
A BILL FOR AN ACT

RELATING TO LONG-TERM CARE INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii has a long
2 history of respecting and helping its kupuna. Accordingly, the
3 legislature finds that additional protections are needed to help
4 seniors avoid inadvertent lapses or terminations of their long-
5 term care insurance for nonpayment of premiums. This Act amends
6 existing law by requiring that notice of a lapse of coverage or
7 cancellation be sent by certified mail or commercial delivery
8 service to the policyholder. The legislature also finds that
9 this will provide proof that the cancellation notice was mailed
10 and delivered.

11 The legislature further finds that the changes effected
12 under this Act will have a relatively minor impact on insurers
13 when compared to the consequences that would befall
14 policyholders whose long-term care insurance lapses.

15 The legislature also finds that the need for additional
16 protections is best illustrated by the tragic turn of events
17 faced by an elderly couple in Virginia, whose confusion allowed



1 their long-term care insurance to lapse. Over eleven years the
2 couple had faithfully paid an insurer about \$50,000 in premiums,
3 which would have entitled them to about \$600,000 in benefits
4 through their joint policy. Then, during a visit to his bank,
5 the husband mistakenly stopped the automatic premium payment
6 system that his son had set up. The insurer then sent notices
7 to the couple that their long-term care insurance coverage was
8 about to end because they had stopped making payments.

9 Unfortunately, the elderly couple did not understand the notices
10 and did not act to prevent the cancellation. Their son found
11 the insurer's notices months later when his mother became ill
12 and needed to use her long-term care insurance benefits.

13 In that case, the son was the parents' designated third
14 party, meaning that the insurer should have notified him of any
15 change to his parents' policy. The insurer claimed that it sent
16 such a notice to him; however, the son claimed that he did not
17 receive it. Virginia's insurance regulations offered the family
18 no legal recourse other than to bring a lawsuit against the
19 insurer. That option would have been far too expensive for the
20 family, and similarly, purchasing a new long-term care insurance
21 policy was prohibitively expensive. Ultimately, the elderly



1 couple had to sell their condominium and downsize to a modest
2 apartment, and the mother now receives care through a medicaid
3 program.'

4 The purpose of this Act is to help Hawaii's kupuna prevent
5 unintended lapses or terminations for their long-term care
6 insurance policies by clarifying notice requirements.

7 SECTION 2. Section 431:10H-209, Hawaii Revised Statutes,
8 is amended to read as follows:

9 " ~~[+] §431:10H-209 [+]~~ **Lapse or termination for nonpayment of**
10 **premium.** (a) No individual long-term care policy or
11 certificate shall lapse or be terminated for nonpayment of
12 premium unless the insurer, at least thirty days before the
13 effective date of the lapse or termination, has given notice to
14 the insured and to those persons designated in section 431:10H-
15 208 at the address provided by the insured for purposes of
16 receiving notice of lapse or termination. Notice under this
17 section shall be marked with the words "Cancellation Notice" or
18 "Lapse Notice" in large font on the front of the envelope or
19 visible through the envelope window. Notice ~~[shall be given by~~
20 ~~first class United States mail, postage prepaid and notice]~~ may
21 not be given until thirty days after a premium is unpaid.



1 Notice shall be deemed to have been given as of five days after
2 the date of mailing.

3 (b) Prior to a lapse or termination for non-payment, the
4 insurer shall provide proof:

5 (1) That notice was given consistent with this section;

6 (2) Of the name and physical address of the person or
7 persons to whom the insurer sent the notice; and

8 (3) Of the date notice was sent consistent with subsection
9 (c).

10 (c) The insurer shall make confirmation available to the
11 commissioner, upon request, that notice was sent. Confirmation
12 shall consist of, but shall not be limited to, a document
13 confirming the date the insurer delivered the notice, verified
14 by one of the following methods:

15 (1) United States Postal Service certified mail, return
16 receipt requested;

17 (2) United States Postal Service priority mail; or

18 (3) Commercial delivery service.

19 (d) The insurer shall demonstrate to the commissioner,
20 upon request, due diligence to locate and notify the
21 policyholder or other designees if the insurer is unable to



1 verify the successful delivery of the notice by one of the
2 methods enumerated in subsection (c)."

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Long-term Care Insurance; Lapse or Termination; Notice; Kupuna
Caucus

Description:

Requires the thirty-day lapse or termination notices for long-term care policies to be sent by certified mail, priority mail, or commercial delivery service, or other method of delivery requiring proof of delivery. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

