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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO INSURANCE -- LONG-TERM CARE INSURANCE

Introduced By: Representatives Kennedy, Azzinaro, Johnston, Casey, and Solomon

Date Introduced: February 26, 2020

Referred To: House Corporations

(Dept. of Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-34.2-6 of the General Laws in Chapter 27-34.2 entitled "Long  
2 Term Care Insurance" is hereby amended to read as follows:

3 **27-34.2-6. Disclosure and performance standards for long-term care insurance.**

4 (a) The director may adopt regulations that establish:

5 (1) Standards for full and fair disclosure setting forth the manner, content, and required  
6 disclosures for the sale of long term care insurance policies, terms of renewability, initial and  
7 subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of  
8 dependents, preexisting conditions, termination of insurance, continuation or conversion,  
9 probationary periods, limitations, exceptions, reductions, elimination periods, requirements for  
10 replacement, recurrent conditions, and definitions of terms; and

11 (2) Reasonable rules and regulations that are necessary, proper, or advisable to the  
12 administration of this chapter including the procedure for the filing or submission of policies  
13 subject to this chapter. This provision may not abridge any other authority granted the director by  
14 law.

15 (b) No long term care insurance policy may:

16 (1) Be cancelled, nonrenewed, or terminated on the grounds of the age or the deterioration  
17 of the mental or physical health of the insured individual or certificate holder; or

18 (2) Contain a provision establishing a new waiting period in the event existing coverage is  
19 converted to or replaced by a new or other form within the same company, except with respect to

1 an increase in benefits voluntarily selected by the insured individual or group policyholder; or

2 (3) Provide coverage for skilled nursing care only or provide more coverage for skilled  
3 care in a facility than coverage for lower levels of care.

4 (c) A long term care policy must provide:

5 (1) Home health care benefits that are at least fifty percent (50%) of those provided for care  
6 in a nursing facility. The evaluation of the amount of coverage shall be based on aggregate days of  
7 care covered for home health care when compared to days of care covered for nursing home care;  
8 and

9 (2) Home health care benefits which meet the National Association of Insurance  
10 Commissioners' minimum standards for home health care benefits in long term care insurance  
11 policies.

12 (d)(1) No long term care insurance policy or certificate other than a policy or certificate  
13 issued to a group as defined in § 27-34.2-4(4)(i) shall use a definition of "preexisting condition"  
14 which is more restrictive than the following: "preexisting condition" means a condition for which  
15 medical advice or treatment was recommended by, or received from a provider of health care  
16 services, within six (6) months preceding the effective date of coverage of an insured person;

17 (2) No long term care insurance policy or certificate other than a policy or certificate issued  
18 to a group as defined in § 27-34.2-4(4)(i) may exclude coverage for a loss or confinement which is  
19 the result of a preexisting condition, unless the loss or confinement begins within six (6) months  
20 following the effective date of coverage of an insured person;

21 (3) The director may extend the limitation periods set forth in ~~subdivisions § 27-34.2-~~  
22 ~~6(d)(1) and (d)(2) of this subsection~~ as to specific age group categories in specific policy forms  
23 upon findings that the extension is in the best interest of the public;

24 (4) The definition of "preexisting condition" does not prohibit an insurer from using an  
25 application form designed to elicit the complete health history of an applicant, and, on the basis of  
26 the answers on that application, from underwriting in accordance with that insurer's established  
27 underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting  
28 condition, regardless of whether it is disclosed on the application, need not be covered until the  
29 waiting period described in ~~subdivision § 27-34.2-6(d)(2) of this subsection~~ expires. No long term  
30 care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude,  
31 limit or reduce coverage or benefits for specifically named or described preexisting diseases or  
32 physical conditions beyond the waiting period described in ~~subdivision § 27-34.2-6(d)(2) of this~~  
33 ~~subsection~~, unless the waiver or rider has been specifically approved by the director as set forth in  
34 § 27-34.2-8. This shall not permit exclusion or limitation of benefits on the basis of Alzheimer's

1 disease, other dementias, or organic brain disorders.

2 (e)(1) No long term care insurance policy may be delivered or issued for delivery in this  
3 state if the policy:

4 (i) Conditions eligibility for any benefits on a prior hospitalization or institutionalization  
5 requirement; or

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

8 (iii) Conditions eligibility for any benefits other than waiver of premium, post-  
9 confinement, post-acute care or recuperative benefits on a prior institutionalization requirement.

