

SENATE BILL No. 251

March 15, 1989, Introduced by Senator Geo. Hart and referred to the Committee on Commerce and Technology.

A bill to amend Act No. 350 of the Public Acts of 1980, entitled

"The nonprofit health care corporation reform act,"

as amended, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws, by adding sections 420, 421, 422, 423, 424, 425, 426, and 430.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 350 of the Public Acts of 1980, as
2 amended, being sections 550.1101 to 550.1704 of the Michigan
3 Compiled Laws, is amended by adding sections 420, 421, 422, 423,
4 424, 425, 426, and 430 to read as follows:

5 SEC. 420. AS USED IN THIS SECTION AND SECTIONS 421 TO 430:

6 (A) "APPLICANT" MEANS:

7 (i) FOR AN INDIVIDUAL LONG-TERM CARE CERTIFICATE, THE PERSON
8 WHO SEEKS TO CONTRACT FOR LONG-TERM CARE BENEFITS.

1 (ii) FOR A GROUP LONG-TERM CARE CERTIFICATE, THE PROPOSED
2 MEMBER.

3 (B) "GROUP LONG-TERM CARE COVERAGE" MEANS A LONG-TERM CARE
4 CERTIFICATE THAT IS DELIVERED OR ISSUED FOR DELIVERY IN THIS
5 STATE AND ISSUED TO ANY OF THE FOLLOWING:

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

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

16 (iii) SUBJECT TO SECTION 421(2), AN ASSOCIATION OR TO A
17 TRUST OR TO THE TRUSTEES OF A FUND ESTABLISHED, CREATED, OR MAIN-
18 TAINED FOR THE BENEFIT OF MEMBERS OF 1 OR MORE ASSOCIATIONS.

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

22 (A) THE ISSUANCE OF THE GROUP CERTIFICATE IS NOT CONTRARY TO
23 THE BEST INTERESTS OF THE PUBLIC.

24 (B) THE ISSUANCE OF THE GROUP CERTIFICATE WOULD RESULT IN
25 ECONOMIES OF ACQUISITION OR ADMINISTRATION.

26 (C) THE BENEFITS ARE REASONABLE IN RELATION TO THE PREMIUMS
27 CHARGED.

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

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

9 (ii) PHYSICAL THERAPY.

10 (iii) SPEECH THERAPY.

11 (iv) RESPIRATORY THERAPY.

12 (v) OCCUPATIONAL THERAPY.

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

14 (vii) HOMEMAKER SERVICES, MEAL PREPARATION, AND SIMILAR NON-
15 MEDICAL SERVICES.

16 (viii) MEDICAL SOCIAL SERVICES.

17 (ix) OTHER SIMILAR MEDICAL SERVICES AND HEALTH-RELATED SUP-
18 PORT SERVICES.

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

25 (E) "INTERMEDIATE CARE FACILITY" MEANS A FACILITY, OR DIS-
26 TINCT PART OF A FACILITY, CERTIFIED BY THE DEPARTMENT OF PUBLIC
27 HEALTH TO PROVIDE INTERMEDIATE CARE, CUSTODIAL CARE, OR BASIC

1 CARE THAT IS LESS THAN SKILLED NURSING CARE BUT MORE THAN ROOM
2 AND BOARD.

3 (F) "LONG-TERM CARE COVERAGE" MEANS AN INDIVIDUAL OR GROUP
4 CERTIFICATE OR RIDER ADVERTISED, MARKETED, OFFERED, OR DESIGNED
5 TO PROVIDE COVERAGE FOR AT LEAST 12 CONSECUTIVE MONTHS FOR EACH
6 COVERED PERSON ON AN EXPENSE-INCURRED, INDEMNITY, PREPAID, OR
7 OTHER BASIS FOR 1 OR MORE NECESSARY OR MEDICALLY NECESSARY DIAG-
8 NOSTIC, PREVENTIVE, THERAPEUTIC, REHABILITATIVE, MAINTENANCE,
9 PERSONAL, OR CUSTODIAL CARE SERVICES PROVIDED IN A SETTING OTHER
10 THAN AN ACUTE CARE UNIT OF A HOSPITAL. LONG-TERM CARE COVERAGE
11 DOES NOT INCLUDE A CERTIFICATE WHICH IS OFFERED PRIMARILY TO PRO-
12 VIDE BASIC MEDICARE SUPPLEMENTAL COVERAGE, HOSPITAL CONFINEMENT
13 INDEMNITY COVERAGE, MAJOR MEDICAL EXPENSE COVERAGE, DISABILITY
14 INCOME PROTECTION COVERAGE, ACCIDENT ONLY COVERAGE, SPECIFIC DIS-
15 EASE OR SPECIFIED ACCIDENT COVERAGE, OR LIMITED BENEFIT HEALTH
16 COVERAGE.

