

## LONG-TERM CARE INSURANCE

### **514G.1 Purpose.**

The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

87 Acts, ch 131, §1

### **514G.2 Scope.**

This chapter applies to policies delivered or issued for delivery in this state on or after July 1, 1987. This chapter does not supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and rules designated and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance. A policy which is not advertised, marketed, or offered as long-term care insurance or nursing home insurance need not meet the requirements of this chapter.

87 Acts, ch 131, §2

### **514G.3 Short title.**

This chapter may be known and cited as the "*Long-Term Care Insurance Act*".

87 Acts, ch 131, §3

### **514G.4 Definitions.**

As used in this chapter, unless the context requires otherwise:

1. "*Applicant*" means either of the following:

a. A person seeking to contract for an individual long-term care insurance policy for the benefit of that person.

b. The proposed certificate holder of a group long-term care insurance policy.

2. "*Certificate*" means a certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

3. "*Commissioner*" means the insurance commissioner.

4. "*Group long-term care insurance*" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to any of the following:

a. One or more employers or labor organizations, or to a trust, or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations.

b. A professional, trade, or occupational association for its members or former or retired members, or a

combination thereof, if the association is both:

(1) Composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(2) Maintained in good faith for purposes other than obtaining insurance.

c. An association, a trust, or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations.

d. A group other than as described in paragraphs "a" through "c", subject to a finding by the commissioner that all of the following are true:

(1) The issuance of a group policy is not contrary to the best interest of the public.

(2) The issuance of the group policy would result in economies of acquisition or administration.

(3) The benefits are reasonable in relation to the premiums charged.

5. "*Long-term care insurance*" means an insurance policy, insurance contract, insurance certificate, or rider, which is advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital; and includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization. "*Long-term care insurance*" does not include an insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

6. "*Policy*" means a policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization, or any similar organization.

87 Acts, ch 131, §4

#### **514G.5 Limits of group long-term care insurance.**

Group long-term care insurance coverage shall not be offered to a resident of this state under a group policy issued in another state to a group described in section 514G.4, subsection 4, paragraph "d", unless this state or another state having statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state has made a determination that long-term care insurance requirements have been met.

87 Acts, ch 131, §5

#### **514G.6 Limitations on associations.**

1. Prior to advertising, marketing, or offering a policy within this state, an association or a trust or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations, or the insurer of the association or associations, shall file evidence with the commissioner that the association has at

the outset a minimum of one hundred persons and has been organized and maintained in good faith for purposes other than that of obtaining insurance; has been in active existence for at least one year; and has a constitution and bylaws which provide all of the following:

- a. The association must hold regular meetings not less than annually to further the purposes of the members.
  - b. Except for credit unions, the association must collect dues or solicit contributions from members.
  - c. The members must have voting privileges and representation on the governing board and committees.
2. Thirty days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

87 Acts, ch 131, §6

### **514G.7 Disclosure and performance standards for long-term care insurance.**

1. *Rules.* The commissioner may adopt rules for full and fair disclosure of the terms and benefits of a long-term care insurance policy, including but not limited to rules setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

2. *Prohibitions.* A long-term care insurance policy shall not:

- a. Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder.
- b. Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.
- c. Provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.
- d. Be issued to an individual without obtaining one or more of the following:
  - (1) A report of a physical examination.
  - (2) An assessment of functional capacity.
  - (3) An attending physician's statement.
  - (4) Copies of medical records.

3. *Preexisting conditions.*

a. A long-term care insurance policy or certificate shall not use a definition of preexisting condition which is more restrictive than the following: "*Preexisting condition*" means the existence of symptoms which would

cause an ordinarily prudent person to seek diagnosis, care, or treatment, or a condition for which medical advice or treatment was recommended by or received from a provider of health care services within six months preceding the effective date of coverage of an insured person.

b. A long-term care insurance policy shall not exclude coverage for a loss or confinement which is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person.

c. The definition of "*preexisting condition*" does not prohibit either of the following:

(1) An insurer from using an application form designed to elicit the complete health history of an applicant.

(2) An insurer from underwriting in accordance with that insurer's established underwriting standards based on the answers on an application conforming with subparagraph (1).

#### 4. *Prior hospitalization institutionalization.*

a. Effective July 1, 1989, a long-term care insurance policy shall not be delivered or issued for delivery in this state if the policy does either of the following:

(1) Conditions eligibility for any benefits on a requirement of prior hospitalization.

