



**July 7, 1993**

**BULLETIN #601**

**RE: ALL DISABILITY INSURERS - CONTINUING EDUCATION UNDER SENATE**

BILL NO. 1943 \_\_\_\_\_

The Department of Insurance Licensing Bureau has received inquiries concerning portions of Senate Bill No. 1943, which resulted in changes in the laws pertaining to long-term care insurance and established new continuing education requirements for licensees selling LTC insurance.

Enclosed is a notice from the Department of Insurance dated June 1, 1993 which provides information and clarification concerning the aforementioned subject.

Assistant Manager  
JSP/imb  
Enclosure

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE  
LICENSE BUREAU - SACRAMENTO

June 1, 1993

**NOTICE TO: ALL DISABILITY INSURERS**  
**SUBJECT: CONTINUING EDUCATION UNDER SENATE BILL NO. 1943**  
(Long-Term Care Insurance)

This Bureau has received numerous inquiries concerning portions of Senate Bill No. 1943 (Chapter 1132 of the Statutes of 1992) which became effective January 1, 1993 and which made fundamental changes in the laws pertaining to long-term care (LTC) insurance and established new continuing education (CE) requirements for licensees selling LTC insurance. This notice addresses many of the questions we have received.

**WHO IS RESPONSIBLE FOR COMPLIANCE?**

Every insurer providing long-term care insurance in California.

**WHAT IS THE DEFINITION OF LONG-TERM CARE INSURANCE?**

SUM?

Long-term care insurance includes all coverages of nursing facility or home care benefits as well as life products with riders that provide long-term care benefits. California Insurance Code (CIC) §10231.2. Insurers of both individual and group products must comply if individual consumers are solicited.

**WHAT ARE THE INSURERS REQUIRED TO DO?**

1) Before July 1, 1993, each insurer must submit to the License Bureau a list of all agents or other insurer representatives who are authorized by the insurer to solicit individual consumers for the sale of LTC insurance. CIC §10234.93(a)(3).

Include for each name on the list:

Full Name

Social Security Number  
California Insurance License Number  
The list must be updated at least semi-annually.  
Send all lists to:  
Sidney J. Gauthreaux, Chief  
License Bureau  
Department of Insurance  
700 L Street, 4th Floor  
Sacramento, CA 95814

2) Each insurer is also required to 1) Provide the specific LTC CE and 2) require that each agent or other insurer representative, listed on the insurer's LTC Authorization List shall satisfactorily complete the specific LTC CE requirements. CIC §10234.93(a)(4).

3) It is the insurer's responsibility to track and monitor the compliance of its agents and other insurer representatives; if they do not complete the requirements they should not be allowed to solicit individual consumers for the sale of LTC insurance. Solicitations by agents or other insurer representatives whose names do not appear on the insurer's LTC Authorization List or who have not otherwise complied with these sections will be considered violations of the LTC statute.

**WE STRONGLY RECOMMEND YOU: (1) VERIFY WITH ALL YOUR LICENSEES AND INSURER REPRESENTATIVES WHETHER THEY WILL BE SOLICITING LTC PRODUCTS BEFORE INCLUDING THEIR NAMES ON YOUR LTC LIST; (2) INFORM THEM THAT YOU WILL BE SUBMITTING THEIR NAMES TO THE DEPARTMENT, REQUIRING THAT THEY MEET THE LTC CE REQUIREMENTS; (3) EXPLAIN THE LTC CE REQUIREMENTS TO THEM; AND, (4) MAKE ARRANGEMENTS TO PROVIDE THEM WITH APPROVED LTC CE COURSES.**

#### **WHAT ARE THE LONG-TERM CARE CONTINUING EDUCATION REQUIREMENTS?**

Each agent or other insurer representative authorized to solicit individual consumers for the sale of LTC insurance shall satisfactorily complete the following CE requirements as part of, and not in addition to, the standard CE requirements in CIC §1749.3:

Licensees issued a license before January 1, 1992 shall complete eight (8) hours of specific LTC education credit during each two-year license renewal period. For renewals in 1994, only four (4) hours of specific LTC education credit shall be required.

