

HOUSE BILL No. 4836

August 20, 2015, Introduced by Reps. Lyons, Runestad, Theis, Hooker, Hughes, Barrett, Webber and Kosowski and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 1204f (MCL 500.1204f), as added by 2006 PA 442,
and by adding section 3908 and chapter 39A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1204f. (1) ~~Each insurer that sells, solicits, or~~
2 ~~negotiates long term care insurance shall ensure that each producer~~
3 ~~whose duties include selling, soliciting, or negotiating long term~~
4 ~~care insurance completes a program of instruction as described in~~
5 ~~subsection (3) before selling, soliciting, or negotiating long term~~
6 ~~care insurance.~~ AN INDIVIDUAL SHALL NOT SELL, SOLICIT, OR NEGOTIATE
7 LONG-TERM CARE INSURANCE UNLESS THE INDIVIDUAL MEETS ALL OF THE
8 FOLLOWING REQUIREMENTS:

9 (A) THE INDIVIDUAL IS LICENSED AS AN INSURANCE PRODUCER FOR

1 ACCIDENT AND HEALTH OR LIFE.

2 (B) THE INDIVIDUAL HAS COMPLETED A 1-TIME LONG-TERM CARE
3 TRAINING COURSE AS DESCRIBED IN THIS SECTION.

4 (C) THE INDIVIDUAL COMPLETES ONGOING TRAINING AS DESCRIBED IN
5 THIS SECTION FOR EVERY 2-YEAR CONTINUING EDUCATION COMPLIANCE
6 PERIOD AFTER THE COMPLETION OF THE 1-TIME LONG-TERM CARE TRAINING
7 COURSE.

8 (2) AN INSURER THAT DELIVERS OR ISSUES FOR DELIVERY LONG-TERM
9 CARE INSURANCE IN THIS STATE SHALL DO BOTH OF THE FOLLOWING:

10 (A) OBTAIN VERIFICATION THAT AN INSURANCE PRODUCER HAS
11 RECEIVED THE TRAINING DESCRIBED IN THIS SECTION BEFORE PERMITTING
12 THE INSURANCE PRODUCER TO SELL, SOLICIT, OR NEGOTIATE THE INSURER'S
13 LONG-TERM CARE INSURANCE PRODUCTS.

14 (B) MAKE THE VERIFICATION OBTAINED UNDER SUBDIVISION (A)
15 AVAILABLE TO THE DIRECTOR ON THE DIRECTOR'S REQUEST.

16 (3) AN INSURANCE PRODUCER SELLING, SOLICITING, OR NEGOTIATING
17 LONG-TERM CARE INSURANCE ON THE EFFECTIVE DATE OF THE AMENDATORY
18 ACT THAT ADDED CHAPTER 39A SHALL NOT CONTINUE TO SELL, SOLICIT, OR
19 NEGOTIATE LONG-TERM CARE INSURANCE UNLESS THE INSURANCE PRODUCER
20 HAS COMPLETED THE 1-TIME TRAINING COURSE DESCRIBED IN THIS SECTION
21 WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
22 ADDED CHAPTER 39A.

23 (4) ~~(2) A program of instruction~~ THE 1-TIME LONG-TERM CARE
24 TRAINING COURSE AND ONGOING TRAINING required under this section
25 may be provided in conjunction with other **INSURANCE** producer
26 training or separately. To satisfy subsection ~~(1), a~~ (2), **AN**
27 **INSURANCE** producer may document to an insurer that he or she has

obtained training as described in ~~subsection (3) from any of the following.~~

~~— (a) Any insurer that sells, solicits, or negotiates long term care insurance.~~

~~— (b) A program of instruction qualified under section 1204a.~~

~~— (c) A program of instruction qualified under section~~

~~1204c.~~ **SUBSECTIONS (5) AND (6) FROM A PROGRAM OF STUDY APPROVED UNDER SECTION 1204C.**

(5) THE 1-TIME LONG-TERM CARE TRAINING COURSE REQUIRED UNDER THIS SECTION MUST NOT BE LESS THAN 8 HOURS, AND THE ONGOING TRAINING REQUIRED UNDER THIS SECTION MUST NOT BE LESS THAN 4 HOURS FOR EVERY 2-YEAR CONTINUING EDUCATION COMPLIANCE PERIOD AFTER THE COMPLETION OF THE 1-TIME LONG-TERM CARE TRAINING COURSE.

