
A BILL FOR AN ACT

RELATING TO LONG-TERM CARE INSURANCE.

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

1 SECTION 1. The legislature finds that Hawaii has a long
2 history of respecting and helping its kupuna. Accordingly, the
3 legislature finds that additional protections are needed to help
4 seniors avoid inadvertent lapses or terminations of their long-
5 term care insurance for nonpayment of premiums. This Act amends
6 the current law by requiring that notice of a lapse of coverage
7 or cancellation be sent by certified mail or commercial delivery
8 service to the policyholder. The legislature finds that this
9 will provide proof that the cancellation notice was mailed and
10 delivered. To provide additional safeguards to avoid
11 unintentional lapses, this Act also requires the insurer to
12 provide notification to the insured at the time of each renewal
13 premium of the right to indicate or update a written
14 designation.

15 The legislature further finds that the changes effected
16 under this Act will have a relatively minor impact on insurers



1 when compared with the consequences that would befall
2 policyholders whose long-term care insurance lapses.

3 The legislature also finds that the need for additional
4 protections is best illustrated by the tragic turn of events
5 faced by an elderly couple in Virginia, whose confusion allowed
6 their long-term care insurance to lapse. Over eleven years the
7 couple had faithfully paid an insurer about \$50,000 in premiums,
8 which would have entitled them to about \$600,000 in benefits
9 through their joint policy. Then, during a visit to his bank,
10 the husband mistakenly stopped the automatic premium payment
11 system that his son had set up. The insurer then sent notices
12 to the couple that their long-term care insurance coverage was
13 about to end because they had stopped making payments.

14 Unfortunately, the elderly couple did not understand the notices
15 and did not act to prevent the cancellation. Their son found
16 the insurer's notices months later when his mother became ill
17 and needed to use her long-term care insurance benefits.

18 In that case, the son was the parents' designated third
19 party, meaning that the insurer should have notified him of any
20 change to his parents' policy. The insurer claimed that it sent
21 such a notice to him; however, the son claimed that he did not



1 receive it. Virginia's insurance regulations offered the family
2 no legal recourse other than to bring a lawsuit against the
3 insurer. That option would have been far too expensive for the
4 family, and similarly, purchasing a new long-term care insurance
5 policy was prohibitively expensive. Ultimately, the elderly
6 couple had to sell their condominium and downsize to a modest
7 apartment, and the mother now receives care through a medicaid
8 program.

9 The purpose of this Act is to help Hawaii's kupuna prevent
10 lapses or terminations for their long-term care insurance
11 policies.

12 SECTION 2. Section 431:10H-208, Hawaii Revised Statutes,
13 is amended by amending subsection (d) to read as follows:

14 "(d) ~~[The]~~ At the time of each renewal premium, but at
15 least annually, the insurer shall notify the insured of the
16 [right to change this]:

17 (1) Right to designate at least one person, in addition to
18 the applicant, who is to receive notice of lapse or
19 termination of the policy or certificate for
20 nonpayment of premium, or a written waiver dated and



- 1 signed by the applicant electing not to designate
- 2 additional persons to receive notice;
- 3 (2) Right to change the written designation~~[, no less~~
- 4 ~~often than every two years.];~~ and
- 5 (3) Opportunity to update the full name and home address
- 6 of the person on the written designation."

7 SECTION 3. Section 431:10H-209, Hawaii Revised Statutes,
8 is amended to read as follows:

9 " ~~[+]~~ §431:10H-209 ~~[+]~~ **Lapse or termination for nonpayment of**
10 **premium.** No individual long-term care policy or certificate
11 shall lapse or be terminated for nonpayment of premium unless
12 the insurer, at least thirty days before the effective date of
13 the lapse or termination, has given notice to the insured and to
14 those persons designated in section 431:10H-208 at the address
15 provided by the insured for purposes of receiving notice of
16 lapse or termination. Notice shall be given to both insured and
17 any designee or holder of the insured's power of attorney by
18 ~~[first class United States mail, postage prepaid]~~ certified
19 mail, commercial delivery service, or any means of delivery that
20 provides proof of delivery and notice may not be given until



1 thirty days after a premium is unpaid. Notice shall be deemed
2 to have been given as of five days after the date of mailing."

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

5 SECTION 5. This Act shall take effect on December 31,
6 2059.



Report Title:

Long-term Care Insurance; Lapse or Termination; Notice; Kupuna
Caucus

Description:

Requires the thirty-day lapse or termination notices for long-term care policies to be sent by certified mail or commercial delivery service, or other method of delivery requiring proof of delivery. Requires an insurer to provide to an insured notification at each renewal premium of the right to indicate or update a written designation. Effective 12/31/2059. (HD1)

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