Licensees issued a license after January 1, 1992 shall complete eight (8) hours of specific LTC education credit in each of the first four (4) 12-month periods beginning from the date of original license issuance. Thereafter, licensees shall complete eight (8) hours of specific LTC education credit during each two-year license renewal period. This requirement will be enforced beginning with 12-month periods ending in 1994. Renewals in 1994 require completion of eight (8) hours of LTC credit.

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#### **WHO HAS TO COMPLETE THE LONG-TERM CARE CONTINUING EDUCATION REQUIREMENTS?**

**Agents or other insurer representatives who solicit individual consumers for the sale of LTC insurance (which includes life insurance policies with LTC riders) . Their names will be on the insurer's LTC Authorization List.**

**If the LTC CE requirements are not met, their names will be removed from the LTC Authorization List.**

**WHAT COURSES QUALIFY FOR SPECIFIC LONG-TERM CARE CONTINUING EDUCATION CREDIT? Only those courses that contain the minimum requirements in CIC §10234.93 (a) (4) , that have been approved by the License Bureau and that have been assigned a course number beginning with "CLT" will qualify. The Department has prepared an outline of the subjects that must be included in any approved LTC course and a**

copy of the outline is included at the end of this notice.

## **WHAT ARE THE CONSEQUENCES FOR FAILURE TO COMPLY WITH THE LONG-TERM CARE CONTINUING EDUCATION REQUIREMENTS?**

If a licensee does not satisfactorily complete any portion of the required LTC education courses, the License Bureau will remove that person's name from the LTC Authorization List. Any solicitation after that will be considered a violation of the LTC statute, subjecting the licensee to special penalties and other remedies, as listed in CIC §10234.2 et seq.

Any insurer that fails to timely and accurately submit its LTC Authorization List or allows agents or other representatives to solicit LTC insurance in violation of these sections or fails to provide the appropriate CE training or fails to require satisfactory completion of the required CE, shall be considered to have violated a provision of the LTC chapter of the CIC and is subject to special penalties and other remedies as listed in CIC §10234.2 et seq.

The remedies include special penalties up to \$500,000, suspension of the insurer's certificate of authority, orders to cease marketing Long-Term Care insurance and authorization for private rights of action.

## **INQUIRIES REGARDING THIS NOTICE:**

Education Unit - License Bureau  
Department of Insurance  
700 L Street, 4th Floor  
Sacramento, CA 95814  
(916) 327-3964

**SIDNEY J. GAUTHREAUX**  
Chief, License Bureau

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## **CALIFORNIA DEPARTMENT OF INSURANCE TOPICS TO BE INCLUDED IN LONG-TERM CARE COURSES**

In order for a course to be designated as meeting the new long-term care (LTC) continuing education requirements of California Senate Bill 1943, it must cover at least the following areas:

1. California Regulations and Requirements Discussion of LTC is found in Chapter 2.6, Part 2, Division 2 of the 1993 California Insurance Code beginning with section 10232. This chapter includes changes made by SB 1943. The important topics are:

- A) Describe the problem of LTC and the definition of LTC insurance
- B) Difference between individual and group coverage
- C) The three types of policies permitted for sale in California
- D) Requirements related to the
  - a) application and post claims underwriting
  - b) pre-existing condition and applicable periods
  - c) prior hospitalization and institutionalization
  - d) the 30-day free look period, return of premium and payment of interest e) applications and filling out of applications (no field issued policies)
- E) Minimum standards for
  - a) home care benefits after 1/1/93
  - b) providers of home care benefits

**c) benefit payment and durational minimums**

**F) Requirements related to replacing policies and modification of pre-exist periods in replacement sales**

**G) Administrative and monetary penalties for violations of Chapter 2.6, Part 2, Division 2 of the CIC**

**H) Consumer Protection:**

**a) duty of honesty, good faith and fair dealing**

**b) advertising requirements**

**c) unnecessary replacement provision**

**d) cold lead requirements**

**e) marketing requirements**

**I) Inclusion of certain acts as violations of unfair trade practices**

**J) Requirement to determine the appropriateness of purchase or replacement (know how the product agents sell relates to the consumers' ability to use the benefits)**

