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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE -- LONG-TERM CARE INSURANCE

Introduced By: Representatives Keable, Johnston, and Kazarian

Date Introduced: February 14, 2013

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-34.2-14 of the General Laws in Chapter 27-34.2 entitled "Long-
2 Term Care Insurance" is hereby amended to read as follows:

3 **27-34.2-14. Standards for marketing.** -- (a) Every insurer, health care services plan, or
4 other entity marketing long term care insurance coverage in this state, directly or through its
5 producers, shall:

6 (1) Establish marketing procedures to assure that any comparison of policies by its
7 agents or other insurance producers and agent training requirements will be fair and accurate;

8 (2) Establish marketing procedures to assure excessive insurance is not sold or issued;

9 (3) Display prominently by type, stamp or other appropriate means, on the first page of
10 the outline of coverage and policy the following:

11 "Notice to buyer: This policy may not cover all of the costs associated with long term
12 care incurred by the buyer during the period of coverage. The buyer is advised to carefully review
13 all policy limitations."

14 (4) Inquire and make every reasonable effort to identify whether a prospective applicant
15 or enrollee for long term care insurance already has long term care insurance and the types and
16 amounts of any insurance; and

17 (5) Every insurer or entity marketing long term care insurance shall establish auditable
18 procedures for verifying compliance with this subsection.

19 (6) If the state in which the policy or certificate is to be delivered or issued for delivery

1 has a senior insurance counseling program approved by the commissioner, the insurer shall, at
2 solicitation, provide written notice to the prospective policyholder and certificateholder that the
3 program is available and the name, address and telephone number of the program.

4 (7) For long-term care health insurance policies and certificates, use the terms
5 "noncancellable" or "level premium" only when the policy or certificate ~~conforms to section~~
6 ~~6A(3) of this regulation~~ provides that the insured has the right to continue the long-term care
7 insurance in force by the timely payment of premiums during which period the insurer has no
8 right to unilaterally make any change in any provision of the insurance or in the premium rate.

9 (8) Provide an explanation of contingent benefit upon lapse and, if applicable, the
10 additional contingent benefit upon lapse provided to policies with fixed or limited premium
11 paying periods.

12 (b) In addition to the practices prohibited in chapter 29 of this title, the following acts
13 and practices are prohibited:

14 (1) Twisting. - Knowingly making any misleading representation or incomplete or
15 fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or
16 tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow
17 on or convert any insurance policy or to take out a policy of insurance with another insurer;

18 (2) High pressure tactics. - Employing any method of marketing having the effect of or
19 tending to induce the purchase of insurance through force, fright, threat, whether explicit or
20 implied, or undue pressure to purchase or recommend the purchase of insurance; and

21 (3) Cold lead advertising. - Making use directly or indirectly of any method of marketing
22 which fails to disclose in a conspicuous manner that a purpose of the method of marketing is
23 solicitation of insurance and that contact will be made by an insurance producer or insurance
24 company.

25 (4) Misrepresentation of a material fact when selling or offering to sell a long-term care
26 insurance policy.

27 (c) With respect to the obligations set forth in this section, the primary responsibility of
28 an association as described in section 27-34.2-4(4)(ii), when endorsing or selling long term care
29 insurance shall be to educate its members concerning long term care issued in general so that its
30 members can make informed decisions. Associations shall provide objective information
31 regarding long term care insurance policies or certificates endorsed or sold by those associations
32 to ensure that members of the associations are fully informed of the benefits and limitations in the
33 policies or certificates that are being endorsed or sold.

34 (d) The insurer shall file with the insurance department the following material:

