

# Senate Bill 44

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies requirements for long term care insurance.

## A BILL FOR AN ACT

Relating to long term care insurance; amending ORS 743.655.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 743.655 is amended to read:

743.655. (1)(a) The Director of the Department of Consumer and Business Services shall adopt rules that include standards for full and fair disclosure setting forth the manner, content and required disclosures for the sale of long term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, program for public understanding, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, underwriting at time of application, requirements for replacement, recurrent conditions and definitions of terms and that include required procedures for internal and external review of whether the conditions of a benefit trigger have been met.

(b) In adopting rules under this section, the director [*of the Department of Consumer and Business Services*] must give timely notice to, and shall consider recommendations from, the Director of Human Services.

(2) A long term care insurance policy **or certificate** may not:

(a) Be canceled, nonrenewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same [*company*] **insurer**, except with respect to an increase in benefits voluntarily selected by the insured individual or [*group*] policyholder;

(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;

(d) Exclude coverage for Alzheimer's disease and related dementias;

(e) Be nonrenewed or otherwise terminated for nonpayment of premiums until 31 days overdue and then only after notice of nonpayment is given the policyholder prior to expiration of the 31 days, except as otherwise provided by rule; or

(f) Be sold to provide less than 24 months' coverage.

(3)(a) A long term care insurance policy or certificate other than a policy or certificate issued

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 to a group described in ORS 743.652 (4)(a), (b) or (c) may not:

2 (A) Use a definition of “preexisting condition” that is more restrictive than the following:  
3 “Preexisting condition” means a condition for which medical advice or treatment was recommended  
4 by, or received from a provider of health care services, within six months preceding the effective  
5 date of coverage of an insured person.

6 [(b)] (B) [A long term care insurance policy or certificate other than a policy or certificate there-  
7 under issued to a group described in ORS 743.652 (4)(a), (b) or (c) may not] Exclude coverage for a  
8 loss or confinement that is the result of a preexisting condition unless the loss or confinement be-  
9 gins within six months following the effective date of coverage of an insured person.

10 [(c)] (b) The Director of the Department of Consumer and Business Services may extend the  
11 limitation periods set forth in [paragraphs (a) and (b)] **paragraph (a)** of this subsection as to specific  
12 age group categories [or] **in** specific policy forms upon findings that the extension is in the best in-  
13 terest of the public.

14 [(d)] (c) The definition of preexisting condition does not prohibit an insurer from using an ap-  
15 plication form designed to elicit the complete health history of an applicant, over the 10 years im-  
16 mediately prior to the date of application, and, on the basis of the answers on the application, from  
17 underwriting in accordance with that insurer’s established underwriting standards. Unless other-  
18 wise provided in the policy or certificate, a preexisting condition, regardless of whether it is dis-  
19 closed on the application, need not be covered until the waiting period described in [paragraph (b)]  
20 **subparagraph (a)(B)** of this subsection expires. A long term care insurance policy or certificate  
21 may not exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits  
22 for specifically named or described preexisting diseases or physical conditions beyond the waiting  
23 period described in [paragraph (b)] **subparagraph (a)(B)** of this subsection.

24 (4) A long term care insurance policy **or certificate** may not be delivered or issued for delivery  
25 in this state if the policy **or certificate conditions eligibility for:**

26 (a) [Conditions eligibility for] Any benefits on a prior hospitalization requirement;

27 (b) [Conditions eligibility for] Benefits provided in an institutional care setting on the receipt of  
28 a higher level of institutional care; [or]

29 (c) [Conditions eligibility for] Any benefits other than waiver of premium or post-confinement,  
30 post-acute care or recuperative benefits on a prior institutionalization requirement; **or**

31 **(d) Benefits provided for noninstitutional care on the prior or continuing receipt of**  
32 **skilled nursing care.**

33 [(5)(a) A long term care insurance policy containing post-confinement, post-acute care or  
34 recuperative benefits must clearly label in a separate paragraph of the policy or certificate titled  
35 “Limitations or Conditions of Eligibility for Benefits” all such limitations or conditions, including any  
36 required number of days of confinement.]

