole	N/A
THE OFFICE OF OPERATIONAL MAN- AGEMENT, DIRECTOR	Jesse Patchak	N/A

*OCI completed a restructure between the two governor's terms.



ORGANIZATION CHART



ATTACHED COUNCILS, TASK FORCES, & COMMITTEES

The Office of the Commissioner of Insurance has Boards and Councils that are charged with various responsibilities. Generally, these entities either give advice to the Commissioner or they are part of the regulatory process itself.

Injured Patients and Families Compensation Fund Board of Governors (Fund)

Created in 1975, the Fund's purpose is to provide excess medical malpractice coverage to Wisconsin health care providers and to ensure that funds are available to compensate injured patients. Health care providers obtain primary medical malpractice insurance from private insurance companies in an amount required by statute. The Fund is governed by a 13-member Board of Governors with administrative staff is provided by OCI.

Health and Life Insurance Advisory Council Property and Casualty Advisory Council

Wisconsin's insurance law authorizes the Commissioner of Insurance to create advisory councils and committees to assist in dealing with regulatory issues. Through administrative rule, the Commissioner establishes creation, governance, duties, and termination of any council or committee developed. The expert advice provided to the Commissioner through these councils aims to result in more efficient regulation of the insurance industry to the benefit of insurance consumers and insurers. Today, two councils exist under this authority: The Health and Life Insurance Advisory Council and the Property and Casualty Advisory Council.



MAJOR PAST INITIATIVES

(2011-Present)

Most major policy initiatives happen during the budget process. The Governor, and sometimes the Legislature, will propose a major reduction or increase in spending for any number of programs. The major initiatives dating from 2011 to the present for the Office of the Commissioner of Insurance is listed below:

Major Past Initiatives

INITIATIVE	GOVERNOR	ENACTED	NOTES
Injured Patients and Families Compensation Fund Program claims system improvements	Evers	Yes	
Equity Officer Position	Evers	No	JFC deleted provision
Office of Prescription Drug Affordability	Evers	No	JFC deleted provision
Licensure and regulation of pharmacy benefit managers	Evers	No	JFC deleted provision as it was identical to WI ACT 9
Fiduciary duty and disclosure requirements of pharmacy benefit managers	Evers	No	JFC deleted provision
Licensure of pharmacy benefit brokers and consultants	Evers	No	JFC deleted provision
Licensure of pharmacy services administrative organizations	Evers	No	JFC deleted provision
Licensure of pharmaceutical representatives	Evers	No	JFC deleted provision
Prescription drug price and cost reporting	Evers	No	JFC deleted provision
Pharmacy benefits tool grant program	Evers	No	JFC deleted provision



Prescription drug affordability board	Evers	Yes	
Generic drug importation program	Evers	No	JFC deleted provision
Prescription drug purchasing entity study	Evers	No	JFC deleted provision
Applicability of manufacturer brand name drug rebates to deductibles and out-of-pocket maximums	Evers	No	JFC deleted provision
Drug reimbursement for certain entities under federal 340B drug discount program	Evers	No	JFC deleted provision
Drug cost and payment reporting by hospitals participating in federal 340B drug discount program	Evers	No	JFC deleted provision
Insulin safety net programs	Evers	No	JFC deleted provision
Insulin copayment cap	Evers	No	JFC deleted provision
Value-based diabetes medication pilot program	Evers	No	JFC deleted provision
State-based health insurance exchange	Evers	No	JFC deleted provision
Actuarial study of optional public health insurance plan	Evers	No	JFC deleted provision
Healthcare outreach	Evers	No	JFC deleted provision
Health insurance and coverage requirements	Evers	No	JFC deleted provision
Health insurance premium assistance program	Evers	No	JFC deleted provision
Balance billing restrictions	Evers	No	JFC deleted provision
Short-term, limited duration health insurance plans	Evers	No	JFC deleted provision

