

**REPORT OF THE
SPECIAL ADVISORY COMMISSION ON MANDATED
HEALTH INSURANCE BENEFITS**

**MANDATED COVERAGE OF
HOME CARE IN LONG-TERM
CARE INSURANCE POLICIES**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 51

**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**

COMMONWEALTH OF VIRGINIA



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SENATE

December 3, 1999

To: The Honorable James S. Gilmore, III
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to §§ 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) to assess the social and financial impact and the medical efficacy of 1998 House Bill 1337 regarding mandatory coverage of home health care in Long-term care insurance policies.

Respected submitted,

A handwritten signature in cursive script, appearing to read "Stephen H. Martin", written over a horizontal line.

Stephen H. Martin
Chairman
Special Advisory Commission on
Mandated Health Insurance Benefits

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TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
INTRODUCTION	1
SUMMARY OF PROPOSED LEGISLATION	1
PRIOR REVIEW OF THIS ISSUE	1
CURRENT REQUIREMENTS FOR LONG-TERM CARE INSURANCE	2
CURRENT INDUSTRY PRACTICES IN VIRGINIA	3
LONG-TERM CARE INSURANCE HOME REQUIREMENTS IN OTHER STATES	4
REVIEW CRITERIA:	
SOCIAL IMPACT	5
FINANCIAL IMPACT	7
MEDICAL EFFICACY	8
EFFECTS OF BALANCING THE SOCIAL, FINANCIAL AND MEDICAL EFFICACY CONSIDERATIONS	9
RECOMMENDATION	9
CONCLUSION	10
APPENDIX: 1998 HOUSE BILL 1337	A-1

INTRODUCTION

The House Committee on Corporations, Insurance and Banking referred 1998 House Bill 1337 (HB 1337) to the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission). HB 1337 was patroned by Delegate Alan A. Diamonstein.

The Advisory Commission held a hearing on June 1, 1999 in Richmond to receive public comments on HB 1337. Two speakers addressed the proposals. Representatives of the American Council of Life Insurance (ACLI) and the Health Insurance Association of America (HIAA) spoke in opposition to the bill. In addition, written comments in opposition to the bill were provided by AEGON Insurance Group, ACLI, Bankers Life and Casualty Company, CNA, Fortis Benefits Insurance Company, GE Financial Assurance, John Hancock Mutual Life Insurance Company, and Mutual of Omaha Insurance Company.

The Advisory Commission concluded its review of HB 1337 on June 30, 1999.

SUMMARY OF PROPOSED LEGISLATION

House Bill 1337 adds § 38.2-5202.1 to the Long-Term Care (LTC) Insurance Chapter of Title 38.2 of the Code of Virginia. The bill provides that no LTC insurance policy may be delivered or issued for delivery in this Commonwealth unless the policy provides benefits for home health care.

PRIOR REVIEW OF THIS ISSUE

In 1996, the Advisory Commission reviewed House Bill 816, which would have required all LTC insurance policies sold in Virginia to provide coverage for home health care. The Advisory Commission's report was published as 1997 House Document No. 34. The Advisory Commission determined that coverage for home health care in long-term care insurance policies was generally available. Most insurers that sold long-term care insurance in Virginia either included home health care in the contracts or offered it as an optional benefit. Requiring all long-term care policies to include home health care would eliminate the ability of a consumer to choose a contract that covered care only in non-home settings. The Advisory Commission also determined that a mandate that long-term care policies cover home health care would not reach the majority of Virginians under the age of 40 because contracts are generally purchased after that age. The committee recommended that House Bill 816 not be enacted.

CURRENT REQUIREMENTS FOR LONG-TERM CARE INSURANCE

The LTC Insurance chapter was added to Title 38.2 in 1987 and was amended in 1990. The chapter defines "LTC insurance" as any insurance policy or rider primarily advertised, marketed, offered or designed to provide coverage for not less than twelve 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, personal care, mental health or substance abuse services, provided in a setting other than an acute care unit of a hospital.

