

1 [836-052-0536 (REPEALED)]

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3 ***Unintentional Lapse***

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5 *Each insurer offering long-term care insurance shall, as a protection against unintentional*  
6 *lapse, comply with the following:*

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8 *(1)(a) Notice before lapse or termination. An individual long-term care insurance policy or*  
9 *certificate shall not be issued until the insurer has received from the applicant either a written*  
10 *designation of at least one person, in addition to the applicant, who is to receive notice of lapse*  
11 *or termination of the policy or certificate for nonpayment of premium, or a written waiver dated*  
12 *and signed by the applicant electing not to designate one or more additional persons to receive*  
13 *notice. The applicant has the right to designate at least one person who is to receive the notice of*  
14 *termination, in addition to the insured. Designation shall not constitute acceptance of any*  
15 *liability on the third party for services provided to the insured. The form used for the written*  
16 *designation must provide space clearly designated for listing at least one person. The*  
17 *designation shall include each person's full name and home address. In the case of an applicant*  
18 *who elects not to designate an additional person, the waiver shall state: "Protection against*  
19 *unintended lapse. I understand that I have the right to designate at least one person other than*  
20 *myself to receive notice of lapse or termination of this long-term care insurance policy for*  
21 *nonpayment of premium. I understand that notice will not be given until thirty (30) days after a*  
22 *premium is due and unpaid. I elect NOT to designate a person to receive this notice." The*  
23 *insurer shall notify the insured of the right to change this written designation no less often than*  
24 *once every two years.*

25  
26 *(b)When the policyholder or certificate holder pays premium for a long-term care insurance*  
27 *policy or certificate through a payroll or pension deduction plan, the requirements contained in*  
28 *subsection (a) of this section need not be met until 60 days after the policyholder or certificate*  
29 *holder is no longer on such a payment plan. The application or enrollment form for such policies*  
30 *or certificates shall clearly indicate the payment plan selected by the applicant.*

31  
32 *(c) Lapse or termination for nonpayment of premium. An individual long-term care insurance*  
33 *policy or certificate shall not lapse or be terminated for nonpayment of premium unless the*  
34 *insurer, at least 30 days before the effective date of the lapse or termination, has given notice to*  
35 *the insured and to those persons designated pursuant to subsection (a) of this section, at the*  
36 *address provided by the insured for purposes of receiving notice of lapse or termination. Notice*  
37 *shall be given by first class United States mail, postage prepaid. Notice may not be given until 30*  
38 *days after a premium is due and unpaid. Notice shall be deemed to have been given as of five*  
39 *days after the date of mailing.*

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41 *(2) Reinstatement. In addition to the requirement in section (1)(a) of this rule, a long-term care*  
42 *insurance policy or certificate shall include a provision that provides for reinstatement of*  
43 *coverage in the event of lapse if the insurer is provided proof that the policyholder or certificate*  
44 *holder was cognitively impaired or had a loss of functional capacity before the grace period*  
45 *contained in the policy expired. This option shall be available to the insured if requested within*  
46 *five months after termination and shall allow for the collection of past due premium, when*

1 *appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall*  
2 *not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of*  
3 *functional capacity contained in the policy and certificate.]*

4 *Stat. Auth.: ORS 731.244, 742.023, 743.013, 743.655, 743.656 & 746.240*

5 *Stats. Implemented: ORS 731.244, 742.003, 742.005, 742.009, 743.010(3), 743.013(3), 743.650,*  
6 *743.653, 743.655 & 743.656, 746.240*

7 *Hist.: ID 3-2005, f. & cert. ef. 3-1-05*

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9  
10 836-052-0740 (Amended)

11  
12 Right to Reduce Coverage and Lower Premiums

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14 (1) Every long term care insurance policy and certificate must include a provision that allows the  
15 policyholder or certificate holder to reduce coverage and lower the policy or certificate premium  
16 in at least one of the following ways:

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18 (a) Reducing the maximum benefit; or

19  
20 (b) Reducing the daily, weekly, or monthly benefit amount.

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22 (2) An insurer may offer other reduction options that are consistent with the policy or certificate  
23 design or the insurer's administrative processes, in addition to the provision required in section  
24 (1) of this rule.

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26 (3) If a reduction in coverage involves the reduction or elimination of the inflation protection  
27 provision, the insurer must allow the policyholder to continue the benefit amount in effect at the  
28 time of the reduction.

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30 (4) The provision required in section (1) of this rule must include a description of the ways in  
31 which coverage may be reduced and the process for requesting and implementing a reduction in  
32 coverage.

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34 (5) The premium for the reduced coverage shall:

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36 (a) Be based on the same age and underwriting class used to determine the premium for the  
37 coverage currently in force; and

38  
39 (b) Be consistent with the approved rate table.

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41 (6) The insurer may limit any reduction in coverage to plans or options available for that policy  
42 form and to those for which benefits will be available after consideration of claims paid or  
43 payable.

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1 (7) If a policy or certificate is about to lapse, the insurer shall provide a written reminder to the  
2 policyholder or certificate holder of the right of the policyholder or certificate holder to reduce  
3 coverage and premiums in the notice required by ORS 743.658[836-052-0536(1)(c)].  
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5 (8) This rule does not apply to life insurance policies or riders containing accelerated long term  
6 care benefits.  
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8 (9) This rule applies to any long term care policy issued in this state on or after December 1,  
9 2008.  
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11 (10) A premium increase notice required by OAR 836-052-0556(5) shall include:  
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13 (a) Information about the amount requested and the implementation schedule;  
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15 (b) Available benefit reduction or rate increase mitigation actions and the impact such action will  
16 have on the policy, such as the loss of asset protection in a partnership plan;  
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18 (c) A disclosure stating that all options available to the policyholder may not be of equal value;  
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20 (d) Clear disclosure addressing guaranteed renewable nature of policy and possibility of future  
21 rate increases;  
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23 (e) Offer of contingent benefit upon lapse or other nonforfeiture benefits, if applicable;  
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25 (f) Information about how to contact the insurer;  
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27 (g) A statement that the increase is on a class basis rather than for a particular individual and is  
28 related to expected future claims rather than economic conditions; and  
29

30 (h) In the case of a partnership policy, a disclosure that some benefit reduction options may  
31 result in a loss in partnership status that may reduce policyholder protections.  
32

33 (11) The requirements of section (10) of this rule apply to any rate increase implemented in this  
34 state on or after January 1, 2016.  
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36 Stat. Auth.: ORS 731.244

37 Stats. Implemented: Sec. 9, Ch. 486, OL 2007 (Enrolled SB 191)

38 Hist.: ID 10-2007, f. 12-3-07, cert. ef. 1-1-08; ID 5-2015, f. 6-10-15, cert. ef. 1-1-16  
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