

# California Department of Insurance

## Eight-Hour Mandatory Long-Term Care Course

### Topics to be Included in the Course Outline

#### OVERVIEW

Licensees who solicit individual consumers for the sale of long-term care (LTC) insurance and some licensees who sell life insurance products that contain benefits for long-term care (that are based on an accelerated death benefit) shall complete training prior to being authorized to transact long-term care insurance and prior to each license renewal. If benefits are based on activities of daily living (ADL) triggers and conditioned on the actual provision of LTC services, an agent is required to complete LTC continuing education (CE). If benefits are based on ADL triggers and not conditioned on the actual provision of LTC services, an agent may not be required to complete LTC CE.

Topics that must be addressed as part of all of the eight-hour LTC insurance courses designed to meet the requirements of California Insurance Code (Cal. Ins. Code) section 10234.93, include, but are not limited to:

- California regulations and requirements
- Available long-term care services and facilities
- Changes or improvements in services or facilities
- Alternatives to the purchase of private LTC insurance
- Differences in eligibility for benefits and tax treatment between policies intended to be federally qualified and those not intended to be federally qualified
- The effect of inflation in eroding the value of benefits and the importance of inflation protection
- National Association of Insurance Commissioners (NAIC) consumer suitability standards and guidelines

Topics should also include the differences between LTC benefits provided under the following various products:

- Stand-alone LTC insurance products
- Life insurance policies and annuities with LTC benefits
- Accelerated death benefits as a rider or found in the standard language of the contract
- Other catastrophic/critical illness benefits
- Life settlements
- Viatical settlements in the event of terminal illness

#### EDUCATION OBJECTIVES

Each topic must be developed in its entirety and should explain (not merely recite) chaptered legislation and pertinent regulations. Each topic should *include an*

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*explanation* of why each topic is significant to the agent and client. The subjects do not need to be presented in this outline order. However, each topic must be cross-referenced to the material submitted to the Commissioner before the material can be approved. In addition, the topics need to be developed in a clear and meaningful manner so that the student derives a clear understanding of the pertinent issues and implications. It is expected that any viable LTC course proposed should be eight hours in length so as to cover adequately all the required topics. A course on LTC product knowledge does not qualify for LTC continuing education credit. **NOTE:** All statistical information (e.g., dollar amounts, charts, tables) and points of fact must be referenced to the original source data. In addition, these sources must be California-specific where available.

Course providers are encouraged to use examples that illustrate points and concepts. For contact courses, the topics need to be articulated in writing to the extent that the student can relate the words of the instructor to the course material in a meaningful way. For correspondence courses, each topic must be developed in full so that the reader can get an understanding of the material as if they were in a contact course.

Discussion of topics must be handled in a neutral manner. These courses may **NOT**:

- Use the opportunity to persuade
- Indoctrinate or enlighten agents on a particular philosophy or a political or public policy position
- Offer opinions about state or federal legislation or forecast the success or failure of legislation
- Offer company specific sales presentations or similar information, and absolutely no marketing information is allowed in long-term care courses
- Use copyright material inserted or attached to the course material without proper references
- Use attachments to the course material that contain the information noted in the above bulleted items
- Substitute Insurance Code sections for explanatory text

Course providers are required to do the following:

- Provide a detailed understanding of all the topic areas
- Show continuity of explanations in the course textbooks, examples, references, and citations
- Provide easy-to-read text; rather than seemingly unrelated pieces of data, the text should have a narrative explanation of why or how parts fit together
- State conclusions (i.e., why is this topic important and what does it mean for the policyholder)
- Substantiate information with material presented
- Focus course material on needs of consumers and the problems and

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- solutions associated with LTC and LTC insurance
- Include California Department of Insurance (CDI)-required attachments and any other attachments relevant to the outline and compliant with CDI requirements

#### **Contact Course (Interactive)**

**Credit Hours for Contact Courses:** CDI's guideline for assigning credit hours to contact courses is based on a 50-minute hour of classroom instruction. No credit is given for breaks. The student can receive credit for only eight hours, or 480 minutes, of instruction per day. This equates to nine hours of classroom credit per day (credit is not given for partial hours). The student is required to be attentive and participate. It is the instructor's discretion or judgment to determine if the student should receive credit based on their attention and participation.

