

104TH CONGRESS  
2D SESSION

# S. 1658

To amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchase of long-term care insurance, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 29, 1996

Mr. McCONNELL introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchase of long-term care insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Family Choice in Long-Term Care Act”.

6 (b) TABLE OF CONTENTS.—The table of contents is  
7 as follows:

Sec. 1. Short title; table of contents.

TITLE I—TAX TREATMENT OF LONG-TERM CARE INSURANCE

- Sec. 101. Treatment of long-term care insurance or plans.  
 Sec. 102. Qualified long-term services as medical care.  
 Sec. 103. Qualified long-term care insurance contracts to be offered in cafeteria plans.  
 Sec. 104. Inclusion in income of excessive long-term care benefits.  
 Sec. 105. Tax reserves for qualified long-term care insurance contracts.  
 Sec. 106. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.  
 Sec. 107. Treatment of accelerated death benefits by recipient.  
 Sec. 108. Tax treatment of companies issuing qualified accelerated death benefit riders.  
 Sec. 109. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.  
 Sec. 110. Effective date.

#### TITLE II—LONG-TERM CARE INSURANCE STANDARDS

- Sec. 200. Short title.  
 Sec. 201. National Long-Term Care Insurance Advisory Council.  
 Sec. 202. Policy requirements.  
 Sec. 203. Additional requirements for issuers of long-term care insurance policies.  
 Sec. 204. Relation to State Law.  
 Sec. 205. Uniform language and definitions.  
 Sec. 206. Consumer access to compliance.  
 Sec. 207. Effective dates.

#### TITLE III—PREVENTIVE HEALTH PRACTICES PROMOTION

- Sec. 301. Distribution of information on recommended preventive health practices.

1     **TITLE I—TAX TREATMENT OF**  
 2     **LONG-TERM CARE INSURANCE**  
 3     **SEC. 101. TREATMENT OF LONG-TERM CARE INSURANCE**  
 4             **OR PLANS.**

5             (a) IN GENERAL.—Chapter 79 of the Internal Revenue Code of 1986 (relating to definitions) is amended by  
 6 inserting after section 7702A the following new section:  
 7

8     **“SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE**  
 9             **OR PLANS.**

10            “(a) GENERAL RULE.—For purposes of this title—

1           “(1) a qualified long-term care insurance con-  
2           tract (as defined in subsection (b)) shall be treated  
3           as an accident or health insurance contract,

4           “(2) any plan of an employer providing cov-  
5           erage of qualified long-term care services shall be  
6           treated as an accident or health plan with respect to  
7           such services,

8           “(3) amounts received under such a contract or  
9           plan with respect to qualified long-term care serv-  
10          ices, including payments described in subsection  
11          (b)(2)(A), shall be treated—

12                   “(A) as amounts received for personal in-  
13                   juries or sickness, and

14                   “(B) for purposes of section 105(c), as  
15                   amounts received for the permanent loss of a  
16                   function of the body, and as amounts computed  
17                   with reference to the nature of the injury, and

18           “(4) payments described in subsection (b)(2)(A)  
19           shall be treated as payments made with respect to  
20           qualified long-term care services.

21 Paragraph (3)(B) shall not apply in the case of amounts  
22 attributable to (and not in excess of) deductions permitted  
23 under section 213 (relating to medical and other expenses)  
24 for any prior taxable year and also shall not apply for pur-  
25 poses of section 105(f).

1       “(b) QUALIFIED LONG-TERM CARE INSURANCE  
2 CONTRACT.—

3           “(1) IN GENERAL.—For purposes of this title,  
4 the term ‘qualified long-term care insurance con-  
5 tract’ means any insurance contract if—

6           “(A) the only insurance protection pro-  
7 vided under such contract is coverage of quali-  
8 fied long-term care services and benefits inci-  
9 dental to such coverage;

10           “(B) such contract does not cover expenses  
11 incurred for services or items to the extent that  
12 such expenses are reimbursable under title  
13 XVIII of the Social Security Act or would be so  
14 reimbursable but for the application of a de-  
15 ductible or coinsurance amount;

16           “(C) such contract or coverage is guaran-  
17 teed renewable, or in the case of a group certifi-  
18 cate, provides the insured individual with a  
19 basis for continuation or conversion of coverage,

20           “(D) such contract does not have any cash  
21 surrender value, and

22           “(E) all refunds of premiums, and all pol-  
23 icyholder dividends or other amounts, under  
24 such contract are to be applied as a reduction

1 in future premiums or to increase future bene-  
2 fits.

3 “(2) SPECIAL RULES.—

4 “(A) PER DIEM AND OTHER PAYMENTS  
5 PERMITTED.—A contract that meets the re-  
6 quirements of paragraph (1) shall be considered  
7 to be a qualified long-term care insurance con-  
8 tract regardless of whether payments under  
9 such contract are being made on a per diem or  
10 other periodic basis without regard to the ex-  
11 penses incurred during the period to which the  
12 payments relate.

13 “(B) REFUNDS OF PREMIUMS.—With re-  
14 spect to a qualified long-term care insurance  
15 contract, paragraph (1)(D) shall not apply to  
16 any refund of premiums on surrender, cancella-  
17 tion of the contract, or death of the policy-  
18 holder.

19 “(C) CONTRACT MAY COVER MEDICARE  
20 REIMBURSABLE EXPENSES WHERE MEDICARE  
21 IS SECONDARY PAYOR.—With respect to a long-  
22 term care insurance contract, paragraph (1)(B)  
23 shall not apply to expenses which are reimburs-  
24 able under title XVIII of the Social Security  
25 Act only as a secondary payor.

1           “(D) COORDINATION WITH OTHER  
2 LAWS.—Nothing in this or any other Act shall  
3 be construed or applied so as to prohibit the of-  
4 fering of a qualified long-term care insurance  
5 contract on the basis that such contract coordi-  
6 nates benefits under the contract with those  
7 provided under title XVIII of the Social Secu-  
8 rity Act.

9           “(3) TREATMENT OF COVERAGE PROVIDED AS  
10 PART OF A LIFE INSURANCE CONTRACT.—Except as  
11 otherwise provided in regulations, in the case of cov-  
12 erage with respect to qualified long-term care serv-  
13 ices provided as part of a life insurance contract the  
14 following rules shall apply:

15           “(A) APPLICATION OF GENERAL REQUIRE-  
16 MENTS.—The requirements of this section shall  
17 apply as if the portion of the contract providing  
18 such long-term care services coverage was a  
19 separate contract.

20           “(B) PREMIUMS AND CHARGES FOR  
21 QUALIFIED LONG-TERM CARE COVERAGE.—Pre-  
22 miums for coverage of qualified long-term care  
23 services and charges against the life insurance  
24 contract’s cash surrender value (within the  
25 meaning of section 7702(f)(2)(A)) for such cov-

1 erage shall be treated as premiums under a  
2 qualified long-term care insurance contract.

3 “(C) APPLICATION OF SECTION 7702.—  
4 Subsection (c)(2) of section 7702 (relating to  
5 the guideline premium limitation) shall be ap-  
6 plied, as of any date, by increasing the guide-  
7 line premium limitation with respect to the life  
8 insurance contract by an amount equal to—

9 “(i) by the sum of any charges (but  
10 not premiums) described in subparagraph  
11 (B) assessed to that date under the con-  
12 tract, less

13 “(ii) any such charges the imposition  
14 of which reduces the premiums paid for  
15 the contract (within the meaning of section  
16 7702(f)(1)).

