MONTANA STATE AUDITOR
JOHN MORRISON

Protecting Montana's consumers through insurance and securities regulation

EXHIBIT 1
DATE 1-17-07
HB 156

Long-term care H.B. 156
Sponsored by Representative Eve Franklin
Requested by the State Auditor

Changes are proposed, based on the most recent changes to the National Association of Insurance Commissioners (NAIC) Long-term care Model Act, which has been adopted in most states. Our current law is based on an older NAIC model.

- The substantive changes include issues related to disclosure and performance standards for long-term care insurance. These are measures ensuring consumer protection related to grounds for cancellation, guaranteeing the availability of contingent benefits upon lapse, benefit triggers, and identification of incontestability periods. There are also provisions relating to producer training requirements, including additional training required for producers who wish to sell long-term care partnership products.

- The Deficit Reduction Act of 2006 requires that a State adopt the 2000 NAIC Long-term care Model Act and additional producer training requirements, as a prerequisite for establishing a long-term care partnership program (see below for definition of long-term care partnership).

33-20-127, MCA: Life insurance policy with long-term care provision or accelerated benefits provision—summary required.

- This section ensures that long-term care benefits are clearly outlined for consumers that purchase these policies.

33-20-128, MCA: Life insurance policy paying long-term benefits—monthly report.

- This section clarifies how the long-term care benefits must be reported to life insurance policyholders.

33-22-1107, MCA: Definitions.

- General Language clean up; definition of qualified long-term care services moved to a different section.

33-22-1111, MCA: Outline of Coverage.

- Adds the requirement to disclose whether the product is intended to be federally tax-qualified.

33-22-1116, MCA: Nonforfeiture benefits.

- Must be offered to all consumers as an option to purchase.
- A **nonforfeiture benefit** means that if the coverage is dropped or lapses for any reason, the consumer will still receive some benefit value for the money paid into the policy, such as a reduced, paid up policy, a shortened benefit period policy, or an extended term policy.
- If the consumer declines this benefit, the insurer must provide a contingent benefit upon lapse that must be available for a specified period of time following a substantial increase in premium.
- A **contingent benefit upon lapse** includes 1) a reduction in the benefits provided by the current policy so that premium costs stay the same; or 2) a conversion of the policy to paid-up status with a shorter benefit period.

33-22-1119, MCA: Right to return policy—free look—refunds upon denial of application.

- Adds requirement that if the application is denied, the company must refund any money paid within 30 days of the denial or return of application.

840 Helena Avenue, Helena, MT 59601 ◆ 1-800-332-6148 / 406-444-2040 / Fax: 406-444-3497 ◆ web: sao.mt.gov / stateauditor@mt.gov

33-22-1121, MCA: Rules.

- This section allows for additional consumer protections through commissioner rule making authority in the areas of rating, producer training and marketing practices; types of and standards for nonforfeiture benefits and contingent benefit upon lapse.

33-22-1123, MCA: Delivery of policy –policy summary—monthly reports.

- This section adds language describing the policy summary that must be provided to policyholders within 30 days after the date of approval, and specifies what the summary must include.
- It also includes a description of the monthly report that must be provided when long-term care benefits are funded through the acceleration of death benefits in a life insurance policy.

33-22-1125, MCA: Benefit Triggers.

- Clean up and additions to language that establishes minimum standards for triggers of payment of benefits under a long-term care policy.

NEW SECTION 13: Additional standards for qualified long-term care contracts.

- The benefit triggers for federally tax qualified long-term care contracts are somewhat different and are guided by IRS code and regulations.
- Adds definitions for "chronically ill individual," "licensed health care practitioner," "maintenance or personal care services," and "qualified long-term care services."
- Specifies the payment of benefit timeframe under a qualified long-term care insurance contract.
- Specifies who may diagnose conditions that trigger payment of benefits.
- Requires a clear description of the process for appealing and resolving disputes with respect to benefit determinations.

NEW SECTION 14: Incontestability period.

- Specifies under which specific circumstances a policy may be rescinded; the rules vary according to a specific timeline.
- Specifies that an insurer may not recover payment of benefits in the event that a policy is rescinded.
- Specifies that a long-term care insurance policy may be field issued if compensation to the producer is not based on the number of policies sold.
- If an insurer has paid benefits before a policy is rescinded, the insurer may not recover those benefits.

NEW SECTION 15: Insurance producer training requirements

- Specifies producers must have a life and disability producer license and must meet specific long-term care training requirements in order to sell long-term care policies.
- Requires a one-time training course of 8 hours and 4 hours of ongoing training every 24 months.
- Training must include information about long-term care partnership products and applicable Medicaid rules, as well as other information about long-term care products specified in this statute.
- Training may not include company specific information or sales and marketing techniques.
- Insurers must be able to verify that producers appointed by them have met this training requirement.
- Satisfaction of these training requirements in any state must be considered to satisfy the training requirements in this state.

NEW SECTION 16: Penalties.

- In addition to other penalties provided for in Title 33, an insurer or producer who violates the provisions of this part is subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to $10,000, whichever is greater.