

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0539

SENATE BILL NO. 186

Introduced by: The Committee on Appropriations at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to revise the definition of long-term care insurance.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 58-17B-2 be amended to read as follows:

4 58-17B-2. Terms used in this chapter mean:

5 (1) "Applicant,"

6 (a) In the case of an individual long-term care insurance policy, the person who
7 seeks to contract for benefits; and

8 (b) In the case of a group long-term care insurance policy, the proposed certificate
9 holder;

10 (2) "Certificate," any certificate issued under a group long-term care insurance policy,
11 which policy has been delivered or issued for delivery in this state;

12 (3) "Director," the director of the Division of Insurance in this state;

13 (4) "Group long-term care insurance," a long-term care insurance policy which is
14 delivered or issued for delivery in this state and issued to:

15 (a) One or more employers or labor organizations, or to a trust or to the trustees



1 of a fund established by one or more employers or labor organizations, or a
2 combination thereof, for employees or former employees or a combination
3 thereof or for members or former members or a combination thereof, of the
4 labor organizations; or

5 (b) Any professional, trade, or occupational association for its members or former
6 or retired members, or combination thereof, if such association:

7 (i) Is composed of individuals all of whom are or were actively engaged
8 in the same profession, trade or occupation; and

9 (ii) Has been maintained in good faith for purposes other than obtaining
10 insurance; or

11 (c) An association or a trust or the trustee of a fund established, created, or
12 maintained for the benefit of members of one or more associations. Prior to
13 advertising, marketing, or offering such policy within this state, the association
14 or associations, or the insurer of the association or associations, shall file
15 evidence with the director that the association or associations have at the
16 outset a minimum of one hundred persons and have been organized and
17 maintained in good faith for purposes other than that of obtaining insurance;
18 have been in active existence for at least one year; and have a constitution and
19 bylaws which provide that:

20 (i) The association or associations hold regular meetings not less than
21 annually to further purposes of the members;

22 (ii) Except for credit unions, the association or associations collect dues or
23 solicit contributions from members; and

24 (iii) The members have voting privileges and representation on the

1 governing board and committees.

2 Thirty days after such filing the association or associations will be considered to have
3 satisfied such organizational requirements, unless the director makes a finding
4 that the association or associations have not satisfied those organizational
5 requirements.

6 (d) A group other than as described in this section subject to a finding by the
7 director that:

8 (i) The issuance of the group policy is not contrary to the best interest of
9 the public;

10 (ii) The issuance of the group policy would result in economies of
11 acquisition or administration; and

12 (iii) The benefits are reasonable in relation to the premiums charged;

13 (5) "Guaranteed renewable,"

14 (a) The insured has the right to continue the long-term care insurance in force by
15 the timely payment of premiums; and

16 (b) The insurer has no unilateral right to make any change in provisions of the
17 policy or rider while the insurance is in force and cannot decline to renew the
18 policy. However, rates may be revised by the insurer on a class basis subject
19 to approval by the Division of Insurance;

20 (6) "Long-term care insurance," any insurance policy or rider advertised, marketed,
21 offered, or designed to provide coverage for not less than ~~twenty-four~~ twelve
22 consecutive months for each covered person on an expense incurred, indemnity,
23 prepaid, or other basis; for one or more necessary or medically necessary diagnostic,
24 preventive, therapeutic, rehabilitative, maintenance or personal care services,

1 provided in a setting other than an acute care unit of a hospital. Such term includes
2 group and individual policies or riders whether issued by insurers; fraternal benefit
3 societies; nonprofit health, hospital and medical service corporations; prepaid health
4 plans; health maintenance organizations or any similar organization. Long-term care
5 insurance does not include any insurance policy which is offered primarily to provide
6 basic medicare supplement coverage, basic hospital expense coverage, basic
7 medical-surgical expense coverage, hospital confinement, accident only coverage,
8 specified disease or specified accident coverage or limited benefit health coverage;

9 (7) "Mental or nervous disorder," may not be defined more restrictively than including
10 neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or
11 disorder. However, no policy, contract or rider may exclude or limit benefits on the
12 basis of organic brain disease, including alzheimer's disease or senile dementia;

13 (8) "Policy," any policy, contract, subscriber agreement, rider, or endorsement delivered
14 or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit
15 health, hospital, or medical service corporation; prepaid health plan; health
16 maintenance organization or any similar organization.