

HOUSE BILL No. 4396

March 7, 1989, Introduced by Reps. Brown, DeLange, Bartnik, Dutko, Middaugh, Krause, Stabenow, Palamara, Barns, Runco, Varga, Stallworth, Gire, Webb, Pitoniak, Weeks, Clack, Rocca, Gilmer, Van Singel, Stupak, Bandstra, Fitzgerald, Strand, Dunaskiss, Honigman, Munsell, Emmons, Miller, Alley, Mathieu, Berman, Johnson, Hollister, Porreca, Hoekman, Camp and Saunders and referred to the Committee on Insurance.

A bill to amend Act No. 218 of the Public Acts of 1956,
entitled as amended

"The insurance code of 1956,"

as amended, being sections 500.100 to 500.8302 of the Michigan
Compiled Laws, by adding sections 2280, 2281, 2282, 2283, 2284,
2285, 2286, and 2290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 218 of the Public Acts of 1956, as
2 amended, being sections 500.100 to 500.8302 of the Michigan
3 Compiled Laws, is amended by adding sections 2280, 2281, 2282,
4 2283, 2284, 2285, 2286, and 2290 to read as follows:

5 SEC. 2280. AS USED IN THIS SECTION AND SECTIONS 2281 TO
6 2290:

7 (A) "APPLICANT" MEANS:

1 (i) FOR AN INDIVIDUAL LONG-TERM CARE INSURANCE POLICY, THE
2 PERSON WHO SEEKS TO CONTRACT FOR LONG-TERM CARE BENEFITS.

3 (ii) FOR A GROUP LONG-TERM CARE INSURANCE POLICY, THE PRO-
4 POSED CERTIFICATE HOLDER.

5 (B) "GROUP LONG-TERM CARE INSURANCE" MEANS A LONG-TERM CARE
6 INSURANCE POLICY THAT IS DELIVERED OR ISSUED FOR DELIVERY IN THIS
7 STATE AND ISSUED TO ANY OF THE FOLLOWING:

8 (i) ONE OR MORE EMPLOYERS OR LABOR ORGANIZATIONS, OR TO A
9 TRUST OR THE TRUSTEES OF A FUND ESTABLISHED BY 1 OR MORE EMPLOY-
10 ERS OR LABOR ORGANIZATIONS FOR EMPLOYEES OR FORMER EMPLOYEES OR
11 MEMBERS OR FORMER MEMBERS OF THE LABOR ORGANIZATION.

12 (ii) A PROFESSIONAL, TRADE, OR OCCUPATIONAL ASSOCIATION FOR
13 ITS MEMBERS OR FORMER OR RETIRED MEMBERS IF THE ASSOCIATION IS
14 COMPOSED OF INDIVIDUALS WHO WERE ALL ACTIVELY ENGAGED IN THE SAME
15 PROFESSION, TRADE, OR OCCUPATION AND THE ASSOCIATION HAS BEEN
16 MAINTAINED IN GOOD FAITH FOR PURPOSES OTHER THAN OBTAINING INSUR-
17 ANCE UNLESS WAIVED BY THE COMMISSIONER.

18 (iii) SUBJECT TO SECTION 2281(2), AN ASSOCIATION OR TO A
19 TRUST OR TO THE TRUSTEES OF A FUND ESTABLISHED, CREATED, OR MAIN-
20 TAINED FOR THE BENEFIT OF MEMBERS OF 1 OR MORE ASSOCIATIONS.

21 (iv) A GROUP OTHER THAN THAT DESCRIBED IN SUBPARAGRAPHS (i),
22 (ii), OR (iii) IF THE COMMISSIONER DETERMINES ALL OF THE
23 FOLLOWING:

24 (A) THE ISSUANCE OF THE GROUP POLICY IS NOT CONTRARY TO THE
25 BEST INTERESTS OF THE PUBLIC.

26 (B) THE ISSUANCE OF THE GROUP POLICY WOULD RESULT IN
27 ECONOMIES OF ACQUISITION OR ADMINISTRATION.

1 (C) THE BENEFITS ARE REASONABLE IN RELATION TO THE PREMIUMS
2 CHARGED.