(6) ~~(3) A program of instruction~~ THE 1-TIME LONG-TERM CARE TRAINING COURSE AND ONGOING TRAINING required under this section ~~shall~~ **MUST** consist of topics related to long-term care insurance, ~~and long-term care services,~~ **AND, IF APPLICABLE, QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAMS,** including, but not limited to, all of the following:

(a) State AND FEDERAL regulations and requirements ~~including, but not limited to, laws relating to adult financial exploitation.~~ **AND THE RELATIONSHIP BETWEEN QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAMS AND OTHER PUBLIC AND PRIVATE COVERAGE OF LONG-TERM CARE SERVICES, INCLUDING MEDICAID.**

(b) Available long-term care services and providers.

(c) Changes or improvements in long-term care services or providers.

(d) Alternatives to the purchase of private long-term care insurance.

~~———— (e) Differences in eligibility for benefits and tax treatment between policies intended to be federally qualified and those not intended to be federally qualified.~~

(E) ~~(f)~~—The effect of inflation in eroding the value of benefits and the importance of inflation protection.

(F) ~~(g)~~—Consumer suitability standards and guidelines.

(7) ~~(4)~~ A program of instruction **THE 1-TIME LONG-TERM CARE TRAINING COURSE AND ONGOING TRAINING** required under this section ~~shall~~ **MUST** not include any training that is solely oriented to the sales or marketing of an insurer-specific long-term care product.

(8) **SATISFYING THE TRAINING REQUIREMENTS OF THIS SECTION IN ANY STATE SATISFIES THE TRAINING REQUIREMENTS IN THIS STATE.**

SEC. 3908. (1) SUBJECT TO SUBSECTION (2), LONG-TERM CARE INSURANCE THAT IS DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE AFTER DECEMBER 31, 2007, AND BEFORE LONG-TERM CARE PARTNERSHIP PROGRAM POLICIES ARE APPROVED FOR SALE IN THIS STATE, MAY BE CONVERTED TO OR REPLACED WITH A LONG-TERM CARE PARTNERSHIP PROGRAM POLICY.

(2) BEFORE CONVERTING THE LONG-TERM CARE INSURANCE TO, OR REPLACING THE LONG-TERM CARE INSURANCE WITH, A LONG-TERM CARE PARTNERSHIP PROGRAM POLICY UNDER THIS SECTION, THE INSURED AND THE INSURER SHALL BOTH AGREE TO THE CONVERSION OR THE REPLACEMENT.

(3) AS USED IN THIS SECTION, "LONG-TERM CARE PARTNERSHIP PROGRAM POLICY" MEANS THAT TERM AS DEFINED IN SECTION 3957.

CHAPTER 39A

1 LONG-TERM CARE PARTNERSHIP PROGRAM INSURANCE

2 SEC. 3957. AS USED IN THIS CHAPTER:

3 (A) "APPLICANT" MEANS THAT TERM AS DEFINED IN SECTION 3901.

4 (B) "LONG-TERM CARE PARTNERSHIP PROGRAM POLICY" OR
5 "PARTNERSHIP POLICY" MEANS A POLICY THAT MEETS ALL OF THE
6 REQUIREMENTS FOR THE LONG-TERM CARE PARTNERSHIP PROGRAM UNDER
7 SECTION 112C OF THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.112C,
8 AND ALL OF THE FOLLOWING REQUIREMENTS:

9 (i) THE POLICY COVERS AN INSURED WHO WAS A RESIDENT OF THIS
10 STATE WHEN COVERAGE FIRST BECAME EFFECTIVE UNDER THE POLICY.

11 (ii) THE POLICY IS EITHER A QUALIFIED LONG-TERM CARE INSURANCE
12 CONTRACT AS THAT TERM IS DEFINED IN SECTION 7702B(B) OF THE
13 INTERNAL REVENUE CODE OF 1986, 26 USC 7702B, THAT IS ISSUED NO
14 EARLIER THAN THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
15 THIS CHAPTER OR A POLICY THAT HAS BEEN CONVERTED OR REPLACED UNDER
16 SECTION 3908.

17 (iii) THE POLICY MEETS ALL OF THE APPLICABLE REQUIREMENTS OF
18 CHAPTER 39.

19 (iv) THE POLICY MEETS THE REQUIREMENTS OF THE NATIONAL
20 ASSOCIATION OF INSURANCE COMMISSIONERS' MODEL ACT AND MODEL
21 REGULATION LISTED IN SECTION 1917(B)(5)(A) OF TITLE XIX OF THE
22 SOCIAL SECURITY ACT, 42 USC 1396P, AS REQUIRED UNDER SECTION 1917
23 (B)(1)(C)(iii)(III) OF TITLE XIX OF THE SOCIAL SECURITY ACT, 42 USC
24 1396P.