According to the National Association of Insurance Commissioners' (NAIC) Compendium of State Laws on Insurance Topics, forty-four states, including Virginia, have adopted laws and regulations similar to the LTC insurance requirements for home health care from the NAIC Model. The Model does not require that home health care be included in policies, but if the coverage is included, it must meet certain requirements. The NAIC model regulation prohibits an LTC insurance policy or certificate from excluding or limiting the benefits that provide for home health care services by: (i) requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (ii) requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered; (iii) limiting eligible services to services provided by registered nurses or licensed practical nurses; (iv) requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide; (v) excluding coverage for personal care services provided by a home health aide; (vi) requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible services; (vii) requiring that the insured or claimant have an acute condition before home health care services are covered; (viii) limiting benefits to services provided by Medicare-certified agencies or providers; or (ix) excluding coverage for adult day care services.

The NAIC Model also requires that if an LTC insurance policy or certificate provides for home health or community care services, it should provide for total home health or community care coverage that is a dollar amount equivalent to at least six months of coverage available for nursing home benefits. This requirement should not apply to policies or certificates issued to residents of continuing care retirement communities.

The NAIC adopted amendments to the model regulation to require minimum standards for Home Health Care Benefits in LTC Insurance Policies. The objective was to assure that the home health care benefit is not illusory, but to allow flexibility at the same time. The amendment does not allow home health care services to be predicated on a "medically necessary" standard. It does not allow the limiting of benefits to only those delivered by licensed practical nurses

or registered nurses. The benefits should not be limited to acute, as opposed to chronic, care.

"Home health care services" means medical and nonmedical services, provided to ill, disabled or infirm persons in their residences. The services may include homemaker services, assistance with activities of daily living, and respite care services.

Current Industry Practices in Virginia

The Commission's Rules Governing LTC Insurance (14 VAC 5-200-10 et seq.) was adopted in January 1992. The regulation includes requirements for home health care benefits in LTC insurance policies, but does not require that benefits for home health care must be included.

As of October 23, 1998, 76 companies had filed policies in Virginia complying with the requirements of Chapter 52 of Title 38.2 (LTC Insurance) and with 14 VAC 5-200-10 (Rules Governing LTC Insurance). Staff surveyed those companies to determine the coverage for home health care benefits under LTC policies, whether home health care benefits are available on a separate basis, and the cost of the coverage. Currently, there are 79 companies with approved LTC policies in Virginia.

Sixty-three companies responded to the survey. Forty-eight of the respondents are currently offering LTC policies in Virginia. Fifteen indicated that they do not offer LTC policies in Virginia. Thirty-three of the forty-eight insurers that offer LTC policies in Virginia already include home health care benefits in those policies. The fifteen companies that do not include home health care benefits in their LTC policies all offer optional coverage for home health care that can be purchased separately.

The companies that offer home health care benefits in their LTC policies provide maximum daily benefits that range from \$25 to \$300 per day. The policyholder usually has a choice regarding the number of years that home health care benefits are payable and the elimination period (the days of covered services before benefits begin). The majority of the companies offer benefit periods of 1, 2, 3, 4, or 5 years or a lifetime with elimination periods of 0, 20, 30, 90 or, 100 days.

The annual premium cost for optional home health care coverage also varies among companies that offer home health care benefits in their LTC policies. The majority of the respondents reported unisex rates (same rates for males and females). The premium is lower for those who are younger and higher for those who are older. For example, the annual premium for a home

health care benefit of \$220 per day for 3 years for males and females of various age groups is as follows:

Male & Female Age 40, \$ 132
Male & Female Age 50, \$ 308
Male & Female Age 60, \$ 616
Male & Female Age 70, \$1,584

Long-Term Care Insurance Home Health Care Requirements In Other States

According to information published by the NAIC and the National Insurance Law Service, 47 states have some type of law or regulation specifically for LTC policies, and 44 states have laws similar to the NAIC model law and regulation. Three states have no provision at all regarding home health care. Thirty-nine of 44 states have requirements for home health benefits that are based on the NAIC model. The remaining five states are Maine, Massachusetts, New York, South Carolina, and Wisconsin.

