

FIRST REGULAR SESSION

HOUSE BILL NO. 46

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HALEY.

0582H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 376.1109, RSMo, and to enact in lieu thereof one new section relating to long-term care insurance.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 376.1109, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.1109, to read as follows:

376.1109. 1. The director may adopt regulations that include standards for full and fair disclosure 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, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions and definitions of terms. Regulations adopted pursuant to sections 376.1100 to 376.1130 shall be in accordance with the provisions of chapter 536.

2. No long-term care insurance policy may:

(1) Be cancelled, 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; or

(2) 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; or

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

19 3. No long-term care insurance policy or certificate other than a policy or certificate
20 thereunder issued to a group as defined in paragraph (a) of subdivision (4) of subsection 2 of
21 section 376.1100:

22 (1) Shall use a definition of preexisting condition which is more restrictive than the
23 following: "Preexisting condition" means a condition for which medical advice or treatment
24 was recommended by, or received from, a provider of health care services, within six months
25 preceding the effective date of coverage of an insured person;

26 (2) May exclude coverage for a loss or confinement which is the result of a
27 preexisting condition unless such loss or confinement begins within six months following the
28 effective date of coverage of an insured person.

29 4. The director may extend the limitation periods set forth in subdivisions (1) and (2)
30 of subsection 3 of this section as to specific age group categories in specific policy forms
31 upon findings that the extension is in the best interest of the public.

32 5. The definition of preexisting condition provided in subsection 3 of this section
33 does not prohibit an insurer from using an application form designed to elicit the complete
34 health history of an applicant, and, on the basis of the answers on that application, from
35 underwriting in accordance with that insurer's established underwriting standards. Unless
36 otherwise provided in the policy or certificate, a preexisting condition, regardless of whether
37 it is disclosed on the application, need not be covered until the waiting period described in
38 subdivision (2) of subsection 3 of this section expires. No long-term care insurance policy or
39 certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce
40 coverage or benefits for specifically named or described preexisting diseases or physical
41 conditions beyond the waiting period described in subdivision (2) of subsection 3 of this
42 section.

43 6. No long-term care insurance policy may be delivered or issued for delivery in this
44 state if such policy:

45 (1) Conditions eligibility for any benefits on a prior hospitalization requirement; or

46 (2) Conditions eligibility for benefits provided in an institutional care setting on the
47 receipt of a higher level of institutional care; or

48 (3) Conditions eligibility for any benefits other than waiver of premium, post-
49 confinement, post-acute care or recuperative benefits on a prior institutionalization
50 requirement.

51 7. A long-term care insurance policy containing post-confinement, post-acute care or
52 recuperative benefits shall clearly label in a separate paragraph of the policy or certificate

53 entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions,
54 including any required number of days of confinement.

55 8. A long-term care insurance policy or rider which conditions eligibility of
56 noninstitutional benefits on the prior receipt of institutional care shall not require a prior
57 institutional stay of more than thirty days.

58 9. No long-term care insurance policy or rider which provides benefits only following
59 institutionalization shall condition such benefits upon admission to a facility for the same or
60 related conditions within a period of less than thirty days after discharge from the institution.

61 10. The director may adopt regulations establishing loss ratio standards for long-term
62 care insurance policies provided that a specific reference to long-term care insurance policies
63 is contained in the regulation.

64 11. Long-term care insurance applicants shall have the right to return the policy or
65 certificate within thirty days of its delivery and to have the premium refunded if, after
66 examination of the policy or certificate, the applicant is not satisfied for any reason. Long-
67 term care insurance policies and certificates shall have a notice prominently printed on the
68 first page or attached thereto stating in substance that the applicant shall have the right to
69 return the policy or certificate within thirty days of its delivery and to have the premium
70 refunded if, after examination of the policy or certificate, other than a certificate issued
71 pursuant to a policy issued to a group defined in paragraph (a) of subdivision (4) of
72 subsection 2 of section 376.1100, the applicant is not satisfied for any reason. This subsection
73 shall also apply to denials of applications and any refund must be made within thirty days of
74 the return or denial.

75 12. (1) If a long-term care insurance policy issued, delivered, or renewed in this state
76 on or after January 1, 2011, is cancelled for any reason, the insurer shall refund the unearned
77 portion of any premium paid beyond the month in which the cancellation is effective. Any
78 refund shall be returned to the policyholder within twenty days from the date the insurer
79 receives notice of the cancellation. Long-term care insurance policies and certificates shall
80 have a notice prominently printed on the first page or attached thereto stating in substance that
81 the applicant shall be entitled to a refund of the unearned premium if the policy is cancelled
82 for any reason.

83 (2) The policyholder may notify the insurer of cancellation of such long-term care
84 insurance policy at any time by sending written or electronic notification.

85 13. No long-term care insurance policy shall increase premium rates, measured
86 annually, in excess of **the least of the following:**

87 (1) The amount that is actuarially justified based on credible experience, and on the
88 rate basis in effect in this state without recognition of rates that may be in effect in other
89 states;

90 **(2) The percentage change in the Consumer Price Index for All Urban**
91 **Consumers or its successor index, as published by the federal Bureau of Labor Statistics**
92 **or its successor agency; or**

93 **(3) Five percent.**

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