

**Introduced by Senator Liu**February 17, 2016

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An act to amend Sections 10231.2 and 10235.9 of the Insurance Code, relating to insurance.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1091, as introduced, Liu. Long-term care insurance.

Under existing law, the Department of Insurance, headed by the Insurance Commissioner, licenses and regulates insurers. Existing law divides insurance into various classes, including long-term care insurance, which includes an insurance policy, certificate, or rider advertised, marketed, offered, solicited, or designed to provide coverage for diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital.

This bill would, among other things, provide that long-term care insurance also includes disability income coverage that provides benefits that may commence after the insured has reached Social Security's normal retirement age and family expense disability insurance policies, riders, endorsements, or amendments that provide coverage for disabled persons during periods of institutional care, as specified. The bill would provide that long-term care insurance does not include a policy, rider, endorsement, or amendment that provides benefits triggered by activities of daily living, and that complies with specified requirements, including that it not be advertised, marketed, offered, or designed as long-term care insurance or as providing coverage for long-term care services.

Existing law requires an insurer to report annually by June 30 the total number of claims denied by each class of business in the state, as

specified, and to provide a policyholder or certificate holder whose claim is denied written notice of the reasons for denial, as specified.

This bill would require an insurer to adopt and implement reasonable standards for the prompt investigation and processing of claims. The bill would require an insurer to report information regarding denial of requests for treatment under an alternate plan of care, and to provide a policyholder or certificate holder written notice of denial of those requests, as described above regarding denial of insurance claims.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares both of the  
2 following:

3 (a) Long-term care insurance is a vital lifeline for many of  
4 California’s aging population.

5 (b) Ensuring that the insurance available to consumers is fair  
6 and accessible is important to values and quality of life.

7 SEC. 2. It is the intent of the Legislature to ensure that  
8 insurance products provide appropriate benefits that fit consumers’  
9 needs.

10 SEC. 3. Section 10231.2 of the Insurance Code is amended to  
11 read:

12 10231.2. (a) “Long-term care insurance” includes any  
13 insurance policy, certificate, or rider advertised, marketed, offered,  
14 solicited, or designed to provide coverage for diagnostic,  
15 preventive, therapeutic, rehabilitative, maintenance, or personal  
16 care services that are provided in a setting other than an acute care  
17 unit of a hospital. Long-term care insurance includes all products  
18 containing any of the following benefit types: ~~coverage~~

19 (1) ~~Coverage~~ for institutional ~~care care~~, including care in a  
20 nursing home, convalescent facility, extended care facility,  
21 custodial care facility, skilled nursing facility, or personal care  
22 ~~home; home~~ home.

23 (2) ~~Home care coverage~~ coverage, including home health care,  
24 personal care, homemaker services, hospice, or respite ~~care; or~~  
25 ~~community-based coverage~~ care.

26 (3) ~~Community-based coverage~~ coverage, including adult day care,  
27 hospice, or respite care. ~~Long-term~~

1 (4) Disability income coverage that provides benefits that may  
2 commence after the insured has reached Social Security’s normal  
3 retirement age.

4 (5) Family expense disability insurance policies, riders,  
5 endorsements, or amendments that provide coverage for disabled  
6 persons during periods of institutional care, unless the benefits  
7 are designed to cover expenses not related to the institutional care.

8 (b) (1) Long-term care insurance includes disability based  
9 long-term care ~~policies~~ policies, but does not include insurance  
10 designed primarily to provide Medicare supplement or major  
11 medical expense coverage.

12 (2) Long-term care insurance does not include an insurance  
13 policy rider, endorsement, or amendment that provides benefits  
14 triggered by activities of daily living, as defined in paragraph (2)  
15 of subdivision (a) of Section 10232.8, and that complies with both  
16 of the following:

17 (A) The benefits are not dependent on, or vary in amount based  
18 on, the receipt of long-term care services.

19 (B) The coverage is not advertised, marketed, offered, or  
20 designed as long-term care insurance or as providing coverage  
21 for long-term care services.

22 ~~Long-term~~

23 (c) Long-term care policies, certificates, and riders shall be  
24 regulated under this chapter. The commissioner shall review and  
25 approve individual and group policies, certificates, riders, and  
26 outlines of coverage. Other applicable laws and regulations shall  
27 also apply to long-term care insurance insofar as they do not  
28 conflict with the provisions in this chapter. Long-term care benefits  
29 designed to provide coverage of 12 months or more that are  
30 contained in or amended to Medicare supplement or other disability  
31 policies and certificates shall be regulated under this chapter.

32 SEC. 4. Section 10235.9 of the Insurance Code is amended to  
33 read:

34 10235.9. (a) An insurer shall adopt and implement reasonable  
35 standards for promptly investigating and processing claims.

36 (a)

37 (b) Every insurer shall report ~~annually~~ to the department by  
38 June 30 ~~the~~ of each year all of the following information:

39 (1) The total number of claims denied by each class of business  
40 in the state and the number of these claims denied for failure to

1 meet the waiting period or because of a preexisting condition as  
2 of the end of the preceding calendar year.

3 (2) *The number of requests from insureds for treatment to be*  
4 *provided under an alternate plan of care, any reason used by the*  
5 *insurer to deny those requests, and the number of requests denied*  
6 *for each reason.*

7 ~~(b)~~

8 (c) The insurer shall provide every policyholder or certificate  
9 holder whose claim is ~~denied~~ *denied, or whose request for*  
10 *treatment under an alternate plan of care has been denied, a*  
11 *written notice within 40 days of the date of denial of the reasons*  
12 *for the denial and all information directly related to the denial.*  
13 *Insurers shall annually report to the department the number of*  
14 *denied claims.*

15 ~~(e)~~

16 (d) The department shall make available to the public, upon  
17 request, the denial rate of claims by ~~insurer~~ *insurer pursuant to*  
18 *subdivision (b).*