

JAN 22 2021

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,
3 additional protections are needed to help seniors avoid
4 inadvertent lapses or terminations of their long-term care
5 insurance for nonpayment of premiums. This Act amends existing
6 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, who inadvertently



1 allowed their long-term care insurance to lapse. Over eleven
2 years, the couple had faithfully paid an insurer about \$50,000
3 in premiums, which would have entitled them to about \$600,000 in
4 benefits through their joint policy. Then, during a visit to
5 his bank, the husband mistakenly stopped the automatic premium
6 payment system that his son had set up. The insurer then sent
7 notices to the couple that their long-term care insurance
8 coverage was about to end because they had stopped making
9 payments. Unfortunately, the elderly couple did not understand
10 the notices and did not act to prevent the cancellation. Their
11 son found the insurer's notices months later when his mother
12 became ill and needed to use her long-term care insurance
13 benefits.

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



1 policy was prohibitively expensive. Ultimately, the elderly
2 couple had to sell their condominium and downsize to a modest
3 apartment, and the mother now receives care through a medicaid
4 program.

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

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

10 "[+]§431:10H-209[+] Lapse or termination for nonpayment of
11 premium. (a) No individual long-term care policy or
12 certificate shall lapse or be terminated for nonpayment of
13 premium unless the insurer, at least thirty days before the
14 effective date of the lapse or termination, has given notice to
15 the insured and to those persons designated in section 431:10H-
16 208 at the address provided by the insured for purposes of
17 receiving notice of lapse or termination. Notice under this
18 section shall be marked with the words "Cancellation Notice" or
19 "Lapse Notice" in large font on the front of the envelope or
20 visible through the envelope window. Notice [~~shall be given by~~
21 ~~first class United States mail, postage prepaid and notice~~] may



1 not be given until thirty days after a premium is unpaid.
2 Notice shall be deemed to have been given as of five days after
3 the date of mailing.

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

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

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

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

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

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

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

19 (3) Commercial delivery service.

20 (d) The insurer shall demonstrate to the commissioner,
21 upon request, due diligence to locate and notify the



1 policyholder or other designees if the insurer is unable to
2 verify the successful delivery of the notice by one of the
3 methods enumerated in subsection (c)."

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

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

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

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INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'R. M. ...', is written over a horizontal line.

S.B. NO. 836

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.

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