17 (G) "PREEXISTING CONDITION" MEANS A CONDITION FOR WHICH MED-
18 ICAL ADVICE OR TREATMENT WAS RECOMMENDED BY, OR RECEIVED FROM, A
19 PROVIDER OF HEALTH CARE SERVICES WITHIN 6 MONTHS PRECEDING THE
20 EFFECTIVE DATE OF COVERAGE OF A MEMBER.

21 (H) "SKILLED NURSING FACILITY" MEANS A FACILITY, OR A DIS-
22 TINCT PART OF A FACILITY, CERTIFIED BY THE DEPARTMENT OF PUBLIC
23 HEALTH TO PROVIDE SKILLED NURSING CARE.

24 SEC. 421. (1) GROUP LONG-TERM CARE COVERAGE SHALL NOT BE
25 OFFERED TO A RESIDENT OF THIS STATE UNDER A GROUP CERTIFICATE
26 ISSUED IN ANOTHER STATE TO A GROUP DESCRIBED IN SECTION

1 420(B)(iv), UNLESS THE COMMISSIONER OF THIS STATE HAS MADE A
2 DETERMINATION THAT THOSE REQUIREMENTS HAVE BEEN MET.

3 (2) BEFORE ADVERTISING, MARKETING, OR OFFERING A GROUP
4 LONG-TERM CARE CERTIFICATE WITHIN THIS STATE TO A GROUP DESCRIBED
5 IN SECTION 420(B)(iii), THE GROUP OR THE CORPORATION SHALL FILE
6 EVIDENCE WITH THE COMMISSIONER THAT THE GROUP MEETS ALL OF THE
7 FOLLOWING REQUIREMENTS:

8 (A) CONSISTS OF AT LEAST 100 MEMBERS.

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

10 (C) HOLDS REGULAR MEETINGS AT LEAST ANNUALLY.

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

13 (E) THE MEMBERS HAVE VOTING PRIVILEGES AND REPRESENTATION ON
14 THE GOVERNING BOARD AND COMMITTEES.

15 (F) HAS BEEN ORGANIZED AND MAINTAINED IN GOOD FAITH FOR PUR-
16 POSES OTHER THAN OBTAINING COVERAGE. THE COMMISSIONER MAY WAIVE
17 THE REQUIREMENT PROVIDED IN THIS SUBDIVISION.

18 (3) THIRTY DAYS AFTER MAKING THE FILING UNDER THIS SECTION,
19 THE GROUP DESCRIBED IN SECTION 420(B)(iii) SHALL BE CONSIDERED TO
20 SATISFY SUCH ORGANIZATIONAL REQUIREMENTS, UNLESS THE COMMISSIONER
21 MAKES A FINDING THAT THE GROUP DOES NOT SATISFY THOSE ORGANIZA-
22 TIONAL REQUIREMENTS.

23 SEC. 422. THE COMMISSIONER MAY PROMULGATE RULES INCLUDING
24 THE FOLLOWING:

25 RULES ESTABLISHING STANDARDS FOR THE SALE OF LONG-TERM CARE
26 CERTIFICATES; TERMS OF RENEWABILITY; INITIAL AND SUBSEQUENT
27 CONDITIONS OF ELIGIBILITY; NONDUPLICATION OF COVERAGE PROVISIONS;

1 COVERAGE OF DEPENDENTS; PREEXISTING CONDITIONS; TERMINATION OF
2 COVERAGE; CONTINUATION OR CONVERSION; PROBATIONARY PERIODS; LIMITATIONS;
3 EXCEPTIONS; REDUCTIONS; ELIMINATION PERIODS; REQUIREMENTS FOR REPLACEMENT;
4 RECURRENT CONDITIONS; DEFINITIONS OF TERMS; AND FOR FULL AND FAIR DISCLOSURE
5 SETTING FORTH THE MANNER, CONTENT, AND REQUIRED DISCLOSURES.

