

**Senate Bill No. 2111**

**CHAPTER 560**

An act to amend Sections 10234.6 and 10234.95 of the Insurance Code, relating to long-term care insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 20, 2000.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 2111, Dunn. Long-term care insurance: rate guide: data collection.

Existing law requires the Insurance Commissioner to annually prepare a consumer rate guide for consumers for long-term care insurance, as specified, beginning on December 1, 2000. Existing law requires 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. Existing law requires insurers to include, in the premium section of long-term care insurance personal worksheets, information on any increases or requests for increases in rates of prior policies sold in any state by the insurer.

This bill would revise these provisions by requiring the consumer rate guide to consist of a rate history portion and a policy comparison portion, as specified. This bill would require the premium section of long-term care insurance personal worksheets to include a reference to the consumer rate guide and where a copy may be obtained. This bill would make other related changes.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 10234.6 of the Insurance Code is amended to read:

10234.6. (a) The commissioner shall, by June 1 of each year, jointly design the format and content of a consumer rate guide for long-term care insurance with a working group that includes representatives of the Health Insurance Counseling and Advocacy Program, the insurance industry, and insurance agents. The commissioner shall annually prepare the consumer rate guide for long-term care insurance that shall include, but not be limited to, the following information:



(1) A comparison of the different types of long-term care insurance and coverages available to California consumers.

(2) A premium history of each insurer that writes long-term care policies for all the types of long-term care insurance and coverages issued by the insurer in each state.

(b) The consumer rate guide to be prepared by the commissioner shall consist of two parts: a history of the rates for all policies issued in the United States on or after January 1, 1990, and a comparison of the policies, benefits, and sample premiums for all policies currently being issued for delivery in California.

(1) For the rate history portion of the rate guide required by 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, 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:

- (A) Company name.
- (B) Policy type.
- (C) Policy form identification.
- (D) Dates sold.
- (E) Date acquired (if applicable)
- (F) Premium rate increases requested.
- (G) Premium rate increases approved.
- (H) Dates of premium rate increase approvals.
- (I) Any other information requested by the department.

(2) For the policy comparison portion of the rate guide required by this section, the department shall collect, and each insurer shall provide to the department, the information needed to complete the following form, along with any other information requested by the department, for each long-term care policy currently issued for delivery in California, including all policies, whether issued by the insurer or purchased or acquired from another insurer:



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If an insurer does not offer a policy for sale that fits the criteria set forth in the sample premium portion of the policy comparison section of the rate guide, the department shall include in that section of the form for that policy a statement explaining that a policy fitting that criteria is not offered by the insurer and that the consumer may seek, from an agent, sample premium information for the insurer's policy that most closely resembles the policy in the sample.

The department shall use the format set forth in this section for the policy comparison portion of the rate guide, unless the working group convened pursuant to subdivision (a) designs an alternative format and agrees that it should be used instead.

In compiling the policy comparison portion of the rate guide, the department shall separate the group policies from the individual policies available for sale so that group policies for all insurers appear together in the guide and individual policies for all insurers appear together in the guide.

The policy comparison portion of the rate guide shall contain a cross-reference for each policy form listed indicating the page in the rate guide where rate information on the policy form can be found.

(c) Insurers shall provide the information required pursuant to subdivision (b) no later than July 31 of each year, commencing in 2000.

(d) The consumer rate guide shall be published no later than December 1st of each year commencing in 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.

(4) A notice in the Long-Term Care Insurance Personal Worksheet required by Section 10234.95.

(e) 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) (1) 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.

(2) In the premium section of the personal worksheet, the insurer shall disclose all rate increases and rate increase requests for all policies, whether issued by the insurer or purchased or acquired from another insurer, in the United States on or after January 1, 1990.

(3) The premium section shall include 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, and sample premiums. The rate guide also provides a history of the rate increases, if any, for the policies issued by different insurers in each state in which they do business, since January 1, 1990. You can obtain a copy of this rate guide by calling the Department of Insurance's consumer toll-free telephone number (1-800-927-HELP), by calling the Health Insurance Counseling and Advocacy Program (HICAP) toll-free telephone 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))."

If the personal worksheet is approved prior to the availability of the rate guide, the worksheet shall indicate that the rate guide will be available beginning December 1, 2000.

(4) 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 and each time a new policy is filed for approval by the



commissioner. 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.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable prior to the publishing of the consumer rate guide on December 1, 2000, it is necessary for this act to take effect immediately.

