

Statement of Joseph M. Belth
Minnesota Department of Commerce Hearing on Long-Term Care Insurance
August 27, 2015

Abstract

The high and escalating cost of long-term care can cause financial devastation for individuals and their families. Yet the problem of financing long-term care cannot be solved through the mechanism of private insurance because the long-term care exposure fails to meet several conditions that are essential for the proper functioning of private insurance. Thus the financing problem must be addressed through a combination of personal or family savings, charity, and government. A national debate on the proper role of the federal government in the financing of long-term care is urgently needed. In the meantime, premium increases on long-term care insurance policies should be limited to 5 or 10 percent per year, and certain important disclosures should be provided to consumers.

I am Joseph M. Belth, professor emeritus of insurance in the Kelley School of Business at Indiana University, founder and former editor of *The Insurance Forum* (1974-2013), author of several books and many articles

about insurance, and a blogger at www.josephmbelth.com. I do not represent any organization or interest group, and I am not being compensated for preparing this statement. The views expressed here are mine, and they are offered solely in the public interest.

The Financial Burden of Long-Term Care

Long-term care is very expensive and its cost continues to escalate. For those reasons, the need for long-term care can cause financial devastation for individuals and their families. When an individual cannot care for himself or herself, the cost of care--in the individual's home or in a long-term care facility--can wipe out a family's life savings.

Inadequacy of the Private Insurance Solution

The fact that the cost of long-term care is high, however, does not necessarily mean that the financing problem can be solved through private insurance. Indeed, the long-term care exposure fails to meet several conditions that are essential for the proper functioning of private insurance.

First, the probability of a loss must be low. When that condition is met, the insurance premium is a small percentage of the potential loss, and the premium tends to be affordable. In long-term care, however, the probability of loss is high, especially in the later years of life, and the premium tends to be unaffordable.

Second, the potential loss must be definite; that is, there should be little room for dispute over whether there has been a loss of the type covered by the insurance. When there is a dispute over whether the loss is covered, the insurance triggers a struggle over whether the loss is covered, and thereby fails to provide reliable protection. In long-term care, often

there is ample room for dispute. Consequently the insurance protection can be illusory.

Third, the potential loss must be fortuitous; that is, the loss should occur by chance and should not be within the control of the insured person or family members. In long-term care, decisions about whether to seek it and, if so, where to seek it, are made by the insured person and/or family members. The lack of fortuity makes it difficult for the insurance company to establish appropriate premiums.

Fourth, the shape of the probability-of-loss curve is important. In long-term care, year-by-year probabilities of loss tend to be low in the early policy years and high in the later years. Thus the "natural" insurance premium tends to be small in the early years and large in the later years. To make the insurance affordable, insurance companies level the premiums by overcharging in the early years and undercharging in the later years, thus building an equity that in fairness should be paid to the insured person who discontinues--or "lapses"--the insurance. Yet insurance companies do not provide for payment of that equity because doing so would require higher premiums, and thus would make the insurance difficult to sell to persons at young ages.

Fifth, related to the fourth condition above, insurance companies must make assumptions about the number of insured persons who will lapse their insurance. In other words, insurance companies need to estimate the number of insured persons who will allow their policies to lapse and thereby forfeit the equity they have built up by paying level premiums. When lapses are an important pricing factor, as they are in long-term care

insurance, the policies are called "lapse supported," because the companies rely on forfeitures to help pay the large claims in the later years.

Sixth, also related to the fourth condition above, is the need for insurance companies to make assumptions about the rates of return it will earn on the assets invested during the early years when premiums are high relative to claims. This condition has become increasingly important in recent years because of low market interest rates.

Seventh, because long-term care insurance is a long-term financial instrument, price inflation in the cost of long-term care is important. However, providing for inflation increases the cost of the insurance and tends to make it difficult to sell to persons at young ages.

Eighth, because of the difficulty of determining what assumptions should be made in the calculation of premiums, insurance companies need to include a provision allowing them to increase premiums for classes of policies. A "class" usually consists of similar policies for individuals who reside in a particular state. Companies that entered the long-term care insurance business many years ago generally made rosy assumptions that caused inadequate premiums and the need for large premium increases in subsequent years.