37 [(b) A long term care insurance policy or rider that conditions eligibility of noninstitutional benefits  
38 on the prior receipt of institutional care may not require a prior institutional stay of more than 30  
39 days.]

40 [(6)] (5)(a) Individual long term care insurance applicants shall have the right to return the  
41 policy or certificate **to the insurer or to an insurance producer of the insurer** within 30 days  
42 of [its delivery] **the applicant’s receipt of the policy or certificate** and to have the premium re-  
43 funded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

44 **(b) Individual** long term care insurance policies and certificates must have a notice prominently  
45 printed on the first page or attached thereto [stating in substance that the applicant has the right to

1 return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after  
 2 examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a  
 3 group described in ORS 743.652 (4)(a), the applicant is not satisfied for any reason. This subsection  
 4 also applies to denials of applications. Any refund must be made within 30 days of the return or  
 5 denial.] **with specific instructions for how to return the policy to the insurer or an insurance**  
 6 **producer of the insurer and containing the following statement or language that is substan-**  
 7 **tially similar: “You have 30 days from the day you receive this policy to review it and decide**  
 8 **if you wish to keep it. If you decide you do not wish to keep the policy, simply return it to**  
 9 **the administrative office of the insurance company or to the insurance producer who sold**  
 10 **the policy to you. You do not have to tell the company why you are returning the policy. You**  
 11 **must return the policy within 30 days of the date you first received it. The company will**  
 12 **refund the full amount of any premium paid within 30 days after the company receives the**  
 13 **returned policy. The premium refund will be sent directly to the person who paid it. The**  
 14 **policy will be void as if it had never been issued.”**

15 [(7)(a)(A)] **(6)(a)(A) An insurer shall deliver** an outline of coverage [*shall be delivered*] to a  
 16 prospective applicant for long term care insurance at the time of initial solicitation through means  
 17 that prominently direct the attention of the [*recipient*] **applicant** to the document and its purpose.

18 (B) The Director of the Department of Consumer and Business Services by rule must prescribe  
 19 a standard format **for an outline of coverage**, including style, arrangement, [*and*] overall  
 20 appearance[,] and [*the*] content [*of an outline of coverage*].

21 (C) In the case of solicitations by an insurance producer, the insurance producer must deliver  
 22 the outline of coverage **to the applicant** prior to the presentation of an application or enrollment  
 23 form.

24 (D) In the case of direct response solicitations, the outline of coverage must be presented **to the**  
 25 **applicant** in conjunction with any application or enrollment form.

26 (E) [*In the case of a policy issued to a group described in ORS 743.652 (4)(a),*] An outline of  
 27 coverage is not required to be delivered **for group long term care insurance** as long as the in-  
 28 formation described in paragraph (b) of this subsection is contained in other materials related to the  
 29 enrollment. Upon request, these other materials must be made available to the director [*of the De-*  
 30 *partment of Consumer and Business Services*].

31 (b) The outline of coverage must include:

32 (A) A description of the principal benefits and coverage provided in the policy;

33 **(B) A description of the benefit triggers and how those triggers are met;**

34 [(B)] (C) A statement of the principal exclusions, reductions and limitations contained in the  
 35 policy;

36 [(C)] **(D)** A statement of the terms under which the policy or certificate, or both, may be con-  
 37 tinued in force or discontinued, including any reservation in the policy of a right to change pre-  
 38 mium. Continuation or conversion provisions of group coverage shall be specifically described;

39 [(D)] **(E)** A statement that the outline of coverage is a summary only, not a contract of insur-  
 40 ance, and that the policy or group master policy contains governing contractual provisions;

41 [(E)] **(F)** A description of the terms under which the policy or certificate may be returned and  
 42 premium refunded;

43 [(F)] **(G)** A brief description of the relationship of cost of care and benefits; and

44 [(G)] **(H)** A statement that discloses to the policyholder or certificate holder whether the policy  
 45 is intended to be qualified long term care insurance [*as defined in ORS 743.652*].