Additionally, the instructor may give credit if the student participates in at least 80 percent of class instruction. No credit is given for review. Credit is given for examinations only if it is mandatory to pass the examination to receive credit for the course.

#### **Non-Contact Course (Non-Interactive)**

**Credit Hours for Non-Contact Courses:** One credit hour is approved for 4,600 words. For the examination, 10 to 15 percent of the approved credit hour(s) is added to arrive at the total credit hours for the non-contact course. The examination must have a minimum of three questions for each credit hour approved. Partial credit hours will not be awarded and will be rounded down to the nearest whole credit hour.

*Disclaimer –CDI is released of responsibility for approved course materials that may have a copyright infringement. In addition, no course approved for either prelicensing or continuing education hours or any designation resulting from completion of such courses should be construed to be endorsed by the Commissioner.*

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Eight-Hour Mandatory Long-Term Care Course  
Topics to be Included in the Course Outline**

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- I. Long-Term Care**
  - A. Introduction
  - B. Long-Term Care Services and Facilities that Provide Care
  - C. Cost of Long-Term Care – Where to obtain information on Long-Term Care services and facilities
- II. Potential Resources for Paying for Long-Term Care Expenses**
  - A. Financing/Paying for Long-Term Care
- III. Federal Legislation and Long-Term Care**
  - A. Tax Treatments Under Long-Term Care Insurance
  - B. Advantages and Disadvantages of Non-Tax Qualified Long-Term Care Insurance
  - C. Pre-1997 Long-Term Care Insurance
  - D. Long-Term Care Insurance Premium Deductibility
  - E. Health Savings Accounts (HSAs), Archer Medical Savings Accounts (MSAs), and Medicare Medical Savings Accounts
- IV. Long-Term Care Insurance**
  - A. Types of Products
  - B. Group Coverage
  - C. Common Policy Benefits
- V. California Statutory Policy Provisions, Requirements, and Terminology**
  - A. Company Responsibilities and Prohibitions
  - B. Agent Responsibilities and Prohibitions
  - C. Statutory Rate Stabilization Requirements
- VI. Administration and Enforcement**
  - A. Authority to Bring Actions and Assess Penalties
  - B. Violations and Penalties
  - C. Notice and Hearing
- VII. Advertising Guidelines and Marketing Practices**
  - A. Advertisements Guidelines
  - B. Marketing Practices and Responsibilities
- VIII. California Partnership for Long-Term Care**
  - A. Introduction to the Partnership
- IX. Attachments**
  - A. Attachment I - Medi-Cal Requirements

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### Topics to be Included in the Course Outline

- B. Attachment II - Tax Treatment of Long-Term Care Insurance & Expenses
- C. Attachment III - Applicable Laws & Penalties
- D. Attachment IV - California Life & Health Insurance Guarantee Association (CLHIGA) Surcharge Notice
- E. Attachment V - Introduction to the California Partnership

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### Topics to be Included in the Course Outline

