Senate

General Assembly **File No. 272**

January Session, 2013 Senate Bill No. 1027

Senate, April 2, 2013

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING NOTIFICATION OF NONPAYMENT OF PREMIUM FOR INDIVIDUAL LONG-TERM CARE INSURANCE POLICIES AND LONG-TERM CARE BENEFITS UNDER AN ANNUITY CONTRACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-501 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) (1) As used in this section, "long-term care policy" means any individual health insurance policy delivered or issued for delivery to any resident of this state on or after July 1, 1986, that is designed to provide, within the terms and conditions of the policy, benefits on an expense-incurred, indemnity or prepaid basis for necessary care or treatment of an injury, illness or loss of functional capacity provided by a certified or licensed health care provider in a setting other than an acute care hospital, for at least one year after an elimination period (A) not to exceed one hundred days of confinement, or (B) of over one hundred days but not to exceed two years of confinement, provided such period is covered by an irrevocable trust in an amount estimated to be sufficient to furnish coverage to the grantor of the trust for the duration of the elimination period. Such trust shall create an unconditional duty to pay the full amount held in trust exclusively to cover the costs of confinement during the elimination period, subject only to taxes and any trustee's charges allowed by law. Payment shall be made directly to the provider. The duty of the trustee may be enforced by the state, the grantor or any person acting on behalf of the grantor. A long-term care policy shall provide benefits for confinement in a nursing home or confinement in the insured's own home or both. Any additional benefits provided shall be related to long-term treatment of an injury, illness or loss of functional capacity. "Long-term care policy" shall not include any such policy that is offered primarily to provide basic Medicare supplement coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified accident coverage or limited benefit health coverage.

(2) (A) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center delivering, issuing for delivery, renewing, continuing or amending any long-term care policy in this state may refuse to accept or make reimbursement pursuant to a claim for benefits submitted by or prepared with the assistance of a managed residential community, as defined in section 19a-693, in accordance with subdivision (7) of subsection (a) of section 19a-694 solely because such claim for benefits was submitted by or prepared with the assistance of a managed residential community.

(B) Each insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center delivering, issuing for delivery, renewing, continuing or amending any long-term care policy in this state shall, upon receipt of a written authorization executed by the insured, (i) disclose information to a managed residential community for the purpose of determining such insured's eligibility for an insurance benefit or payment, and (ii) provide a copy of the initial acceptance or declination of a claim for benefits to the managed residential community at the same time such acceptance or declination is made to the insured.

(b) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation or health care center may deliver or issue for delivery any long-term care policy that has a loss ratio of less than sixty per cent for any individual long-term care policy. An issuer shall not use or change premium rates for a long-term care [insurance] policy unless the rates have been filed with and approved by the Insurance Commissioner. Any rate filings or rate revisions shall demonstrate that anticipated claims in relation to premiums when combined with actual experience to date can be expected to comply with the loss ratio requirement of this section. A rate filing shall include the factors and methodology used to estimate irrevocable trust values if the policy includes an option for the elimination period specified in subdivision (1) of subsection (a) of this section.

(c) No such company, society, corporation or center may deliver or issue for delivery any long-term care policy without providing, at the time of solicitation or application for purchase or sale of such coverage, full and fair disclosure of the benefits and limitations of the policy. If the offering for any long-term care policy includes an option for the elimination period specified in subdivision (1) of subsection (a) of this section, the application form for such policy and the face page of such policy shall contain a clear and conspicuous disclosure that the irrevocable trust may not be sufficient to cover all costs during the elimination period.

(d) No such company, society, corporation or center may deliver or issue for delivery any long-term care policy on or after July 1, 2008, without offering, at the time of solicitation or application for purchase or sale of such coverage, an option to purchase a policy that includes a nonforfeiture benefit. Such offer of a nonforfeiture benefit may be in the form of a rider attached to such policy. In the event the nonforfeiture benefit is declined, such company, society, corporation or center shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates. Not later than July 1, 2008, the Insurance Commissioner shall adopt regulations, in accordance with chapter 54, to implement the provisions of this subsection. Such regulations shall specify the type of nonforfeiture benefit that may be offered, the standards for such benefit, the period of time during which a contingent benefit upon lapse will be available and the substantial increase in premium rates that trigger a contingent benefit upon lapse in accordance with the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners.