17 “(D) APPLICATION OF SECTION  
18 72(e)(4)(B).—Subsection (e)(4)(B) of section 72  
19 (relating to certain amounts retained by the in-  
20 surer) shall be applied as including charges de-  
21 scribed in subparagraph (B).

22 “(E) APPLICATION OF SECTION 213.—No  
23 deduction shall be allowed under subsection (a)  
24 of section 213 for premiums and charges de-  
25 scribed in subparagraph (B).

1 For purposes of subparagraph (A), the term ‘por-  
2 tion’ means only the terms and benefits under a life  
3 insurance contract (whether provided by a rider or  
4 addendum on, or other provision of, such contract)  
5 that are in addition to the terms and benefits under  
6 the contract without regard to the coverage of quali-  
7 fied long-term care services and benefits incidental  
8 to such coverage.

9 “(c) QUALIFIED LONG-TERM CARE SERVICES.—For  
10 purposes of this section:

11 “(1) IN GENERAL.—The term ‘qualified long-  
12 term care services’ means necessary diagnostic, pre-  
13 ventive, therapeutic, and rehabilitative services, and  
14 maintenance or personal care services, which—

15 “(A) are required by an ill individual in a  
16 qualified facility,

17 “(B) are provided pursuant to a plan of  
18 care prescribed by a licensed health care practi-  
19 tioner, or

20 “(C) are required by law or regulation.

21 “(2) CHRONICALLY ILL INDIVIDUAL.—

22 “(A) IN GENERAL.—The term ‘chronically  
23 ill individual’ means any individual who has  
24 been certified by a licensed health care practi-  
25 tioner as—

1           “(i)(I) being unable to perform (with-  
2           out substantial assistance from another in-  
3           dividual) at least two activities of daily liv-  
4           ing (as defined in subparagraph (B)), due  
5           to a loss of functional capacity, or

6           “(II) having a level of disability simi-  
7           lar (as determined by the Secretary in con-  
8           sultation with the Secretary of Health and  
9           Human Services) to the level of disability  
10          described in subclause (I), or

11          “(ii) having a similar level of disabil-  
12          ity due to cognitive impairment.

13          “(B) ACTIVITIES OF DAILY LIVING.—For  
14          purposes of subparagraph (A), each of the fol-  
15          lowing is an activity of daily living:

16               “(i) BATHING.—The overall complex  
17               behavior of getting water and cleansing the  
18               whole body, including turning on the water  
19               for a bath, shower, or sponge bath, getting  
20               to, in, and out of a tub or shower, and  
21               washing and drying oneself.

22               “(ii) DRESSING.—The overall complex  
23               behavior of getting clothes from closets  
24               and drawers and then getting dressed.

1           “(iii) TOILETING.—The act of going  
2           to the toilet room for bowel and bladder  
3           function, transferring on and off the toilet,  
4           cleaning after elimination, and arranging  
5           clothes.

6           “(iv) TRANSFER.—The process of get-  
7           ting in and out of bed or in and out of a  
8           chair or wheelchair.

9           “(v) EATING.—The process of getting  
10          food from a plate or its equivalent into the  
11          mouth.

12          “(vi) CONTINENCE.—The ability to  
13          voluntarily control bowel and bladder func-  
14          tion and to maintain a reasonable level of  
15          personal hygiene.

16          “(vii) STATE REQUIRED.—Any other  
17          activity of daily living as required by State  
18          law or regulation which is not preempted  
19          by Federal law or regulation.

20          “(C) NUMBER OF ACTIVITIES OF DAILY  
21          LIVING.—A qualified long-term care insurance  
22          contract may utilize fewer than the number of  
23          activities of daily living described in subpara-  
24          graph (B).

1           “(3) QUALIFIED FACILITY.—The term ‘quali-  
2       fied facility’ means—

3           “(A) a nursing, rehabilitative, hospice,  
4       service, or adult day care facility (including a  
5       hospital, retirement home, nursing home, skilled  
6       nursing facility, intermediate care facility, or  
7       similar institution)—

8           “(i) which is licensed under State law,

9           or

10          “(ii) which is a certified facility for  
11       purposes of title XVIII or XIX of the So-  
12       cial Security Act, or

13          “(B) an individual’s home if a physician,  
14       certifies that without home care the individual  
15       would have to be cared for in a facility de-  
16       scribed in subparagraph (A), except that such  
17       home shall be treated as a qualified facility only  
18       to the extent that the cost of such services is  
19       not greater than the cost of similar services  
20       provided in a facility described in subparagraph  
21       (A).

22          “(4) MAINTENANCE OF PERSONAL CARE SERV-  
23       ICES.—The term ‘maintenance of personal care serv-  
24       ices’ means any care the primary purpose of which  
25       is to provide needed assistance with any of the ac-

1        activities of daily living described in paragraph (2)(B).  
 2        Such term may include such services as adult day  
 3        care, homemaker and chore services, hospice serv-  
 4        ices, respite care, and services required by law or  
 5        regulation.

6            “(5) LICENSED HEALTH CARE PRACTI-  
 7        TIONER.—The term ‘licensed health care practi-  
 8        tioner’ means any physician (as defined in section  
 9        1861(r) of the Social Security Act) and any reg-  
 10       istered professional nurse, licensed social worker, or  
 11       other individual who meets such requirements as  
 12       may be prescribed by the Secretary.

13        “(d) SPECIAL RULES.—

14            “(1) CONTINUATION RULES NOT TO APPLY.—  
 15        The health care continuation rules contained in sec-  
 16        tion 4980B (and contained in part 6 of subtitle B  
 17        of title I of the Employee Retirement Income Secu-  
 18        rity Act of 1974 and in title XXII of the Public  
 19        Health Insurance Act) shall not apply to—

20            “(A) qualified long-term care insurance  
 21        contracts, or

22            “(B) plans described in subsection (a)(2).

23            “(2) EMPLOYER PLANS NOT TREATED AS DE-  
 24        FERRED COMPENSATION PLANS.—For purposes of  
 25        this title, a plan of an employer providing coverage

1 of qualified long-term care services shall not be  
2 treated as a plan which provides for deferred com-  
3 pensation by reason of providing such coverage.

4 “(3) CONTRACTS COVERING PARENTS AND  
5 GRANDPARENTS.—For purposes of this title, if a  
6 qualified long-term care insurance contract pur-  
7 chased by or provided to an individual provides cov-  
8 erage with respect to one or more of the individual’s  
9 parents or grandparents (or, in the case of a joint  
10 return, of either spouse), such coverage and all pay-  
11 ments made pursuant to such coverage shall be  
12 treated in the same manner as if the parents or  
13 grandparents were dependents (as defined in section  
14 152) of the individual. For purposes of this para-  
15 graph, the term ‘parent’ includes any stepmother or  
16 stepfather, and the term ‘grandparent’ includes any  
17 stepgrandfather or stepgrandmother, and any rela-  
18 tionship that exists by virtue of a legal adoption  
19 shall be recognized to the same extent as relation-  
20 ships by blood.

21 “(4) WELFARE BENEFIT RULES NOT TO  
22 APPLY.—For purposes of subpart D of part I of  
23 subchapter D of chapter 1 (relating to treatment of  
24 welfare benefit funds), qualified long-term care serv-

1       ices shall not be treated as a welfare benefit or a  
2       medical benefit.