(a) Effective July 1, 1991, any holder of a long-term care insurance policy, which is not noncancelable or guaranteed renewable, was issued before July 1, 1989, and conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless it has previously been offered by the insurer, be offered by the insurer a rider or endorsement that waives the requirement of prior hospitalization. If the rider or endorsement results in a concomitant increase in premium during the policy term, then it must be agreed to in writing and signed by the insured to become effective.

(b) The rider or endorsement under subparagraph subdivision (a) shall be subject to the insurer's underwriting guidelines as proof of insurability at the time of application for the rider or endorsement.

(c) Effective July 1, 1991, any holder of a noncancelable or guaranteed renewable long-term care insurance policy issued before July 1, 1989, which conditions eligibility for benefits on a requirement of prior hospitalization, shall, unless the holder has previously been notified by the insurer, be notified by the insurer in writing prior to or at the time of delivery of the next premium statement of the existence of the condition and that new policies issued by any insurance carrier may not condition benefits on a requirement of prior hospitalization. The insurer shall not solicit the replacement of the noncancelable or guaranteed renewable policy at the same time as the delivery of notice under this subparagraph subdivision.

(2) Conditions eligibility for benefits covering care provided in an institutional care setting on the receipt of a higher level of institutional care.

b. Effective July 1, 1989, a long-term care insurance policy containing any limitations or conditions for eligibility, other than those prohibited in paragraph 1, shall clearly label such limitations or conditions in a separate paragraph of the policy or certificate entitled "*Limitations or Conditions on Eligibility for Benefits*".

c. A long-term care insurance policy advertised, marketed, or offered as containing long-term care benefits at home shall not condition receipt of benefits on a requirement of prior hospitalization.

d. A long-term care insurance policy shall not condition eligibility for noninstitutional benefits on the prior receipt of institutional care.

5. *Rules.* The commissioner may adopt rules establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the rules.

6. *Right to return after examination.* An individual long-term care insurance policyholder has the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies must have a notice prominently printed on the first page or attached to the first page stating in substance that the policyholder has the right to return the policy within thirty days of its delivery and to have the premium refunded as provided in this subsection.

7. *Outline of coverage.* An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application. An outline of coverage must include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement of the renewal provisions, including any reservation in the policy of a right to change premiums. Continuation or conversion provisions of group coverage shall be specifically described.

d. A statement that the outline of coverage is a summary of the policy issued or applied for, not a contract of insurance, and that the policy or group master policy should be consulted to determine governing contractual provisions.

e. A description of the terms by which the policy or certificate may be returned and premium refunded.

f. A description of the cost of care and benefits.

8. *Certificates.* A certificate issued pursuant to a group long-term care insurance policy which is delivered or issued for delivery in this state shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement that the group master policy determines governing contractual provisions.

9. *Compliance required.* A policy shall not be advertised, marketed, or offered as long-term care or nursing home insurance unless it complies with this chapter.

87 Acts, ch 131, § 7; 89 Acts, ch 321, § 3739; 91 Acts, ch 213, §2123; 95 Acts, ch 185, §1618

#### **514G.8 Administrative procedures.**

Rules adopted pursuant to this chapter must be in accordance with the provisions of section 505.8.

87 Acts, ch 131, §8

#### **514G.9 Reserved.**

#### **514G.10 Long-term care consumer guide.**

An insurer offering a long-term care insurance policy to any person shall provide to the applicant the current

long-term care insurance consumer guide prescribed by the insurance division of the department of commerce. The commissioner of insurance may by reference adopt or permit the use of the long-term care insurance consumer guide developed by the national association of insurance commissioners, the blue cross and blue shield association, or the health insurance association of America. Delivery of the long-term care insurance consumer guide shall be made if a policy is advertised, solicited, or issued as a policy as defined in this chapter, or if it is subject to this chapter, regardless of the label applied by the insurer. Except in the case of direct response insurers, delivery of the long-term care insurance consumer guide shall be made to the applicant at the time of application, and acknowledgment of receipt of the long-term care insurance consumer guide shall be obtained by the insurer. A direct response insurer shall deliver the long-term care insurance consumer guide to the applicant at the time the policy is delivered. An insurance company required to distribute the guide shall reimburse the state for all costs associated with the guide.

91 Acts, ch 213, §24