Telehealth coverage parity	Evers	Yes	
School district group health insurance task force	Evers	No	JFC deleted provision
Nonresident insurance appointment fee	Evers	No	JFC deleted provision
Healthcare outreach positions	Evers	No	JFC modified original request
Health insurance issuance and coverage requirements	Evers	No	JFC deleted provision
Cease operations of the local government property insurance fund	Walker	Yes	Governor/Legislature
Nonresident insurance appointment fee	Walker	Yes	JFC/Legislature
Transfer human resources functions to DOA	Walker	Yes	Governor/Legislature
Transfer information technology positions to DOA	Walker	Yes	Modified from original request
Workers compensation transfer	Walker	No	JFC deleted provision
Actuarial review of own risk and solvency assessment filings	Walker	Yes	Governor/Legislature
Transfer administrative law judge functions	Walker	Yes	JFC modified original request
Pharmacy benefit manager regulation	Walker	Yes	JFC/Legislature
Authorization for out-of-state risk retention groups to sell medical liability insurance in Wisconsin	Walker	Yes	JFC/Legislature
Non-resident agent appointment fee	Walker	Yes	JFC/Legislature
Health insurance risk sharing plan (dissolve)	Walker	Yes	JFC/Legislature



Services provided to the IPFCF peer review council	Walker	Yes	Governor/Legislature
Replacement of classified positions with unclassified positions	Walker	Yes	
Local government property insurance fund reallocation	Walker	Yes	
Close enrollment in the state life insurance fund	Walker	No	JFC deleted provision
Coverage requirements for dependents	Walker	Yes	JFC/Legislature
Provision of aggregate claims data to policyholders	Walker	Yes	JFC/Legislature
Repeal required insurance coverage of contraceptives	Walker	No	JFC deleted provision

STAKEHOLDERS

Every agency has a number of organizations, professions, and industries that are uniquely interested in the policy or regulatory decisions that could affect their membership or industry. The groups are commonly organized into trade associations and are represented by registered lobbyists that stay in touch with agency leadership. These lobbyists keep their membership informed on current policy debates and use their expertise to educate policy makers on the issues important to their industries. Below is a non-exhaustive list of stakeholders that are interested in the Office of the Commissioner of Insurance.

STAKEHOLDER	TYPICAL ISSUES
Alliance of Health Insurers	Legislative and regulatory matters affecting the sale and purchase of health insurance, the funding and operations of the Medical Assistance Program, and health and insurance policy
American Adjuster Association	Areas affecting and dealing with insurance regulation, the legal environment and policyholder rights
AFLAC	Matters involving health insurance, health coverage and overall Wisconsin healthcare
American International Group	All matters affecting commercial property and casualty insurance, all insurance, life insurance, retirement products, and annuities
American Property and Casualty Insurance Association	Any and all matters pertaining to insurance, tort, workers compensation, tax, and local government property insurance fund
Anthem and Affiliates	Legislation and regulations affecting the commercial health, life and dental insurance markets. Also, legislation and regulation affecting medicaid
Centene Corporation on behalf of affiliates	Legislation and administrative rules related to the health insurance industry and the Medicaid Program
Independent Insurance Agents of Wisconsin	All matters pertaining to property and casualty, life and health insurance and the regulation of licensed independent insurance agents and brokers
American Family Insurance Group	Insurance legislation and regulation: property, casualty, life insurance issues, and taxes



America's Health Insurance Plans (AHIP)	Legislation and regulations affecting the operations and affairs of health insurance companies and health plans
National Association of Mutual Insurance Companies (NAMIC)	Matters affecting the insurance industry
Professional Insurance Agents of Wisconsin	Legislation or regulation related to insurance, business finance, and taxes
Wisconsin Association of Health Plans	Legislation or regulation related to the health care insurance industry
Wisconsin Council of Life Insurers	Legislation or regulation related to insurance
Wisconsin Insurance Alliance	Areas dealing with insurance, liability law, insurance regulation, and other matters affecting the property and casualty insurance industry
Church Mutual Insurance Company	Property and Casualty Insurance matters
Cigna	Health insurance; health care; pharmaceuticals; pharmacy benefits management; Medicare/Medicaid and Medicare supplement; state budget issues
Common Ground Healthcare Cooperative	Legislation or regulation related to health insurance, cooperatives, and cost of health care