3               “(5) DEDUCTIBILITY.—For purposes of this  
4       title, no payment of a premium for a long-term care  
5       insurance contract shall fail to be deductible in  
6       whole or in part merely because the contract pro-  
7       vides for level annual payments.

8               “(e) REGULATIONS.—The Secretary shall prescribe  
9       such regulations as may be necessary to carry out the re-  
10      quirements of this section, including regulations to prevent  
11      the avoidance of this section by providing qualified long-  
12      term care services under a life insurance contract.”

13              (b) CONFORMING AMENDMENT.—The table of sec-  
14      tions for chapter 79 of such Code is amended by inserting  
15      after the item relating to section 7702A the following new  
16      item:

                    “Sec. 7702B. Treatment of long-term care insurance or plans.”

17   **SEC. 102. QUALIFIED LONG-TERM SERVICES TREATED AS**  
18                                   **MEDICAL CARE.**

19              (a) GENERAL RULE.—Paragraph (1) of section  
20      213(d) of the Internal Revenue Code of 1986 (defining  
21      medical care) is amended—

22                      (1) by striking “or” at the end of subparagraph  
23                      (B);

24                      (2) by redesignating subparagraph (C) as sub-  
25                      paragraph (D); and

1           (3) by inserting after subparagraph (B) the fol-  
2           lowing new subparagraph:

3                   “(C) for qualified long-term care services  
4                   (as defined in section 7702B(c)), or”.

5           (b) CONFORMING AMENDMENTS.—

6                   (1) Subparagraph (D) of section 213(d)(1) of  
7                   such Code (as redesignated by subsection (a)) is  
8                   amended by striking “subparagraphs (A) and (B)”  
9                   and inserting “subparagraphs (A), (B), and (C)”.

10                  (2) Paragraph (6) of section 213(d) of such  
11                  Code is amended—

12                          (A) in the matter preceding subparagraph  
13                          (A), by striking “subparagraphs (A) and (B)”  
14                          and inserting “subparagraphs (A), (B), and  
15                          (C)”;

16                          (B) in subparagraph (A) by striking  
17                          “paragraph (1)(C)” and inserting “paragraph  
18                          (1)(D)”.

19                  (3) Paragraph (7) of section 213(d) of such  
20                  Code is amended by striking “subparagraphs (A)  
21                  and (B)” and inserting “subparagraphs (A), (B),  
22                  and (C)”.

1 **SEC. 103. QUALIFIED LONG-TERM CARE INSURANCE CON-**  
 2 **TRACTS PERMITTED TO BE OFFERED IN CAF-**  
 3 **ETERIA PLANS.**

4 Paragraph (2) of section 125(d) of the Internal Reve-  
 5 nue Code of 1986 (relating to the exclusion of deferred  
 6 compensation) is amended by adding at the end thereof  
 7 the following new subparagraph:

8 “(D) EXCEPTION FOR LONG-TERM CARE  
 9 INSURANCE CONTRACTS.—For purposes of sub-  
 10 paragraph (A), a plan shall not be treated as  
 11 providing deferred compensation by reason of  
 12 providing any long-term care insurance contract  
 13 (as defined in section 7702B(b)) if—

14 “(i) the employee may elect to con-  
 15 tinue the insurance upon cessation of par-  
 16 ticipation in the plan, and

17 “(ii) the amount paid or incurred dur-  
 18 ing any taxable year for such insurance  
 19 does not exceed the premium which would  
 20 have been payable for such year under a  
 21 level premium structure.”

22 **SEC. 104. INCLUSION IN INCOME OF EXCESSIVE LONG-**  
 23 **TERM CARE BENEFITS.**

24 (a) IN GENERAL.—Part II of subchapter B of chap-  
 25 ter 1 of the Internal Revenue Code of 1986 (relating to

1 items specifically included in gross income) is amended by  
 2 adding at the end thereof the following new section:

3 **“SEC. 91. EXCESSIVE LONG-TERM CARE BENEFITS.**

4       “(a) GENERAL RULE.—Gross income for the taxable  
 5 year of any individual includes excessive long-term care  
 6 benefits received by or for the benefit of such individual  
 7 during the taxable year.

8       “(b) EXCESSIVE LONG-TERM CARE BENEFITS.—

9           “(1) IN GENERAL.—For purposes of this sec-  
 10 tion, the term ‘excessive long-term care benefits’  
 11 means the excess (if any) of—

12                   “(A) the aggregate amount from all poli-  
 13 cies which is not includable in the gross income  
 14 of the individual for the taxable year by reason  
 15 of the amendments made by the Family Choice  
 16 in Long-Term Care Act; and

17                   “(B) the aggregate of \$200 for each day  
 18 during the taxable year that such individual—

19                           “(i) was a chronically ill individual (as  
 20 defined in section 7702B(c)(2)), and

21                           “(ii) was confined to a qualified facil-  
 22 ity (as defined in section 7702B(c)(3)).

23           “(2) INFLATION ADJUSTMENT.—In the case of  
 24 any taxable year beginning after 1996, the amount

1 described in paragraph (1)(B) shall be equal to the  
2 sum of—

3 “(A) the amount in effect under paragraph  
4 (1)(B) for the preceding calendar year (after  
5 application of this subparagraph), plus

6 “(B) the product of the amount referred to  
7 in subparagraph (A) multiplied by the cost-of-  
8 living adjustment for the calendar year under  
9 paragraph (3).

10 “(3) COST-OF-LIVING ADJUSTMENT.—For pur-  
11 poses of paragraph (2), the cost-of-living adjustment  
12 for any calendar year is the percentage (if any) by  
13 which the cost index under paragraph (4) for the  
14 preceding calendar year exceeds such index for the  
15 second preceding calendar year.

16 “(4) COST INDEX.—The Secretary, in consulta-  
17 tion with the Secretary of Health and Human Serv-  
18 ices, shall before January 1, 1997, establish a cost  
19 index to measure increases in the cost of nursing  
20 home and similar facilities. The Secretary may from  
21 time to time revise such index to the extent nec-  
22 essary to accurately measure any increase or de-  
23 creases in such costs.

24 “(5) ROUNDING.—If any dollar amount deter-  
25 mined under this subsection is not a multiple of \$10,

1 such dollar amount shall be rounded to the nearest  
 2 multiple of \$10 (or, if such dollar amount is a mul-  
 3 tiple of \$5, such dollar amount shall be increased to  
 4 the next higher multiple of \$10).

5 “(6) COMPUTATION OF DAILY AMOUNT.—For  
 6 purposes of this section, the aggregate for each day  
 7 may be determined by using an average daily  
 8 amount for the month, computed by dividing the  
 9 amount of benefits for the month by the number of  
 10 days in the month.”

11 (b) CLERICAL AMENDMENT.—The table of sections  
 12 for such part II of subchapter B of chapter 1 of such Code  
 13 is amended by adding at the end the following new item:

“Sec. 91. Excessive long-term care benefits.