Maine requires that LTC policies provide coverage for home health care benefits of at least 90 visits per year. The lifetime maximum number of visits should not be less than the lifetime maximum number of days of intermediate care facility benefits.

Massachusetts requires that all nursing home and home health care policies must provide skilled nursing care, intermediate nursing care, custodial care in nursing homes, and home health care. Home health care benefits per day should not be less than 50% of the benefit level for a day in a nursing home. Home health care policies must provide adult day care, adult foster care, chore care, homemaker care, respite care, and social day care benefits. Home health care benefits should not be less than \$25 per day.

New York requires all home care policies to provide home care coverage when services are rendered in the insured's place of residence; in a group setting, such as an adult day care center; or where human assistance is required by the insured to aid in necessary travel such as to a physician's office. Home care benefits include: skilled nursing care, home health care, personal care, assisted living, and adult day care. The home care coverage to be offered will be payable in an amount of at least 50% of the minimum nursing home care benefit.

South Carolina requires all insurers issuing LTC policies to make available, as an optional benefit, necessary care in the insured's home or community at the same benefits levels that would have been available to the insured in a nursing home or community residential care facility. The LTC policy contains requirements that the insured must meet to establish that care in a nursing home or community residential care facility is necessary. This optional

coverage may be provided as a rider to the policy or included as part of the policy.

Wisconsin requires that an LTC policy must include, but not be limited to, a nursing home policy, endorsement or rider and a home health care policy, endorsement or rider. The policies must establish fixed daily benefit limits of not less than \$60 per day and not less than 50% of the highest limit of daily benefits.

REVIEW CRITERIA

SOCIAL IMPACT

- a. *The extent to which the treatment or service is generally utilized by a significant portion of the population.*

From 1988 to 1994, the average age of the purchasers in the individual market has steadily fallen and has stabilized at around 67 through 1995 and 1996. According to information furnished by the Health Insurance Association of America (HIAA), LTC Insurance in 1996, close to 5 million LTC insurance policies had been sold through December 31, 1996. The number of policies purchased increased by more than 600,000 during 1996.

- b. *The extent to which insurance coverage for the treatment or service is already available.*

Forty-eight insurers that currently offer LTC policies in Virginia responded to the Bureau of Insurance survey. Thirty-three of the forty-eight insurers include coverage for home health care benefits in those policies. The fifteen companies that do not include home health care benefits in their LTC policies all offer optional coverage for home health care that can be purchased separately.

- c. *If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.*

Insurers indicated that coverage is widely available. Insurers and other opponents of a LTC mandated benefit stated that mandating HB 1337 would have no positive effect on this market and would only restrict consumer choice.

- d. *If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.*

Lack of coverage for home health care can pose financial problems for individuals with limited income and no family members. The costs for home health care services vary, depending upon the degree of skills necessary and the hours of care required. A sampling of costs in the Richmond area generated responses of \$11.75 to \$14.96 per hour for home health aides. The cost of care by licensed practical nurses ranged from \$24.50 to \$27.00 per hour and for homemaker services (companion services) the cost of care was from \$10.50 to \$12.50 per hour.

- e. *The level of public demand for the treatment or service.*

No information was given to the Advisory Commission regarding the level of public demand for the service.

- f. *The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.*

No information was received from providers of this service requesting insurance coverage.

- g. *The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.*

No information was received from collective bargaining organizations addressing potential interest in negotiating privately for inclusion of this coverage in group contracts.

- h. *Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.*

No information or relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of this mandated benefit was presented during this review.

