

**Vermont Department of Banking, Insurance, Securities & Health Care  
Administration  
Division of Health Care Administration**

**BULLETIN HCA-102**

**Allowable Long Term Care Policies**

**March 15, 1999**

This bulletin clarifies what constitutes allowable long term care policies under Vermont law.

1. No nursing home only policies may be sold in the state of Vermont effective as of the date of this bulletin.
2. Vermont law requires that a long term care policy must include provisions for home health care and an option to cover adult day care services.

The Division points out that Federal law does not preempt these provisions of Vermont law. The Health Insurance Portability and Accountability Act of 1996, Title III, Subtitle C, Part II, § 4980C(f) states that in regard to long term care policies, "If a State imposes any requirement which is more stringent than the analogous requirement imposed by this section or section 7702B(g), the requirement imposed by this section or §7702B(g) shall be treated as met if the more stringent State requirement is met."

The Division recognizes that numerous carriers have had nursing home only policies approved by this Division and may have marketed and sold such policies to Vermonters. Effective immediately, carriers must cease the advertising, marketing, and sale of such policies to any Vermonter or Vermont group.

On or before July 1, 1999, carriers must send a copy of the attached letter to all policyholders of any in force nursing home only policy, at the policyholder's last known address, offering the policyholder the opportunity to upgrade the nursing home only policy to a full, comprehensive, long term care policy. A copy of this letter and any subsequent policyholder response, must be retained by the carrier in the policyholder's file.

Policyholders who accept the upgrade must be guaranteed acceptance without the imposition of a pre-existing condition limitation. Guaranteed acceptance of the policyholder for a comprehensive long term care policy may include a premium adjustment appropriate to the current age and health status of the policyholder using the premium rating methodology currently approved by this Division.

On or before October 1, 1999, an officer of the company must certify to the Division the following information:

- the number of policies affected by this bulletin;
- the number of policyholder responses;
- the number of upgrades and the policy form number of the upgrade; and
- the number of policyholders who refused an upgrade.

Carriers must keep in force, following the terms stated in the original policy and maintaining the same premiums, any nursing home only policy of any policyholder who does not accept the upgrade offer.

Questions regarding this bulletin should be directed to Ms. Kyle Faye Mooney, Senior Health Rate and Form Analyst, Department of Banking, Insurance, Securities & Health Care Administration, 89 Main Street, Drawer 20, Montpelier, Vermont 05620-3101, or call 802/828-2908.

Frank D. Romano

Acting Commissioner of  
Banking, Insurance, Securities & Health Care Administration

March 15, 1999