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1 IN THE SENATE BY THE LABOR & COMMERCE COMMITTEE
2 CS FOR SENATE BILL NO. 315 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to long-term care insurance; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. PURPOSE. The purpose of this Act is to promote the public
10 interest and the availability of long-term care insurance policies, to
11 protect applicants for long-term care insurance from unfair or deceptive
12 sales or enrollment practices, to establish standards for long-term care
13 insurance, to facilitate public understanding and comparison of long-term
14 care insurance policies, and to facilitate flexibility and innovation in
15 the development of long-term care insurance coverage.

16 * Sec. 2. AS 21 is amended by adding a new chapter to read:

17 CHAPTER 53. LONG-TERM CARE INSURANCE.

18 Sec. 21.53.010. PROHIBITED SALE OR ADVERTISING. An insurer,
19 hospital or medical service corporation, or a fraternal benefit soci-
20 ety may not advertise, market, sell, deliver, or offer for delivery a
21 long-term care insurance policy unless the policy complies with this
22 chapter, AS 21.18, AS 21.45, the disability insurance requirements
23 imposed under AS 21.51, and, if a group policy, the group disability
24 insurance requirements imposed under AS 21.54.

25 Sec. 21.53.020. DISCLOSURE AND PERFORMANCE STANDARDS. An insur-
26 er, hospital or medical service corporation, or a fraternal benefit
27 society that delivers or issues for delivery a long-term care insur-
28 ance policy may not

29 (1) cancel, fail to renew, or otherwise terminate the

1 policy on the grounds of age or deterioration of the mental or phys-
2 ical health of the insured or certificate holder;

3 (2) include a provision requiring a new waiting period in
4 the event existing coverage is converted to or replaced by a new or
5 another form of disability insurance within the same company, unless
6 there is an increase in benefits voluntarily selected by the insured;
7 or

8 (3) provide coverage only for skilled nursing care, or
9 provide significantly more coverage for skilled care in a facility
10 than is provided for coverage for lower levels of care; evaluation of
11 the coverage provided under this paragraph must be based on the number
12 of days of coverage provided for lower levels of care, when compared
13 to the number of days of coverage provided for skilled care.

14 Sec. 21.53.030. PREEXISTING CONDITIONS. (a) An insurer, hospital or medical service corporation, or a fraternal benefit society
15 may not include, in a long-term care insurance policy or certificate,
16 a definition of "preexisting condition" that is more restrictive than
17 the following: preexisting condition means the existence of symptoms
18 that would cause an ordinarily prudent person to seek diagnosis, care,
19 or treatment, or a condition for which medical advice or treatment was
20 recommended by, or received from a provider of health care services,
21 within six months preceding the effective date of coverage of an
22 insured person.
23

24 (b) In a long-term care insurance policy or certificate an
25 insurer, hospital or medical service corporation, or a fraternal
26 benefit society may not exclude coverage for a loss or confinement
27 that is the result of a preexisting condition, unless the loss or
28 confinement begins within six months following the effective date of
29 coverage of an insured person.

1 (c) The director may extend the limitation periods established
2 under (a) and (b) of this section for specific age group categories or
3 specific policy forms, if the director finds that the extension is in
4 the best interest of the public.

5 (d) This section does not prohibit an insurer, hospital or
6 medical service corporation, or a fraternal benefit society from using
7 an application form designed to elicit the complete health history of
8 an applicant, and, on the basis of the answers on the application,
9 from applying that insurer's, hospital or medical service corpora-
10 tion's, or fraternal benefit society's established underwriting stan-
11 dards. Unless otherwise provided in the policy or certificate, a
12 preexisting condition, regardless of whether it is disclosed on the
13 application, need not be covered until the waiting period described in
14 (b) of this section expires. A long-term care insurance policy or
15 certificate may not exclude, limit, or reduce, or use waivers or
16 riders of any kind to exclude, limit, or reduce coverage or benefits
17 for specifically named or described preexisting diseases or physical
18 conditions after the waiting period described in (b) of this section,
19 unless the waiver or rider has been specifically approved by the
20 director.