3 (C) "HOME CARE SERVICES" MEANS 1 OR MORE OF THE FOLLOWING
4 MEDICALLY PRESCRIBED SERVICES FOR THE LONG-TERM CARE AND TREAT-
5 MENT OF AN INSURED THAT ARE TO BE PROVIDED BY 1 OR MORE HOME
6 HEALTH AGENCIES IN A NONINSTITUTIONAL SETTING ACCORDING TO A
7 WRITTEN DIAGNOSIS AND PLAN OF CARE:

8 (i) NURSING AND RELATED PERSONAL CARE SERVICES UNDER THE
9 DIRECTION OF A REGISTERED NURSE, INCLUDING THE SERVICE OF A HOME
10 HEALTH AIDE.

11 (ii) PHYSICAL THERAPY.

12 (iii) SPEECH THERAPY.

13 (iv) RESPIRATORY THERAPY.

14 (v) OCCUPATIONAL THERAPY.

15 (vi) NUTRITIONAL SERVICES PROVIDED BY A LICENSED DIETITIAN.

16 (vii) HOMEMAKER SERVICES, MEAL PREPARATION, AND SIMILAR NON-
17 MEDICAL SERVICES.

18 (viii) MEDICAL SOCIAL SERVICES.

19 (ix) OTHER SIMILAR MEDICAL SERVICES AND HEALTH-RELATED SUP-
20 PORT SERVICES.

21 (D) "HOME HEALTH AGENCY" MEANS A BUSINESS THAT PROVIDES TO
22 INDIVIDUALS IN THEIR PLACES OF RESIDENCE OTHER THAN IN A HOSPI-
23 TAL, NURSING HOME, OR COUNTY MEDICAL CARE FACILITY, 1 OR MORE OF
24 THE FOLLOWING SERVICES: NURSING SERVICES, THERAPEUTIC SERVICES,
25 SOCIAL WORK SERVICES, HOMEMAKER SERVICES, HOME HEALTH AIDE SERV-
26 ICES, OR OTHER RELATED SERVICES.

1 (E) "INTERMEDIATE CARE FACILITY" MEANS A FACILITY, OR
2 DISTINCT PART OF A FACILITY, CERTIFIED BY THE DEPARTMENT OF
3 PUBLIC HEALTH TO PROVIDE INTERMEDIATE CARE, CUSTODIAL CARE, OR
4 BASIC CARE THAT IS LESS THAN SKILLED NURSING CARE BUT MORE THAN
5 ROOM AND BOARD.

6 (F) "LONG-TERM CARE INSURANCE" MEANS AN INDIVIDUAL OR GROUP
7 INSURANCE POLICY OR RIDER ADVERTISED, MARKETING, OFFERED, OR
8 DESIGNED TO PROVIDE COVERAGE FOR AT LEAST 12 CONSECUTIVE MONTHS
9 FOR EACH COVERED PERSON ON AN EXPENSE-INCURRED, INDEMNITY, PRE-
10 PAID, OR OTHER BASIS FOR 1 OR MORE NECESSARY OR MEDICALLY NECES-
11 SARY DIAGNOSTIC, PREVENTIVE, THERAPEUTIC, REHABILITATIVE, MAINTENANCE,
12 PERSONAL, OR CUSTODIAL CARE SERVICES PROVIDED IN A SETTING
13 OTHER THAN AN ACUTE CARE UNIT OF A HOSPITAL. LONG-TERM CARE
14 INSURANCE DOES NOT INCLUDE AN INSURANCE POLICY WHICH IS OFFERED
15 PRIMARILY TO PROVIDE BASIC MEDICARE SUPPLEMENTAL COVERAGE, HOSPITAL
16 CONFINEMENT INDEMNITY COVERAGE, MAJOR MEDICAL EXPENSE COVERAGE,
17 DISABILITY INCOME PROTECTION COVERAGE, ACCIDENT ONLY COVERAGE,
18 SPECIFIC DISEASE OR SPECIFIED ACCIDENT COVERAGE, OR LIMITED
19 BENEFIT HEALTH COVERAGE.

20 (G) "PREEXISTING CONDITION" MEANS A CONDITION FOR WHICH MEDICAL
21 ADVICE OR TREATMENT WAS RECOMMENDED BY, OR RECEIVED FROM, A
22 PROVIDER OF HEALTH CARE SERVICES WITHIN 6 MONTHS PRECEDING THE
23 EFFECTIVE DATE OF COVERAGE OF AN INSURED PERSON.