#### I. Long-Term Care (LTC)

- A. Introduction
  - 1. What is LTC?
  - 2. Who needs LTC?
    - a. gender
    - b. age
    - c. medical history
    - d. marital/domestic partner status
    - e. availability of family caregivers
    - f. financial factors
- B. LTC Services and Facilities that Provide Care
  - 1. The need for care
    - a. ADLs, Cal. Ins. Code section 10232.8 (bathing, dressing, eating, toileting, transferring, continence)
    - b. cognitive impairment
  - 2. LTC services
    - a. home care and community-based services
      - i. home health care
      - ii. adult day care/adult day health care
      - iii. personal care
      - iv. homemaker services
      - v. hospice services
      - vi. respite care
      - vii. family care
    - b. facilities that provide care
      - i. state licensed facilities/skilled nursing facilities
      - ii. Residential Care Facilities for the Elderly (RFCE)
        - (A) assisted living
        - (B) memory care
      - iii. continuing care retirement communities (CCRC)
        - (A) independent
        - (B) assisted
        - (C) nursing
        - (D) life care
    - c. affiliated and membership living arrangements
      - i. fraternal
      - ii. faith based
      - iii. union sponsored
      - iv. U.S. Veterans Affairs
      - v. California Veterans Affairs

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### Topics to be Included in the Course Outline

- d. public programs
  - i. Multipurpose Senior Services Program (MSSP)
  - ii. In-Home Supportive Services (IHSS) Medi-Cal program
  - iii. Program of All-inclusive Care for the Elderly (PACE) – this is a Medicare and Medi-Cal1 program
- e. Locating information on services and facilities that provide LTC
- C. Cost of LTC – Where to obtain information on LTC services and facilities
  - 1. Providers are expected to know and teach about the cost of care in a skilled nursing facility, in an assisted living facility, and for care-at-home
    - a. providers are expected to use recognized government, academic, and/or industry sources to teach about the cost of care when using national data or sources for statewide data
    - b. citations must be shown and approved in the course outline, and handouts from those sources should be an attachment to the course outline

## **II. Potential Resources for Paying for Long-Term (LTC) Care Expenses**

- A. Financing/Paying for LTC
  - 1. Funding mechanisms for LTC
    - a. personal savings
    - b. home equity
      - i. residential reverse mortgages insured by the Department of Housing and Urban Development (HUD)
  - 2. Insurance products that contain benefits for LTC
    - a. stand-alone LTC insurance products
    - b. life insurance policies and annuities with LTC benefits
    - c. accelerated death benefits may be included as a rider or found in the standard language of the contract
    - d. other catastrophic/critical illness benefits
    - e. life settlements
    - f. viatical settlements in the event of terminal illness
  - 3. Medi-Cal<sup>1</sup> (See Attachment I – Medi-Cal<sup>1</sup> Requirements) LTC benefits and Medi-Cal<sup>1</sup> can be used at the same time

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<sup>1</sup> An agent shall not provide advice on issues surrounding income and estate taxation, including the use of trusts and/or Medi-Cal. If qualified tax assistance is required, agents shall advise client to consult with other professionals.

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- a. Medi-Cal<sup>1</sup> eligibility
  - i. income limits
  - ii. share-of-cost
- b. estate recovery following death
  - i. Although Medi-Cal<sup>1</sup> no longer considers assets for eligibility, Medi-Cal<sup>1</sup> does continue to perform estate recovery for LTC services.
  - ii. purchase of LTC/California Partnership for Long-Term Care (CPLTC) policy does not guarantee an insured will avoid the need for Medi-Cal<sup>1</sup>
  - iii. for Medi-Cal<sup>1</sup> members who died on or after January 1, 2017, estate recovery following death applies only to assets subject to probate
- 4. Original Medicare (Parts A and B)
  - a. 100% for Skilled Nursing Facility (SNF) days 1 – 20
    - i. requires minimum 3-day in-patient hospitalization paid for under Part A, but does not include observational care under Part B (Alexander v. Azar, No. 3:11-CV-1703 (MPS), 2020 U.S. Dist. LEXIS 50636, 2020 WL 1430089, D. Conn. Mar. 24, 2020)
    - ii. some Medicare advantage plans waive the 3-day hospital stay requirement
    - iii. need for SNF must be directly related to cause of hospitalization
    - iv. there is no coverage for any care that is not skilled care in a SNF
    - v. there is a co-payment required for days 21 – 100 if Medicare covers those days
- 5. Medicare supplement insurance plans (A – N)
  - a. not intended to provide LTC benefits, but some plans cover daily co- pays for days 21-100 if covered by Medicare
  - b. resource: Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare (<https://www.medicare.gov/Pubs/pdf/02110-Medicare-Medigap-guide.pdf>)
- 6. Medicare Advantage (Part C) vs. Original Medicare
  - a. Medicare Advantage (MA) plans are private plans covering Medicare benefits under parts A, B, and often D

