

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board —in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

[Home](#) → [Model Legislation](#) → Health and Human Services
Long-Term Care Insurance Act

Summary

The purpose of this Act is to create a viable market for long-term care insurance. By enacting carefully constructed consumer protection legislation, the long-term care insurance market will grow into an area of interest to both consumers and insurance underwriters. Private long-term care insurance offers both the consumer and the nation the most cost-effective method of providing long-term care services to the nation's rapidly growing elderly population. In fact, the American Health Care Association calculates that, if the majority of persons over the age of 55 were covered with private long-term care insurance, the percentage of persons paid for nationally by Medicaid in nursing homes would fall from the current 67 percent to 25 percent within 25 years.

The Long-Term Care Insurance Act defines long-term care insurance as providing coverage for not less than 12 months for a variety of health, therapeutic, and personal services other than in an acute care unit of a hospital. The bill stipulates that no long-term care insurance policy may be cancelled, nonrenewed or other wise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder. The act defines the authorities of the Commissioner of Insurance to adopt regulations regarding the content and disclosures of long-term care policies. Insurance policies would be required to include: A less restrictive definition for pre-existing conditions, and, a right to return policy after 30 days. All policies would need to contain a description of principle benefits and a statement of the principal exclusions.

Model Legislation

{Title, enacting clause, etc.}

Section 1. This Act may be cited as **Long-Term Care Insurance Act**.

Section 2. {Purpose.}

The purpose of this Act is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

Section 3. {Scope.}

The requirements of this Act shall apply to policies delivered or issued for delivery in this state on or after the effective date of this Act. This Act is not intended to supersede the obligations of entities subject to this Act to comply with the substance of other applicable insurance laws insofar as they do not conflict with this Act, except that laws and regulation designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

Section 4. {Definitions.}

(A) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. "Long-term care insurance" includes group and individual annuities and life insurance policies or riders that provide directly or that supplement long-term care insurance. "Long-term care insurance" also includes a policy or rider which provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. Long-term care insurance may be issued by insurers; fraternal benefit societies; nonprofit health, hospital, and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, or limited benefit health coverage. Long-term care insurance does not include life insurance policies which accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision contained herein, any product advertised, marketed, or offered as long-term care insurance shall be subject to the provisions of this Act.

Did you know that global pharmaceutical company Bayer Healthcare was the corporate co-chair in 2011?

(B) "Applicant" means:

(1) in the case of an individual long-term care insurance policy, the person who seeks to contract for benefits, and

(2) in the case of a group long-term care insurance policy, the proposed certificate holder.

(C) "Certificate" means, for the purposes of this Act, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

(D) "Commissioner" means the Insurance Commissioner of this state.

(E) "Group long-term care insurance" means a long-term care insurance policy that is delivered or issued for delivery in this state and issued to:

(1) one or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or

(2) any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(b) has been maintained in good faith for purposes other than obtaining insurance; or

(3) an association or a trust or the trustee(s) of a fund established, created, or maintained for the benefit of members of one or more associations. Prior to advertising, marketing, or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the Commissioner that the association or associations have at the outset a minimum of 100 members and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:

(a) the association or associations hold regular meetings not less than annually to further purposes of the members;

(b) except for credit unions, the association or associations collect dues or solicit contributions from members; and

(c) the members have voting privileges and representation on the governing board and committees.

(d) Thirty days after such filing, the association or associations will be deemed to satisfy such organizational requirements, unless the Commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

(F) "Policy" means, for the purposes of this Act, any policy, contract, subscriber agreement, rider, or endorsement, delivered or issued for delivery in this state by an insurer, fraternal benefit society, prepaid health plan, health maintenance organization, or any similar organization.

Section 5. {Extraterritorial Jurisdiction; Group Long-Term Care Insurance.}

No group long-term care insurance coverage may be offered to a resident of this state under a group policy issued in another state to a group described in Section 4, unless the other state has statutory and regulatory long-term care insurance requirements substantially similar to those adopted in this state.

Section 6. {Disclosure and Performance Standards for Long-Term Care Insurance.}

(A) The Commissioner may adopt regulations that include standards for full and fair disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, non-duplications of coverage provisions, coverage of dependents, pre-existing conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

(B) No long-term care insurance policy may:

(1) be cancelled, not renewed or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or

(2) contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

(3) provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

(C) {Pre-existing condition.}

Exposed

By the Center for
Media and Democracy
www.prwatch.org

(1) no long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in Section 4E(1) shall use a definition of "pre-existing condition" that is more restrictive than the following: Pre-existing condition means a condition for which medical advice or treatment was recommended by or received from a provider of health care services, within six months preceding the effective date of coverage of an insured person.