24 (H) "SKILLED NURSING FACILITY" MEANS A FACILITY, OR A DISTINCT
25 PART OF A FACILITY, CERTIFIED BY THE DEPARTMENT OF PUBLIC
26 HEALTH TO PROVIDE SKILLED NURSING CARE.

1 SEC. 2281. (1) GROUP LONG-TERM CARE INSURANCE COVERAGE
2 SHALL NOT BE OFFERED TO A RESIDENT OF THIS STATE UNDER A GROUP
3 POLICY ISSUED IN ANOTHER STATE TO A GROUP DESCRIBED IN SECTION
4 2280(B)(iv), UNLESS THIS STATE OR ANOTHER STATE HAVING STATUTORY
5 AND REGULATORY LONG-TERM CARE INSURANCE REQUIREMENTS SUBSTAN-
6 Tially SIMILAR TO THOSE ADOPTED IN THIS STATE HAS MADE A DETERMI-
7 NATION THAT THOSE REQUIREMENTS HAVE BEEN MET.

8 (2) BEFORE ADVERTISING, MARKETING, OR OFFERING A GROUP
9 LONG-TERM CARE INSURANCE POLICY WITHIN THIS STATE TO A GROUP
10 DESCRIBED IN SECTION 2280(B)(iii), THE GROUP OR THE INSURER SHALL
11 FILE EVIDENCE WITH THE COMMISSIONER THAT THE GROUP MEETS ALL OF
12 THE FOLLOWING REQUIREMENTS:

13 (A) CONSISTS OF AT LEAST 100 MEMBERS.

14 (B) HAS BEEN IN ACTIVE EXISTENCE FOR AT LEAST 1 YEAR.

15 (C) HOLDS REGULAR MEETINGS AT LEAST ANNUALLY.

16 (D) EXCEPT FOR CREDIT UNIONS, THE GROUP COLLECTS DUES OR
17 SOLICITS CONTRIBUTIONS FROM MEMBERS.

18 (E) THE MEMBERS HAVE VOTING PRIVILEGES AND REPRESENTATION ON
19 THE GOVERNING BOARD AND COMMITTEES.

20 (F) HAS BEEN ORGANIZED AND MAINTAINED IN GOOD FAITH FOR PUR-
21 POSES OTHER THAN OBTAINING INSURANCE. THE COMMISSIONER MAY WAIVE
22 THE REQUIREMENT PROVIDED IN THIS SUBDIVISION.

23 (3) THIRTY DAYS AFTER MAKING THE FILING UNDER THIS SECTION,
24 THE GROUP DESCRIBED IN SECTION 2280(B)(iii) SHALL BE CONSIDERED
25 TO SATISFY SUCH ORGANIZATIONAL REQUIREMENTS, UNLESS THE COMMIS-
26 SIONER MAKES A FINDING THAT THE GROUP DOES NOT SATISFY THOSE
27 ORGANIZATIONAL REQUIREMENTS.

1 SEC. 2282. THE COMMISSIONER MAY PROMULGATE RULES INCLUDING
2 THE FOLLOWING:

3 (A) RULES ESTABLISHING STANDARDS FOR THE SALE OF LONG-TERM
4 CARE INSURANCE POLICIES, TERMS OF RENEWABILITY, INITIAL AND SUB-
5 SEQUENT CONDITIONS OF ELIGIBILITY, NONDUPLICATION OF COVERAGE
6 PROVISIONS, COVERAGE OF DEPENDENTS, PREEXISTING CONDITIONS, TER-
7 MINATION OF INSURANCE, CONTINUATION OR CONVERSION, PROBATIONARY
8 PERIODS, LIMITATIONS, EXCEPTIONS, REDUCTIONS, ELIMINATION PERI-
9 ODS, REQUIREMENTS FOR REPLACEMENT, RECURRENT CONDITIONS, DEFINI-
10 TIONS OF TERMS, AND FOR FULL AND FAIR DISCLOSURE SETTING FORTH
11 THE MANNER, CONTENT, AND REQUIRED DISCLOSURES.

12 (B) RULES ESTABLISHING LOSS RATIO STANDARDS FOR LONG-TERM
13 CARE INSURANCE POLICIES.