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- b. Medicare Advantage plans may waive the three-day hospital requirement, but all other Medicare requirements apply to care in an SNF
- c. MA plans can offer a new range of supportive and non-medical services that are not Medicare covered benefits
  - i. Benefits, triggers to receive these benefits, and co-payments vary widely from one plan to another such as those who prefer home delivered meals following a hospital stay. While these are important supportive services, they are brief in duration and are not a substitute for LTC benefits such as those provided by a LTC insurance policy.
- d. Medicare beneficiaries who are also eligible for Medi-Cal are referred to as “dual eligible” and receive benefits under both public programs – those benefits can include care at home or in a nursing home. Some people are eligible for in-home supportive services (IHSS)

### **III. Federal Legislation and Long-Term Care (LTC) (See Attachment II – Tax Treatment of LTC Insurance and Expenses)**

- A. Tax Treatments Under LTC Insurance
  - 1. Two basic types of LTC policies:
    - a. tax qualified
    - b. non-tax qualified
      - i. be able to define the differences based on premium and benefit treatments
  - 2. For a tax-qualified LTC policy describe how a person may be able to deduct the annual premium from a federal and state income tax return. Explain how the benefits paid from a qualified LTC policy are usually not taxable as income.
  - 3. Explain how benefits paid from a non-qualified LTC policy may be taxable as income.
  - 4. The producer should always advise the client to talk to their tax adviser.
- B. Advantages and Disadvantages of Non-Tax Qualified LTC Insurance
  - 1. Benefits
  - 2. Comparison of income tax liabilities
    - a. if benefits are taxable and expenses are deductible
    - b. if benefits are taxable and expenses are not deductible
    - c. if benefits are not taxable and qualified expenses are deductible (same as tax-qualified LTC policy)

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### Topics to be Included in the Course Outline

- d. refer to a tax qualified specialist
    - e. Internal Revenue Service (IRS) reporting form sent to the policyholder
- C. Pre-1997 LTC Insurance
  - 1. Grandfathered products
- D. LTC Insurance Premium Deductibility
  - 1. Issues of deductibility should be referred to an individual's tax advisor
    - a. individual deductibility
    - b. deductibility for the self-employed
- E. Health Savings Accounts (HSAs), Archer Medical Savings Accounts (MSAs), and Medicare Medical Savings Accounts
  - 1. Requires high deductible health plan in order to contribute
  - 2. Savings may be used tax-free to pay LTC premiums; however; the producer should always advise the client to speak with their tax accountant

#### **IV. Long-Term Care Insurance (LTC)**

- A. Types of products
  - 1. This topic includes those products that are regulated under federal law in Internal Revenue Code sections 7702(b) and 101(g). Producers are expected to know the difference between benefits and payments for all of the products listed below, Cal. Ins. Code section 10295.12.
    - a. stand-alone LTC products
    - b. products with LTC benefits
      - i. life insurance
        - 1) accelerated death benefit
      - ii. annuity
      - iii. disability insurance
      - iv. critical illness insurance
      - v. chronic illness insurance
      - vi. other products as they become available
- B. Group coverage, Cal. Ins. Code section 10231.6
  - 1. Employer sponsored plan
    - a. true group
    - b. multi-life individual
  - 2. Trade/association/discretionary sponsored plan
    - a. true group
    - b. multi-life individual

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### Topics to be Included in the Course Outline