10 (2)(i) A long-term care insurance policy ~~containing post confinement, post acute care or~~  
11 ~~recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled~~  
12 ~~"Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any~~  
13 ~~required number of days of confinement~~ or rider shall not condition eligibility for non-institutional  
14 benefits on the prior or continuing receipt of skilled care services.

15 ~~(ii) A long term care insurance policy or rider that conditions eligibility of noninstitutional~~  
16 ~~benefits on the prior receipt of institutional care shall not require a prior institutional stay of more~~  
17 ~~than thirty (30) days.~~

18 (3) No long-term insurance policy or rider that provides benefits only following  
19 institutionalization shall condition such benefits upon admission to a facility for the same or related  
20 conditions within a period of less than thirty (30) days after discharge from the institution.

21 (f) The commissioner may adopt regulations establishing loss ratio standards for long term  
22 care insurance policies provided that a specific reference to long term care insurance policies is  
23 contained in the regulation.

24 (g) ~~Right to return — Free look. Long term care insurance applicants shall have the right to~~  
25 ~~return the policy or certificate within thirty (30) days of its delivery and to have the premium~~  
26 ~~refunded if, after examination of the policy or certificate, the applicant is not satisfied for any~~  
27 ~~reason. Long term care insurance policies and certificates shall have a notice prominently printed~~  
28 ~~on the first page or attached to the policy or certificate stating in substance that the applicant shall~~  
29 ~~have the right to return the policy or certificate within thirty (30) days of its delivery and to have~~  
30 ~~the premium refunded if, after examination of the policy or certificate other than a certificate issued~~  
31 ~~pursuant to a policy issued to a group defined in § 27-34.2-4(4)(i), the applicant is not satisfied for~~  
32 ~~any reason. This subsection shall also apply to denials of applications and any refund must be made~~  
33 ~~within thirty (30) days of the return or denial.~~

34 (1) Long-term care insurance applicants shall have the right to return the policy, certificate

1 or rider to the company or an agent/insurance producer of the company within thirty (30) days of  
2 its receipt and to have the premium refunded if, after examination of the policy, certificate or rider,  
3 the applicant is not satisfied for any reason.

4 (2) Long-term care insurance policies, certificates and riders shall have a notice  
5 prominently printed on the first page or attached thereto including specific instructions to  
6 accomplish a return. This requirement shall not apply to certificates issued pursuant to a policy  
7 issued to a group defined in § 27-34.2-4. The following free look statement or language  
8 substantially similar shall be included:

9 "You have thirty (30) days from the day you receive this policy, certificate or rider to  
10 review it and return it to the company if you decide not to keep it. You do not have to tell the  
11 company why you are returning it. If you decide not to keep it, simply return it to the company at  
12 its administration office. Or you may return it to the agent/insurance producer that you bought it  
13 from. You must return it within thirty (30) days of the day you first received it. The company will  
14 refund the full amount of any premium paid within thirty (30) days after it receives the returned  
15 policy, certificate or rider. The premium refund will be sent directly to the person who paid it. The  
16 policy, certificate or rider will be void as if it had never been issued."

17 (h)(1) An outline of coverage shall be delivered to a prospective applicant for long term  
18 care insurance at the time of initial solicitation through means which prominently direct the  
19 attention of the recipient to the document and its purpose;

20 (2) The commissioner shall prescribe a standard format, including style, arrangement, and  
21 overall appearance, and the content of an outline of coverage;

22 (3) In the case of insurance producer solicitations, an insurance producer must deliver the  
23 outline of coverage prior to the presentation of an application or enrollment form;

24 (4) In the case of direct response solicitations, the outline of coverage must be presented in  
25 conjunction with any application or enrollment form;

26 (5) In the case of a policy issued to a group defined in ~~subdivision~~ § 27-34.2-4(4)(i) of this  
27 ~~act~~ chapter, an outline of coverage shall not be required to be delivered, provided that the  
28 information described in ~~subdivision~~ §§ 27-34.2-6(6)(i) ~~—subdivision through~~ 27-34.2-6(6)(vi) is  
29 contained in other materials relating to enrollment. Upon request, these other materials shall be  
30 made available to the commissioner.

31 (6) The outline of coverage shall include:

32 (i) A description of the principal benefits and coverage provided in the policy;

33 (ii) A description of the eligibility triggers for benefits and how those triggers are met;

34 ~~(ii)~~(iii) A statement of the principal exclusions, reductions, and limitations contained in the

1 policy;

2 ~~(iii)~~(iv) A statement of the terms under which the policy or certificate, or both, may be  
3 continued in force or discontinued, including any reservation in the policy of a right to change  
4 premiums. Continuation or conversion provisions of group coverage shall be specifically described;

5 ~~(iv)~~(v) A statement that the outline of coverage is only a summary, not a contract of  
6 insurance, and that the policy or group master policy contains governing contractual provisions;

7 ~~(v)~~(vi) A description of the terms under which the policy or certificate may be returned and  
8 the premium refunded; and

9 ~~(vi)~~(vii) A brief description of the relationship of cost of care and benefits.

