

REFERENCE TITLE: long-term care insurance

State of Arizona
Senate
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2007

SB 1474

Introduced by
Senators Aguirre, Aboud, Landrum Taylor, Pesquiera, Rios; Representatives
Bradley, Farley, Gallardo, Pancrazi, Ulmer; Senators Allen, Arzberger,
Cheuvront, Garcia, Hale, McCune Davis, Miranda, O'Halleran, Soltero;
Representatives Brown, Burns J, Konopnicki, Lopes, Lopez, Lujan

AN ACT

AMENDING SECTIONS 20-1691 AND 20-1691.03, ARIZONA REVISED STATUTES; AMENDING
TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION
20-1691.12; RELATING TO LONG-TERM CARE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-1691, Arizona Revised Statutes, is amended to
3 read:
4 20-1691. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Applicant" means:
7 (a) In the case of an individual long-term care insurance policy, the
8 person who seeks to contract for such benefits.
9 (b) In the case of a group long-term care insurance policy, the
10 proposed certificate holder.
11 2. "Certificate" means a certificate issued under a group long-term
12 care insurance policy, which group policy has been delivered or issued for
13 delivery in this state.
14 3. "Chronically ill individual" means any individual who has been
15 certified by a licensed health care practitioner as meeting the definition of
16 illness established by title III of the health insurance portability and
17 accountability act of 1996 (P.L. 104-191).
18 4. "Director" means the director of the department of insurance.
19 5. "Group" means any of the following:
20 (a) One or more employers or labor organizations, or a trust or the
21 trustees of a fund established by one or more employers or labor
22 organizations for employees or former employees or members or former members
23 of the labor organization.
24 (b) A professional, trade or occupational association for its members
25 or former or retired members if the association is composed of individuals
26 who were all actively engaged in the same profession, trade or occupation and
27 the association has been maintained in good faith for purposes other than
28 obtaining insurance.
29 (c) An association or a trust or the trustees of a fund established,
30 created or maintained for the benefit of members of one or more associations,
31 subject to compliance with the requirements of section 20-1691.04, subsection
32 A.
33 (d) A group other than that described in subdivision (a), (b) or (c)
34 of this paragraph if a policy issued to the group satisfies the criteria
35 under section 20-1691.04, subsection C.
36 6. "Group long-term care insurance" means a long-term care insurance
37 policy that is delivered or issued for delivery in this state to a group.
38 7. "Licensed health care practitioner" means any physician licensed
39 pursuant to title 32, chapter 13 or 17, any registered nurse or registered
40 nurse practitioner licensed pursuant to title 32, chapter 15 or any other
41 individual who meets the requirements prescribed by the United States
42 secretary of the treasury.
43 8. "Long-term care insurance" means an individual or group insurance
44 policy or rider issued by insurers, fraternal benefit societies, nonprofit
45 health, hospital and medical service corporations, prepaid health plans,

1 health care services organizations or any similar organization and
2 advertised, marketed, offered or designed to provide coverage for each
3 covered person on an expense-incurred, indemnity, prepaid or other basis for
4 one or more necessary or medically necessary diagnostic, preventive,
5 therapeutic, rehabilitative, maintenance, personal or custodial care services
6 provided in a setting other than an acute care unit of a hospital. Long-term
7 care insurance includes group and individual annuities, life insurance
8 policies or riders that provide or supplement long-term care insurance and
9 qualified long-term care insurance contracts. Long-term care insurance also
10 includes a policy or rider that provides for payment of benefits based on
11 cognitive impairment or loss of functional capacity. Long-term care
12 insurance does not include any insurance policy that is offered primarily to
13 provide basic medicare supplement coverage, basic hospital expense coverage,
14 basic medical and surgical expense coverage, major medical expense coverage,
15 disability income or related asset protection coverage, hospital confinement
16 indemnity coverage, accident only coverage, specified disease coverage,
17 specified accident coverage or limited benefit health coverage or riders to
18 the insurance policy or a life insurance policy that accelerates the death
19 benefit for terminal illness, medical conditions requiring extraordinary
20 medical intervention or permanent institutional confinement, that provides
21 the option of a lump sum payment for those benefits and in which the benefits
22 or the eligibility for the benefits is not conditioned on the receipt of
23 long-term care.

24 9. "Maintenance ~~or~~ FOR personal care services" means any care the
25 primary purpose of which is to provide assistance needed with any disability
26 that results in the individual being a chronically ill individual, including
27 the protection from threats to health and safety due to severe cognitive
28 impairment.

29 10. "Policy" means an individual or group policy, contract, subscriber
30 agreement, rider or endorsement delivered or issued for delivery in this
31 state by an insurer, fraternal benefit society, nonprofit health, hospital or
32 medical service corporation, prepaid health plan or health care services
33 organization or any similar organization.

34 11. "Preexisting condition" means a condition for which medical advice
35 or treatment was recommended by or received from a health care services
36 provider within six months before the effective date of coverage of an
37 insured person.