(e) The Insurance Commissioner shall adopt regulations, in accordance with chapter 54, that address (1) the insured's right to information prior to **[**his**]** <u>the insured</u> replacing an accident and sickness policy with a long-term care policy, (2) the insured's right to return a long-term care policy to the insurer, within a specified period of time after delivery, for cancellation, and (3) the insured's right to accept by the insured's signature, and prior to it becoming effective, any rider or endorsement added to a long-term care policy after the issuance date of such policy. The Insurance Commissioner shall adopt such additional regulations as the commissioner deems necessary in accordance with chapter 54 to carry out the purpose of this section.

<u>(f) (1) No notice of cancellation on the basis of nonpayment of premium for a long-term care policy shall be effective unless sent, by registered or certified mail or by mail evidenced by a certificate of mailing, or delivered by the insurer, to the insured and any third party designated pursuant to subdivision (2) of this subsection, at least thirty days before the effective date of cancellation. The notice of cancellation shall be accompanied by the amount of the premium owed. The named insured may continue the coverage and avoid the effect of cancellation by payment in full of such amount by such insured, a third party designated pursuant to subdivision (2) of this subsection or any other person on behalf of such insured, at any time prior to the</u>

effective date of cancellation.

(2) (A) Each insurer that delivers, issues for delivery or renews a long-term care policy on or after October 1, 2013, in this state shall include with the policy a conspicuous statement specifying that the insured may designate a third party to receive notice of cancellation of the policy based on nonpayment of premium. The statement shall include a designation form and mailing address the insured may use to designate a third party. Such statement shall be in a form approved by the Insurance Commissioner.

(B) No designation form shall be effective unless it contains a written acceptance by the third party designee to receive copies of notices of cancellation from the insurer on behalf of the insured. The third party designation shall be effective not later than ten business days after the date the insurer receives the designation form and the acceptance of the third party. The third party may terminate the status as a third party designee by providing written notice to both the insurer and the insured. The insured may terminate the third party designation by providing written notice to the insurer and the third party designee. The insurer may require the insured and the third party to send the notices to the insurer by certified mail, return receipt requested.

(C) The insurer's transmission to the third party designee of a copy of a notice of cancellation based on nonpayment of premium shall be in addition to the transmission of the original document to the insured. When a third party is so designated all such notices and copies shall be mailed in an envelope clearly marked on its face with the following: "IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATELY". The copy of the notice of cancellation transmitted to the third party shall be governed by the same law and policy provisions that govern the notice being transmitted to the insured. The designation of a third party shall not constitute acceptance of any liability on the part of the third party or insurer for services provided to the insured.

[(f)] (g) The Insurance Commissioner may, upon written request by any such company, society, corporation or center, issue an order to modify or suspend a specific provision of this section or any regulation adopted pursuant thereto with respect to a specific long-term care policy upon a written finding that: (1) The modification or suspension would be in the best interest of the insureds; (2) the purposes to be achieved could not be effectively or efficiently achieved without such modification or suspension; and (3) (A) the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care, (B) the policy is to be issued to residents of a life care or continuing care retirement community or other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such community, or (C) the modification or suspension is necessary to permit long-term care policies to be sold as part of, or in conjunction with, another insurance product. Whenever the commissioner decides not to issue such an order, the commissioner shall provide written notice of such decision to the requesting party in a timely manner.

[(g)] (h) Upon written request by any such company, society, corporation or center, the Insurance Commissioner may issue an order to extend the preexisting condition exclusion period, as established by regulations adopted pursuant to this section, for purposes of specific age group categories in a specific long-term care policy form whenever the commissioner makes a written finding that such an extension is in the best interest to the public. Whenever the commissioner decides not to issue such an order, the commissioner shall provide written notice of such decision to the requesting party in a timely manner.

[(h)] (i) The provisions of section 38a-19 shall be applicable to any such requesting party aggrieved by any order or decision of the commissioner made pursuant to subsections [(f) and] (g) and (h) of this section.

Sec. 2. Section 38a-458 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

(a) [On and after June 16, 1989] Provided such company is licensed for both life and health insurance in this state, any life insurance company doing business in this state may issue life insurance policies or certificates, or riders or endorsements thereto, [which] that provide, within the terms and conditions of the policy or certificate, long-term care benefits as described in section 38a-501, as amended by this act, [provided such company is licensed for both life and health insurance in this state] or 38a-528, except as specified in subsection (c) of this section. The Insurance Commissioner may adopt regulations, in accordance with chapter 54, to implement the provisions of this section. [Prior to the effective date of such regulations, any such policy, certificate, rider or endorsement may be filed with the commissioner and may be approved at the commissioner's discretion.]