7 SEC. 423. (1) EACH INDIVIDUAL LONG-TERM CARE CERTIFICATE
8 SHALL CONTAIN A GUARANTEED RENEWABLE PROVISION. A HEALTH CARE
9 CORPORATION SHALL NOT CANCEL OR OTHERWISE TERMINATE A LONG-TERM
10 CARE CERTIFICATE ON THE GROUNDS OF THE AGE OR THE DETERIORATION
11 OF THE MENTAL OR PHYSICAL HEALTH OF THE MEMBER.

12 (2) EACH GROUP LONG-TERM CARE CERTIFICATE SHALL CONTAIN A
13 CONVERSION PROVISION PERMITTING AN INDIVIDUAL ENTITLED TO BENEFITS
14 UNDER THE GROUP CERTIFICATE TO ELECT TO CONVERT FROM THE
15 GROUP CERTIFICATE TO AN INDIVIDUAL LONG-TERM CARE CERTIFICATE
16 WITH THE OPTION OF RECEIVING BENEFITS SUBSTANTIALLY SIMILAR TO
17 THE PRIOR COVERAGE.

18 (3) IF EXISTING COVERAGE IS CONVERTED TO OR REPLACED BY A
19 LONG-TERM CARE CERTIFICATE WITH THE SAME HEALTH CARE CORPORATION,
20 THE LONG-TERM CARE CERTIFICATE SHALL NOT CONTAIN A PROVISION
21 ESTABLISHING A NEW LIMITATION PERIOD EXCEPT WITH RESPECT TO AN
22 INCREASE IN BENEFITS VOLUNTARILY SELECTED BY THE MEMBER.

23 (4) A LONG-TERM CARE CERTIFICATE THAT PROVIDES COVERAGE FOR
24 CARE IN AN INTERMEDIATE CARE FACILITY OR A SKILLED NURSING FACILITY
25 SHALL ALSO PROVIDE COVERAGE FOR HOME CARE SERVICES.

26 (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
27 HEALTH CARE CORPORATION ESTABLISHED, MAINTAINED, OR OPERATING IN

1 THIS STATE IS NOT REQUIRED TO OFFER LONG-TERM CARE COVERAGE TO A
2 STATE RESIDENT WHO IS HOSPITALIZED, OR WHO HAS BEEN INFORMED BY A
3 PHYSICIAN THAT HE OR SHE WILL REQUIRE HOSPITALIZATION WITHIN 30
4 DAYS AFTER THE TIME OF APPLICATION FOR LONG-TERM CARE COVERAGE,
5 UNTIL THE DAY AFTER THE DATE OF DISCHARGE FROM THE HOSPITAL.

6 SEC. 424. (1) A PREEXISTING CONDITION LIMITATION PERIOD IN
7 A LONG-TERM CARE CERTIFICATE, OTHER THAN A GROUP LONG-TERM CARE
8 CERTIFICATE DESCRIBED IN SECTION 420(B)(i), SHALL NOT EXCEED 1 OF
9 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 CER-
15 TIFICATE PROVISIONS AND THAT THE LONGER LIMITATION PERIOD WILL BE
16 IN THE BEST INTEREST OF THE PUBLIC.

17 (2) A LONG-TERM CARE CERTIFICATE, OTHER THAN A GROUP
18 LONG-TERM CARE CERTIFICATE DESCRIBED IN SECTION 420(B)(i), SHALL
19 NOT USE A DEFINITION OF PREEXISTING CONDITION WHICH IS MORE
20 RESTRICTIVE THAN THE DEFINITION IN SECTION 420.

21 (3) THE DEFINITION OF PREEXISTING CONDITION DOES NOT PRO-
22 HIBIT A HEALTH CARE CORPORATION FROM USING AN APPLICATION FORM
23 DESIGNED TO ELICIT THE COMPLETE HEALTH HISTORY OF AN APPLICANT.