21 Sec. 21.53.040. PRIOR HOSPITAL OR INSTITUTIONAL CARE CONDITIONS
22 PROHIBITED. (a) A long-term care insurance policy may not be de-
23 livered or issued for delivery in this state if the policy conditions
24 eligibility

25 (1) on a prior hospitalization requirement;

26 (2) on the receipt of a higher level of institutional care,
27 when care is provided in an institutional setting;

28 (3) for noninstitutional benefits on a prior institutional
29 stay of more than 30 days for which benefits are paid; or

1 (4) on admission to an institutional care facility for the
2 same or a related condition within a period of less than 30 days after
3 discharge from the institution, if the policy provides benefits only
4 following institutionalization.

5 (b) A long-term care insurance policy may contain a limitation
6 or condition on eligibility for benefits, not prohibited in (a) of
7 this section, if the limitation or condition is clearly set out in a
8 separate paragraph of the policy or certificate.

9 Sec. 21.53.050. RIGHT OF RETURN; OUTLINE OF COVERAGE. (a) A
10 long-term care insurance applicant may return a policy within 30 days
11 after delivery and have the premium refunded if, after examination of
12 the policy, the applicant is not satisfied with the policy. A long-
13 term care insurance policy must have a notice prominently printed on
14 the first page of the policy or separately attached stating that the
15 applicant has the right to return the policy within 30 days of its
16 delivery and to have the premium refunded if, after examination of the
17 policy, the applicant is not satisfied with the policy.

18 (b) An insurer, hospital or medical service corporation, or a
19 fraternal benefit society shall deliver an outline of coverage to a
20 prospective applicant for long-term care insurance at the time of
21 initial solicitation by a means that prominently directs the attention
22 of the recipient to the document and its purpose. In the case of
23 agent solicitations, an agent shall deliver the outline of coverage
24 before the presentation of an application or enrollment form. In the
25 case of direct response solicitations, the outline of coverage must be
26 presented in conjunction with an application or enrollment form. The
27 outline of coverage must include

28 (1) a description of the principal benefits and coverage
29 provided in the policy;

1 (2) a statement of the principal exclusions, reductions,
2 and limitations contained in the policy;

3 (3) a statement of the terms under which the policy or
4 certificate, or both, may be continued in force or discontinued,
5 including a reservation in the policy of a right to change the pre-
6 mium; continuation or conversion provisions of group coverage must be
7 specifically described;

8 (4) a statement that the outline of coverage is a summary
9 only, not a contract of insurance, and that the policy or group master
10 policy contain governing contractual provisions;

11 (5) a description of the terms under which the policy or
12 certificate may be returned and premium refunded; and

13 (6) a brief description of the relationship between the
14 cost of care and benefits.

15 (c) A certificate issued under a group long-term care insurance
16 policy that is delivered or issued for delivery in this state must
17 include

18 (1) a description of the principal benefits and coverage
19 provided in the policy;

20 (2) a statement of the principal exclusions, reductions,
21 and limitations contained in the policy; and

22 (3) a statement that the group master policy establishes
23 the governing contractual provisions.

24 Sec. 21.53.060. LONG-TERM CARE BENEFITS UNDER LIFE INSURANCE
25 POLICIES. (a) In addition to the requirements of AS 21.45, at the
26 time of policy delivery, a policy summary shall be included with an
27 individual life insurance policy if the policy or policy rider pro-
28 vides long-term care benefits. In the case of direct response solici-
29 tations, the insurer shall deliver the policy summary upon the appli-

1 cant's request, but regardless of request shall deliver a policy
2 summary not later than the time of policy delivery. The summary must
3 include

4 (1) an explanation of how the long-term care benefits
5 interact with other components of the policy, including deductions
6 from death benefits;

7 (2) an illustration of the amount and length of benefits,
8 and guaranteed lifetime benefits, if any, for each covered person;

9 (3) an explanation of each exclusion, reduction, and limi-
10 tation on long-term care benefits; and

11 (4) if applicable to the policy type,

12 (A) disclosure of the effects of exercising other
13 rights under the policy;

14 (B) disclosure of guarantees related to the long-term
15 care costs of insurance charges; and

16 (C) current and projected maximum lifetime benefits.

