

LEGISLATIVE BILL 295

Approved by the Governor February 14, 1989

Introduced by Abboud, 12

AN ACT relating to the Long-Term Care Insurance Act; to amend sections 44-4513 and 44-4515, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to restrictions on insurance policies and certificates; to change a provision relating to a policyholder's right to return a policy; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-4513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4513. (1) No long-term care insurance policy may:

{1} (a) Be canceled, refused renewal, or otherwise terminated solely on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

{2} (b) Contain a provision establishing any new waiting period in the event existing coverage is converted to or replaced by a new or other form of policy with the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

{c} Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

{2} No long-term care insurance policy or certificate, other than a policy or certificate thereunder issued to a group as defined in subdivision (1) of section 44-4508, shall use

{3} Use a definition of preexisting condition which is more restrictive than the following: Preexisting condition shall mean the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care, or treatment or a condition for which medical advice or treatment was recommended by or received from a provider of health care services within {a} twelve six months preceding the effective date of coverage of an insured person, who is sixty-five years

of age or older on the effective date of coverage or (b) twenty-four months preceding the effective date of coverage of an insured person who is under age sixty-five on the effective date of coverage;

(4) Exclude (3) No long-term care insurance policy or certificate, other than a policy or certificate thereunder issued to a group as defined in subdivision (1) of section 44-4508, may exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within (a) twelve six months following the effective date of coverage of an insured person, who is sixty-five years of age or older on the effective date of coverage or (b) twenty-four months following the effective date of coverage of an insured person who is under age sixty-five on the effective date of coverage; and

(5) If such policy provides benefits only following institutionalization, condition such benefits upon admission to a facility for the same or related condition within a period of less than thirty days after discharge from the institution.

(4) The director may extend the limitation periods set forth in subsections (2) and (3) subdivisions (3) and (4) of this section as to specific age group categories or specific policy forms upon finding that the extension is not contrary to the best interest of the public.

(5) The definition of preexisting condition shall not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant and, on the basis of the answers on that application, from underwriting in accordance with such insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in subsection (3) of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subsection (3) of this section.

(6) One year after the effective date of this act, no long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(a) Conditions eligibility for any benefits on a prior hospitalization requirement; or

(b) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care.

(7) One year after the effective date of this act, a long-term care insurance policy containing any limitations or conditions for eligibility other than those prohibited in subsection (6) of this section shall clearly label in a separate paragraph of the policy or certificate entitled Limitations or Conditions on Eligibility for Benefits such limitations or conditions, including any required number of days of confinement.

(a) A long-term care insurance policy containing a benefit advertised, marketed, or offered as a home health care or home care benefit may not condition receipt of benefits on a prior institutionalization requirement.

(b) A long-term care insurance policy which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days for which benefits are paid.

(8) No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

Sec. 2. That section 44-4515, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4515. (1) Individual policyholders shall have the right to return the policy within ~~ten~~ thirty days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder has the right to return the policy within ~~ten~~ thirty days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(2) A person insured under a long-term care insurance policy issued pursuant to a direct response solicitation shall have the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on

the first page or attached thereto stating in substance that the person has the right to return the policy within thirty days of its delivery and to have the premium refunded if, after examination, the person is not satisfied for any reason.

Sec. 3. That original sections 44-4513 and 44-4515, Reissue Revised Statutes of Nebraska, 1943, are repealed.