

ACTUARIAL SERVICES

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comparable benefits already paid under the existing policy.

2. The carrier shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

- i. The maximum rate increase determined based on the combined experience; and
- ii. The maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10 percent.

(j) If the Commissioner determines that the carrier has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the Commissioner may, in addition to the provisions of (i) above, prohibit the carrier from either of the following:

1. Filing and marketing comparable coverage for a period of up to five years; or
2. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(k) Subsections (a) through (j) above shall not apply to policies for which the long-term care benefits are incidental, provided the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;
2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements, as applicable, in N.J.S.A. 17B:25-19, N.J.S.A. 17B:25-20 or N.J.A.C. 11:4-44.3(b);
3. The policy meets the disclosure requirements of N.J.S.A. 17B:27E-6;
4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements, as applicable, in N.J.A.C. 11:4-52 and N.J.S.A. 17B:28-1 et seq.; and
5. An actuarial memorandum is filed that includes:
 - i. A description of the rates for long-term care coverage and a description of the basis on which the long-term care rates were determined;
 - ii. A description of the basis for the separate reserves for long-term care;

iii. A summary of the type of policy, benefits, renewability, general marketing method, and limits on age of issuance;

iv. A description and table of each actuarial assumption, including expense factors used in determining long-term care rates;

v. A description and method of calculation of the anticipated long-term care policy reserves and additional long-term care reserves to be held in each future year for active lives, including a copy of or citation to any published or available mortality or morbidity tables;

vi. The estimated distribution of annual premium per policy and the estimated distribution of issue ages;

vii. A statement as to whether underwriting for long-term care is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting; and

viii. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status, including:

- (1) A demonstration that the benefits other than long-term care benefits satisfy the minimum nonforfeiture requirements cited in (k)2 above; and
- (2) A demonstration that the benefits are incidental as defined in N.J.A.C. 11:4-34.2.

11:4-34.19 Filing requirement

(a) Prior to a carrier offering or placing in force group long-term care insurance coverage to or on a resident of this State under a group policy issued in another state pursuant to N.J.S.A. 17B:27E-5b, it shall file with the Commissioner evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this State.

(b) The carrier shall also file with the Commissioner evidence that a state having statutory or regulatory long-term care insurance requirements similar to those adopted in this State has made a determination that the group may be insured for group long-term care insurance in accordance with sound underwriting principles.

11:4-34.20 Filing requirements for advertising

(a) Every carrier issuing long-term care insurance or benefits in this State shall provide a copy of any long-term care insurance advertisement intended for use in this State, whether through written, radio or television medium, to the Commissioner for review. The Commissioner may disapprove

an advertisement at any time if the advertisement is not in compliance with this rule or is in violation of the Trade Practices Act, N.J.S.A. 17B:30-1 et seq., or N.J.A.C. 11:2-11. An advertisement which has been disapproved by the Commissioner shall continue to be disapproved until the disapproval is withdrawn by the Commissioner. In addition, copies of all advertisements shall be retained by the carrier for at least three years from the date the advertisement was first used.

(b) The Commissioner may exempt from these requirements any advertising form or material when, in the Commissioner's opinion, this requirement may not be reasonably applied.

11:4-34.21 Standards for marketing

(a) Every carrier marketing long-term care insurance coverage in this State, directly or through its producers, shall:

1. Establish marketing procedures and agent training requirements to assure that:

i. Any marketing activities, including any comparison of policies, by its agents or other producers will be fair and accurate; and

ii. Excessive insurance is not sold or issued;

2. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage, policy and certificate the following:

"Notice to buyer: This [policy] [certificate] may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all [policy] [certificate] limitations."

3. Provide copies of the disclosure forms required in N.J.A.C. 11:4-34.7(c) (subchapter Appendices B and F) to the applicant;

4. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required;

5. Establish auditable procedures for verifying compliance with this subsection.

6. At solicitation, provide written notice to the prospective policyholder and certificateholder that the New Jersey State Health Insurance Program is available to provide counseling to seniors interested in purchasing long-

term care insurance and shall provide the address and telephone number of the program;

7. For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to N.J.A.C. 11 :4-34.4(a)3 and 4; and

8. Provide an explanation of the contingent benefit upon lapse provided for in N.J.A.C. 11 :4-34.24(c)2.

(b) In addition to the practices prohibited in N.J.S.A. 17B:30-1 et seq., the following acts and practices are prohibited:

1. High pressure tactics, which means employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance; and

2. Cold lead advertising, which means making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the marketing is solicitation of the purchase of insurance and that contact will be made by an agent or carrier.

(c) The following shall apply with respect to associations that endorse or make available long-term care insurance to members:

1. The association shall educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or made available by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or made available.

2. The carrier shall file with the Department the following material:

i. The policy and certificate;

ii. A corresponding outline of coverage; and

iii. All advertisements requested by the Department.

3. The association shall disclose in any long-term care insurance solicitation:

i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or availability of the policy or certificate to its members; and

ii. A brief description of the process under which the policies and the carrier issuing the policies were selected.