3. Group policies issued outside California, Cal. Ins. Code section 10232
- C. Common Policy Benefits
  1. Coverage for care in a nursing facility, Cal. Ins. Code section 10232.95
  2. Coverage for care in a RCFE
    - a. minimum benefit – 70 percent of institutional confinement benefit, Cal. Ins. Code section 10232.92(b)
    - b. all LTC expenses incurred by insured must be covered up to (but not to exceed) daily maximum, Cal. Ins. Code section 10232.92(c)
    - c. understand the difference between residential care facilities and assisted living facilities, Cal. Ins. Code section 10232.92(a)
  3. Coverage for home and community care, Cal. Ins. Code sections 10232.9(a) through (c)
    - a. services provided
      - i. home health care
      - ii. adult day care
      - iii. personal care
      - iv. homemaker services
      - v. hospice services
      - vi. respite care
    - b. minimum benefits, Cal. Ins. Code section 10232.9(d)
    - c. alternate plan of care, Cal. Ins. Code section 10231.3
  4. Benefit eligibility triggers and definitions (reference IRS guidance or Attachment II)
    - a. tax qualified (Cal. Ins. Code sections 10232.8(b) and (f))
      - i. impairment in two out of six activities of daily living (ADLs), which include eating, bathing, continence, dressing, toileting, and transferring
      - ii. impairment of cognitive ability
      - iii. 90-day certification assessment and plan of care
        - (A) definition of a licensed health care practitioner (LHCP), Cal. Ins. Code section 10232.8(c)
          - (1) independent of the insurer
    - b. flexible benefit mandated
      - i. policy lifetime maximum must be stated in single dollar amounts, Cal. Ins. Code section 10232.93

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- c. prohibited practices
    - i. “usual and customary” standard, Cal. Ins. Code section 10233.2(d)
    - ii. medical necessity, Cal. Ins. Code section 10232.9(c)(7)
    - iii. prior hospital/institutional stay requirement, Cal. Ins. Code section 10232.5
  - d. insurers may verify services are necessary with any source of independent judgment, Cal. Ins. Code section 10233
- 5. Contractual methods of payment
  - a. reimbursement
  - b. indemnity
    - i. cash
    - ii. per diem
- 6. Insurers cannot require licensed or certified home care providers for home care, Cal. Ins. Code sections 10232.9 and 10232.92
- 7. Inflation protection
  - a. insurers are required to offer inflation protection and applicants are required to sign a rejection of that offer, Cal. Ins. Code section 10237.1
  - b. other methods of providing inflation protection
    - i. compound inflation
    - ii. simple inflation
    - iii. consumer price index (CPI)
    - iv. periodic increases
    - v. defined number of years
    - vi. defined age
- 8. Waiver of premium,
  - a. duration of elimination/waiting period before waiver applies
  - b. waiver applies only to specific benefits
- 9. Benefit periods
- 10. Restoration of benefits creates an additional benefit period after an insured does not require or receive long term care service, paid or unpaid, for a period of at least 180 days after previous benefits have ended
- 11. Home modification and other ancillary benefits, Cal. Ins. Code section 10233.2(f)
- 12. Survivor benefits (life insurance platforms)
- 13. Return of premium (life insurance platforms), Cal. Ins. Code section 10295.8

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### Topics to be Included in the Course Outline

14. Nonforfeiture benefit, Cal. Ins. Code section 10235.30
15. Contingent benefit on lapse, Cal. Ins. Code section 10235.35

