

SENATE BILL REPORT

SB 5447

As of February 11, 2013

Title: An act relating to unintentional lapses of long-term care insurance policies.

Brief Description: Addressing the unintentional lapses of long-term care insurance policies.

Sponsors: Senators Murray, Rolfes and Kohl-Welles.

Brief History:

Committee Activity: Health Care: 2/11/13.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: Washington State first passed the Long-Term Care Insurance Act in 1986. In 2008, the Legislature passed created new Long-Term Care Insurance Standards based on model language developed by the National Association of Insurance Commissioners (NAIC). The new long-term care insurance statute provided enhanced consumer protections for policies sold after January 2009, while standards governing policies sold prior to January 2009 remain in place.

The Office of the Insurance Commissioner adopted rules that include provisions for an unintentional lapse of coverage. The standards require notification of a lapse for nonpayment of premiums at least 30 days prior to the termination of coverage, with an opportunity for the insured person to designate at least one additional person to receive the notice. The standards provide for a limited right to reinstatement of coverage unintentionally lapsed for a person with a cognitive impairment or loss of functional capacity. The request for reinstatement must be made within five months of the lapse in coverage and include proof of the cognitive impairment or loss of functional capacity.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Standards are added to long-term care insurance policies to require provisions for the unintentional lapse of coverage. The requirements in rule for the unintentional lapse of coverage are placed in statute with modification to the limited right to reinstatement of coverage to include the unintentional lapse due to a lack of appropriate billing notification to the insured, in addition to the current requirement to

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provide reinstatement of coverage unintentionally lapsed by a person with a cognitive impairment or loss of functional capacity.

Every insurer must provide a limited right to reinstate coverage in the event of a lapse or termination for nonpayment of premiums, if the insurer is provided proof of the insured's cognitive impairment or loss of functional capacity, or if the lapse was due to lack of appropriate billing notification to the insured, and reinstatement is requested within 12 months after the policy lapsed. The insured person may demonstrate the lack of appropriate billing notification when the insurer had prior knowledge of the insured's change of billing address and failed to change the billing address to reflect the new location, or the insurer should have reasonably known of the billing address change when claims have been made for care at the new residence.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This concern came from a constituent that has had a long-term care insurance policy for years. She asked her insurer to evaluate a retirement community to ensure claims would be eligible for the insurance policy. She moved into the facility and paid her premium with a check that included her new address. Future bills did not find her and her policy lapsed. Despite numerous attempts to provide back payment for the missed payments to reinstate coverage, but the company has refused. The company knew where to find her and did not make any attempt to bill her at the new address and they have not honored her request for a refund or a policy reinstatement.

CON: Current law has been working for a long time. It is based on an NAIC model that includes reinstatement for cognitive impairment or loss of functional capacity if requested within five months. It is not appropriate to extend the time to 12 months. That may create anti-selection concerns and allow too much time for a person that stopped paying premiums to re-evaluate when they get ill and need services. We support the on-going use of NAIC model language.

Persons Testifying: PRO: Senator Murray, prime sponsor; Kathleen O'Connor, citizen.

CON: Mel Sorensen, American Council of Life Insurers, America's Health Insurance Plans.