38 12. "Qualified long-term care insurance contract" means:

39 (a) Any insurance policy that meets the requirements of section ~~7702b~~
40 7702B(b) of the internal revenue code of 1986, as amended.

41 (b) The portion of a life insurance policy that provides long-term care
42 insurance coverage by rider or as a part of the policy and that satisfies the
43 requirements of section 7702B(b) and (e) of the internal revenue code of
44 1986, as amended.

1 13. "Qualified long-term care services" means necessary diagnostic,
2 preventive, therapeutic, curing, treating, mitigating and rehabilitative
3 services and maintenance for personal care services to which the insured is
4 eligible under a qualified long-term care insurance contract and that are
5 provided pursuant to a plan of care prescribed by a licensed health care
6 practitioner.

7 14. "Severe cognitive impairment" means an impairment determined by a
8 licensed health care practitioner as meeting the definition of an impairment
9 as established by title III of the health insurance portability and
10 accountability act of 1996 (P.L. 104-191).

11 Sec. 2. Section 20-1691.03, Arizona Revised Statutes, is amended to
12 read:

13 20-1691.03. Limitations of long-term care insurance policies

14 A. No insurer may cancel, fail to renew or otherwise terminate a
15 long-term care insurance policy solely on the grounds of the age or the
16 deterioration of the mental or physical health of the insured individual or
17 certificate holder.

18 B. No long-term care insurance policy may contain a provision
19 establishing any new waiting period if existing coverage is converted to or
20 replaced by a new or other form within the same company, except with respect
21 to an increase in benefits voluntarily selected by the insured individual or
22 group policyholder.

23 C. A long-term care insurance policy shall provide coverage for at
24 least twenty-four consecutive months for each covered person.

25 D. No preexisting condition limitation period in a long-term care
26 insurance policy or certificate may exceed the following:

27 1. If not approved under paragraph ~~3-~~ 2, six months after the
28 effective date of coverage of an insured ~~who is sixty five years of age or~~
29 ~~older on the effective date of coverage~~ FOR WHOM MEDICAL ADVICE OR TREATMENT
30 WAS RECOMMENDED BY, OR RECEIVED FROM, A HEALTH CARE SERVICES PROVIDER.

31 ~~2. Twenty four months after the effective date of coverage of an~~
32 ~~insured who is under sixty five years of age on the effective date of~~
33 ~~coverage.~~

34 ~~3-~~ 2. A period of time set by the director after the effective date
35 of coverage of an insured who is a member of a designated group for which the
36 director has found that a different limitation period is justified because
37 the group is specially limited by age, group categories or other specific
38 policy provisions and that the different limitation period will be a benefit
39 to the certificate holders.

40 E. No long-term care insurance policy or certificate may use a
41 definition of preexisting condition which is more restrictive than the
42 definition prescribed in this article.

43 F. A long-term care insurance policy shall not exclude or use waivers
44 or riders of any kind to exclude, limit or reduce coverage or benefits for

1 specifically named or described preexisting diseases or physical conditions
2 beyond the periods allowed under subsection D.

3 G. The definition of preexisting condition does not prohibit an
4 insurer from using an application form designed to elicit the complete health
5 history of an applicant and, on the basis of the answers on that application,
6 from underwriting in accordance with that insurer's established underwriting
7 standards.

8 H. No long-term care insurance policy or certificate issued on or
9 after July 1, 1990, may provide coverage for skilled nursing care only or
10 provide significantly more coverage for skilled care in a facility than
11 coverage for lower levels of care, or coverage that conditions eligibility
12 for benefits for levels of care on the receipt of higher levels of care. In
13 evaluating the requirements of this subsection, the director shall consider
14 the amount of coverage provided based on aggregate days of care covered for
15 lower levels of care when compared to days of care covered for skilled care.

16 I. A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE, OTHER THAN A
17 POLICY OR CERTIFICATE THAT IS ISSUED TO A GROUP, MAY NOT EXCLUDE COVERAGE FOR
18 A LOSS OR CONFINEMENT THAT IS THE RESULT OF A PREEXISTING CONDITION UNLESS
19 THE LOSS OR CONFINEMENT BEGINS WITHIN SIX MONTHS FOLLOWING THE EFFECTIVE DATE
20 OF COVERAGE OF AN INSURED PERSON.

21 Sec. 3. Title 20, chapter 6, article 15, Arizona Revised Statutes, is
22 amended by adding section 20-1691.12, to read:

23 20-1691.12. Insurance producer training course requirements

24 A. AN INDIVIDUAL MAY NOT SELL, SOLICIT OR NEGOTIATE LONG-TERM CARE
25 INSURANCE UNLESS THE INDIVIDUAL IS LICENSED AS AN INSURANCE PRODUCER FOR
26 ACCIDENT AND HEALTH OR SICKNESS OR LIFE AND HAS COMPLETED A ONE-TIME TRAINING
27 COURSE AND AN ONGOING TRAINING COURSE EVERY TWENTY-FOUR MONTHS AFTER
28 COMPLETION OF THE ONE-TIME TRAINING COURSE. THE TRAINING COURSES SHALL MEET
29 THE REQUIREMENTS PRESCRIBED IN SUBSECTION C.