(2) no long-term care insurance policy or certificate other than a policy or certificate thereunder issued to a group as defined in Section 4E(1) may exclude coverage for a loss or confinement that is the result of a pre-existing condition unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(3) The Commissioner may extend the limitation periods set forth in Sections 6C(1) and (2) above as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(4) The definition of "pre-existing condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a pre-existing condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in Section 6C(2) expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described pre-existing diseases or physical conditions beyond the waiting period described in Section 6C(2).

(D) {Prior hospitalization or institutionalization.}

(1) no long-term care insurance policy may be delivered or issued for delivery in this state if such policy:

(a) conditions eligibility for any benefits on a prior hospitalization requirement;

(b) conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or

(c) conditions eligibility for any benefits other than waiver or premium, post-confinement, post-acute care, or recuperative benefits on a prior institutionalization requirement.

(2) (a) a long-term care insurance policy containing post-confinement, post-acute care, or recuperative benefits shall clearly describe in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.

(b) a long-term care insurance policy or rider that conditions eligibility for non-institutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than 30 days.

(3) no long-term care insurance policy or rider that provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than 30 days after discharge from the institution.

(E) The Commissioner may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

(F) {Right to return; free look.} Long-term care insurance applicants shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group defined in Section 4E(1) of this Act, the applicant is not satisfied for any reason.

(G)(1) An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and its purpose.

(a) the Commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of an outline of coverage.

(b) in the case of agent solicitations, an agent must deliver the outline of coverage prior to the presentation of an application or enrollment form.

(c) in the case of direct response solicitations, the outline of coverage must be presented in conjunction with any application or enrollment form.

(2) the outline of coverage shall include:

(a) a description of the principal benefits and coverage provided in the policy;

(b) a statement of the principal exclusions, reductions, and limitations contained in the policy;

(c) a statement of the terms under which the policy or certificate, or both may be continued in force or discontinued, including any reservation in the policy of a right to change premium. Continuation or conversion provisions of group coverage shall be

specifically described;

(d) a statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

(e) a description of the terms under which the policy or certificate may be returned and premium refunded; and

(f) a brief description of the relationship of cost to care and benefits.

(H) A certificate issued pursuant to a group long-term care insurance policy which policy, is delivered or issued for delivery in this state, shall include:

(1) a description of the principal benefits and coverage provided in the policy;

(2) a statement of the principal exclusions, reductions, and limitations contained in the policy; and

(3) a statement that the group master policy determines governing contractual provisions.

(I) At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy that provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

(1) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) an illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;

(3) any exclusions, reductions, and limitations on benefits of long-term care; and

(4) if applicable to the policy type, the summary shall also include:

(a) a disclosure of the effects of exercising other rights under the policy;

(b) a disclosure of guarantees related to long-term care costs of insurance charges; and

(c) current and projected maximum lifetime benefits.

(J) Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

(1) any long-term care benefits paid out during the month;

(2) an explanation of any changes in the policy, such as death benefits or cash values, due to long-term care benefits being paid out; and

(3) the amount of long-term care benefits existing or remaining.

(K) Any policy or rider advertised, marketed, or offered as long-term care or nursing home insurance shall comply with the provisions of this Act.

Section 7. {Authority to Promulgate Regulations.}

The Commissioner shall issue reasonable regulations to establish minimum standards for marketing practices, agent testing, penalties, and reporting practices for long-term care insurance.

Section 8. {Administrative Procedures.}

Regulations adopted pursuant to this Act shall be in accordance with the provisions of *(insert appropriate state legislation)*.

Section 9. Penalties.

In addition to any other penalties by the laws of this state, any insurer and any agent found to have violated any requirement of this state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to \$10,000, whichever is greater.

Section 10. {Severability clause.}

Section 11. {Repealer clause.}

Section 12. {Effective date.}

Were your laws repealed?

1995 Sourcebook of American State Legislation. Ammended by the HHS Task Force in 2000.

Exposed

By the Center for
Media and Democracy
www.prwatch.org

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWatch.org, www.SourceWatch.org, and now www.ALECexposed.org. For more information contact: editor@prwatch.org or 608-260-9713.