Ninth, in an effort to keep premiums affordable, insurance companies limit benefits in such a way as to make the policies ineffective in meeting the high and escalating cost of long-term care. This in turn leads to disappointment and frustration for insured persons who eventually learn that the policies do not provide adequate protection for the long-term care exposure.

Tenth, many companies selling long-term care insurance have become disillusioned and have withdrawn from the business. In those instances, the companies have transferred their existing policies to other companies, some of which have taken drastic steps to avoid paying claims. Thus many insured persons who selected what they thought were good companies have found themselves insured by other companies.

A Sobering Question

Several years ago I was invited to give a lecture on long-term care at a senior residential facility in my area. I outlined the above reasons why the long-term care insurance exposure cannot be solved through private insurance. At that point an elderly lady sitting in the front row asked this question: "If insurance cannot solve the problem of financing long-term care, how should a person deal with the problem?"

I responded by saying that the problem can be solved with money. I went on to explain that there are three sources of money: personal or family savings, charity, and government. I had a feeling that my answer did not satisfy the lady and the others in attendance.

A More Elaborate Response

Later, in an article in *The Insurance Forum* in 2008, I elaborated on my answer. After explaining why the long-term care insurance exposure cannot be solved through private insurance, here is the gist of what I said, modified to reflect a development in 2010.

An alternative to private insurance is for an individual--preferably during his or her earning years rather than after retirement--to check the market and determine the annual premium for reasonably comprehensive

long-term care insurance. Then, instead of buying the insurance, the individual should place that amount each year in an earmarked savings program. To address the inflation problem at least partially, the individual should increase the yearly deposit to the savings program each year by at least 5 percent. Because the probability of needing long-term care is low in the early years, a substantial account can be built by the time the probability of needing long-term care is high. When the need for long-term care arises, the cost can be met by withdrawals from the account. Should the need for long-term care never arise, the account can be left for the benefit of the individual's family.

Another alternative is for government to assume a role in the financing of long-term care beyond poor and low-income individuals. A modest effort in that area was made through a provision in the Patient Protection and Affordable Care Act of 2010. That provision was later eliminated from the law, thus illustrating the political difficulty of implementing a federal government solution to the problem of financing long-term care.

Requests for Approval of Premium Increases

I now turn to the subject of requests for approval of premium increases. That subject appears to be the primary concern of this hearing.

First, a ceiling should be imposed on the size of an increase in any particular year. I refer here to a maximum of perhaps 5 percent, but certainly a maximum of 10 percent. The sudden imposition of 20, 30, 40, or 50 percent increases is unfair to policyholders. Limiting increases to 5 or 10 percent might force companies to request increases every year, but

waiting several years and then seeking to impose a huge increase is a practice that is unacceptable from the standpoint of public policy.

Second, I have never seen a long-term care insurance premium increase request, and I do not know whether requests are in the public domain. When I received the announcement of this hearing, I asked a person in the Minnesota Department of Commerce for copies of a few such requests, but I received no reply. Requests for permission to increase premiums should be in the public domain. Furthermore, the public should be invited to submit comments on requests for premium increases.

Third, requests for premium increases should be accompanied by accurate data. To assure accuracy, any request should include sworn statements from an actuary and from a senior company officer other than an actuary certifying that the data underlying the request are accurate.

Fourth, after a company's premium increase request has been dealt with, the request should be subjected to scrutiny in the next regular financial examination of the company. Severe penalties should be imposed if any irregularities are found.

Important Disclosures to Consumers

Several important disclosures should be made to consumers of private long-term care insurance. First, at the time of the initial sale, the prospective buyer must be told that the insurance is subject to premium increases. Information should be provided about the potential frequency and size of such price increases.

Second, long-term care insurance policyholders should be informed when the insurance company requests regulatory permission to increase the

premium. Such disclosure should include information about the size of the requested increase.

Third, policyholders should be informed immediately concerning the result of the requested premium increase. Such disclosure should include information about the effective date and the amount of the increase.

Conclusion

The problem of financing long-term care cannot be solved through private insurance. At the same time, the political obstacles to the creation of a federal government solution to the problem must be recognized.

With regard to regulatory approval of long-term care insurance premium increases, the increases should be limited to not more than 5 or 10 percent per year, and the requested increases should be announced publicly in advance and should be subject to public comment.

Thank you for inviting me to submit this statement.



