



General Assembly

February Session, 2014

Raised Bill No. 5363

LCO No. 1688



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT PROHIBITING GENDER AS A RATING FACTOR FOR LONG-TERM CARE INSURANCE POLICIES.

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

1 Section 1. Section 38a-501 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2015*):

4 (a) [(1)] As used in this section, "long-term care policy" means any
5 individual health insurance policy delivered or issued for delivery to
6 any resident of this state on or after July 1, 1986, that is designed to
7 provide, within the terms and conditions of the policy, benefits on an
8 expense-incurred, indemnity or prepaid basis for necessary care or
9 treatment of an injury, illness or loss of functional capacity provided
10 by a certified or licensed health care provider in a setting other than an
11 acute care hospital, for at least one year after an elimination period
12 [(A)] (1) not to exceed one hundred days of confinement, or [(B)] (2) of
13 over one hundred days but not to exceed two years of confinement,
14 provided such period is covered by an irrevocable trust in an amount
15 estimated to be sufficient to furnish coverage to the grantor of the trust

16 for the duration of the elimination period. Such trust shall create an
17 unconditional duty to pay the full amount held in trust exclusively to
18 cover the costs of confinement during the elimination period, subject
19 only to taxes and any trustee's charges allowed by law. Payment shall
20 be made directly to the provider. The duty of the trustee may be
21 enforced by the state, the grantor or any person acting on behalf of the
22 grantor. A long-term care policy shall provide benefits for confinement
23 in a nursing home or confinement in the insured's own home or both.
24 Any additional benefits provided shall be related to long-term
25 treatment of an injury, illness or loss of functional capacity. "Long-term
26 care policy" shall not include any such policy that is offered primarily
27 to provide basic Medicare supplement coverage, basic medical-surgical
28 expense coverage, hospital confinement indemnity coverage, major
29 medical expense coverage, disability income protection coverage,
30 accident only coverage, specified accident coverage or limited benefit
31 health coverage.

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

42 (B) Each insurance company, fraternal benefit society, hospital
43 service corporation, medical service corporation or health care center
44 delivering, issuing for delivery, renewing, continuing or amending any
45 long-term care policy in this state shall, upon receipt of a written
46 authorization executed by the insured, (i) disclose information to a
47 managed residential community for the purpose of determining such
48 insured's eligibility for an insurance benefit or payment, and (ii)

49 provide a copy of the initial acceptance or declination of a claim for
50 benefits to the managed residential community at the same time such
51 acceptance or declination is made to the insured.]

52 (b) No insurance company, fraternal benefit society, hospital service
53 corporation, medical service corporation or health care center
54 delivering, issuing for delivery, renewing, amending or continuing a
55 long-term care policy in this state shall use gender as a factor in
56 underwriting or rating.

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

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

80 [(d)] (e) No such company, society, corporation or center may
81 deliver or issue for delivery any long-term care policy on or after July
82 1, 2008, without offering, at the time of solicitation or application for
83 purchase or sale of such coverage, an option to purchase a policy that
84 includes a nonforfeiture benefit. Such offer of a nonforfeiture benefit
85 may be in the form of a rider attached to such policy. In the event the
86 nonforfeiture benefit is declined, such company, society, corporation
87 or center shall provide a contingent benefit upon lapse that shall be
88 available for a specified period of time following a substantial increase
89 in premium rates. Not later than July 1, 2008, the Insurance
90 Commissioner shall adopt regulations, in accordance with chapter 54,
91 to implement the provisions of this subsection. Such regulations shall
92 specify the type of nonforfeiture benefit that may be offered, the
93 standards for such benefit, the period of time during which a
94 contingent benefit upon lapse will be available and the substantial
95 increase in premium rates that trigger a contingent benefit upon lapse
96 in accordance with the Long-Term Care Insurance Model Regulation
97 adopted by the National Association of Insurance Commissioners.

98 (f) (1) No such company, society, corporation or center delivering,
99 issuing for delivery, renewing, amending or continuing any long-term
100 care policy in this state may refuse to accept or make reimbursement
101 pursuant to a claim for benefits submitted by or prepared with the
102 assistance of a managed residential community, as defined in section
103 19a-693, in accordance with subdivision (7) of subsection (a) of section
104 19a-694, solely because such claim for benefits was submitted by or
105 prepared with the assistance of a managed residential community.

106 (2) Each insurance company, fraternal benefit society, hospital
107 service corporation, medical service corporation or health care center
108 delivering, issuing for delivery, renewing, amending or continuing any
109 long-term care policy in this state shall, upon receipt of a written
110 authorization executed by the insured, (A) disclose information to a
111 managed residential community for the purpose of determining such
112 insured's eligibility for an insurance benefit or payment, and (B)

113 provide a copy of the initial acceptance or declination of a claim for
114 benefits to the managed residential community at the same time such
115 acceptance or declination is made to the insured.