**K) Requirement to offer inflation protection**

**L) Requirement that the agent be fair and accurate when comparing coverage in a replacement**

**M) Referral to the local HICAP (know what HICAP is, what they do, address & phone number)**

## **2. Available LTC Services and Facilities**

**A) LTC services available**

**a) Range from skilled services provided by highly skilled personnel (e.g. physical therapist or RN) to a lower level of care (e.g. assistance with dressing delivered by unskilled personnel**

**b) Where to obtain information on these services**

**B) Where are the services provided (Facilities)**

**a) Nursing homes**

**b) Residential Care Facilities**

**c) Continuing Care Retirement Communities**

**d) Several types of Adult Day Care facilities**

**e) Insured's home**

**f) How to locate these facilities (where to find addresses)**

**g) Licensing requirements of all LTC facilities**

**h) comparison**

**(Agents should be able to analyze and tell the differences between the old requirements and the new requirements.)**

**C) Providers of Home Care and Adult Day Care**

**a) Range from highly skilled and licensed personnel to unlicensed, unskilled. Effective 1/1/93, policies have to allow the use of unlicensed providers if the State has no licensing requirements for a particular service.**

**b) Where do they come from, how to locate them**

**c) Licensing requirements in California and availability in other States**

## **3. Changes or Improvements to Services and Facilities**

**A) Changes in covered services related to definitions in policies**

**B) changes in providers (licensed or not licensed) related to definitions in policies**

**C) changes in licensing requirements. Licensing information can be obtained from the Department of Health Services or the Department of Social Services in California.**

**D) Agents must stay current on all changes that affect LTC benefits contained in policies that they sell or replace. Particularly, they are responsible for the appropriateness of the replacement coverage i.e. they need to**

know what coverage the old policies provide and how the clients would be affected by the changes.

#### **2 4. Alternatives to the Purchase of Long-Term Care Insurance**

Not to be confined to the concept that if a consumer does not buy LTC insurance, they will ultimately spend all their money and go on Welfare/Medi-Cal. It is very important to discuss who should not purchase LTC insurance.

##### **A) Informal Care by Family or Friends**

##### **B) Medi-Cal**

###### **a) spousal impoverishment**

- limits on the amount of income and asset that can be protected for the at-home spouse
- how income and assets are determined to belong to one or the other spouse
- the ability to appeal for higher limits under certain circumstances

##### **C) Other Financing Options (what are they and how they work)**

- a) Reverse Annuity Mortgages (a current demonstration project under HUD) - information can be obtained from the Senior Information & Assistant Program available in different counties
- b) Continuing Care Retirement Communities
- c) Fraternal and religious life care communities
- d) other financial approaches

##### **D) Life insurance products that contain LTC benefit options**

**E) California Partnership for Long-Term Care** This project is not yet off the ground. At this time, just do a brief introduction of the program. After it starts in 1994, expand on the subject.

- a) concepts of California Partnership for Long-Term Care for asset protection
- b) discuss briefly what the policies may contain (expansion of this requirement after the Partnership policies become available)
- c) how the products differ from the LTC policies currently available

In any LTC courses, presentation of the problem, the products, solutions for the problem and information given on providers and services available must be neutral. Besides discussing the advantages of the LTC products, courses should focus on what the needs are and how the various products meet those needs. Any statistics used in LTC courses must be current and relevant to the topic (e.g. skilled nursing facility costs in a large city vs. custodial care costs in a small town) with date and source indicated. Copies of handouts, overheads, etc. should be submitted with course applications. It is expected that any viable LTC courses proposed should be at least 4 hours in length so as to cover adequately all the required topics. A course on LTC product knowledge only does not qualify for LTC continuing education credit.