14 **SEC. 105. TAX RESERVES FOR QUALIFIED LONG-TERM**  
 15 **CARE INSURANCE CONTRACTS.**

16 (a) IN GENERAL.—Subparagraph (A) of section  
 17 807(d)(3) of the Internal Revenue Code of 1986 (relating  
 18 to tax reserve methods) is amended—

19 (1) by redesignating clause (iv) as clause (v);

20 and

21 (2) by inserting after clause (iii) the following  
 22 new clause:

23 “(iv) QUALIFIED LONG-TERM CARE  
 24 INSURANCE CONTRACTS.—In the case of

1 any qualified long-term care insurance con-  
 2 tract (as defined in section 7702B(b))—

3 “(I) the reserve method pre-  
 4 scribed by the National Association of  
 5 Insurance Commissioners which cov-  
 6 ers such contract (as of the date of is-  
 7 suance), or

8 “(II) if no reserve method has  
 9 been prescribed by the National Asso-  
 10 ciation of Insurance Commissioners  
 11 which covers such contract, a 1-year  
 12 full preliminary term method.”

13 (b) CONFORMING AMENDMENTS.—

14 (1) Clause (iii) of section 807(d)(3)(A) of such  
 15 Code is amended by striking “noncancellable acci-  
 16 dent and health insurance contract,” and inserting  
 17 “noncancellable accident and health insurance con-  
 18 tract (other than qualified long-term care insurance  
 19 contracts (as defined in section 7702B(b)),”.

20 (2) Clause (v) of section 807(d)(3)(A) of such  
 21 Code (as redesignated by subsection (a)) is amended  
 22 by striking “or (iii)” each place that such appears  
 23 and inserting “(iii), or (iv)”.

1 **SEC. 106. CERTAIN EXCHANGES OF LIFE INSURANCE CON-**  
 2 **TRACTS FOR LONG-TERM CARE INSURANCE**  
 3 **CONTRACTS NOT TAXABLE.**

4 Subsection (a) of section 1035 of the Internal Reve-  
 5 nue Code of 1986 (relating to certain exchanges of insur-  
 6 ance contracts) is amended by striking the period at the  
 7 end of paragraph (3) and inserting “; or”, and by adding  
 8 at the end thereof the following new paragraph:

9 “(4) a contract of life insurance or an endow-  
 10 ment or annuity contract for a long-term care insur-  
 11 ance contract (as defined in section 7702B(b)).”

12 **SEC. 107. TREATMENT OF ACCELERATED DEATH BENEFITS**  
 13 **BY RECIPIENT.**

14 (a) IN GENERAL.—Section 101 of the Internal Reve-  
 15 nue Code of 1986 (relating to certain death benefits) is  
 16 amended by adding at the end the following new sub-  
 17 section:

18 “(g) TREATMENT OF CERTAIN ACCELERATED  
 19 DEATH BENEFITS.—

20 “(1) IN GENERAL.—For purposes of this sec-  
 21 tion, the following amounts shall be treated as an  
 22 amount paid by reason of the death of an insured:

23 “(A) Any amount received under a life in-  
 24 surance contract on the life of an insured who  
 25 is a terminally ill individual.

1           “(B) Any amount received under a life in-  
 2           surance contract on the life of an insured who  
 3           is a chronically ill individual (as determined in  
 4           such manner as the Secretary may prescribe)  
 5           but only if such amount is received under a  
 6           rider or other provision of such contract which  
 7           is treated as a qualified long-term care insur-  
 8           ance contract under section 7702B.

9           “(2) TREATMENT OF VIATICAL SETTLE-  
 10          MENTS.—

11           “(A) IN GENERAL.—In the case of a life  
 12           insurance contract on the life of an insured de-  
 13           scribed in paragraph (1), if—

14                   “(i) any portion of such contract is  
 15                   sold to any viatical settlement provider, or

16                   “(ii) any portion of the death benefit  
 17                   is assigned to such a provider,

18           the amount paid for such sale or assignment  
 19           shall be treated as an amount paid under the  
 20           life insurance contract by reason of the death of  
 21           such insured.

22           “(B) VIATICAL SETTLEMENT PROVIDER.—

23           The term ‘viatical settlement provider’ means  
 24           any person regularly engaged in the trade or  
 25           business of purchasing, or taking assignments

1 of, life insurance contracts on the lives of  
2 insureds described in paragraph (1) if—

3 “(i) such person is licensed for such  
4 purposes in the State in which the insured  
5 resides, or

6 “(ii) in the case of an insured who re-  
7 sides in a State not requiring the licensing  
8 of such persons for such purposes—

9 “(I) such person meets the re-  
10 quirements of sections 8 and 9 of the  
11 Viatical Settlements Model Act of the  
12 National Association of Insurance  
13 Commissioners, and

14 “(II) meets the requirements of  
15 the Model Regulations of the National  
16 Association of Insurance Commis-  
17 sioners (relating to standards for eval-  
18 uation of reasonable payments) in de-  
19 termining amounts paid by such per-  
20 son in connection with such purchases  
21 or assignments.

22 “(3) DEFINITIONS.—For purposes of this sec-  
23 tion—

24 “(A) TERMINALLY ILL INDIVIDUAL.—The  
25 term ‘terminally ill individual’ means an indi-

1           vidual who has been certified by a physician as  
2           having an illness or physical condition which  
3           can reasonably be expected to result in death in  
4           24 months or less after the date of the certifi-  
5           cation.

6                   “(B) PHYSICIAN.—The term ‘physician’  
7           has the meaning given to such term by section  
8           1861(r)(1) of the Social Security Act (42  
9           U.S.C. 1395x(r)(1)).

10                   “(4) EXCEPTION FOR BUSINESS-RELATED POLI-  
11           CIES.—This subsection shall not apply in the case of  
12           any amount paid to any taxpayer other than the in-  
13           sured if such taxpayer has an insurable interest with  
14           respect to the life of the insured by reason of the in-  
15           sured being a director, officer, or employee of the  
16           taxpayer or by reason of the insured being finan-  
17           cially interested in any trade or business carried on  
18           by the taxpayer.”

19                   (b) EFFECTIVE DATE.—The amendment made by  
20           subsection (a) shall apply to amounts received after De-  
21           cember 31, 1995.

1 **SEC. 108. TAX TREATMENT OF COMPANIES ISSUING QUALI-**  
 2 **FIED ACCELERATED DEATH BENEFIT RID-**  
 3 **ERS.**

4 (a) **QUALIFIED ACCELERATED DEATH BENEFIT RID-**  
 5 **ERS TREATED AS LIFE INSURANCE.**—Section 818 of the  
 6 Internal Revenue Code of 1986 (relating to other defini-  
 7 tions and special rules) is amended by adding at the end  
 8 the following new subsection:

9 “(g) **QUALIFIED ACCELERATED DEATH BENEFIT**  
 10 **RIDERS TREATED AS LIFE INSURANCE.**—For purposes of  
 11 this part—

12 “(1) **IN GENERAL.**—Any reference to a life in-  
 13 surance contract will be treated as including a ref-  
 14 erence to a qualified accelerated death benefit rider  
 15 on such contract.

16 “(2) **QUALIFIED ACCELERATED DEATH BENE-**  
 17 **FIT RIDERS.**—For purposes of this subsection the  
 18 term ‘qualified accelerated death benefit rider’  
 19 means any rider on a life insurance contract if the  
 20 only payments under the rider are payments meeting  
 21 the requirements of section 101(g).

22 “(3) **EXCEPTION FOR LONG-TERM CARE RID-**  
 23 **ERS.**—Paragraph (1) shall not apply to any rider  
 24 which is treated as a long-term care insurance con-  
 25 tract under section 7702B.”

26 (b) **EFFECTIVE DATE.**—

1           (1) IN GENERAL.—The amendment made by  
2 this section shall take effect on January 1, 1996.

