

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2198 Session of
2000

INTRODUCED BY DeLUCA, TRELLO, BELARDI, CLARK, DALEY, DeWEESE,
FREEMAN, GEORGE, HARHAI, JOSEPHS, LAUGHLIN, MANDERINO,
MICHLOVIC, ORIE, PESCI, PISTELLA, RAMOS, SOLOBAY, STABACK,
STEELMAN, TANGRETTI, WALKO, WATERS, WOJNAROSKI AND YUDICHAK,
JANUARY 31, 2000

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 31, 2000

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," adding provisions for the
12 regulation of home care insurance.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 1101 and 1102 of the act of May 17, 1921
16 (P.L.682, No.284), known as The Insurance Company Law of 1921,
17 added December 15, 1992 (P.L.1129, No.148) and December 18, 1992
18 (P.L.1519, No.178), are amended to read:

19 ARTICLE XI.

20 LONG-TERM CARE AND HOME CARE.

21 Section 1101. Statement of Purpose.--The purpose of this

1 article is to promote the public interest, to promote the
2 availability of long-term care insurance policies, to protect
3 applicants for long-term care insurance from unfair or deceptive
4 sales or enrollment practices, to establish standards for long-
5 term care insurance, to facilitate public understanding and
6 comparison of long-term care insurance policies and to
7 facilitate flexibility and innovation in the development of
8 long-term care insurance coverage and home care insurance
9 coverage.

10 Section 1102. Scope of Article.--This article is not
11 intended to supersede the obligations of entities subject to
12 this article to comply with the substance of other applicable
13 insurance laws insofar as they do not conflict with this
14 article, except that laws and regulations designed and intended
15 to apply to Medicare supplement insurance policies shall not be
16 applied to long-term care insurance. [A policy which is not
17 advertised, marketed or offered as long-term care insurance or
18 nursing home insurance need not meet the requirements of this
19 article.]

20 Section 2. Section 1103 of the act, added December 15 1992
21 (P.L.1129, No.148), is amended by adding a definition to read:

22 Section 1103. Definitions.--As used in this article, the
23 following words and phrases shall have the meanings given to
24 them in this section:

25 * * *

26 "Home care insurance." Any insurance policy or rider
27 advertised, marketed, offered or designed to provide coverage
28 for not less than twelve (12) consecutive months for each
29 covered person on an expense-incurred, indemnity, prepaid or
30 other basis for services that provide assistance with any

1 activities of daily living, including, but not limited to, food
2 preparation, feeding, personal hygiene, shopping, housekeeping,
3 laundry and transportation. The term includes group and
4 individual policies or riders issued by insurers, fraternal
5 benefit societies, nonprofit health, hospital and medical
6 service corporations, prepaid health plans, health maintenance
7 organizations or similar organizations. The term does not
8 include any insurance policy which is offered primarily to
9 provide basic Medicare supplement coverage, basic hospital
10 expense coverage, basic medical-surgical expense coverage,
11 hospital confinement indemnity coverage, major medical expense
12 coverage, disability income protection coverage, accident-only
13 coverage, specified disease or specified accident coverage,
14 limited benefit health coverage or long-term care insurance
15 coverage.

16 * * *

17 Section 3. Sections 1105, 1109, 1110, 1111(a), 1112, 1113,
18 1114 and 1115 of the act, added December 15, 1992 (P.L.1129,
19 No.148) are amended to read:

20 Section 1105. Disclosure and Performance Standards for Long-
21 term Care and Home Care Insurance.--(a) The department may
22 adopt regulations, that include standards for full and fair
23 disclosure setting forth the manner, content and required
24 disclosures, for the sale of long-term care insurance policies
25 and home care insurance coverage, terms of renewability, initial
26 and subsequent conditions of eligibility, nonduplication of
27 coverage provisions, coverage of dependents, preexisting
28 conditions, termination of insurance, continuation or
29 conversion, probationary periods, limitations, exceptions,
30 reductions, elimination periods, requirements for replacement,

1 recurrent conditions and definitions of terms.

