STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 561 By: Hendrick of the Senate

and

Cox of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to long-term care insurance; amending 36 O.S. 1991, Section 4421, which relates to short title; updating statutory reference; excluding certain policies, riders and certificates from provisions of act; requiring insurer offer option of policy with nonforfeiture benefits; requiring Insurance Commissioner promulgate certain rules; describing nonforfeiture benefit; providing for determination of standard nonforfeiture credit and stating minimum credit and limitations; providing for use of nonforfeiture credit; prohibiting difference in benefits for group and individual policies; limiting total benefits paid; requiring development of suitability standards and providing for related training, copies, procedures, information, worksheet and disclosure forms; prohibiting sale or dissemination of certain information; requiring use of suitability standards to determine appropriateness of coverage and to market insurance; prohibiting insurer from charging renewal premium rate which exceeds certain percent increase; authorizing Insurance Commissioner to approve exceptions to limitation upon certain showing; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 4421, is amended to read as follows:

Section 4421. ~~Sections~~ Section 4421 ~~through 4427~~ et seq. of this title ~~and Section 6 of this act~~ shall be a part of the Insurance Code and shall be known and may be cited as the "Long-Term Care Insurance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4426.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. No insurer may offer a long-term care insurance policy unless the insurer also offers to the applicant the option to purchase a policy that provides for nonforfeiture benefits.

2. This section shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

3. For certificates issued on or after the effective date of this act, under a group long-term care insurance policy as defined in Section 4424 of Title 36 of the Oklahoma Statutes, which policy was in force at the time this act became effective, the provisions of this section shall not apply.

B. The Insurance Commissioner shall promulgate rules which are consistent with the National Association of Insurance Commissioners (NAIC) Long-Term Care Model Regulation and which specify the types of nonforfeiture benefits to be included in policies and certificates, the standards for the benefits, and the date nonforfeiture benefits must commence.

C. 1. For purposes of this section, the nonforfeiture benefit shall be a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefit amounts and frequency in effect at the time of lapse, but not increased thereafter, shall be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in paragraph 2 of this subsection.

2. The standard nonforfeiture credit shall be equal to one hundred percent (100%) of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation set forth in subsection D of this section.

3. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.

4. There shall be no difference in the minimum nonforfeiture benefits as required under this section for group and individual policies.

D. All benefits paid by the insurer while the policy or certificate is in premium paying status and in paid-up status shall not exceed the maximum benefits which would have been payable if the policy or certificate had remained in premium paying status.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4429 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. This section shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

2. For certificates issued on or after the effective date of this act, under a group long-term care insurance policy as defined in Section 4424 of Title 36 of the Oklahoma Statutes, which policy was in force at the time this act became effective, the provisions of this section shall not apply.

B. Every provider of long-term care insurance shall:

1. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant;

2. Train its agents in the use of its suitability standards; and

3. Maintain a copy of its suitability standards and make them available for inspection upon request by the Insurance Commissioner.

C. 1. To determine whether the applicant meets the standards developed by the provider, the agent and provider shall develop procedures that take the following into consideration:

a. the ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage,

b. the applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs, and

c. the values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

2. The provider and, where an agent is involved, the agent shall make reasonable efforts to obtain the information set out in paragraph 1 of this subsection. The efforts shall include, at or prior to application, providing the applicant with a personal worksheet and a disclosure form which have been prescribed by the Commissioner and are consistent with the National Association of Insurance Commissioners (NAIC) Long-Term Care Insurance Model Regulation.

3. A completed personal worksheet shall be returned to the provider prior to the provider's consideration of the applicant for coverage, except that the personal worksheet need not be returned to employees and their spouses for sales of employer group long-term care insurance.

4. The sale or dissemination outside the company or agency by the provider or agent of information obtained through the personal worksheet is prohibited.

D. The provider shall use the suitability standards it has developed pursuant to this section and information furnished by the applicant in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4430 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. An insurer may not charge a renewal premium rate for a long-term care insurance policy which exceeds by more than fifteen

percent (15%) any premium charged for the policy during the preceding twelve (12) months.

2. Upon approval of the Insurance Commissioner, an insurer may charge a renewal premium exceeding the fifteen percent (15%) increase provided for in paragraph 1 of this subsection upon showing that a larger increase is necessary because of utilization of policy benefits in excess of the expected rate.

B. 1. This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

2. For certificates issued on or after the effective date of this act, under a group long-term care insurance policy as defined in Section 4424 of Title 36 of the Oklahoma Statutes, which policy was in force at the time this act became effective, the provisions of this section shall not apply.

SECTION 5. This act shall become effective November 1, 1995.

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