3           (2) ISSUANCE OF RIDER NOT TREATED AS MA-  
4 TERIAL CHANGE.—For purposes of applying sections  
5 101(f), 7702, and 7702A of the Internal Revenue  
6 Code of 1986 to any contract—

7                   (A) the issuance of a qualified accelerated  
8 death benefit rider (as defined in section 818(g)  
9 of such Code (as added by this Act)), and

10                   (B) the addition of any provision required  
11 to conform an accelerated death benefit rider to  
12 the requirements of such section 818(g),  
13 shall not be treated as a modification or material  
14 change in such contract.

15 **SEC. 109. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**  
16 **WITHDRAWN FROM INDIVIDUAL RETIRE-**  
17 **MENT PLANS OR 401(k) PLANS FOR LONG-**  
18 **TERM CARE INSURANCE.**

19           (a) IN GENERAL.—Part III of subchapter B of  
20 chapter 1 of the Internal Revenue Code of 1986 (relating  
21 to items specifically excluded from gross income) is  
22 amended—

23                   (1) by redesignating section 137 as section 138;  
24                   and

1           (2) by inserting after section 136 the following  
2           new section:

3   **“SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT**  
4                           **ACCOUNTS AND SECTION 401(k) PLANS FOR**  
5                           **LONG-TERM CARE INSURANCE.**

6           “(a) GENERAL RULE.—The amount includible in the  
7 gross income of an individual for the taxable year by rea-  
8 son of qualified distributions during such taxable year  
9 shall not exceed the excess of—

10           “(1) the amount which would (but for this sec-  
11 tion) be so includible by reason of such distributions,  
12 over

13           “(2) the aggregate premiums paid by such indi-  
14 vidual during such taxable year for any long-term  
15 care insurance contract (as defined in section  
16 7702B(b)) for the benefit of such individual or the  
17 spouse of such individual.

18           “(b) QUALIFIED DISTRIBUTION.—For purposes of  
19 this section, the term ‘qualified distribution’ means any  
20 distribution to an individual from an individual retirement  
21 account or a section 401(k) plan if such individual has  
22 attained the age of 59½ on or before the date of the dis-  
23 tribution (and, in the case of a distribution used to pay  
24 premiums for the benefit of the spouse of such individual,

1 such spouse has attained age 59½ on or before the date  
2 of the distribution).

3 “(c) DEFINITIONS.—For purposes of this section:

4 “(1) INDIVIDUAL RETIREMENT ACCOUNT.—The  
5 term ‘individual retirement account’ has the mean-  
6 ing given such term by section 408(a).

7 “(2) SECTION 401(K) PLAN.—The term ‘section  
8 401(k) plan’ means any employer plan which meets  
9 the requirements of section 401(a) and which in-  
10 cludes a qualified cash or deferred arrangement (as  
11 defined in section 401(k)).

12 “(d) SPECIAL RULES FOR SECTION 401(k) PLANS.—

13 “(1) WITHDRAWALS CANNOT EXCEED ELEC-  
14 TIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR  
15 DEFERRED ARRANGEMENT.—This section shall not  
16 apply to any distribution from a section 401(k) plan  
17 to the extent the aggregate amount of such distribu-  
18 tions for the use described in subsection (a) exceeds  
19 the aggregate employer contributions made pursuant  
20 to the employee’s election under section 401(k)(2).

21 “(2) WITHDRAWALS NOT TO CAUSE DISQUALI-  
22 FICATION.—A plan shall not be treated as failing to  
23 satisfy the requirements of section 401, and an ar-  
24 rangement shall not be treated as failing to be a  
25 qualified cash or deferred arrangement (as defined

1 in section 401(k)(2)), merely because under the plan  
 2 or arrangement distributions are permitted which  
 3 are excludable from gross income by reason of this  
 4 section.”

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 401(k) of such Code is amended by  
 7 adding at the end the following new paragraph:

8 “(11) CROSS REFERENCE.—

“**For provision permitting tax-free withdrawals  
 for payment of long-term care premiums, see section  
 137.**”

9 (2) Section 408(d) of such Code is amended by  
 10 adding at the end the following new paragraph:

11 “(8) CROSS REFERENCE.—

“**For provision permitting tax-free withdrawals  
 from individual retirement accounts for payment of  
 long-term care premiums, see section 137.**”

12 (3) The table of sections for such part III if  
 13 amended by striking the last item and inserting the  
 14 following new items:

“Sec. 137. Distributions from individual retirement accounts and  
 section 401(k) plans for long-term care insurance.

“Sec. 138. Cross references to other Acts.”

15 **SEC. 110. EFFECTIVE DATE.**

16 (a) IN GENERAL.—Except as provided in subsection  
 17 (b), the amendments made by this title shall apply to long-  
 18 term care insurance policies issued in taxable years begin-  
 19 ning after the date of the enactment of this Act.

1 (b) CONTINUATION OF EXISTING POLICIES.—In the  
2 case of any long-term care insurance policy issued before  
3 January 1, 1997, which met the long-term care insurance  
4 requirements of the State in which the policy was situated  
5 at the time the policy was issued—

6 (1) such policy shall be treated for purposes of  
7 the Internal Revenue Code of 1986 as a long-term  
8 care insurance contract (as defined in section  
9 7702B(b) of such Code), and

10 (2) services provided under such policy shall be  
11 treated for such purposes as qualified long-term care  
12 services (as defined in section 7702B(c) of such  
13 Code).

14 (c) EXCHANGES OF EXISTING POLICIES.—If, after  
15 the date of enactment of this Act and before January 1,  
16 1996, a policy providing for long-term care insurance cov-  
17 erage is exchanged solely for a long-term care insurance  
18 contract (as defined in section 7702B(b) of the Internal  
19 Revenue Code of 1986), no gain or loss shall be recognized  
20 on the exchange. If, in addition to a long-term care insur-  
21 ance contract, money or other property is received in the  
22 exchange, then any gain shall be recognized to the extent  
23 of the sum of the money and the fair market value of the  
24 other property received. For purposes of this subsection,  
25 the cancellation of a policy providing for long-term care

1 insurance coverage and reinvestment of the cancellation  
 2 proceeds in a qualified long-term care insurance contract  
 3 within 60 days thereafter shall be treated as an exchange.

4 (d) ISSUANCE OF CERTAIN RIDERS PERMITTED.—  
 5 For purposes of determining whether section 7702 or  
 6 7702A of the Internal Revenue Code of 1986 applies to  
 7 any contract, the issuance, whether before, on, or after  
 8 December 31, 1995, of a rider on a life insurance contract  
 9 providing long-term care insurance coverage shall not be  
 10 treated as a modification or material change of such con-  
 11 tract.

12 (e) TREASURY TO SPECIFY TAX TREATMENT OF  
 13 LONG-TERM CARE CONTRACTS WHICH DO NOT MEET  
 14 STANDARDS.—Not later than October 1, 1996, the Sec-  
 15 retary of the Treasury shall submit to the Congress a re-  
 16 port detailing the Department of the Treasury’s interpre-  
 17 tation of the treatment under the Internal Revenue Code  
 18 of 1986 of contracts which provide long-term care services  
 19 but which are not long-term care insurance contracts (as  
 20 defined by section 7702B(b) of such Code).