17 (b) If a long-term care benefit is paid under a life insurance
18 policy by the acceleration of the policy death benefit, and is in
19 benefit payment status, a monthly report shall be provided to the
20 policyholder. The report must include

21 (1) long-term care benefits paid out during the month;

22 (2) an explanation of changes in the policy, including
23 changes in death benefits or cash values, due to long-term care bene-
24 fits being paid out; and

25 (3) the amount of long-term care benefits remaining.

26 Sec. 21.53.070. GROUP LONG-TERM CARE INSURANCE. Group long-term
27 care insurance coverage may not be offered to a resident of this state
28 under a group policy issued in another state, unless the state in
29 which the policy is issued has statutory or regulatory provisions

1 applicable to group long-term care insurance that are substantially
2 similar to this chapter and the director determines that the issuance
3 of the group policy is not contrary to the best interest of the pub-
4 lic, results in economies of acquisition or administration, and the
5 benefits are reasonable in relation to the premiums charged.

6 Sec. 21.53.080. ORGANIZATIONAL REQUIREMENTS OF ASSOCIATIONS. An
7 insurer, hospital or medical service corporation, or a fraternal
8 benefit society may not issue group long-term care insurance to an
9 association or a trust or the trustee of a fund established, created,
10 or maintained for the benefit of members of one or more associations,
11 unless the association or the insurer of the association files evi-
12 dence with the director that the association has

- 13 (1) a minimum of 100 members;
- 14 (2) been organized and maintained in good faith for pur-
15 poses other than that of obtaining insurance;
- 16 (3) been in active existence for at least one year; and
- 17 (4) a constitution and by-laws that require
 - 18 (A) the association to hold regular meetings not less
19 than annually to further purposes of the members;
 - 20 (B) except for credit unions, the association to
21 collect dues or solicit contributions from members; and
 - 22 (C) the members to have voting privileges and repre-
23 sentation on the governing board and committees.

24 Sec. 21.53.090. REQUIRED REGULATIONS. The director shall adopt
25 regulations regarding the sale of long-term care insurance that pro-
26 vide standards for

- 27 (1) terms of renewability;
- 28 (2) initial and subsequent conditions of eligibility;
- 29 (3) nonduplication of coverage provisions;

- 1 (4) coverage of dependents;
2 (5) preexisting conditions;
3 (6) termination of insurance;
4 (7) continuation or conversion;
5 (8) probationary periods, limitations, exceptions, reduc-
6 tions, elimination periods, and requirements for replacement.

7 Sec. 21.53.200. DEFINITIONS. In this chapter,

8 (1) "applicant" means in the case of an individual long-
9 term care insurance policy, the person who seeks to contract for
10 benefits, and in the case of a group long-term care insurance policy,
11 the proposed certificate holder;

12 (2) "certificate" means a certificate issued under a group
13 long-term care insurance policy that has been delivered or issued for
14 delivery in this state;

15 (3) "group long-term care insurance" means a long-term care
16 insurance policy, subscriber's contract, or fraternal benefit society
17 certificate that is delivered or issued for delivery in this state and
18 issued to

19 (A) one or more employers or labor organizations, or
20 to a trust or to the trustees of a fund established by one or
21 more employers or labor organizations, or a combination of them,
22 for employees or former employees or a combination of them, or
23 for members or former members or a combination of them, of the
24 labor organization;

25 (B) a professional, trade, or occupational association
26 for its members or former or retired members, or combination of
27 them, if the association is composed of individuals all of whom
28 are or were actively engaged in the same profession, trade, or
29 occupation, and has been maintained in good faith for purposes