30 B. ONLY AN APPROVED CONTINUING EDUCATION COURSE THAT IS OFFERED BY AN
31 APPROVED PROVIDER PURSUANT TO CHAPTER 18 OF THIS TITLE MAY BE COMPLETED
32 TOWARD SATISFYING THE TRAINING REQUIREMENT PRESCRIBED BY SUBSECTION A. THE
33 COMPLETION OF SUCH A COURSE MAY ALSO BE USED TOWARD SATISFYING THE INSURANCE
34 CONTINUING EDUCATION REQUIREMENT PRESCRIBED BY CHAPTER 18 OF THIS TITLE.

35 C. THE TRAINING COURSES REQUIRED BY SUBSECTION A:

36 1. SHALL:

37 (a) FOR THE ONE-TIME TRAINING COURSE, BE AT LEAST EIGHT HOURS.

38 (b) FOR THE ONGOING TRAINING COURSE, BE AT LEAST FOUR HOURS.

39 2. SHALL CONSIST OF TOPICS THAT ARE RELATED TO LONG-TERM CARE
40 INSURANCE, LONG-TERM CARE SERVICES AND, IF APPLICABLE, QUALIFIED LONG-TERM
41 CARE INSURANCE CONTRACTS, INCLUDING:

42 (a) STATE AND FEDERAL RULES AND REQUIREMENTS AND THE RELATIONSHIP
43 BETWEEN QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS AND OTHER PUBLIC AND
44 PRIVATE COVERAGE OF LONG-TERM CARE SERVICES, INCLUDING MEDICAID.

45 (b) AVAILABLE LONG-TERM CARE SERVICES AND PROVIDERS.

- 1 (c) CHANGES OR IMPROVEMENTS IN LONG-TERM CARE SERVICES OR PROVIDERS.
- 2 (d) ALTERNATIVES TO THE PURCHASE OF PRIVATE LONG-TERM CARE INSURANCE.
- 3 (e) THE EFFECT OF INFLATION ON BENEFITS AND THE IMPORTANCE OF
- 4 INFLATION PROTECTION.
- 5 (f) CONSUMER SUITABILITY STANDARDS AND GUIDELINES.

6 3. SHALL NOT INCLUDE TRAINING THAT IS INSURER OR COMPANY PRODUCT
7 SPECIFIC OR THAT INCLUDES ANY SALES OR MARKETING INFORMATION, MATERIALS OR
8 TRAINING, OTHER THAN THOSE REQUIRED BY STATE OR FEDERAL LAW.

9 D. AN INSURER THAT IS SUBJECT TO THIS ARTICLE SHALL OBTAIN
10 VERIFICATION THAT AN INSURANCE PRODUCER RECEIVED TRAINING THAT IS REQUIRED BY
11 SUBSECTION A BEFORE THE INSURANCE PRODUCER IS PERMITTED TO SELL, SOLICIT OR
12 NEGOTIATE THE INSURER'S LONG-TERM CARE INSURANCE PRODUCTS. THE INSURER SHALL
13 MAINTAIN RECORDS THAT ARE SUBJECT TO THIS STATE'S RECORDS RETENTION
14 REQUIREMENTS. THE INSURER SHALL MAKE THE VERIFICATION REQUIRED BY THIS
15 SUBSECTION AVAILABLE TO THE DIRECTOR ON REQUEST.

16 E. AN INSURER THAT IS SUBJECT TO THIS ARTICLE SHALL MAINTAIN RECORDS
17 WITH RESPECT TO THE TRAINING OF ITS INSURANCE PRODUCERS CONCERNING THE
18 DISTRIBUTION OF ITS QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS THAT WILL
19 ALLOW THE DEPARTMENT TO PROVIDE ASSURANCE TO THE ARIZONA HEALTH CARE COST
20 CONTAINMENT SYSTEM ADMINISTRATION THAT INSURANCE PRODUCERS HAVE RECEIVED THE
21 TRAINING PRESCRIBED IN SUBSECTION C, PARAGRAPH 2, SUBDIVISION (a) AND HAVE
22 DEMONSTRATED AN UNDERSTANDING OF THE QUALIFIED LONG-TERM CARE INSURANCE
23 CONTRACTS AND THEIR RELATIONSHIP TO PUBLIC AND PRIVATE COVERAGE OF LONG-TERM
24 CARE, INCLUDING MEDICAID IN THIS STATE. AN INSURER SHALL MAINTAIN THESE
25 RECORDS PURSUANT TO THIS STATE'S RECORDS RETENTION REQUIREMENTS AND SHALL
26 MAKE THE RECORDS AVAILABLE TO THE DIRECTOR ON REQUEST.

27 Sec. 4. Existing insurance producers: training course

28 All existing insurance producers for accident and health or sickness or
29 life that sell, solicit or negotiate long-term care insurance shall complete
30 the one-time training course required by section 20-1691.12, Arizona Revised
31 Statutes, as added by this act, on or before July 1, 2008.