APPENDIX J

STATE OF NEW JERSEY
LONG-TERM CARE INSURANCE PARTNERSHIP PROGRAM
POLICY CERTIFICATION FORM

DIRECTIONS: This certification must be completed and submitted with each long-term care policy or certificate that is intended to qualify under the state long-term care insurance partnership program. The certification must be signed by an officer of the company with authority to bind the company. A separate certification must be completed for each policy form.

For newly-submitted policy forms intended to qualify for the partnership program, this certification must be included as part of the policy form filing. With respect to a previously filed form that qualifies for the partnership program, this certification shall be submitted to the Department of Banking and Insurance ("Department") and identify the previously filed form number and date of filing by the Department. If an insurer is filing an endorsement or rider to amend a previously filed form in order to make the form compliant with the partnership program, this certification must be filed with the endorsement or rider filing, and must identify the previously filed form with which the rider or endorsement is intended to be used by form number and filing date.

A long-term care policy or certificate may not be issued in New Jersey as a partnership program policy or certificate unless and until this certification has been submitted to the Department and the policy, certificate, rider or endorsement has been filed for use by the Department.

CERTIFICATION

Under Section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)), the Commissioner of Banking & Insurance ("Commissioner") may certify that long-term care insurance policies (including certificates issued under a group insurance contract) meet certain consumer protection requirements necessary for a policy to qualify as a partnership policy under the New Jersey Long-Term Care Insurance Partnership Program. These consumer protection requirements are set forth in Section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A)) and principally include certain specified provisions of the Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act promulgated by the National Association of Insurance Commissioners ("NAIC") adopted as of October 2000 (referred to herein as the "2000 NAIC Model Regulation" and "2000 NAIC Model Act", respectively.)

In order to provide the Commissioner with information necessary to provide a certification for policies, this certification form requests information and a certification from the insurance carrier regarding policy forms which will be issued as partnership policies. A separate form must be completed for each policy or certificate form.

Part I. GENERAL INFORMATION

A. Name, address, and NAIC Company Code of insurance carrier:

Two horizontal lines for providing the name, address, and NAIC Company Code of insurance carrier.

B. Policy form covered by this certification, including the form number and filing date:

One horizontal line for providing the policy form covered by this certification, including the form number and filing date.

A copy of the above policy form filled-in for specimen issue, including any riders and endorsements, shall be provided with this certification.

Part II. QUESTIONS REGARDING APPLICABLE PROVISIONS OF THE 2000 MODEL REGULATION AND 2000 MODEL ACT

Please answer each of the questions below with respect to the policy form identified in Part I above. For purposes of answering the questions below, any provision of the 2000 NAIC Model Regulation or 2000 NAIC Model Act listed below shall be treated as including any other provision of the 2000 NAIC Model Regulation or 2000 NAIC Model Act necessary to implement the provision.

Are the following requirements of the 2000 NAIC Model Regulation met with respect to the policy (including certificates issued under a group insurance contract) intended to be covered under the New Jersey Long-Term Care Insurance Partnership Program that are issued on the policy form identified in Part I above?

- Yes ___ No ___ N/A ___ A. Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the 2000 NAIC Model Act relating to such section 6A. (N.J.A.C. 11:4-34.4(a), and N.J.S.A. 17B:27E-6a)
Yes ___ No ___ N/A ___ B. Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof. (N.J.A.C. 11:4-34.4(b))
Yes ___ No ___ N/A ___ C. Section 6C (relating to extension of benefits). (N.J.A.C. 11:4-34.4(c))
Yes ___ No ___ N/A ___ D. Section 6D (relating to continuation or conversion of coverage). (N.J.A.C. 11:4-34.4(d))

Yes ___	No ___	N/A ___	E.	Section 6E (relating to discontinuance and replacement of policies). (N.J.A.C. 11:4-34.4(e))
Yes ___	No ___	N/A ___	F.	Section 7 (relating to unintentional lapse). (N.J.A.C. 11:4-34.5)
Yes ___	No ___	N/A ___	G.	Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof. (N.J.A.C. 11:4-34.6(a) through (e))
Yes ___	No ___	N/A ___	H.	Section 9 (relating to required disclosure of rating practices to consumer). (N.J.A.C. 11:4-34.7)
Yes ___	No ___	N/A ___	I.	Section 11 (relating to prohibitions against post-claims underwriting). (N.J.A.C. 11:4-34.9)
Yes ___	No ___	N/A ___	J.	Section 12 (relating to minimum standards). (N.J.A.C. 11:4-34.10)
Yes ___	No ___	N/A ___	K.	Section 14 (relating to application forms and replacement coverage). (N.J.A.C. 11:4-34.12)
Yes ___	No ___	N/A ___	L.	Section 15 (relating to reporting requirements). (N.J.A.C. 11:4-34.13)
Yes ___	No ___	N/A ___	M.	Section 22 (relating to filing requirements for marketing). (N.J.A.C. 11:4-34.20)
Yes ___	No ___	N/A ___	N.	Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C. (N.J.A.C. 11:4-34.21)
Yes ___	No ___	N/A ___	O.	Section 24 (relating to suitability). (N.J.A.C. 11:4-34.22)
Yes ___	No ___	N/A ___	P.	Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates). (N.J.A.C. 11:4-34.23)
Yes ___	No ___	N/A ___	Q.	The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in section 7702B(g)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(g)(4)). (N.J.A.C. 11:4-34.24)
Yes ___	No ___	N/A ___	R.	Section 29 (relating to standard format outline of coverage). (N.J.A.C. 11:4-34.27)
Yes ___	No ___	N/A ___	S.	Section 30 (relating to requirement to deliver shopper's guide). (N.J.A.C. 11:4-34.28)

