ENGROSSED SENATE
BILL NO. 561 By: Hendrick of the Senate

and

Cox of the House

[long-term care insurance - amending 36 O.S. - short title - nonforfeiture benefits - policies and riders - nonforfeiture credit - prohibiting difference in benefits for group and individual policies - standards - procedures - dissemination of certain information - insurance - long-term care certificates - exceptions to application of premium increase restrictions - codification - 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 4421 ~~through 4427~~ <u>et seq.</u> 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 long-term care insurance policy or certificate may be delivered or issued for delivery in this state unless the policy or certificate provides for nonforfeiture benefits to the defaulting or lapsing policyholder or certificate holder.

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

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

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. Except as provided in subsection B of this section, long-term care insurance policies or certificates issued in this state on or after the effective date of this section shall be subject to the following restrictions:

1. The initial premium charged an insured covered by a long-term care policy shall not increase during the initial four (4) years in which the policy is in force;

2. Except as provided in paragraph 4 of this subsection, any premium rate increases after the initial four-year period are subject to the following restrictions:

a. for insureds age eighty (80) and over, the premium charged may not increase more than ten percent (10%) in the aggregate during any five-year period,

b. for insureds age sixty-five (65) to age eighty (80), the premium charged may not increase more than fifteen percent (15%) in the aggregate during any five-year period,

c. for insureds under the age of sixty-five (65), the premium charged may not increase more than twenty-five percent (25%) in the aggregate during any four-year period, and

d. the premium charged to an insured shall not increase due to either:

(i) the increasing age of the insured at ages beyond sixty-five (65), or

(ii) the duration the insured has been covered under the policy;

3. Policies which provide for inflation protection shall be subject to the restrictions in paragraphs 1 and 2 of this subsection; however, the purchase of additional coverage shall not be considered a premium rate increase for purposes of determining compliance with paragraph 2 of this subsection at the time additional coverage is purchased. The premium charged for the purchase of additional coverage shall be subject to paragraph 2 of this subsection for any subsequent premium rate increases where no additional purchases of coverage are made.

4. The Insurance Commissioner may amend, for universal application, the premium rate restrictions imposed by this

subsection, in appropriate circumstances, including but not limited to the following:

a. state or federal law is amended, materially affecting the insured risk,

b. unforeseen changes occur in long-term care delivery, insured morbidity or insured mortality, or

c. judicial interpretations or rulings are rendered regarding policy benefits or benefit triggers resulting in unforeseen claim liabilities.

Provided, nothing in this paragraph shall limit the Insurance Commissioner's authority pursuant to other sections of the Insurance Code of this state.

B. 1. For certificates issued on or after the effective date of this section, 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 section became effective, the provisions of this section shall not apply.

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

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

Passed the Senate the 8th day of March, 1995.

President of the Senate

Passed the House of Representatives the ____ day of ___________, 1995.

Speaker of the House of Representatives