21 **TITLE II—LONG-TERM CARE**  
 22 **INSURANCE STANDARDS**

23 **SEC. 200. SHORT TITLE.**

24 This title may be cited as the “Long-Term Care In-  
 25 surance Standards Amendments of 1995”.

1 **SEC. 201. NATIONAL LONG-TERM CARE INSURANCE ADVI-**  
2 **SORY COUNCIL.**

3 (a) APPOINTMENT.—Congress shall appoint an advi-  
4 sory board to be known as the National Long-Term Care  
5 Insurance Advisory Council (hereafter referred to in this  
6 title as the “Advisory Council”).

7 (b) MEMBERSHIP.—The Advisory Council shall con-  
8 sist of 5 members, each of whom has substantial expertise  
9 in matters relating to the provision and regulation of long-  
10 term care insurance or long-term care financing and deliv-  
11 ery systems.

12 (c) DUTIES.—The Advisory Council shall—

13 (1) provide advice, recommendations, and as-  
14 sistance to Congress on matters relating to long-  
15 term care insurance as specified in this title and as  
16 otherwise required by the Secretary of Health and  
17 Human Services (hereafter referred to in this title as  
18 the “Secretary”);

19 (2) collect, analyze, and disseminate informa-  
20 tion relating to long-term care insurance in order to  
21 increase the understanding of insurers, providers,  
22 consumers, and regulatory bodies of the issues relat-  
23 ing to, and to facilitate improvements in, such insur-  
24 ance, and to carry out the educational program es-  
25 tablished under subsection (e);

1           (3) develop for congressional consideration pro-  
2       posed models, standards, requirements, and proce-  
3       dures relating to long-term care insurance, as appro-  
4       priate; and

5           (4) monitor the development of the long-term  
6       care insurance market, advise Congress concerning  
7       the need for statutory changes, and establish a data  
8       collection system in accordance with subsection (f).

9       (d) ADMINISTRATION.—In order to carry out its re-  
10   sponsibilities under this section, the Advisory Council is  
11   authorized to—

12           (1) consult individuals and public and private  
13       entities with experience and expertise in matters re-  
14       lating to long-term care insurance;

15           (2) conduct meetings and hold hearings;

16           (3) conduct research (either directly or under  
17       grant or contract);

18           (4) collect, analyze, publish, and disseminate  
19       data and information (either directly or under grant  
20       or contract); and

21           (5) develop model formats and procedures for  
22       insurance products, and develop proposed standards,  
23       rules, and procedures for regulatory programs, as  
24       appropriate.

25       (e) EDUCATIONAL PROGRAM.—

1           (1) ESTABLISHMENT.—The Advisory Council,  
2           in consultation with the Secretary, shall establish a  
3           program designed to educate the public on—

4                   (A) the risks of incurring catastrophic  
5           long-term health care costs;

6                   (B) types of long-term care services avail-  
7           able;

8                   (C) coverage limitations of Federal pro-  
9           grams for long-term care;

10                  (D) private sector options for long-term  
11           care planning; and

12                  (E) methods for assessing the quality and  
13           cost of long-term care services and obtaining  
14           consumer information regarding long-term care  
15           such as facility inspection information, service  
16           certification, client complaints, special care  
17           units/programs, or other items raised by public  
18           demand.

19           (2) DISSEMINATION OF INFORMATION.—Edu-  
20           cational information developed under the program  
21           established under paragraph (1) shall be dissemi-  
22           nated through collaborative arrangements with pro-  
23           viders of long-term services or health care services,  
24           entities serving the aged, or others willing to partici-  
25           pate.

1 (f) LONG-TERM CARE DATA COLLECTION SYS-  
2 TEM.—

3 (1) IN GENERAL.—The Advisory Council, in  
4 consultation with the Secretary and the National As-  
5 sociation of Insurance Commissioners, shall establish  
6 a data collection system for public and private long-  
7 term care services to be utilized—

8 (A) to assess the costs of long-term care  
9 services and predict the future costs of such  
10 services;

11 (B) to determine the types of long-term  
12 care services provided and predict the future  
13 need for such services;

14 (C) to determine how long-term care re-  
15 lates to the medical problems experienced by  
16 the elderly; and

17 (D) in any other manner determined ap-  
18 propriate by the Advisory Council.

19 (2) REPORT.—Not later than 2 years after the  
20 date of enactment of this Act and annually there-  
21 after, the Advisory Council shall prepare and submit  
22 to the appropriate committees of Congress a report  
23 that shall include—

24 (A) a description of the data collection sys-  
25 tem described in paragraph (1);

1 (B) a description of the types of data col-  
 2 lected using such system and an analysis of  
 3 such data;

4 (C) a description of the sources of the  
 5 data;

6 (D) a description of the manner in which  
 7 the data was collected; and

8 (E) any other information determined ap-  
 9 propriate by such Advisory Council.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
 11 are authorized to be appropriated, for the activities of the  
 12 Advisory Council, \$1,500,000 for fiscal year 1996, and for  
 13 each subsequent fiscal year.

14 **SEC. 202. POLICY REQUIREMENTS.**

15 Section 7702B of the Internal Revenue Code of 1986  
 16 (as added by section 101) is amended by adding at the  
 17 end thereof the following new subsection:

18 “(f) CONSUMER PROTECTION PROVISIONS.—

19 “(1) IN GENERAL.—The requirements of this  
 20 subsection are met with respect to any contract if  
 21 any long-term care insurance policy issued under the  
 22 contract meets—

23 “(A) the requirements of the model regula-  
 24 tion and model Act described in paragraph (2),

1           “(B) the disclosure requirement of para-  
2 graph (3), and

3           “(C) the requirements relating to  
4 nonforfeitability under paragraph (4).

5           “(2) REQUIREMENTS OF MODEL REGULATION  
6 AND ACT.—

7           “(A) IN GENERAL.—The requirements of  
8 this paragraph are met with respect to any pol-  
9 icy if such policy meets:

10           “(i) MODEL REGULATIONS.—The fol-  
11 lowing requirements of the model regula-  
12 tion:

13           “(I) Section 7A (relating to guar-  
14 anteed renewal or noncancellability),  
15 and the requirements of section 6B of  
16 the model Act relating to such section  
17 7A.

18           “(II) Section 7B (relating to pro-  
19 hibitions on limitations and exclu-  
20 sions).

21           “(III) Section 7C (relating to ex-  
22 tension of benefits).

23           “(IV) Section 7D (relating to  
24 continuation or conversion of cov-  
25 erage).

1                   “(V) Section 7E (relating to dis-  
2                   continuance and replacement of poli-  
3                   cies).

4                   “(VI) Section 8 (relating to unin-  
5                   tentional lapse).

6                   “(VII) Section 9 (relating to dis-  
7                   closure), other than section 9F there-  
8                   of.

9                   “(VIII) Section 10 (relating to  
10                  prohibitions against post-claims un-  
11                  derwriting).

12                  “(IX) Section 11 (relating to  
13                  minimum standards).

14                  “(X) Section 12 (relating to re-  
15                  quirement to offer inflation protec-  
16                  tion), except that any requirement for  
17                  a signature on a rejection of inflation  
18                  protection shall permit the signature  
19                  to be on an application or on a sepa-  
20                  rate form.

21                  “(XI) Section 23 (relating to pro-  
22                  hibition against preexisting conditions  
23                  and probationary periods in replace-  
24                  ment policies or certificates).

1                   “(ii) MODEL ACT.—The following re-  
2                   quirements of the model Act:

3                               “(I) Section 6C (relating to pre-  
4                               existing conditions).

5                               “(II) Section 6D (relating to  
6                               prior hospitalization).