2 (b) No long-term care insurance or home care insurance
3 policy may:

4 (1) be canceled, nonrenewed or otherwise terminated on the
5 grounds of the age or the deterioration of the mental or
6 physical health of the insured individual or certificate holder;

7 (2) contain a provision establishing a new waiting period,
8 in the event existing coverage is converted to or replaced by a
9 new or other form within the same company, except with respect
10 to an increase in benefits voluntarily selected by the insured
11 individual or group policyholder; or

12 (3) contain coverage for skilled nursing care only or
13 contain coverage that provides significantly more skilled care
14 than coverage for lower levels of care.

15 (c) (1) No long-term care insurance policy or certificate
16 may use a definition of "preexisting condition" which is more
17 restrictive than a definition of "preexisting condition" that
18 means a condition for which medical advice or treatment was
19 recommended by or received from a provider of health care
20 services within six months preceding the effective date of
21 coverage of an insured person.

22 (2) No long-term care insurance policy may exclude coverage
23 for a loss or confinement which is the result of a preexisting
24 condition unless such loss or confinement begins within six
25 months following the effective date of coverage of an insured
26 person.

27 Section 1109. Loss Ratios.--The department may adopt
28 regulations establishing loss ratio standards for long-term care
29 insurance and home care insurance policies provided that a
30 specific reference to long-term care insurance and home care

1 insurance policies is contained in the regulation.

2 Section 1110. Right to Return.--Individual long-term care
3 insurance and home care insurance policyholders and group
4 certificate holders who contribute to the cost of their long-
5 term care or home care coverage shall have the right to return
6 the policy within thirty (30) days of its delivery and to have
7 the premium refunded if, after examination of the policy or
8 certificate, the policyholder or certificate holder is not
9 satisfied for any reason. Long-term care insurance and home care
10 insurance policies and applicable group certificates shall have
11 a notice, prominently printed on the first page of the policy or
12 certificate, stating in substance that the policyholder or
13 certificate holder shall have the right to return the policy or
14 certificate within thirty (30) days of its delivery and to have
15 the premium refunded if, after examination of the policy or
16 certificate, the policyholder or certificate holder is not
17 satisfied for any reason.

18 Section 1111. Outline of Coverage Provisions.--(a) An
19 outline of coverage shall be delivered to a prospective
20 applicant for long-term care insurance or home care insurance at
21 the time of initial solicitation through means which prominently
22 direct the attention of the recipient to the document and its
23 purpose.

24 * * *

25 Section 1112. Authority to Promulgate Regulations.--The
26 department shall promulgate reasonable regulations to establish
27 minimum standards for marketing practices, agent compensation
28 arrangements, agent testing, penalties and reporting practices
29 for long-term care insurance and home care insurance.

30 Section 1113. Marketing and Advertising Prohibited.--No

1 policy may be advertised, marketed or offered as long-term care
2 , home care or nursing home insurance unless it complies with
3 the provisions of this article.

4 Section 1114. Penalties.--In addition to any other penalties
5 provided by the laws of this Commonwealth, an insurer or agent
6 found to have violated requirements relating to the regulations
7 of long-term care insurance or home care insurance or the
8 marketing of such insurance shall be subject to a civil penalty
9 of up to three times the amount of any commissions paid for each
10 policy involved in the violation or ten thousand dollars
11 (\$10,000), whichever is greater.

12 Section 1115. Applicability.--(a) This article shall apply
13 to all policies for long-term care insurance delivered or issued
14 for delivery in this Commonwealth on or after the effective date
15 of this article.

16 (b) This article shall apply to all policies for home care
17 insurance for delivery in this Commonwealth on or after the
18 effective date of this subsection.

19 Section 4. This act shall take effect in 60 days.