(b) Provided such company is licensed for both life and health insurance in this state, any life insurance company doing business in this state may issue annuity contracts or certificates, or riders or endorsements thereto, that provide, within the terms and conditions of the contract or certificate, long-term care benefits as described in section 38a-501, as amended by this act, or 38a-528, except as specified in subsection (c) of this section, and that waive the surrender charges under such contract or accelerate a specified portion of the annuity value of such contract.

[(b)] (c) Long-term care benefits provided pursuant to subsection (a) or (b) of this section shall not be subject to the requirements of subsection (b) of section 38a-501, as amended by this act, or subsection (b) of section 38a-528.

[(c)] (d) No insurance producer shall sell any such policy, certificate, rider or endorsement unless the producer is licensed to sell both life and health insurance in this state.

[(d)] (e) A life insurance policy or annuity contract with long-term care benefits issued pursuant to this section may include a rider that provides long-term care benefits that become payable upon exhaustion of [benefits] a specified amount of the death benefit under the life insurance policy or a specified amount of the annuity value of the annuity contract. **[**The**]** Any elimination period limitations shall apply only to the acceleration phase of the life insurance policy or annuity contract to which the rider is attached. Such rider shall not contain an additional elimination period and may calculate the waiver of premium from the time benefits are payable under such rider.

Sec. 3. Section 38a-458a of the general statutes is repealed. (*Effective October 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2013*	38a-501
Sec. 2	*October 1, 2013*	38a-458
Sec. 3	*October 1, 2013*	Repealer section

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill modifies notification and cancellation requirements for long term care insurance. As it concerns private insurance transactions, there is no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
SB 1027

AN ACT CONCERNING NOTIFICATION OF NONPAYMENT OF PREMIUM FOR INDIVIDUAL LONG-TERM CARE INSURANCE POLICIES AND LONG-TERM CARE BENEFITS UNDER AN ANNUITY CONTRACT.

SUMMARY:

This bill requires insurers that offer long-term care (LTC) policies to include a conspicuous statement with each policy informing the insured person that he or she may designate a third party to receive cancellation notices due to nonpayment of premium. The insurance commissioner must approve the statement, which must include a form and mailing address the insured can use to designate a third party. To be effective, a designation form must satisfy specified criteria.

The bill requires LTC insurers to provide notice to an insured person at least 30 days before cancelling a policy for nonpayment of premiums. The notice must be sent by registered or certified mail or mail evidenced by a certificate of mailing or otherwise delivered by the insurer to the insured person and third-party designee, if any. It must indicate the amount of premium owed. Cancellation is avoided if the insured person, third-party designee, or other person on behalf of the insured pays the full premium due to the insurer before the cancellation effective date.

The bill also allows insurers licensed for both life and health insurance in Connecticut to offer annuity contracts or certificates, or riders or endorsements to them, that provide LTC benefits. This allows withdrawals from the annuity for LTC expenses. Such contracts and certificates must waive the surrender charges or accelerate a portion of the annuity contract. By law, life insurance policies may already provide LTC benefits. Life insurance policies and

annuity contracts must be filed with and approved by the insurance commissioner.

The bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

THIRD-PARTY DESIGNATION

The bill requires a designation form to include the third party designee’s written acceptance to receive copies of cancellation notices on the insured person’s behalf. The designation must be effective within 10 business days after the date the insurer receives the form and acceptance.

Under the bill, a third-party designee may end the designation by giving the insurer and insured person written notice, and the insured person may end the designation by giving the insurer and third-party designee written notice. The insurer may require its termination notices to be sent by certified mail, return receipt requested.

The bill provides that the insurer’s delivery of a copy of a cancellation notice to a third-party designee is in addition to delivery of the original notice to the insured person. It requires all original notices and copies to be mailed in an envelope marked on its face with the following: “IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATELY.”

The bill specifies that the same law and policy provisions governing notices to an insured person also govern copies of notices sent to a third-party designee. It also states that designating a third party does not constitute acceptance of any liability by the third party or insurer for services provided to the insured.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 17 Nay 1 (03/14/2013)