25 (v) THE POLICY PROVIDES THE FOLLOWING INFLATION PROTECTION
26 FEATURES:

27 (A) IF THE POLICY IS SOLD TO AN INDIVIDUAL WHO HAS NOT

1 ATTAINED AGE 61 AS OF THE DATE OF PURCHASE, THE POLICY MUST PROVIDE
2 COMPOUND ANNUAL INFLATION PROTECTION.

3 (B) IF THE POLICY IS SOLD TO AN INDIVIDUAL WHO HAS ATTAINED
4 AGE 61 BUT HAS NOT ATTAINED AGE 76 AS OF THE DATE OF PURCHASE, THE
5 POLICY MUST PROVIDE SOME LEVEL OF INFLATION PROTECTION.

6 (C) IF THE POLICY IS SOLD TO AN INDIVIDUAL WHO HAS ATTAINED
7 AGE 76 AS OF THE DATE OF PURCHASE, THE POLICY MAY PROVIDE SOME
8 LEVEL OF INFLATION PROTECTION.

9 (C) "POLICY" MEANS THAT TERM AS DEFINED IN SECTION 3901.

10 SEC. 3959. PURSUANT TO SECTION 6021 OF THE DEFICIT REDUCTION
11 ACT OF 2005, PUBLIC LAW 109-171, AND SECTION 112C OF THE SOCIAL
12 WELFARE ACT, 1939 PA 280, MCL 400.112C, THIS CHAPTER APPLIES TO A
13 LONG-TERM CARE PARTNERSHIP PROGRAM POLICY. THE APPLICABLE SECTIONS
14 OF CHAPTER 39 ALSO APPLY TO A LONG-TERM CARE PARTNERSHIP PROGRAM
15 POLICY.

16 SEC. 3961. (1) IF AN INSURER OR ITS AGENT SOLICITS OR OFFERS
17 TO SELL A POLICY THAT IS INTENDED TO QUALIFY AS A PARTNERSHIP
18 POLICY, THE INSURER OR ITS AGENT SHALL PROVIDE TO A PROSPECTIVE
19 APPLICANT THE NOTICE DESCRIBED IN SECTION 112C OF THE SOCIAL
20 WELFARE ACT, 1939 PA 280, MCL 400.112C, OR, IF FILED WITH AND
21 APPROVED BY THE DEPARTMENT, A NOTICE SIMILAR TO THE NOTICE
22 DESCRIBED IN SECTION 112C OF THE SOCIAL WELFARE ACT, 1939 PA 280,
23 MCL 400.112C.

24 (2) AN INSURER OR ITS AGENT SHALL PROVIDE THE NOTICE REQUIRED
25 UNDER SUBSECTION (1) TO A PROSPECTIVE APPLICANT WITH THE SUMMARY OF
26 COVERAGE DESCRIBED IN SECTION 3933.

27 SEC. 3963. (1) A PARTNERSHIP POLICY SHALL NOT BE DELIVERED OR

1 ISSUED FOR DELIVERY IN THIS STATE UNLESS THE PARTNERSHIP POLICY IS
2 FILED WITH THE DEPARTMENT AND APPROVED BY THE DIRECTOR UNDER
3 SECTION 2236(1) .

4 (2) A POLICY SUBMITTED TO THE DEPARTMENT FOR APPROVAL AS A
5 PARTNERSHIP POLICY UNDER SUBSECTION (1) MUST BE SUBMITTED WITH A
6 COMPLETED PARTNERSHIP CERTIFICATION FORM OR A SIMILAR FORM. THE
7 COMPLETED PARTNERSHIP CERTIFICATION FORM OR SIMILAR FORM ALSO MUST
8 BE APPROVED BY THE DIRECTOR OF THE DEPARTMENT.

9 (3) AS USED IN THIS SECTION, "PARTNERSHIP CERTIFICATION FORM"
10 MEANS A FORM DEVELOPED BY THE DEPARTMENT IN CONSULTATION WITH THE
11 STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

12 SEC. 3965. AN INSURER THAT ISSUES A PARTNERSHIP POLICY SHALL
13 PROVIDE COPIES OF THE REGULAR REPORTS DESCRIBED IN 45 CFR 144.200
14 TO 144.214 TO THE STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.