August 20, 2015

Minnesota Department of Commerce
Attn: Long-term Care Hearing Public Comments
85 7th Place East, Suite 500
Saint Paul, MN 55101
contact.commissioner@state.mn.us

Statements of California Health Advocates and United Policyholders

Public Hearing: Minnesota Department of Commerce - Long-Term Care - Rate Increases and Policyholder Protections

August 27, 2015

Dear Commissioner Rothman:

Thank you for the opportunity to comment on this important topic. California Health Advocates (CHA) is the leading Medicare advocacy and education non-profit organization in California providing information, education, policy advocacy, and technical assistance to beneficiaries, their families and other Medicare professionals. Our work includes information and advocacy on long-term care insurance as elders and their families seek assistance with finding services and paying for long-term care.

United Policyholders, (UP) is a national non-profit that has been educating and advocating for consumers with regard to long term care products and claims since establishing an online long-term care insurance information clearinghouse in 2002. In concert with California Health Advocates, UP is striving to help consumers and regulators contend with the crippling rate increases and marketplace changes that are undermining the utility and viability of long-term care insurance products.

The United States, and state governments are faced with some sobering facts. Many more Americans are living beyond age 65 to advanced ages when care is likely to be needed. The earliest wave of baby boomers is turning 65 at a rate of 10,000 a day, a rate that will continue over the next 17 years. Approximately one quarter of the U.S. population is expected to be 60 or older in just two decades, creating a tsunami of long-term care needs.

More than half of everyone living past retirement will require some long-term care services during their lifetime, some will need high cost lengthy care in a nursing home prior to their death. Today families, daughters and daughters-in-law, struggle with providing care at the early stages of need, but are soon swamped between the demands of their families, employment, and caregiving.

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org

Baby boomers have had fewer children than their parents, have higher rates of poverty, and are more likely than their parents to be divorced, leaving them with fewer potential caregivers when they need care.

Long-term care insurance has not found firm footing in the growing national need to help finance older Americans' demand for long-term care services. While the product has made a slow evolution from covering only the catastrophic costs of long nursing home stays to one that also covers home and community based services, it has come at a cost. Based on actual versus expected claims, companies have seen the flaws in their assumptions and increased premiums on in-force coverage and re-priced new offerings.

Very few middle class people can now afford the newer premiums. Women, in particular, have been priced out of the market with gender pricing, and many applicants of both genders cannot qualify under the newer underwriting standards. Pricing women out of a way to pay for long-term care will result in more and more older women becoming dependent on public resources. Many of these women have cared for and outlived their spouse, only to find themselves without the resources to pay for a live-in caregiver and no option but to end their lives receiving substandard care in an institutional setting.

Background

Only 7.4 million policies are in-force nationwide as of 2014.¹ The sale of these policies peaked in the late 1990's during the marketing frenzy following the passage of the 1996 Health Insurance Portability and Accountability Act (HIPAA) and the creation of tax qualified long-term care insurance. State regulation of long-term care insurance has responded to various defects in marketing, sales, benefit design and pricing as they have surfaced through complaints, often years after policies were issued. Today multiple generations of policies are in-force, each policy dependent on the rules that existed in the year they were issued.

In the hyper competitive marketplace of the mid 1990's following the introduction of tax-qualified policies, companies often used premium prices to compete for market share. That strategy later proved unsustainable due to faulty assumptions of lapse and utilization, and the low return on investments and reserves. Those faulty assumptions led to large, and often multiple premium increases that companies, consumers and regulators have been dealing with over the last ten years. Three times over the last 20 years regulators have tried to prevent future rate increases by changing the pricing requirements companies must meet. Yet another pricing dilemma is still making its way through the regulatory process.

Rate Increases

The recommendations that follow are the result of CHA and UP helping policyholders contend with rate increases they cannot afford.

State regulation of these products should include meaningful options for consumers when they are subject to a rate increase.

A clearly written notice of a rate increase should include:

¹ See: <http://www.ahip.org/Epub/The-Benefits-of-LTC/>

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org

- A clear description of the options to reduce the increased amount
- An 800 number for contacting the company that does not require the use of a phone tree
- A customer service representative who can readily compute the difference in premium for each option or combination of options the insured wishes to exercise
- Information if a rate increase is staggered over a series of years
- Information on future potential rate increases
- A caution notice about reducing benefits if future rate increases are known or anticipated

Rate increase notices should also be sent to the 3rd party selected to receive a cancellation notice, and contact information for the state's SHIP to ensure that an insured receives as much help as possible to keep some amount of coverage in-force.