- 1 (1) The policy and certificate;
- 2 (2) A corresponding outline of coverage; and
- 3 (3) All advertisements requested by the insurance department.
- 4 (e) The association shall disclose in any long term care insurance solicitation:
- 5 (1) The specific nature and amount of the compensation arrangements, including all fees,
- 6 commissions, administrative fees and other forms of financial support, that the association
- 7 receives from endorsement or sale of the policy or certificate to its members; and
- 8 (2) A brief description or outline of the process under which the policies and the insurer
- 9 issuing the policies were selected.
- 10 (f) If the association and the insurer have interlocking directories or trustee
- 11 arrangements, the association shall disclose that fact to its members.
- 12 (g) The board of directors of associations selling or endorsing long term care insurance
- 13 policies or certificates shall review and approve the insurance policies as well as the
- 14 compensation arrangements made with the insurer.
- 15 (h) The association shall also:
- 16 (1) At the time of the association's decision to endorse, engage the services of a person
- 17 with expertise in long term care insurance not affiliated with the insurer to conduct an
- 18 examination of the policies, including benefits, features, and rates and update the examination
- 19 thereafter in the event of material change.
- 20 (2) Actively monitor the marketing efforts of the insurer and its insurance producers; and
- 21 (3) Review and approve all marketing materials or other insurance communications used
- 22 to promote sales or sent to members regarding the policies or certificates.
- 23 (4) Subdivisions (h)(1), (h)(2) and (h)(3) shall not apply to qualified long-term care
- 24 insurance contracts.
- 25 (i) No group long term care insurance policy or certificate may be issued to an
- 26 association unless the insurer files with the director the information required in this section.
- 27 (j) The insurer shall not issue a long term care policy or certificate to an association or
- 28 continue to market the policy or certificate unless the insurer certifies annually that the
- 29 association has complied with the requirements set forth in this section.

30 SECTION 2. Section 27-35-3 of the General Laws in Chapter 27-35 entitled "Insurance

31 Holding Company Systems" is hereby amended to read as follows:

32 **27-35-3. Registration of insurers.** -- (a) Registration. - Every insurer which is

33 authorized to do business in this state and which is a member of an insurance holding company

34 system shall register with the commissioner, except a foreign insurer subject to registration

1 requirements and standards adopted by statute or regulation in the jurisdiction of its domicile
2 which are substantially similar to those contained in:

3 (1) this section;

4 (2) section 27-35-4(a)(1), (b) and (d) and

5 (3) Either subdivision 27-35-4(a)(2) or a provision such as the following: Each registered
6 insurer shall keep current the information required to be disclosed in its registration statement by
7 reporting all material changes or additions within fifteen (15) days after the end of the month in
8 which it learns of each change or addition.

9 Any insurer which is subject to registration under this section shall register fifteen (15)
10 days after it becomes subject to registration, and annually thereafter by ~~March~~ May 1 of each year
11 for the previous calendar year, unless the commissioner for good cause shown extends the time
12 for registration, and then within the extended time. The commissioner may require any insurer
13 authorized to do business in the state which is a member of an insurance holding company system
14 and which is not subject to registration under this section to furnish a copy of the registration
15 statement, the summary specified in subsection (c) of this section or other information filed by the
16 insurance company with the insurance regulatory authority of domiciliary jurisdiction.

17 (b) Information and form required. - Every insurer subject to registration shall file a
18 registration statement with the commissioner on a form and in a format prescribed by the NAIC,
19 which shall contain the following current information:

20 (1) The capital structure, general financial condition, ownership, and management of the
21 insurer and any person controlling the insurer;

22 (2) The identity and relationship of every member of the insurance holding company
23 system;

24 (3) The following agreements in force and transactions currently outstanding or which
25 have occurred during the last calendar year between the insurer and its affiliates:

26 (i) Loans, other investments or purchases, sales or exchanges of securities of the
27 affiliates by the insurer or of the insurer by its affiliates;

28 (ii) Purchases, sales, or exchanges of assets;

29 (iii) Transactions not in the ordinary course of business;

30 (iv) Guarantees or undertakings for the benefit of an affiliate which result in an actual
31 contingent exposure of the insurer's assets to liability, other than insurance contracts entered into
32 in the ordinary course of the insurer's business;

33 (v) All management service contracts, service contracts and all cost sharing
34 arrangements;