1 other than obtaining insurance;

2 (C) an association or a trust or the trustee of a fund
3 established, created, or maintained for the benefit of members of
4 one or more associations;

5 (D) a group other than described in this paragraph if
6 the director determines that the issuance of the group policy is
7 not contrary to the best interest of the public, would result in
8 economies of acquisition or administration, and the benefits are
9 reasonable in relation to the premiums charged;

10 (4) "long-term care insurance" means an individual or group
11 insurance policy, including group and individual life insurance or
12 annuities, a subscriber's contract, fraternal benefit society certifi-
13 cate, or rider advertised, marketed, offered, or designed to provide
14 coverage for not less than 12 consecutive months for each covered
15 person on an expense incurred, indemnity, prepaid, or other basis, for
16 one or more necessary or medically necessary diagnostic, preventive,
17 therapeutic, rehabilitative, maintenance, or personal care services
18 that are provided in a setting other than an acute care unit of a
19 hospital, and includes a policy or rider that provides for payment of
20 benefits based on cognitive impairment or loss of functional capacity;
21 "long-term care insurance" does not include an insurance policy,
22 subscriber's contract, or fraternal benefit society certificate that
23 is offered primarily to provide basic Medicare supplement coverage,
24 basic hospital expense coverage, basic medical-surgical expense cover-
25 age, hospital confinement indemnity coverage, major medical expense
26 coverage, disability income and related asset protection coverage,
27 catastrophic coverage, comprehensive coverage, accident only coverage,
28 specified disease or specified accident coverage, or limited benefit
29 health coverage;

1 (5) "policy" means a contract, subscriber agreement, rider,
2 or endorsement delivered or issued for delivery in this state by an
3 insurer, fraternal benefit society, nonprofit health, hospital or
4 medical service corporation, prepaid health plan, or health mainte-
5 nance organization.

6 * Sec. 3. AS 21.84.590 is amended to read:

7 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the
8 provisions contained in this chapter, the following provisions of this
9 title apply to fraternal benefit societies to the extent applicable
10 and not in conflict with the express provisions of this chapter and
11 the reasonable implications of this chapter:

- 12 (1) AS 21.03
13 (2) AS 21.06
14 (3) AS 21.09.050 and 21.09.100
15 (4) AS 21.33
16 (5) AS 21.36
17 (6) AS 21.42.290 and 21.42.355
18 (7) AS 21.53
19 (8) AS 21.69.370 and 21.69.640
20 (9) [(8)] AS 21.78
21 (10) [(9)] AS 21.89.060.

22 * Sec. 4. AS 21.87.340 is amended to read:

23 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the
24 provisions contained or referred to previously in this chapter, the
25 following chapters and provisions of this title also apply with re-
26 spect to service corporations to the extent applicable and not in
27 conflict with the express provisions of this chapter and the reason-
28 able implications of the express provisions, and for the purposes of
29 the application the corporations shall be considered to be mutual

- 1 "insurers":
- 2 (1) AS 21.03
- 3 (2) AS 21.06
- 4 (3) AS 21.09, except AS 21.09.090
- 5 (4) AS 21.18.010
- 6 (5) AS 21.18.030
- 7 (6) AS 21.18.040
- 8 (7) AS 21.18.120
- 9 (8) AS 21.21.321
- 10 (9) AS 21.36
- 11 (10) AS 21.53
- 12 (11) AS 21.69.400
- 13 (12) [(11)] AS 21.69.520
- 14 (13) [(12)] AS 21.69.600, 21.69.620, and 21.69.630
- 15 (14) [(13)] AS 21.78
- 16 (15) [(14)] AS 21.90
- 17 (16) [(15)] AS 21.42.345 - 21.42.365
- 18 (17) [(16)] AS 21.89.040
- 19 (18) [(17)] AS 21.89.060.
- 20 * Sec. 5. This Act takes effect July 1, 1990.