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

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

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

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

158 Sec. 2. Section 38a-528 of the 2014 supplement to the general statutes
159 is repealed and the following is substituted in lieu thereof (*Effective*
160 *January 1, 2015*):

161 (a) [(1)] As used in this section, "long-term care policy" means any
162 group health insurance policy or certificate delivered or issued for
163 delivery to any resident of this state on or after July 1, 1986, [which]
164 that is designed to provide, within the terms and conditions of the
165 policy or certificate, benefits on an expense-incurred, indemnity or
166 prepaid basis for necessary care or treatment of an injury, illness or
167 loss of functional capacity provided by a certified or licensed health
168 care provider in a setting other than an acute care hospital, for at least
169 one year after a reasonable elimination period. A long-term care policy
170 shall provide benefits for confinement in a nursing home or
171 confinement in the insured's own home or both. Any additional
172 benefits provided shall be related to long-term treatment of an injury,
173 illness or loss of functional capacity. "Long-term care policy" shall not
174 include any such policy or certificate which is offered primarily to
175 provide basic Medicare supplement coverage, basic medical-surgical
176 expense coverage, hospital confinement indemnity coverage, major

177 medical expense coverage, disability income protection coverage,
178 accident only coverage, specified accident coverage or limited benefit
179 health coverage.

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

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

200 (b) No insurance company, fraternal benefit society, hospital service
201 corporation, medical service corporation or health care center
202 delivering, issuing for delivery, renewing, amending or continuing a
203 long-term care policy in this state shall use gender as a factor in
204 underwriting or rating.

205 [(b)] (c) No insurance company, fraternal benefit society, hospital
206 service corporation, medical service corporation or health care center
207 may deliver or issue for delivery any long-term care policy or

208 certificate [which] that has a loss ratio of less than sixty-five per cent
209 for any group long-term care policy. An issuer shall not use or change
210 premium rates for a long-term care policy or certificate unless the rates
211 have been filed with the Insurance Commissioner. Deviations in rates
212 to reflect policyholder experience shall be permitted, provided each
213 policy form shall meet the loss ratio requirement of this section. Any
214 rate filings or rate revisions shall demonstrate that anticipated claims
215 in relation to premiums when combined with actual experience to date
216 can be expected to comply with the loss ratio requirement of this
217 section. On an annual basis, an insurer shall submit to the Insurance
218 Commissioner an actuarial certification of the insurer's continuing
219 compliance with the loss ratio requirement of this section. Any rate or
220 rate revision may be disapproved if the commissioner determines that
221 the loss ratio requirement will not be met over the lifetime of the policy
222 form using reasonable assumptions.

223 [(c)] (d) No such company, society, corporation or center may
224 deliver or issue for delivery any long-term care policy without
225 providing, at the time of solicitation or application for purchase or sale
226 of such coverage, full and fair disclosure of the benefits and limitations
227 of the policy. The provisions of this subsection shall not be applicable
228 to: (1) Any long-term care policy [which] that is delivered or issued for
229 delivery to one or more employers or labor organizations, or to a trust
230 or to the trustees of a fund established by one or more employers or
231 labor organizations, or a combination thereof, for employees or former
232 employees or a combination thereof or for members or former
233 members or a combination thereof, or the labor organizations; and (2)
234 noncontributory plans.

235 [(d)] (e) The Insurance Commissioner shall adopt regulations, in
236 accordance with chapter 54, [which] that address (1) the insured's right
237 to information prior to his replacing an accident and sickness policy
238 with a long-term care policy, (2) the insured's right to return a long-
239 term care policy to the insurer, within a specified period of time after
240 delivery, for cancellation, and (3) the insured's right to accept by [his]

241 the insured's signature, and prior to it becoming effective, any rider or
242 endorsement added to a long-term care policy after the issuance date
243 of such policy, provided (A) any regulations adopted pursuant to
244 subdivisions (1) and (2) of this subsection shall not be applicable to (i)
245 any long-term care policy [which] that is delivered or issued for
246 delivery to one or more employers or labor organizations, or to a trust
247 or to the trustees of a fund established by one or more employers or
248 labor organizations, or a combination thereof or for members or former
249 members or a combination thereof, of the labor organizations, or (ii)
250 noncontributory plans, and (B) any regulations adopted pursuant to
251 subdivision (3) of this subsection shall not be applicable to any group
252 long-term care policy. The Insurance Commissioner shall adopt such
253 additional regulations as [he] the commissioner deems necessary in
254 accordance with said chapter 54 to carry out the purpose of this
255 section.

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

274 requesting party in a timely manner.

275 (g) (1) No such company, society, corporation or center delivering,
276 issuing for delivery, renewing, amending or continuing any long-term
277 care policy in this state may refuse to accept or make reimbursement
278 pursuant to a claim for benefits submitted by or prepared with the
279 assistance of a managed residential community, as defined in section
280 19a-693, in accordance with subdivision (7) of subsection (a) of section
281 19a-694, solely because such claim for benefits was submitted by or
282 prepared with the assistance of a managed residential community.

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

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

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

305 section.

306 Sec. 3. Subsection (c) of section 38a-458 of the 2014 supplement to
307 the general statutes is repealed and the following is substituted in lieu
308 thereof (*Effective January 1, 2015*):

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2015</i>	38a-501
Sec. 2	<i>January 1, 2015</i>	38a-528
Sec. 3	<i>January 1, 2015</i>	38a-458(c)

Statement of Purpose:

To prohibit the use of gender as a factor in underwriting or rating for an individual or group long-term care insurance policy.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]