7                   “(B) DEFINITIONS.—For purposes of this  
8                   paragraph:

9                               “(i) MODEL PROVISIONS.—The terms  
10                              ‘model regulation’ and ‘model Act’ mean  
11                              the long-term care insurance model regula-  
12                              tion, and the long-term care insurance  
13                              model Act, respectively, promulgated by  
14                              the National Association of Insurance  
15                              Commissioners (as adopted in January of  
16                              1993).

17                              “(ii) COORDINATION.—Any provision  
18                              of the model regulation or model Act de-  
19                              scribed under clause (i) or (ii) of subpara-  
20                              graph (A) shall be treated as including any  
21                              other provision of such regulation or Act  
22                              necessary to implement the provision.

23                   “(3) TAX DISCLOSURE REQUIREMENT.—The re-  
24                   quirement of this paragraph is met with respect to

1 any policy if such policy meets the requirements of  
2 section 4980D(d)(1).

3 “(4) NONFORFEITURE REQUIREMENTS.—

4 “(A) IN GENERAL.—The requirements of  
5 this paragraph are met with respect to any level  
6 premium long-term care insurance policy if the  
7 issuer of such policy offers to the policyholder,  
8 including any group policyholder, a  
9 nonforfeiture provision.

10 “(B) REQUIREMENTS OF PROVISION.—The  
11 nonforfeiture provision required under subpara-  
12 graph (A) shall meet the following require-  
13 ments:

14 “(i) The nonforfeiture provision shall  
15 be appropriately captioned.

16 “(ii) The nonforfeiture provision shall  
17 provide for a benefit available in the event  
18 of a default in the payment of any pre-  
19 miums and the amount of the benefit may  
20 be adjusted subsequent to being initially  
21 granted only as necessary to reflect  
22 changes in claims, persistency, and interest  
23 as reflected in changes in rates for pre-  
24 mium paying policies approved by the Sec-  
25 retary for the same policy form.

1                   “(iii) The nonforfeiture provision shall  
2                   provide for at least one of the following:

3                                 “(I) Reduced paid-up insurance.

4                                 “(II) Extended term insurance.

5                                 “(III) Shortened benefit period.

6                                 “(IV) Other similar offerings ap-  
7                   proved by the Secretary.

8                   “(5) LONG-TERM CARE INSURANCE POLICY DE-  
9                   FINED.—For purposes of this subsection, the term  
10                  ‘long-term care insurance policy’ has the meaning  
11                  given such term by section 4980C(e).”

12 **SEC. 203. ADDITIONAL REQUIREMENTS FOR ISSUERS OF**  
13 **LONG-TERM CARE INSURANCE POLICIES.**

14                  (a) IN GENERAL.—Chapter 43 of the Internal Reve-  
15 nue Code of 1986 (relating to qualified pension, etc. plans)  
16 is amended by adding at the end the following new section:

17 **“SEC. 4980C. FAILURE TO MEET REQUIREMENTS FOR LONG-**  
18 **TERM CARE INSURANCE POLICIES.**

19                  “(a) GENERAL RULE.—There is hereby imposed on  
20 any person failing to meet the requirements of subsection  
21 (c) or (d) a tax in the amount determined under sub-  
22 section (b).

23                  “(b) AMOUNT OF TAX.—

1           “(1) IN GENERAL.—For purposes of subsection  
2 (a), the amount of the tax shall not exceed the  
3 greater of—

4                   “(A) 3 times the amount of any commis-  
5 sions paid for each policy involved in the viola-  
6 tion, or

7                   “(B) \$10,000.

8           “(2) WAIVER.—In the case of a failure which is  
9 due to reasonable cause and not to willful neglect,  
10 the Secretary may waive part or all of the tax im-  
11 posed by subsection (a) to the extent that payment  
12 of the tax would be excessive relative to the failure  
13 involved.

14           “(c) ADDITIONAL RESPONSIBILITIES.—The require-  
15 ments of this subsection are as follows:

16                   “(1) REQUIREMENTS OF MODEL PROVISIONS.—

17                           “(A) MODEL REGULATION.—The following  
18 requirements of the model regulation must be  
19 met:

20                                   “(i) Section 13 (relating to application  
21 forms and replacement coverage).

22                                   “(ii) Section 14 (relating to reporting  
23 requirements), except that the issuer shall  
24 also report at least annually the number of  
25 claims denied during the reporting period

1 for each class of business (expended as a  
2 percentage of claims denied), other than  
3 claims denied for failure to meet the  
4 waiving period or because of any applicable  
5 preexisting condition.

6 “(iii) Section 20 (relating to filing re-  
7 quirements for marketing).

8 “(iv) Section 21 (relating to standards  
9 for marketing), including inaccurate com-  
10 pletion of medical histories, other than sec-  
11 tion 21C(1), 21C(3), and 21C(6) thereof,  
12 except that—

13 “(I) in addition to such require-  
14 ments, no person shall in selling or of-  
15 fering to sell a long-term care insur-  
16 ance policy, misrepresent a material  
17 fact;

18 “(II) no such requirements shall  
19 include a requirement to inquire or  
20 identify whether a prospective appli-  
21 cant or enrollee for long-term care in-  
22 surance has accident and sickness in-  
23 surance; and

24 “(III) the association shall dis-  
25 close in any long-term care insurance

1 solicitation the amount of compensa-  
2 tion that the association receives from  
3 endorsement or sale of the policy or  
4 certificate to its members, expressed  
5 as a percentage of annual premium  
6 generated by such policies.

7 “(v) Section 22 (relating to appro-  
8 priateness of recommended purchase).

9 “(vi) Section 24 (relating to standard  
10 format outline of coverage).

11 “(vii) Section 25 (relating to require-  
12 ment to deliver shopper’s guide).

13 “(B) MODEL ACT.—The following require-  
14 ments of the model Act must be met:

15 “(i) Section 6F (relating to right to  
16 return), except that such section shall also  
17 apply to denials of applications and any re-  
18 fund shall be made within 30 days of the  
19 return or denial.

20 “(ii) Section 6G (relating to outline of  
21 coverage).

22 “(iii) Section 6H (relating to require-  
23 ments for certificates under group plans).

24 “(iv) Section 6I (relating to policy  
25 summary).

1                   “(v) Section 6J (relating to monthly  
2                   reports on accelerated death benefits).

3                   “(vi) Section 7 (relating to incontest-  
4                   ability period).

5                   “(C) DEFINITIONS.—For purposes of this  
6                   paragraph, the terms ‘model regulation’ and  
7                   ‘model Act’ shall have the meanings given such  
8                   terms by section 7702B(f)(2)(B).

9                   “(2) DELIVERY OF POLICY.—If an application  
10                  for a long-term care insurance policy (or for a cer-  
11                  tificate under a group long-term care insurance pol-  
12                  icy) is approved, the issuer shall deliver to the appli-  
13                  cant (or policyholder or certificate holder) the policy  
14                  (or certificate) of insurance not later than 30 days  
15                  after the date of the approval or the date on which  
16                  the first premium is received, whichever is later.

17                  “(3) INFORMATION ON DENIALS OF CLAIMS.—  
18                  If a claim under a long-term care insurance policy  
19                  is denied, the issuer shall, within 60 days of the date  
20                  of a written request by the policyholder or certificate  
21                  holder (or representative)—

22                         “(A) provide a written explanation of the  
23                         reasons for the denial, and

24                         “(B) make available all information di-  
25                         rectly relating to such denial, except in cases

1           where such issuer would be prohibited from pro-  
2           viding information regarding claims denial  
3           under confidentiality statutes or other Federal  
4           or State laws.