Delta Dental of Wisconsin	Legislation and regulation relating to the marketing and regulation of dental insurance
Health Tradition Health Plan	Legislation or regulation relating to health insurance
Humana Inc	Legislation and regulation related to health, dental, life, and disability insurance products. Also active in matters related to taxation
M3 Insurance Solutions	Policy surrounding healthcare insurance, healthcare delivery
Medica Health Plans	Health insurance policy
Medical College of Wisconsin	Legislation and regulation related to health insurance, healthcare policy, and public financing
Molina Healthcare	Legislation and regulation relating to health insurance and publicly funded health care
NAIFA - Wisconsin	Legislation and regulation relating to insurance and the financial services industry
Network Healthplan	Legislation and regulatory proposals related to health insurance companies and health plans
Northwestern Mutual	Legislation regarding our products and services including permanent and term life insurance, disability income insurance, long term care insurance, annuities, trust services, mutual funds and other securities



Pharmaceutical Care Management Association	Primarily pharmacy benefits management, including health care, insurance, pharmaceuticals and state budget matters as they relate to PBMs
Quartz Health Solutions	Legislative, regulatory and policy matters relating to: commercial group, individual and self-insured health insurance, small group and individual ACA health insurance, Medicaid Managed Care (BadgerCare Plus) Medicare products, and pharmacy benefits management
Rural Wisconsin Health Cooperative	Legislation and regulation relating to health insurance, Medicaid, public health, and general health-care policy issues
Sentry Insurance	Matters pertaining to property and casualty insurance, including liability law, insurance regulation, insurance taxation, operation of civil justice system, workers' compensation, and life insurance
SSM Health	Legislation and regulation relating to the operation of health systems and health insurance
State Farm Insurance	Legislation and rules that pertain to regulation of insurance and financial services, as well as any areas that affect the legal environment
United Healthcare Services	Legislation and regulation affecting individual, small, and large group health insurance plans, Medicaid and other government-sponsored health care programs
WEA Insurance Corp	Legislation and regulation relating to group insurance plans, including health, life, and long-term care
Wisconsin Health Information Organization	Legislation and regulatory proposals related to health care providers, health insurance companies and health data organizations
WPS Health Insurance	Legislation and regulation related to health and life insurances

PAST EXECUTIVE ORDERS

Formal actions by the Governor are conveyed through executive order. These orders often direct state agencies to carry out the Governor's policy goals within their statutory authority. They can be used to create councils to explore public policy solutions, bring the state into compliance with federal requirements, direct agencies to take certain actions, and carry out powers granted to the Governor under Chapter 14 of the Wisconsin Statutes. Below is a list of executive orders that pertain to the Office of the Commissioner of Insurance.

GOVERNOR	EO #	DATE	DESCRIPTION	STATUS
Evers	4	1/8/2019	Relating to the preservation of insurance protections (pre existing conditions)	Active
Walker	10	1/27/11	Relating to the creation of the Office of Free Market Healthcare	Inactive
Walker	123	11/22/2013	Relating to a special session of the legislature (HIRSP)	Inactive
Walker	57	1/18/2012	Relating to the repeal of EO 10	Inactive
Walker	228	1/5/2017	Relating to the implementation of the recommendations of the co-chairs of the Governor's Task Force on Opioid Abuse	Inactive
Walker	245	5/18/2017	Relating to the creation of the Governor's Steering Committee on autonomous vehicle testing and deployment	Inactive



GOVERNMENT REFORM OPPORTUNITIES

Wisconsin government has grown too big and too expensive. This has precipitated issues across the whole of the executive branch that have become a barrier to the success of Wisconsin residents and businesses alike. The Institute for Reforming Government endeavors to shine light on these issues as prime opportunities for bold reform. Below you will find a non-exhaustive list of policy concerns that we have highlighted for the Office of the Commissioner of Insurance.

