

## Senate Bill No. 475

### CHAPTER 669

An act to amend Section 10324.95 of, and to add Section 10234.6 to, the Insurance Code, relating to long-term care insurance.

[Approved by Governor October 6, 1999. Filed  
with Secretary of State October 10, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 475, Dunn. Long-term care insurance: rate guide: data collection.

Existing law requires every policy or certificate for long-term care insurance to include a provision for retaining the policy or certificate after the first year and permitting changes in coverage that would either lower or increase premiums. Existing law requires an issuer of long-term care insurance, or where an agent is involved, the agent, to present an applicant with a long-term care insurance personal worksheet.

This bill would require the Insurance Commissioner to annually prepare a consumer rate guide for consumers for long-term care insurance, as specified. The bill would specify the dates and methods for distributing the consumer rate guide. The bill would require each insurer to provide, and the Department of Insurance to collect, specified data on long-term care policies and certificates, including all policies, whether issued by the insurer or purchased or acquired from another insurer, in the United States, on or after January 1, 1990. The bill would provide that the data collected are public records open to members of the public for inspection, unless they are a trade secret as defined. The bill would require insurers to include in the premium section of long-term care insurance personal worksheets information, as specified, on any increases or requests for increases in rates of prior policies sold in any state by the insurer.

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

SECTION 1. Section 10234.6 is added to the Insurance Code, to read:

10234.6. (a) The commissioner, in consultation with representatives of the Health Insurance Counseling and Advocacy Program, shall annually prepare a consumer rate guide for long-term care insurance that shall include, but not be limited to, the following information:

(1) An explanation of the different kinds of long-term care insurance and coverages available to consumers.



(2) The premium history of each insurer that writes long-term care policies for all the kinds of long-term care insurance and coverages sold by the insurer.

(b) The consumer rate guide shall be published no later than December 1st of each year commencing with the year 2000, and shall be distributed using all of the following methods:

(1) Through Health Insurance Counseling and Advocacy Program (HICAP) offices.

(2) By telephone using the department's consumer toll-free telephone number.

(3) On the department's internet web site.

(c) In addition to the distribution methods described in subdivision (b), each insurer that markets long-term care policies in this state shall include in the premium section of the "Long-Term Care Insurance Personal Worksheet" required by Section 10234.95, a statement that reads as follows: "A rate guide is available that compares the policies sold by different insurers, the benefits provided in those policies, sample premiums, and the history of rate increases, if any, for those policies. You can obtain a copy of this rate guide by calling the Department of Insurance's consumer toll-free number (1-800-927-HELP), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free number (1-800-434-0222), or by accessing the Department of Insurance's Internet web site ([www.insurance.ca.gov](http://www.insurance.ca.gov))."

(d) For purposes of this section, the department shall collect, and each insurer shall provide to the department, all of the following information for each long-term care policy and certificate, including all policies, whether issued by the insurer or purchased or acquired from another insurer, issued in the United States on or after January 1, 1990:

(1) Company name.

(2) Policy type.

(3) Policy benefits.

(4) Policy form identification.

(5) Dates sold.

(6) Premium rate increases requested.

(7) Premium rate increases approved.

(8) Dates of rate increase approvals.

(9) Sample premiums for different age groups.

(10) Any other information requested by the department.

(e) Insurers shall provide the information required pursuant to subdivision (d) no later than July 31 of each year commencing with the year 2000.

(f) Notwithstanding any other provision of law, the data submitted by insurers to the department pursuant to this section are public records, and shall be open to inspection by members of the public pursuant to the procedures of the California Public Records



Act. However, a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, is not subject to this subdivision.

SEC. 2. Section 10234.95 of the Insurance Code is amended to read:

10234.95. (a) Every insurer or other entity marketing long-term care insurance shall:

(1) Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

(2) Train its agents in the use of its suitability standards.

(3) Maintain a copy of its suitability standards and make them available for inspection upon request by the commissioner.

(b) The agent and insurer shall develop procedures that take into consideration, when determining whether the applicant meets the standards developed by the insurer, the following:

(1) The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage.

(2) The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs.

(3) The value, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

(c) The issuer, and where an agent is involved, the agent, shall make reasonable efforts to obtain the information set out in subdivision (b). The efforts shall include presentation to the applicant, at or prior to application, of the "Long-Term Care Insurance Personal Worksheet," contained in the Long-Term Care Insurance Model Regulations of the National Association of Insurance Commissioners. The personal worksheet used by the insurer shall contain, at a minimum, the information in the NAIC worksheet in not less than 12-point type. The insurer may request the applicant to provide additional information to comply with its suitability standards. In the premium section of the personal worksheet, the insurer shall disclose all rate increases and rate increase requests for any prior policies it has sold in any state. A copy of the issuer's personal worksheet shall be filed and approved by the commissioner. A new personal worksheet shall be filed and approved by the commissioner each time a rate is increased in California. The new personal worksheet shall disclose the amount of the rate increase in California and all prior rate increases in California as well as all prior rate increases and rate increase requests or filings in any other state. The new personal worksheet shall be used by the insurer within 60 days of approval by the commissioner in place of the previously approved personal worksheet.



(d) A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sale of employer group long-term care insurance to employees and their spouses and dependents.

(e) The sale or dissemination outside the company or agency by the issuer or agent of information obtained through the personal worksheet is prohibited.

(f) The issuer shall use the suitability standards it has developed pursuant to this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate.

(g) Agents shall use the suitability standards developed by the insurer in marketing long-term care insurance.

(h) If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. Alternatively, the issuers shall send the applicant a letter similar to the "Long-Term Care Insurance Suitability Letter" contained in the Long-Term Care Model Regulations of the National Association of Insurance Commissioners. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

(i) The insurer shall report annually to the commissioner the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number who chose to conform after receiving a suitability letter.

(j) This section shall not apply to life insurance policies that accelerate benefits for long-term care.