24 (4) UNLESS OTHERWISE PROVIDED IN THE CERTIFICATE, A PREEX-
25 ISTING CONDITION, REGARDLESS OF WHETHER IT IS DISCLOSED ON THE
26 APPLICATION, NEED NOT BE COVERED UNTIL AFTER THE LIMITATION
27 PERIOD. A LONG-TERM CARE CERTIFICATE SHALL NOT EXCLUDE OR USE

1 WAIVERS OR RIDERS OF ANY KIND TO EXCLUDE, LIMIT, OR REDUCE
2 COVERAGE OR BENEFITS FOR SPECIFICALLY NAMED OR DESCRIBED PREEX-
3 ISTING CONDITIONS BEYOND THE LIMITATION PERIOD.

4 SEC. 425. A LONG-TERM CARE INSURANCE CERTIFICATE SHALL NOT
5 CONDITION BENEFITS ON THE PRIOR INSTITUTIONALIZATION OF THE
6 MEMBER.

7 SEC. 426. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
8 (2), INDIVIDUAL LONG-TERM CARE SUBSCRIBERS SHALL HAVE THE RIGHT
9 TO RETURN THE CERTIFICATE WITHIN 30 DAYS AFTER ITS DELIVERY AND
10 TO HAVE THE ENTIRE PREMIUM REFUNDED IF, AFTER EXAMINATION OF THE
11 CERTIFICATE, THE SUBSCRIBER IS NOT SATISFIED FOR ANY REASON.
12 LONG-TERM CARE CERTIFICATES SHALL HAVE A NOTICE PROMINENTLY
13 PRINTED ON THE FIRST PAGE OF THE CERTIFICATE AND THE OUTLINE OF
14 COVERAGE STATING IN SUBSTANCE THAT THE SUBSCRIBER SHALL HAVE THE
15 RIGHT TO RETURN THE CERTIFICATE WITHIN 30 DAYS AFTER ITS DELIVERY
16 AND TO HAVE THE ENTIRE PREMIUM REFUNDED IF, AFTER EXAMINATION OF
17 THE CERTIFICATE, THE SUBSCRIBER IS NOT SATISFIED FOR ANY REASON.

18 (2) A SUBSCRIBER COVERED UNDER A LONG-TERM CARE CERTIFICATE
19 ISSUED PURSUANT TO A DIRECT RESPONSE SOLICITATION SHALL HAVE THE
20 RIGHT TO RETURN THE CERTIFICATE WITHIN 30 DAYS AFTER ITS DELIVERY
21 AND TO HAVE THE ENTIRE PREMIUM REFUNDED IF, AFTER EXAMINATION,
22 THE SUBSCRIBER IS NOT SATISFIED FOR ANY REASON. LONG-TERM CARE
23 CERTIFICATES ISSUED PURSUANT TO A DIRECT RESPONSE SOLICITATION
24 SHALL HAVE A NOTICE PROMINENTLY PRINTED ON THE FIRST PAGE OF THE
25 CERTIFICATE AND THE OUTLINE OF COVERAGE STATING IN SUBSTANCE THAT
26 THE SUBSCRIBER SHALL HAVE THE RIGHT TO RETURN THE CERTIFICATE
27 WITHIN 30 DAYS AFTER ITS DELIVERY AND TO HAVE THE ENTIRE PREMIUM

1 REFUNDED IF, AFTER EXAMINATION, THE SUBSCRIBER IS NOT SATISFIED
2 FOR ANY REASON. AS USED IN THIS SECTION, "DIRECT RESPONSE
3 SOLICITATION" MEANS SOLICITATION IN WHICH A REPRESENTATIVE OF THE
4 HEALTH CARE CORPORATION DOES NOT CONTACT THE APPLICANT IN PERSON
5 AND EXPLAIN THE COVERAGE AVAILABLE, SUCH AS, BUT NOT LIMITED TO,
6 SOLICITATION THROUGH DIRECT MAIL OR THROUGH ADVERTISEMENTS IN
7 PERIODICALS AND OTHER MEDIA.

8 SEC. 430. EACH CERTIFICATE THAT IS ADVERTISED, MARKETING, OR
9 OFFERED AS LONG-TERM CARE COVERAGE OR NURSING HOME COVERAGE SHALL
10 COMPLY WITH SECTIONS 420 TO 429 AND THE OTHER APPLICABLE PROVI-
11 SIONS OF THIS ACT.

12 Section 2. This amendatory act shall not take effect unless
13 Senate Bill No. 250
14 of the 85th Legislature is enacted into law.