In addition, the Commissioner should have the option to order companies to provide an option for a paid-up policy in the amount of premiums paid after taking into account the age range of the pool and the impact of a single or staggered increase on policyholders of advanced age affected by that rate increase.

In tandem with the pricing problems attached to freestanding long-term care insurance policies companies have fled that market, leaving behind only about a dozen companies that continue to sell the freestanding policies. Insurance companies today focus on selling short-term long-term care policies hoping to escape state regulation as a long-term care product, and life and annuity products linked to long-term care benefits that are appropriate only for higher net worth buyers. Over the next ten years regulators will likely learn of problems associated with these products as they evolve and more people have these insurance products.

Life and Annuity Products

Deception and abuses in the sale of unsuitable and inherently flawed annuity products to seniors are so rampant that a regulator recently stated publicly at a conference in New York City; "We are overwhelmed and outmatched." An annuity industry spokesperson at the same conference admitted that his clients are competing so aggressively to get agents to push their annuities that they are constantly coming out with new products, many of which will never pay benefits in a consumer's lifetime.

Applicants often don't have a good grasp of the life insurance they buy when the product is a life insurance or annuity with benefits that can be accelerated by a variety of triggers, including the need for long-term care. Combining the complexity of long-term care benefits with a complex financial product leaves most consumers befuddled about what they are buying. Illustrations of these products should be simplified and graded on their readability. Illustrations full of charts and graphs that results in volumes of paper don't help consumers understand what they are buying or how each piece of two complex products will work when they need those benefits.

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
 831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
 Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org

Consumers need clear, understandable documents associated with the sale of a long-term care product, regardless of its structure or underlying design. Consumers should be able to easily find information about the tax status of benefits and whether any benefits received could be subject to taxes later on. There should be ample information if any part of that transaction can result in a requirement to pay more premiums in the future, as well as any other charges that will or do apply to the benefits they've purchased.

Short-Term Long Term Care Products

These products are being promoted as a solution for people who can't qualify for a long-term care policy, or to back fill the waiting period of an existing long-term care insurance policy. The benefits sold can be for as little as 3 months and as long as 360 days, in an effort to avoid meeting the more stringent state requirements for long-term care insurance. The underwriting relies on answers to a few health questions much like those of the old legacy long-term care policies written in the past that now require huge rate increases. One of these products is not guaranteed renewable, allowing the company to cancel coverage at any time. A closer look at these products and their utility is long overdue. Since these only provide benefits for short periods of time a consumer may ultimately pay more in premium over time than they can get in benefits. These products need closer scrutiny by regulators to ensure that they work well for consumers, are properly priced for the risk they are assuming, and serve a legitimate public purpose.

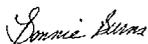
Claims

Too often adult children who are faced with filing a claim for an impaired parent or family member face incredible amounts of paperwork requirements and a protracted claims process that seems designed to discourage pursuit of a claim. Regulators need to do more to ensure that people who bought benefits can use those benefits when they are needed. Regulators should make greater use of targeted market conduct exams to uncover unnecessarily complex claims requirements by an insurance company or their 3rd party administrator.

In closing, it should be obvious by now that clustering insureds in insurance pools of varying sizes and coverage within varying numbers of companies is not an efficient or workable way to finance long-term care for the majority of Americans. This is a problem that will only be solved through a combination of public and private approaches, coordination, and financing. Without that partnership and coordination, families will continue to struggle with paying for care until the resources run out, and higher net worth purchasers will continue to pay for products they hope that many years from now will meet their needs for long-term care.

Thank you for the opportunity to comment on these important consumer issues.

Sincerely,



Bonnie Burns
California Health Advocates



Amy Bach
United Policyholders

California Health Advocates: 21 Locke Way, Scotts Valley, CA 95066 (Satellite Office)
831-438-6677 (office) 408-497-8403 (Cell) 831-43-2441 (Fax) bburns@cahealthadvocates.org Website: <http://www.cahealthadvocates.org>

United Policyholders: 381 Bush St., 8th Fl. San Francisco, CA 94104
Email: amy.bach@uphelp.org Tel. 415-393-9990 Fax: 415-677-4170 Website: www.uphelp.org