Industry Taxes and Fees

Wisconsin's taxation of insurance companies is administered by two separate agencies. OCI administers and collects the premiums tax on certain domestic and most foreign insurance companies, as well as a gross investment income tax on certain domestic life insurers. The Department of Revenue administers and collects the corporate franchise tax on certain domestic insurers. A company that writes multiple lines of insurance is subject to the tax that applies to each line. Wisconsin's current tax and fee structure significantly impacts its domiciled insurers due to the retaliatory and reciprocal provisions.

Health Insurance

Under the Affordable Care Act, pursuant to 2017 Wisconsin Act 138, OCI developed a 1332 Waiver for State Innovation Application allowing Wisconsin to leverage federal funding for a state-based reinsurance plan: the Health-care Stability Plan (WIHSP). On July 29, 2018, the U.S. Department of Health and Human Services and the U.S. Department of the Treasury approved Wisconsin's 1332 Waiver application. The approval is effective January 1, 2019, through December 31, 2023. At this time, OCI is pursuing an extension to the waiver.

Under WIHSP, a health insurer that provides coverage in the individual market may be reimbursed for a portion of the claims it incurred in the prior calendar year. In 2020 and 2021, OCI spent all available federal funds - reimbursing insurers \$174.3 million in 2020 and \$183.5 in 2021.

The Legislative Audit Bureau (LAB) conducted a limited-scope review of WIHSP. Under Administrative Rules, OCI is required to conduct an annual verification audit to determine whether the claims actually submitted for reimbursement by insurers were eligible. LAB found OCI was not following its policies for selecting the individuals and claims to include in the agency's 2020 audit and recommended OCI improve its processes.

According to the 2021 Wisconsin Insurance Report, during the 2021 Special Enrollment Period on the federal exchange, 33,716 Wisconsinites made a new plan selection - double the prior enrollment rates during the same time period in 2020 or 2019. In total, 116,597 Wisconsinites had coverage through the marketplace after the 2021 Special Enrollment Period. On average they saw a 50% reduction in average monthly premiums due to the American Rescue Plan's (ARPA) extension of premium tax credit eligibility. ARPA subsidies resulted in an aggregate monthly savings of \$8.7 million for Wisconsinites enrolled on the federal marketplace. Most recently, the Inflation Reduction Act will extend health insurance subsidies. According to the office, the average enrollee is expected to save \$700 per year for plans purchased on the federal exchange. It will be important to consider the impacts once the Inflation Reduction Act subsidies expire.

Big Data

According to the National Association of Insurance Commissioners (NAIC), "big data" refers to a complex volume of data and the set of technologies that analyze and manage it. While the use of big data can aid insurers' underwriting, rating, marketing, and claim settlement practices, the challenge for insurance regulators is to examine whether it is beneficial or harmful to consumers. On the consumer side, concerns rise over how data collected is safeguarded and privacy is maintained.

Big data allows insurers to leverage predictive analytics to forecast future events using a variety of techniques such as data mining, statistical modeling, machine learning, and artificial intelligence. Big data has several advantages. According to YFS Magazine, big data has resulted in 30% better access to insurance services, 40-70% cost savings, and 60% higher fraud detection rates. However, this technology also comes with several disadvantages such as a lack of transparency and potential for bias in algorithms used to synthesize big data. Insurance regulators will need to ensure consumers are sufficiently protected within the industry's emerging technological advancements.

Small Group Health Market

The small group market serves small employers. In Wisconsin, small employers are generally defined as one that employs at least two but not more than 50 employees. State law defines an eligible employee as one who works full time, with a normal work week of 30 or more hours.



Wisconsin small employers are not required by state law to offer employees health care benefits. However, many small employers do offer health benefits to their employees to attract and keep good employees.

Small employer health insurance is available in Wisconsin from several insurers and managed care plans. Under the Affordable Care Act, every small group and comprehensive individual health insurance policy is required to include essential health benefits.