FINANCIAL IMPACT

- a. *The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.*

No information was presented to the Advisory Commission to indicate that insurance coverage would increase or decrease the cost of home health care.

- b. *The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.*

Insurers stated that there are situations where nursing home only coverage is more appropriate for a consumer. Home health care is primarily viable only if an informal caregiver, such as a spouse or other live-in relative, is present in the home. To require that all consumers buy home health care benefits would require some consumers to buy benefits that they are unlikely to utilize.

It is possible that appropriate use of home health care could increase if more individuals had home health care coverage. The policy provisions for home health care in LTC policies coverage would likely limit or prevent inappropriate use of home health care.

- c. *The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.*

Home health care is generally less expensive than institutional care. Individuals with home health care coverage may be able to delay or prevent the need for care in an institution.

- d. *The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.*

The number and type of providers of the mandated service are not expected to increase over the next five years as a result of this bill.

- e. *The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.*

Additional administration costs are associated with the introduction of any new mandated benefits including such things as policy redesign, form filing, claims processing systems, and marketing.

- f. *The impact of coverage on the total cost of health care.*

Coverage for home care is not expected to significantly affect the total cost of health care.

MEDICAL EFFICACY

- a. *The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.*

The medical efficacy of home health care was not questioned in any information received by the Advisory Commission.

Coverage for home health care could improve patient care if inappropriate or premature institutionalization was the only option.

- b. *If the legislation seeks to mandate coverage of an additional class of practitioners:*

- 1) *The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.*

Not applicable.

- 2) *The methods of the appropriate professional organization that assure clinical proficiency.*

Not applicable.

EFFECTS OF BALANCING THE SOCIAL, FINANCIAL AND MEDICAL EFFICACY CONSIDERATIONS

- a. *The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.*

The benefit addresses a medical need and a social need and is consistent with the role of health insurance.

- b. *The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.*

Information was presented to the Advisory Commission indicating that coverage is generally available for home health care for LTC contracts. The cost of mandating the benefit for all LTC policyholders is expected to be significant.

- c. *The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.*

Forty-eight insurers that currently offer LTC policies in Virginia responded to the Bureau of Insurance survey. Thirty-three of the forty-eight insurers include coverage for home health care benefits in those policies. The fifteen companies that do not include home health care benefits in their LTC policies all offer optional coverage for home health care that can be purchased separately.

Insurers support the offer of home health care benefits as an optional enhancement. However, insurers do not believe in eliminating the availability of only nursing home coverage that may be all that some consumers want or can afford.

In the case of group coverage, the decision whether to select the optional coverage or not would lie with the master contract holder and not the individual insureds.

RECOMMENDATION

The Advisory Commission voted unanimously (No – 0, Yes – 7) on June 30, 1999 to recommend that HB 1337 not be enacted.

CONCLUSION

The Advisory Commission concluded that based on the information received during its review, coverage for home health care is generally available in LTC policies. Forty-eight insurers indicated that they offer LTC policies in Virginia. Of that number, thirty-three (69%) include coverage for home health care benefits in those policies. The fifteen companies (31%) offered optional coverage for home health care that can be purchased separately.

Mandating that coverage in LTC policies include home health care would require some potential insureds to pay for a coverage that they do not want or are unlikely to use.

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HOUSE BILL NO. 1337

Offered January 26, 1998

A *BILL to amend the Code of Virginia by adding a section numbered 38.2-5202.1, relating to long-term care insurance; home care coverage.*

Patrons—Diamonstein, Croshaw and Joannou

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

- 1. **That the Code of Virginia is amended by adding a section numbered 38.2-5202.1 as follows:**
 - § 38.2-5202.1. Home care coverage required.*
 - No long-term care insurance policy may be delivered or issued for delivery in this Commonwealth unless such policy provides benefits for home health care.*

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HB1337

12/20/99 14:18

Official Use By Clerks			
Passed By		Passed By The Senate	
The House of Delegates			
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