14 SEC. 2283. (1) EACH INDIVIDUAL LONG-TERM CARE POLICY SHALL
15 CONTAIN A GUARANTEED RENEWABLE PROVISION. AN INSURER SHALL NOT
16 CANCEL OR OTHERWISE TERMINATE A LONG-TERM CARE INSURANCE POLICY
17 ON THE GROUNDS OF THE AGE OR THE DETERIORATION OF THE MENTAL OR
18 PHYSICAL HEALTH OF THE INSURED.

19 (2) EACH GROUP LONG-TERM CARE POLICY SHALL CONTAIN A CONVER-
20 SION PROVISION PERMITTING AN INDIVIDUAL ENTITLED TO BENEFITS
21 UNDER THE GROUP POLICY TO ELECT TO CONVERT FROM THE GROUP POLICY
22 TO AN INDIVIDUAL LONG-TERM CARE POLICY WITH THE OPTION OF RECEIV-
23 ING BENEFITS SUBSTANTIALLY SIMILAR TO THE PRIOR COVERAGE.

24 (3) IF EXISTING COVERAGE IS CONVERTED TO OR REPLACED BY A
25 LONG-TERM CARE INSURANCE POLICY WITH THE SAME INSURER, THE
26 LONG-TERM CARE INSURANCE POLICY SHALL NOT CONTAIN A PROVISION

1 ESTABLISHING A NEW LIMITATION PERIOD EXCEPT WITH RESPECT TO AN
2 INCREASE IN BENEFITS VOLUNTARILY SELECTED BY THE INSURED.

3 (4) A LONG-TERM CARE INSURANCE POLICY THAT PROVIDES COVERAGE
4 FOR CARE IN AN INTERMEDIATE CARE FACILITY OR A SKILLED NURSING
5 FACILITY SHALL ALSO PROVIDE COVERAGE FOR HOME CARE SERVICES.

6 SEC. 2284. (1) A PREEXISTING CONDITION LIMITATION PERIOD IN
7 A LONG-TERM CARE INSURANCE POLICY, OTHER THAN A GROUP LONG-TERM
8 CARE POLICY DESCRIBED IN SECTION 2280(B)(i), SHALL NOT EXCEED
9 OF THE FOLLOWING:

10 (A) SIX MONTHS AFTER THE EFFECTIVE DATE OF COVERAGE.

11 (B) A PERIOD OF TIME SET BY THE COMMISSIONER IF THE COMMIS-
12 SIONER HAS FOUND THAT A LONGER LIMITATION PERIOD THAN PROVIDED
13 FOR IN SUBDIVISION (A) IS JUSTIFIED BECAUSE THE GROUP IS SPE-
14 Cially LIMITED BY AGE, GROUP CATEGORIES, OR OTHER SPECIFIC POLICY
15 PROVISIONS AND THAT THE LONGER LIMITATION PERIOD WILL BE IN THE
16 BEST INTEREST OF THE PUBLIC.

17 (2) A LONG-TERM CARE INSURANCE POLICY, OTHER THAN A GROUP
18 LONG-TERM CARE POLICY DESCRIBED IN SECTION 2280(B)(i), SHALL NOT
19 USE A DEFINITION OF PREEXISTING CONDITION WHICH IS MORE RESTRIC-
20 TIVE THAN THE DEFINITION IN SECTION 2280.

21 (3) THE DEFINITION OF PREEXISTING CONDITION DOES NOT PRO-
22 HIBIT AN INSURER FROM USING AN APPLICATION FORM DESIGNED TO
23 ELICIT THE COMPLETE HEALTH HISTORY OF AN APPLICANT AND, ON THE
24 BASIS OF THE ANSWERS ON THAT APPLICATION, UNDERWRITE IN ACCORD-
25 ANCE WITH THAT INSURER'S ESTABLISHED UNDERWRITING STANDARDS.

