

SENATE NO. 623

AN ACT PROTECTING CONSUMERS IN THE PURCHASE OF LONG-TERM CARE INSURANCE

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 175J the following
2 chapter:-

CHAPTER 175K.

LONG-TERM CARE INSURANCE.

5 Section 1. Short title

6 This act shall be known, and may be cited as, “The Long-term care insurance act.”

7 Section 2. Purpose

8 The purpose of this act is to promote the availability of long-term care insurance; protect applicants for
9 long-term care insurance from unfair or deceptive sales or marketing practices; establish minimum
10 standards for long-term care insurance; empower the Commissioner to promulgate regulations
11 regarding long-term care insurance; and facilitate flexibility and innovation in the development of
12 long-term care insurance coverage.

13 Section 3. Definitions

- 14 a. “Long-term care insurance policy” means any insurance policy advertised, marketed, or designed to
15 provide coverage for one or more diagnostic, preventive, therapeutic, rehabilitative, maintenance, or
16 personal care services provided in a setting other than a hospital’s acute care unit.
- 17 b. “Applicant” means any person seeking to contract for benefits through an individual or group long-
18 term care insurance policy.
- 19 c. “Commissioner” means the Commissioner of the Massachusetts Division of Insurance.
- 20 d. “Elimination period” means the period between the time a policyholder files a claim and the time
21 benefits commence.
- 22 e. “Preexisting condition” means a condition for which a policyholder received medical advice or
23 treatment from a provider of health care services within 6 months preceding the policyholder’s
24 effective date of coverage.
- 25 f. “Appointee” means a person selected by the policyholder who, in addition to the policyholder, will
26 receive notice of impending termination of the policy.

27 Section 4. Eligible groups

28 An insurer shall not issue a long-term care insurance policy insuring more than one individual, unless
29 issued to:

- 30 1. An employer or labor organization, for its members, former members, or a combination thereof;
- 31 2. A professional, trade, or occupational association, for its members, former members, or a
32 combination thereof, provided that this association:
- 33 A. Is composed entirely of individuals who are or were actively engaged in the same
34 profession, trade, or occupation; and
- 35 B. Has been maintained in good faith for purposes other than obtaining insurance.

36 3. A group other than those described in section (a)(1) and (a)(2) of this act, subject to the
37 Commissioner's determination that:

38 A. The issuance of the group policy is consistent with the best interest of the public; and

39 B. The benefits are reasonable in relation to the premiums charged.

40 Section 5. Standards for coverage and disclosure requirements

41 a. An insurer shall not issue a long-term care insurance policy which:

42 1. Contains an elimination period of more than 90 days;

43 2. Conditions eligibility for benefits upon prior hospitalization of the policyholder;

44 3. Employs a definition of "preexisting condition" more restrictive than that contained in this
45 act; or

46 4. Covers less than 24 consecutive months of care for each covered person.

47 b. An insurer, prior to issuing a long-term care policy, shall ask the applicant to designate an
48 appointee. If the applicant declines to designate an appointee, the insurance company shall require the
49 applicant to sign a waiver stating in substance that the applicant has declined to name an appointee.

50 c. An insurer, prior to issuing a long-term care policy, shall provide the applicant with an outline of
51 coverage, which shall include:

52 1. A description of the principal benefits and coverage the policy provides;

53 2. A statement of the principal exclusions and limitations the policy contains;

54 3. A statement that the policy complies with all requirements of Massachusetts law.

55 d. An insurer, prior to issuing a long-term care policy, shall require the applicant to sign a form stating
56 in substance that the applicant understands the insurer may increase the policy premiums at any time.

57 Section 6. Policy administration

58 a. An insurer shall not cancel a long-term care insurance policy for any reason except nonpayment of
59 premiums, subject to Section 6(b) below.

60 b. An insurer, at least 30 days prior to canceling a long-term care policy, shall send notice by
61 registered mail to the policyholder and the policyholder's appointee of the impending cancellation.
62 Such notice shall include instructions for reversing a cancellation pursuant to Section 6(c) below.

63 c. If an insurer cancels a policy due to nonpayment of premium, the insurer shall reinstate the policy if
64 the policyholder, or the policyholder's appointee pursuant to Section 5(b) above:

65 1. Requests reinstatement of the policy within 90 days of the due date of the last unpaid
66 premium;

67 2. Demonstrates that the policyholder's failure to pay the premium when due was
68 unintentional and due to the diminished physical or mental capacity of the policyholder; and

69 3. Pays all overdue premiums.

70 d. An insurer, at least once per year, shall send a policyholder a statement of coverage, which shall
71 include, but not be limited to,:

72 1. The length of the policy's elimination period;

73 2. The policy's amount of coverage; and

74 3. The name of the policyholder's appointee.

75 e. An insurer, at least once per year, shall offer a policyholder the opportunity to modify:

76 1. The length of the policy's elimination period;

77 2. The policy's amount of coverage; and

78 3. The policyholder's appointee.

79 f. An insurer, at least once per year, shall submit to the Commissioner:

- 80 1. A brief description of long-term care insurance policies the insurer offers for sale in this
81 state;
- 82 2. Premium rate increases for each policy;
- 83 3. Lapse rates for each policy;
- 84 4. Claims denial rates for each policy; and
- 85 5. The amount the insurer has paid out in claims as a percentage of the amount the insurer has
86 collected in premiums.

87 Section 7. Regulations

88 a. The Commissioner, before July 1, 2004, shall promulgate regulations setting forth:

89 1. Standards for the marketing and sale of long-term care policies, including disclosure
90 requirements; and

91 2. The amount by which an insurer may increase long-term care insurance premiums annually
92 and over the life of the policy.

93 b. The Commissioner, at least once per year, shall compile comparative policy information gathered
94 from insurers pursuant to Section 6(f) above, and make the information readily available to consumers.

95 c. The Commissioner may promulgate regulations concerning the content or administration of long-
96 term care policies to supplement the restrictions contained in this act.