

**Report Title:**

Insurance; Long-Term Care Insurance

**Description:**

Updates references in Article 10H of the Insurance Code governing long-term care insurance. (SD1)

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# A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 431:10H-217.5, Hawaii Revised Statutes,  
2 is amended by amending subsection (d) to read as follows:

3           "(d) An insurer shall use the forms in [~~Appendices~~]  
4 Appendix B [~~and F~~] of the April[~~7~~] 2002, NAIC Model Long-Term  
5 Care Insurance Model Regulation and Appendix F of the December  
6 2006, NAIC Model Long-Term Care Insurance Model Regulation to  
7 comply with the requirements of subsections (b) and (c)."

8           SECTION 2. Section 431:10H-226.5, Hawaii Revised Statutes,  
9 is amended by amending subsection (b) to read as follows:

10           "(b) An insurer shall provide the information listed in  
11 this subsection to the commissioner thirty days prior to making  
12 a long-term care insurance form available for sale as follows:

13           (1) A copy of the disclosure documents required in section  
14 [~~431:10H-221;~~] 431:10H-217.5; and

15           (2) An actuarial certification consisting of at least the  
16 following:

- 1 (A) A statement that the initial premium rate  
2 schedule is sufficient to cover anticipated costs  
3 under moderately adverse experience and that the  
4 premium rate schedule is reasonably expected to  
5 be sustainable over the life of the form with no  
6 future premium increases anticipated;
- 7 (B) A statement that the policy design and coverage  
8 provided have been reviewed and taken into  
9 consideration;
- 10 (C) A statement that the underwriting and claims  
11 adjudication processes have been reviewed and  
12 taken into consideration;
- 13 (D) A complete description of the basis for contract  
14 reserves that are anticipated to be held under  
15 the form, to include:
- 16 (i) Sufficient detail or sample calculations  
17 provided so as to have a complete depiction  
18 of the reserve amounts to be held;
- 19 (ii) A statement that the assumptions used for  
20 reserves contain reasonable margins for  
21 adverse experience;

- 1 (iii) A statement that the net valuation premium  
2 for renewal years does not increase (except  
3 for attained-age rating where permitted);  
4 and
- 5 (iv) A statement that the difference between the  
6 gross premium and the net valuation premium  
7 for renewal years is sufficient to cover  
8 expected renewal expenses; or if [~~such a~~  
9 that statement cannot be made, a complete  
10 description of the situations where this  
11 does not occur; provided that an aggregate  
12 distribution of anticipated issues may be  
13 used as long as the underlying gross  
14 premiums maintain a reasonably consistent  
15 relationship; provided further that if the  
16 gross premiums for certain age groups are  
17 inconsistent with this requirement, the  
18 commissioner may request a demonstration  
19 under subsection (c) based on a standard age  
20 distribution; and
- 21 (E) With respect to premium rate schedules:

1 (i) A statement that the premium rate schedule  
2 is not less than the premium rate schedule  
3 for existing similar policy forms also  
4 available from the insurer except for  
5 reasonable differences attributable to  
6 benefits; or

7 (ii) A comparison of the premium schedules for  
8 similar policy forms that are currently  
9 available from the insurer with an  
10 explanation of the differences."

11 SECTION 3. Section 431:10H-229, Hawaii Revised Statutes,  
12 is amended by amending subsection (a) to read as follows:

13 "(a) Every insurer, health care service plan, or other  
14 entity marketing long-term care insurance coverage in this  
15 State, directly or through producers, shall:

16 (1) Establish marketing procedures to assure that any  
17 comparison of policies by its producers will be fair  
18 and accurate;

19 (2) Establish marketing procedures to assure excessive  
20 insurance is not sold or issued;

- 1 (3) Display prominently by type, stamp, or other  
2 appropriate means, on the first page of the outline of  
3 coverage and policy the following:  
4 "Notice to buyer: This policy may not cover all of  
5 the costs associated with long-term care incurred by  
6 the buyer during the period of coverage. The buyer is  
7 advised to review carefully all policy limitations.";
- 8 (4) Inquire and otherwise make every reasonable effort to  
9 identify whether a prospective applicant or enrollee  
10 for long-term care insurance currently has long-term  
11 care insurance and the types and amounts of any [~~such~~]  
12 long-term care insurance, except that in the case of  
13 qualified long-term care insurance contracts, an  
14 inquiry into whether a prospective applicant or  
15 enrollee for long-term care insurance has accident and  
16 sickness insurance is not required;
- 17 (5) Every insurer or entity marketing long-term care  
18 insurance shall establish auditable procedures for  
19 verifying compliance with this subsection [~~(a)~~];
- 20 (6) If the state in which the policy or certificate is to  
21 be delivered or issued for delivery has a senior  
22 insurance counseling program approved by the

1 commissioner, the insurer, at solicitation, shall  
2 provide written notice to the prospective policyholder  
3 or certificate holder of a state senior insurance  
4 counseling program including the name, address, and  
5 telephone number of the program;

6 (7) For long-term care health insurance policies and  
7 certificates, use the terms "noncancellable" or "level  
8 premium" only when the policy or certificate conforms  
9 to section 431:10H-202;

10 (8) Provide copies of the disclosure forms required in  
11 section 431:10H-217.5(c) to the applicant; and

12 (9) Provide an explanation of contingent benefit upon  
13 lapse provided for in section 431:10H-233(f) ~~[.]~~ and,  
14 if applicable, the additional contingent benefit upon  
15 lapse provided to policies with fixed or limited  
16 premium paying periods in section 431:10H-233(g)."

17 SECTION 4. Section 431:10H-233, Hawaii Revised Statutes,  
18 is amended by amending subsection (o) to read as follows:

19 "(o) To determine whether contingent nonforfeiture upon  
20 lapse provisions are triggered under subsection (f) ~~[.]~~ or (g), a  
21 replacing insurer that ~~[purchases]~~ purchased or ~~[assumes]~~  
22 otherwise assumed a block or blocks of long-term care insurance

1 policies from another insurer shall calculate the percentage  
2 increase based on the initial annual premium paid by the insured  
3 when the policy was first purchased from the original insurer."

4 SECTION 5. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2009.