Are the following requirements of the 2000 NAIC Model Act met with respect to the policy (including certificates issued under a group insurance contract) intended to be covered under the New Jersey Long-Term Care Insurance Partnership Program that are issued on the policy form identified in Part I above?

Yes ___	No ___	N/A ___	A.	Section 6C (relating to preexisting conditions). (N.J.S.A. 17B:27E-6b)
Yes ___	No ___	N/A ___	B.	Section 6D (relating to prior hospitalization). (N.J.S.A. 17B:27E-6c)
Yes ___	No ___	N/A ___	C.	The provisions of section 8 relating to contingent nonforfeiture benefits. (N.J.S.A. 17B:27E-8)
Yes ___	No ___	N/A ___	D.	Section 6F (relating to right to return). (N.J.S.A. 17B:27E-6d)
Yes ___	No ___	N/A ___	E.	Section 6G (relating to outline of coverage). (N.J.S.A. 17B:27E-6e)
Yes ___	No ___	N/A ___	F.	Section 6H (relating to requirements for certificates under group plans). (N.J.S.A. 17B:27E-6f)
Yes ___	No ___	N/A ___	G.	Section 6J (relating to policy summary). (N.J.S.A. 17B:27E-6g)
Yes ___	No ___	N/A ___	H.	Section 6K (relating to monthly reports on accelerated death benefits). (N.J.S.A. 17B:27E-6h)
Yes ___	No ___	N/A ___	I.	Section 7 (relating to incontestability period). (N.J.S.A. 17B:27E-7)

In order for a policy to be covered under the Qualified Partnership of the State, the answers to all questions above should be "yes" (or "N/A" where all requirements with respect to a provision above are not applicable).

Part III. INFLATION PROTECTION

Yes ___ No ___

Does the policy identified in Part I above contain the inflation protection of the New Jersey Long-Term Care Insurance Partnership Program described in N.J.A.C. 11:4-34.30

Part IV. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, and complete. I understand that false, inaccurate or incomplete information on this form or accompanying documents may result in disapproval of the policy for use in New Jersey and other administrative sanctions against the insurance carrier.

Date
Contact Information (Please type)

Signature of Officer

Name of Certifying Officer: _____

Title: _____

Name of Company Contact: _____
(If other than Certifying Officer)

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

New Rule, R.2009 d.65, effective February 17, 2009.
See: 40 N.J.R. 6377(a), 41 N.J.R. 881(b).

APPENDIX K

Notice of Long Term Care Partnership Status

Date: _____

Insured's name: _____

Policy or certificate number: _____

Partnership issue date: _____

Please Note: Your long-term care insurance coverage has been identified as qualifying for inclusion in New Jersey's Long Term Care Insurance Partnership program.

Q: What is the Partnership program?

The New Jersey Long Term Care Partnership is a public/private arrangement between state government and private long-term care insurers to assist individuals in planning for their long-term care needs. It enables people who purchase certain long-term care insurance policies to have more of their assets protected if they later need to have the state pay for their long-term care. For example, if you receive \$100,000 in benefits under your long-term care insurance, you may be allowed to protect an additional \$100,000 in assets at the time you apply for Medicaid/Medical Assistance through a feature known as "Asset Disregard" under New Jersey's Medicaid program.

Q: What is "Asset Disregard"?

Asset disregard means that an amount of the policyholder's assets equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds \$500,000. Asset disregard is not available under a long-term care insurance policy that is not a Partnership Policy. Therefore, you should consider if Asset Disregard is important to you, and whether a Partnership Policy meets your needs. *The purchase of a Partnership Policy does not automatically qualify you for Medicaid.*

Q: Do I have to take any action now?

No. You don't need to take any additional steps until you apply for Medicaid/Medical Assistance. At that time, you may be asked to provide information about your coverage and your insurer should be able to assist you.

Q: Will this have any affect on my premiums?

No. This new status will not affect your premiums.

Q: What could affect my Partnership status?

Your coverage may lose its Partnership status or your Partnership benefits may be altered if:

1. You change your inflation protection. Whether your coverage qualifies as a Partnership Policy depends in part on your age and the type of inflation protection you select and maintain. Therefore, before you make any change to your inflation protection, be sure to ask your insurer how a change may affect your partnership status.
2. You move to a state that does not have a Partnership program or does not agree to provide reciprocity with New Jersey.
3. State and/or federal laws change.

New Rule, R.2009 d.65, effective February 17, 2009.

See: 40 N.J.R. 6377(a), 41 N.J.R. 881(b).