26 (4) UNLESS OTHERWISE PROVIDED IN THE POLICY, A PREEXISTING
27 CONDITION, REGARDLESS OF WHETHER IT IS DISCLOSED ON THE

1 APPLICATION, NEED NOT BE COVERED UNTIL AFTER THE LIMITATION
2 PERIOD. A LONG-TERM CARE INSURANCE POLICY SHALL NOT EXCLUDE OR
3 USE WAIVERS OR RIDERS OF ANY KIND TO EXCLUDE, LIMIT, OR REDUCE
4 COVERAGE OR BENEFITS FOR SPECIFICALLY NAMED OR DESCRIBED PREEX-
5 ISTING CONDITIONS BEYOND THE LIMITATION PERIOD.

6 SEC. 2285. A LONG-TERM CARE INSURANCE POLICY SHALL NOT CON-
7 DITION BENEFITS ON THE PRIOR INSTITUTIONALIZATION OF THE
8 INSURED.

9 SEC. 2286. (1) EXCEPT AS OTHERWISE PROVIDED IN
10 SUBSECTION (2), INDIVIDUAL LONG-TERM CARE INSURANCE POLICYHOLDERS
11 SHALL HAVE THE RIGHT TO RETURN THE POLICY WITHIN 30 DAYS AFTER
12 ITS DELIVERY AND TO HAVE THE ENTIRE PREMIUM REFUNDED IF, AFTER
13 EXAMINATION OF THE POLICY, THE POLICYHOLDER IS NOT SATISFIED FOR
14 ANY REASON. LONG-TERM CARE INSURANCE POLICIES SHALL HAVE A
15 NOTICE PROMINENTLY PRINTED ON THE FIRST PAGE OF THE POLICY AND
16 THE OUTLINE OF COVERAGE STATING IN SUBSTANCE THAT THE POLICY-
17 HOLDER SHALL HAVE THE RIGHT TO RETURN THE POLICY WITHIN 30 DAYS
18 AFTER ITS DELIVERY AND TO HAVE THE ENTIRE PREMIUM REFUNDED IF,
19 AFTER EXAMINATION OF THE POLICY, THE POLICYHOLDER IS NOT SATIS-
20 FIED FOR ANY REASON.

21 (2) A PERSON INSURED UNDER A LONG-TERM CARE INSURANCE POLICY
22 ISSUED PURSUANT TO A DIRECT RESPONSE SOLICITATION SHALL HAVE THE
23 RIGHT TO RETURN THE POLICY WITHIN 30 DAYS AFTER ITS DELIVERY AND
24 TO HAVE THE ENTIRE PREMIUM REFUNDED IF, AFTER EXAMINATION, THE
25 INSURED PERSON IS NOT SATISFIED FOR ANY REASON. LONG-TERM CARE
26 INSURANCE POLICIES ISSUED PURSUANT TO A DIRECT RESPONSE
27 SOLICITATION SHALL HAVE A NOTICE PROMINENTLY PRINTED ON THE FIRST

1 PAGE OF THE POLICY AND THE OUTLINE OF COVERAGE STATING IN
2 SUBSTANCE THAT THE INSURED PERSON SHALL HAVE THE RIGHT TO RETURN
3 THE POLICY WITHIN 30 DAYS AFTER ITS DELIVERY AND TO HAVE THE
4 ENTIRE PREMIUM REFUNDED IF, AFTER EXAMINATION, THE INSURED PERSON
5 IS NOT SATISFIED FOR ANY REASON. AS USED IN THIS SECTION,
6 "DIRECT RESPONSE SOLICITATION" MEANS SOLICITATION IN WHICH A REP-
7 RESENTATIVE OF THE INSURER DOES NOT CONTACT THE APPLICANT IN
8 PERSON AND EXPLAIN THE COVERAGE AVAILABLE, SUCH AS, BUT NOT
9 LIMITED TO, SOLICITATION THROUGH DIRECT MAIL OR THROUGH ADVER-
10 TISEMENTS IN PERIODICALS AND OTHER MEDIA.

11 SEC. 2290. EACH INSURANCE POLICY THAT IS ADVERTISED,
12 MARKETING, OR OFFERED AS LONG-TERM CARE INSURANCE OR NURSING HOME
13 INSURANCE SHALL COMPLY WITH SECTIONS 2280 TO 2289 AND THE OTHER
14 APPLICABLE PROVISIONS OF THIS ACT.

15 Section 2. This amendatory act shall not take effect unless
16 Senate Bill No. _____ or House Bill No. 4395 (request
17 no. 00708'89*) of the 85th Legislature is enacted into law.