5           “(d) DISCLOSURE.—The requirements of this sub-  
6 section are met if either of the following statements,  
7 whichever is applicable, is prominently displayed on the  
8 front page of any long-term care insurance policy and in  
9 the outline of coverage required under subsection  
10 (c)(1)(B)(ii):

11           “(1) A statement that: ‘This policy is intended  
12           to be a qualified long-term care insurance contract  
13           under section 7702B(b) of the Internal Revenue  
14           Code of 1986.’.

15           “(2) A statement that: ‘This policy is not in-  
16           tended to be a qualified long-term care insurance  
17           contract under section 7702B(b) of the Internal  
18           Revenue Code of 1986.’.

19           “(e) LONG-TERM CARE INSURANCE POLICY DE-  
20 FINED.—

21           “(1) IN GENERAL.—For purposes of this sec-  
22           tion, the term ‘long-term care insurance policy’  
23           means any insurance policy or rider advertised, mar-  
24           keted, offered, or designed to provide coverage for  
25           not less than 12 consecutive months for each covered

1 person on an expense incurred, indemnity, prepaid,  
2 or other basis for one or more necessary diagnostic,  
3 preventive, therapeutic, rehabilitative, maintenance,  
4 or personal care services, provided in a setting other  
5 than an acute care unit of a hospital. Such term  
6 includes group and individual annuities and life in-  
7 surance policies or riders which provide directly or  
8 which supplement long-term care insurance. Such  
9 term also includes a policy or rider which provides  
10 for payment of benefits based upon cognitive impair-  
11 ment or the loss of functional capacity.

12 “(2) ISSUANCE.—As defined in paragraph (1),  
13 a long-term insurance policy may be issued by insur-  
14 ers, fraternal benefit societies, nonprofit health, hos-  
15 pital and medical service corporations, prepaid  
16 health plans, health maintenance organizations, or  
17 any similar organization to the extent they are oth-  
18 erwise authorized to issue life or health insurance.

19 “(3) LIMITATIONS.—The term ‘long-term care  
20 insurance policy’ shall not include any insurance pol-  
21 icy which is offered primarily to provide basic medi-  
22 care supplemental coverage, basic hospital expense  
23 coverage, basic medical-surgical expense coverage,  
24 hospital confinement indemnity coverage, major  
25 medical expense coverage, disability income or relat-

1 ed asset-protection coverage, accident only coverage,  
 2 specified disease or specified accident coverage, or  
 3 limited benefit health coverage. With respect to life  
 4 insurance, such term shall not include life insurance  
 5 policies which accelerate the death benefit specifi-  
 6 cally for one or more of the qualifying events of ter-  
 7 minal illness, medical conditions requiring extraor-  
 8 dinary medical intervention, or permanent institu-  
 9 tional confinement, and which provide the option of  
 10 a lump-sum payment for those benefits and in which  
 11 neither the benefits nor the eligibility for the bene-  
 12 fits is conditioned upon the receipt of long-term  
 13 care.”

14 (b) CLERICAL AMENDMENT.—The table of sections  
 15 for chapter 43 of the Internal Revenue Code of 1986 is  
 16 amended by adding at the end the following new item:

“Sec. 4980C. Failure to meet requirements for long-term care in-  
 surance policies.”

17 **SEC. 204. RELATION TO STATE LAW.**

18 Insurance policies which have been deemed in compli-  
 19 ance with the requirements of this title and the Internal  
 20 Revenue Code of 1986 (as amended by this title) by the  
 21 State Insurance Commissioner in the State of domicile  
 22 shall be deemed approved for sale in any other State. No  
 23 State may prohibit an insurance carrier from selling out-

1 side the State of domicile long-term care insurance policies  
2 which have been approved in the State of domicile.

3 **SEC. 205. UNIFORM LANGUAGE AND DEFINITIONS.**

4 (a) RECOMMENDATIONS.—The Advisory Council  
5 shall develop recommendations for the use of uniform lan-  
6 guage and definitions in long-term care insurance policies  
7 (as defined in section 4980C(e) of the Internal Revenue  
8 Code of 1986) for approval by Congress.

9 (b) USE OF NONUNIFORM LANGUAGE.—Rec-  
10 ommendations under subsection (a) may permit the use  
11 of nonuniform language to the extent required to take into  
12 account differences among States in the licensing of nurs-  
13 ing facilities and other providers of long-term care.

14 **SEC. 206. CONSUMER ACCESS TO COMPLIANCE INFORMA-**  
15 **TION.**

16 (a) IN GENERAL.—A State regulatory program must  
17 provide for consumer access to complaints filed with the  
18 State commissioner or superintendent of insurance with  
19 respect to long-term care insurance policies.

20 (b) CONFIDENTIALITY.—The access provided under  
21 subsection (a) shall be limited to the extent required to  
22 protect the confidentiality of the identity of individual pol-  
23 icyholders.

1 **SEC. 207. EFFECTIVE DATES.**

2 (a) **CONTRACTS.**—The amendments made by section  
3 202 shall apply to long-term care insurance contracts is-  
4 sued in taxable years beginning after the date of enact-  
5 ment of this Act.

6 (b) **ACTIONS TAKEN.**—The amendments made by  
7 section 202 shall apply to actions taken in taxable years  
8 beginning after the date of enactment of this Act.

9 **TITLE III—PREVENTIVE HEALTH**  
10 **PRACTICES PROMOTION**

11 **SEC. 301. DISTRIBUTION OF INFORMATION ON REC-**  
12 **COMMENDED PREVENTIVE HEALTH PRAC-**  
13 **TICES.**

14 (a) **IN GENERAL.**—Section 1804 of the Social Secu-  
15 rity Act (42 U.S.C. 1396b–2) is amended—

16 (1) in the heading, by inserting “AND DIS-  
17 TRIBUTION OF PREVENTIVE HEALTH INFORMATION”  
18 after “MEDICARE BENEFITS”;

19 (2) by inserting “(a)” after “SEC. 1804.”; and

20 (3) by adding at the end the following new sub-  
21 section:

22 “(b)(1) The Secretary shall develop (and, from time  
23 to time, shall revise) a summary of recommended preven-  
24 tive health care practices for elderly individuals entitled  
25 to benefits under this title.

1       “(2) The summary shall be developed in consultation  
2 with national physician, consumer, and other health-  
3 related groups and shall be based on recommendations of  
4 any appropriate task force or similar group established by  
5 the Secretary.

6       (3) The Secretary shall provide for the distribution  
7 of—

8               “(A) the summary developed under paragraph  
9 (1) to each individual at the time of the individual’s  
10 first becoming eligible for benefits under part A  
11 under section 226(a), or section 1818, as part of  
12 other materials sent to such an individual at such a  
13 time, and

14               “(B) the summary developed under paragraph  
15 (1) to individuals entitled to benefits under this title  
16 in conjunction with general mailings sent under this  
17 title to such individuals.”

18       (b) DEVELOPMENT OF SUMMARY AND FORM.—The  
19 Secretary of Health and Human Services shall initially de-  
20 velop the summary described in section 1804(b) of the So-  
21 cial Security Act (as added by subsection (a)) not later  
22 than April 1, 1996, and shall first provide for the distribu-  
23 tion of such summaries by not later than October 1, 1996.

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