1 [(8)] (7) A certificate issued pursuant to a group long term care insurance policy [*if the policy*  
2 *is*] delivered or issued for delivery in this state shall include:

3 (a) A description of the principal benefits and coverage provided in the policy;

4 (b) A statement of the principal exclusions, reductions and limitations contained in the policy;  
5 and

6 (c) A statement that the group master policy determines governing contractual provisions.

7 [(9)] (8) If an application for a long term care insurance policy or certificate is approved, the  
8 insurer must deliver the policy or certificate to the applicant no later than 30 days after the date  
9 of approval.

10 [(10)] (9) [*At the time of policy delivery, a policy summary must be delivered*] For an individual  
11 life insurance **or annuity** policy that provides long term care benefits [*within the policy or by*  
12 *rider*], **an insurer must deliver a policy summary at the time the policy is delivered to an**  
13 **applicant.** In the case of direct response solicitations, the insurer must deliver the policy summary  
14 upon the applicant's request, but regardless of request must make delivery not later than at the time  
15 of policy delivery. In addition to complying with all applicable requirements, the summary must also  
16 include the provisions required in this subsection. The required provision may be incorporated into  
17 a basic illustration or into the life insurance **or annuity** policy summary [*if required by rule*]. The  
18 following provisions must be included in the summary:

19 (a) An explanation of how the long term care benefit interacts with other components of the  
20 policy[, *including deductions from death benefits*];

21 (b) An illustration of the amount of benefits, the length of benefits and the guaranteed lifetime  
22 benefits, if any, for each covered person;

23 (c) Any exclusions, reductions and limitations on benefits of long term care;

24 (d) A [*statement that any*] **disclosure of whether any** long term care inflation protection option  
25 required by rule **for qualified long term care insurance** is [*not*] available under the policy **and,**  
26 **if the option is not available or if the option was offered and rejected by the applicant, an**  
27 **explanation of other options available under the policy, if any, to increase the funds available**  
28 **to pay for long term care;** and

29 (e) If applicable to the policy type, the following:

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

31 (B) A disclosure of guarantees, **fees or other costs** related to long term care [*costs of*] insur-  
32 *ance* charges; and

33 (C) Current and projected **periodic and** maximum lifetime benefits.

34 [(11)] (10) When a long term care benefit that is funded through a life insurance policy by an  
35 acceleration of the death benefit is in benefit payment status, the insurer must provide a monthly  
36 report to the policyholder. The report must include:

37 (a) Any long term care benefits paid out during the month;

38 **(b) Any costs or charges that will apply to the policy;**

39 [(b)] (c) An explanation of any changes in the policy, such as death benefits or cash values,  
40 owing to payment of long term care benefits; and

41 [(c)] (d) The amount of long term care benefits existing or remaining.

42 [(12)] (11) If a claim under a long term care insurance policy is denied, then not later than the  
43 60th day after the date of a written request by the policyholder or certificate holder, or a personal  
44 or authorized representative of either, the insurer must:

45 (a) Provide a written explanation of the reasons for the denial; and

1 (b) Make available all information directly related to the denial.

2 [(13)] (12) Long term care insurance policies shall include a clear description of the process for  
3 appealing and resolving disputes regarding whether the conditions of a benefit trigger have been  
4 met.

5 [(14)] (13) A policy may not be advertised, marketed or offered as long term care or nursing  
6 home insurance unless it complies with the provisions of ORS 743.650 to 743.665.

7 [(15)] (14) Rules adopted pursuant to ORS 743.650 to 743.665 shall be in accordance with the  
8 provisions of ORS chapter 183.

9 [(16)] (15) This section is exempt from ORS 743A.001.  
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