10 ~~(vii)~~(viii) A statement that discloses to the policyholder or certificate holder whether the  
11 policy is intended to be a federally tax-qualified long-term care insurance contract under §  
12 7702B(b) of the Internal Revenue Code of 1986, as amended, et seq.

13 (i) A certificate issued pursuant to a group long term care insurance policy which policy is  
14 delivered or issued for delivery in this state shall include:

15 (1) A description of the principal benefits and coverage provided in the policy;

16 (2) A statement of the principal exclusions, reductions, and limitations contained in the  
17 policy; and

18 (3) A statement that the group master policy determines governing contractual provisions.

19 ~~(4)~~(j) If an application for a long-term care insurance contract or certificate is approved,  
20 the issuer shall deliver the contract or certificate of insurance to the applicant no later than thirty  
21 (30) days after the date of approval.

22 ~~(5)~~(k) At the time of policy delivery, a policy summary shall be delivered for an individual  
23 life insurance or annuity policy which provides long term care benefits within the policy or by rider.  
24 In the case of direct response solicitations, the insurer shall deliver the policy summary upon the  
25 applicant's request, but regardless of request shall make the delivery no later than at the time of  
26 policy delivery. In addition to complying with all applicable requirements, the summary shall also  
27 include:

28 (1) An explanation of how the long term care benefit interacts with other components of  
29 the policy, ~~including deductions from death benefits;~~

30 (2) An illustration of the amount of benefits, the length of benefits, and the guaranteed  
31 lifetime benefits, including a statement that any long-term care inflation projection option required  
32 by § 27-34.2-13, is not available under the policy for each covered person;

33 (3) Any exclusions, reductions, and limitations on benefits of long term care benefits; ~~and~~

34 (4) A statement that any long-term care inflation protection option required by 230-RICR-

1 20-35-1 is not available under this policy. If inflation protection was not required to be offered, or  
2 if inflation protection was required to be offered but was rejected, a statement that inflation  
3 protection is not available under this policy that proves long-term care benefits, and an explanation  
4 of other options available under the policy, if any, to increase the funds available to pay for the  
5 long-term care benefits.

6 ~~(4)~~(5) If applicable to the policy type, the summary shall also include:

7 (i) A disclosure of the effects of exercising other rights under the policy;

8 (ii) ~~A disclosure of guarantees related to long term care costs of insurance charges~~ A  
9 disclosure of guarantees, fees or other costs related to long-term care costs of insurance charges in  
10 the base policy and any riders; and

11 (iii) Current and projected periodic and maximum lifetime benefits; ~~and~~

12 ~~(5)~~(6) The provisions of the policy summary listed above may be incorporated into a basic  
13 illustration or into the life insurance policy summary which is required to be delivered in  
14 accordance with chapter 4 of this title and the rules and regulations promulgated under § 27-4-23.

15 ~~(1)~~(1) Any time a long term benefit, funded through a life insurance vehicle by the  
16 acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to  
17 the policyholder. The report shall include:

18 (1) Any long term care benefits paid out during the month;

19 (2) Any costs or changes that apply or will apply to the policy or any riders;

20 ~~(2)~~(3) An explanation of any changes in the policy, e.g. death benefits or cash values, due  
21 to long term care benefits being paid out; and

22 ~~(3)~~(4) The amount of long term care benefits existing or remaining.

23 ~~(m)~~(m) Any policy or rider advertised, marketed, or offered as long term care or nursing  
24 home insurance shall comply with the provisions of this chapter.

25 ~~(n)~~(n) If a claim under a long-term care insurance contract is denied, the issuer shall, within  
26 sixty (60) days of the date of a written request by the policyholder or certificate holder, or a  
27 representative thereof:

28 (1) Provide a written explanation of the reasons for the denial; and

29 (2) Make available all information directly related to the denial.

30 (o) Any policy, certificate or rider advertised, marketed or offered as long-term care or  
31 nursing home insurance, as defined in § 27-34.2-4, shall comply with the provisions of this chapter.

1 SECTION 2. 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

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- 1           This act would update the long-term care insurance statute into conformance with the latest
- 2 version of the National Association of Insurance Commissioners model.
- 3           This act would take effect upon passage.

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