OCI outlines factors that impact premiums for small employer plans. In general, how much premium a health insurance company charges for a specific small employer plan depends on:

- Each employee's age and the age of any family member(s) insured by the plan. Older individuals usually have more expensive and more frequent health-related claims. The older the workforce, the more the plan will cost.
- Whether or not each individual 21 or older uses tobacco. Federal law allows health insurance companies to charge tobacco users up to 50% more than non-tobacco users.
- The network of doctors and hospitals accessed. More choice is usually more expensive, while narrower networks can result in cost savings.
- The covered services and cost-sharing amounts in the health plan. Richer plans will cost more than plans providing less insurance coverage.
- The geographic location of the employer. Health care costs vary by region because of differences in the cost of living and the number of providers in the area.

The current state of the small group market is in turmoil as small businesses face challenges in securing affordable coverage options. States across the country are seeking ways to meet the needs of small businesses and provide more affordable options through market innovations.

State Life Insurance Fund

The State Life Insurance Fund (Fund), established in 1911, is a state-sponsored life insurance program for the benefit of Wisconsin residents. The Fund was originally established in response to a national scandal over the improper practices of some life insurance companies. As a nonprofit organization, it receives no subsidies from the state and is not permitted to use commissioned agents, does not advertise, and is exempt from federal income tax. The maximum level of coverage to each policyholder is \$10,000. The revenue to support the Fund comes from premiums and investment earnings. Wisconsin is the only state that offers life insurance to its residents.

According to the most recent Legislative Audit Bureau report, the number of policies has been declining since December 31, 1996, when there were 31,361 policies. There were 22,225 policies as of December 31, 2021. The amount of insurance in force has also declined and was \$174.0 million as of December 31, 2021. The number of new policies issued each year has been less than the total number of death claims and the number of policies surrendered for other reasons, such as failure to pay the annual premium. The continued decline is likely due to a combination of OCI's inability to advertise, the \$10,000 limitation on coverage, and private sector competition. Wisconsin's insurance market is highly competitive. There are sufficient commercial insurance companies to provide life insurance to Wisconsin residents.

Insurance Regulatory Sandbox

Innovation in the insurance industry is happening at a pace much quicker than most can keep up with. Insurance technology "startups" ("Insurtechs") are redefining the fundamentals of insurance. They use the latest technology - for example, artificial intelligence, cloud computing, blockchain and the "Internet of Things" - to develop and deliver new and innovative customer-centric products. Although primarily focused in the property/casualty business lines, Insurtechs are active in all lines of business. As this sector continues to emerge, the use of technology becomes more mainstream and insurance regulators need to equip themselves with the tools they need to regulate. In a study led by Deloitte, it was noted "investor activity is expected to remain robust as investors shift their attention to maturing entities. More established Insurtechs will likely focus on gearing up their solutions to scale, but we may yet see a second wave of new startups not too far down the road in areas where innovation has lagged." Wisconsin will need to decide if and how they regulate these new entities.

UW Malpractice Cap Vs. Private Market Malpractice Cap

The Injured Patients and Families Compensation Fund provides unlimited coverage for economic damages such as loss of income, medical care, etc. but Wisconsin law places a “cap” on non-economic damages including emotional distress, loss of enjoyment in life, etc.

The amount of compensation a plaintiff can receive in a medical malpractice case for noneconomic damages depends on whether the patient was treated by a University of Wisconsin (UW) employee (capped at \$250,000) or non-UW employee (capped at \$750,000). With the difference in non-economic caps between UW and non-UW physicians - it's ultimately the patients who risk the imbalance in potential compensation should a major issue arise.

CONCLUSION

At the Institute for Reforming Government we know that the government isn't the way of the future - people are. And we believe that in order to empower people and ideas to flourish, our government needs to get out of the way.

This is nothing new for Wisconsinites- we have a long history as the standard bearer for government reform - we were the first state to implement unemployment insurance, Wisconsin Works (W-2), and we were on the cutting edge of major collective bargaining reform. But today the state we love is beginning to lag behind. Our executive branch has become bloated, slow, and expensive - a burden to the state's economy instead of a catalyst.

The solution to this problem isn't more government, it's less. What we need is a conservative vision for the state. This introductory document lays bare the issues and problems that are standing in the way for Wisconsin. In the coming months, IRG will be releasing a series of reforms that will cast a conservative vision for key executive branch agencies in the state.

Now is the time to renew our faith in the people of Wisconsin, not the government.

