

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.3939 Application; questions relating to other policies in force or use as replacement; agent's list of other policies sold; notice to applicant and existing insurer; appropriateness of recommended purchase or replacement.

Sec. 3939.

(1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force:

(a) Do you have another long-term care insurance policy or certificate in force?

(b) Do you have other long-term care coverage through a health care corporation or a health maintenance organization?

(c) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(i) If so, with which company?

(ii) If that policy lapsed, when did it lapse?

(d) Are you covered by medicaid?

(e) Do you intend to replace any of your medical or health insurance coverage with this policy?

(2) Unless the coverage is sold without an agent, a supplementary application or other form containing the questions in subsection (1) requiring the applicant's and agent's signatures may be used.

(3) With regard to a replacement policy issued to a group under section 3904(c)(iv), the questions in subsection (1) may be modified but only to the extent necessary to elicit information about health or long-term care insurance policies other than the group certificate being replaced and provided that the certificate holder has been notified of the replacement.

(4) Agents shall list any other health insurance policies they have sold to the applicant in the past 5 years and indicate whether or not they are still in force.

(5) Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner:

"Notice to applicant regarding replacement of individual
accident and sickness or long-term care insurance
[Insurance company's name and address]

Save this notice! It may be important to you in the future.

According to [your application] [information you have
furnished], you intend to lapse or otherwise terminate existing
accident and sickness or long-term care insurance and replace
it with an individual long-term care insurance policy to be
issued by [company name] insurance company. Your new policy
provides 30 days within which you may decide, without cost,
whether you desire to keep the policy. For your own information
and protection, you should be aware of and seriously consider
certain factors that may affect the insurance protection
available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision. Statement to applicant by agent [broker or other representative]: (Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following

considerations, which I call to your attention:

1. Health conditions that you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate cannot contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy for similar benefits to the extent such time was spent under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature agent, broker, or other representative)
[Typed name and address of agent or broker]

The above "notice to applicant" was delivered to me on:

(Date)

(Applicant's signature)"

(6) Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following manner:

"Notice to applicant regarding replacement of accident
and sickness or long-term care insurance
[Insurance company's name and address]
Save this notice! It may be important to you in the future.

According to [your application] [information you have
furnished], you intend to lapse or otherwise terminate existing
accident and sickness or long-term care insurance and replace
it with the long-term care insurance policy issued by [company
name] insurance company. Your new policy provides 30 days
within which you may decide, without cost, whether you desire
to keep the policy. For your own information and protection,
you should be aware of and seriously consider certain factors
that may affect the insurance protection available to you under
the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions that you may presently have
(preexisting conditions) may not be immediately or fully
covered under the new policy. This could result in denial
or delay in payment of benefits under the new policy,
whereas a similar claim might have been payable under
your present policy.

2. State law provides that your replacement policy or
certificate cannot contain new preexisting conditions or
probationary periods. Your insurer will waive any time
periods applicable to preexisting conditions or
probationary periods in the new policy for similar
benefits to the extent such time was spent under the
original policy.

3. If you are replacing existing long-term care insurance
coverage, you may wish to secure the advice of your
present insurer or its agent regarding the proposed
replacement of your present policy. This is not only your
right, but it is also in your best interest to make sure
you understand all the relevant factors involved in
replacing your present coverage.

4. [To be included only if the application is attached to
the policy.] If, after due consideration, you still wish
to terminate your present policy and replace it with new
coverage, read the copy of the application attached to

your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company name) "

(7) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured, and policy number or address including zip code. The notice shall be made within 5 working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(8) In recommending the purchase or replacement of any long-term care insurance policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

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