- 1 (vi) Reinsurance agreements;
- 2 (vii) Dividends and other distributions to shareholders; and
- 3 (viii) Consolidated tax allocation agreements;
- 4 (4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling
5 affiliate, for a loan made to any member of the insurance holding company system;
- 6 (5) If requested by the commissioner, the insurer shall include financial statements of or
7 within an insurance holding company system, including all affiliates. Financial statements may
8 include, but are not limited to, annual audited financial statements filed with the U.S. Securities
9 and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as amended, or the
10 Securities Exchange Act of 1934, as amended. An insurer required to file financial statements
11 pursuant to this paragraph may satisfy the request by providing the commissioner with the most
12 recently filed parent corporation financial statements that have been filed with the SEC;
- 13 (6) Other matters concerning transactions between registered insurers and any affiliates
14 as may be included from time to time in any registration forms adopted or approved by the
15 commissioner;
- 16 (7) Statements that the insurer's board of directors oversees corporate governance and
17 internal controls and that the insurer's officers or senior management have approved,
18 implemented, and continue to maintain and monitor corporate governance and internal control
19 procedures; and
- 20 (8) Any other information required by the commissioner by rule or regulation.
- 21 (c) Summary of Changes to Registration Statement. - All registration statements shall
22 contain a summary outlining all items in the current registration statement representing changes
23 from the prior registration statement.
- 24 (d) Materiality. - No information need be disclosed on the registration statement filed
25 pursuant to subsection (b) of this section if that information is not material for the purposes of this
26 section. Unless the commissioner by rule, regulation, or order provides otherwise, sales,
27 purchases, exchanges, loans, or extensions of credit, investments or guarantees involving one-half
28 of one percent (.5%) or less of an insurer's admitted assets as of the 31st day of December next
29 preceding shall not be deemed material for purposes of this section.
- 30 (e) Reporting of Dividends to Shareholders. - Subject to subsection 27-35-4(b), each
31 registered insurer shall report to the commissioner all dividends and other distributions to
32 shareholders within fifteen (15) business days following the declaration thereof.
- 33 (f) Information of Insurers. - Any person within an insurance holding company system
34 subject to registration shall be required to provide complete and accurate information to an

1 insurer, where the information is reasonably necessary to enable the insurer to comply with the
2 provisions of this act.

3 (g) Termination of registration. - The commissioner shall terminate the registration of
4 any insurer that demonstrates that it no longer is a member of an insurance holding company
5 system.

6 (h) Consolidated filing. - The commissioner may require or allow two (2) or more
7 affiliated insurers subject to registration to file a consolidated registration statement.

8 (i) Alternative registration. - The commissioner may allow an insurer that is authorized
9 to do business in this state and which is part of an insurance holding company system to register
10 on behalf of any affiliated insurer which is required to register under subsection (a) and to file all
11 information and material required to be filed under this section.

12 (j) Exemptions. - The provisions of this section shall not apply to any insurer,
13 information, or transaction if and to the extent that the commissioner by rule, regulation, or order
14 shall exempt from the provisions of this section.

15 (k) Disclaimer. - Any person may file with commissioner a disclaimer of affiliation with
16 any authorized insurer or a disclaimer may be filed by the insurer or any member of an insurance
17 holding company system. The disclaimer shall fully disclose all material relationships and bases
18 for affiliation between the person and the insurer as well as the basis for disclaiming the
19 affiliation.

20 A disclaimer of affiliation shall be deemed to have been granted unless the
21 commissioner, within thirty (30) days following receipt of a complete disclaimer, notifies the
22 filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party
23 may request an administrative hearing, which shall be granted. The disclaiming party shall be
24 relieved of its duty to register under this section if approval of the disclaimer has been granted by
25 the commissioner, or if the disclaimer is deemed to have been approved.

26 (l) Enterprise Risk Filing. - The ultimate controlling person of every insurer subject to
27 registration shall also file an annual enterprise risk report. The report shall, to the best of the
28 ultimate controlling person's knowledge and belief, identify the material risks within the
29 insurance holding company system that could pose enterprise risk to the insurer. The report shall
30 be filed with the lead state commissioner of the insurance holding company system as determined
31 by the procedures within the financial analysis handbook adopted by the national association of
32 insurance commissioners.

33 (m) Violations. - The failure to file a registration statement or any summary of the
34 registration statement or enterprise risk filing required by this section within the time specified for

1 the filing shall be a violation of this section.

2 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- LONG-TERM CARE INSURANCE

1 This act would amend the registration filing date for insurance companies governed by
2 the applicable provisions of the general laws and would provide that long-term health care
3 insurance policies and certificates include the terms "noncancellable" or "level premium" only
4 under certain circumstances.

5 This act would take effect upon passage.

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