#### **V. California Statutory Policy Provisions, Requirements, and Terminology**

##### **A. Company Responsibilities and Prohibitions**

1. Application and underwriting
  - a. applications must ask “yes” or “no” health questions, Cal. Ins. Code section 10232.3(a)
  - b. warning on application that misstatements may result in rescission, Cal. Ins. Code sections 10232.3(b)
  - c. insurer must have, use, and apply suitability standards, Cal. Ins. Code sections 10234.95(f) and (h)
  - d. company must resolve all underwriting issues submitted on application – no post claim underwriting, (Cal. Ins. Code section 10232.3(d)
  - e. every application shall include a checklist of materials an agent leaves with an applicant, Cal. Ins. Code section 10232.3(c)
    - i. outline of coverage (OOC), Cal. Ins. Code section 10233.5
    - ii. health insurance counseling and advocacy program (HICAP) notice, Cal. Ins. Code section 10234.93(a)(8)
    - iii. LTC insurance shoppers guide (Taking Care of Tomorrow – provided by insurer), Cal. Ins. Code section 10234.93(a)(9)
    - iv. LTC insurance personal worksheet, Cal. Ins. Code sections 10234.95(c)(4), (d) and (e)
      - (A) The “Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance” if applicable, Cal. Ins. Code sections 10235.16 and 10235.18
  - f. definition of pre-existing condition, Cal. Ins. Code section 10232.4(a)
  - g. no new pre-existing conditions on replacement policies, Cal. Ins. Code section 10235.18(a)(1)
  - h. contestability period is two years, Cal. Ins. Code section 10232.3(f)
  - i. completed application must be delivered with policy, Cal. Ins. Code section 10232.3(g)

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- j. protection against unintentional lapse, Cal. Ins. Code section 10235.40
  - i. applicant may designate another to receive notice of lapse – the insurer must receive either:
    - (A) information on designee
    - (B) verbatim waiver, signed and dated
  - ii. insurer must offer right to change designee no less often than once every two years
  - iii. insurer must mail notice 30 days before termination
  - iv. policy and certificate must include five-month reinstatement
- k. inflation protection
  - i. requirement for illustration, Cal. Ins. Code section 10237.6
  - ii. requirement for waiver, Cal. Ins. Code section 10237.5
- 2. Reporting requirements
  - a. insurers must file rescission annually, Cal. Ins. Code section 10232.3(h)
  - b. insurers must report the number of replacement sales and lapses, Cal. Ins. Code section 10234.86
  - c. insurers must annually report the number of applicants who refused to complete the personal worksheet and the number that did not meet the suitability requirements, Cal. Ins. Code section 10234.95(i)
  - d. insurers must file personal worksheet upon each rate increase, Cal. Ins. Code section 10234.95(c)(4)
  - e. insurers must file commission structure for replacement coverage, Cal. Ins. Code section 10234.97(c)
  - f. insurers must semiannually file all agents authorized to sell LTC insurance, Cal. Ins. Code section 10234.93(a)(3)
- 3. Filing requirements
  - a. insurers must file initial premium rates, Cal. Ins. Code section 10236.11
  - b. insurers must file all rate increase requests for approval, Cal. Ins. Code section 10236.13
- 4. Required policy definitions
  - a. Medicare, Cal. Ins. Code section 10235.2(a)
  - b. skilled nursing care, Cal. Ins. Code section 10235.2(b)
  - c. intermediate care, Cal. Ins. Code section 10235.2(b)

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- d. home care, Cal. Ins. Code sections 10232.9(b)(1) through (6)
- e. RCFE, Cal. Ins. Code section 10232.92
- f. alternate plan of care, Cal. Ins. Code section 10231.3(a)(1)
- 5. Consumer protection
  - a. shortened benefit period (Cal. Ins. Code section 10235.30)
  - b. distinguish between groups and individual disclosure in certificates
  - c. 30-day free look (Cal. Ins. Code section 10232.7)
  - d. right to reduce coverage and lower premiums (after one year, and as an option offered as part of a rate increase), Cal. Ins. Code section 10235.50
  - e. right to increase coverage, Cal. Ins. Code section 10235.51
  - i. insurer may require insured to undergo new underwriting, Cal. Ins. Code section 10235.51(c)
  - f. insurer must offer inflation protection, Cal. Ins. Code section 10237.1
  - g. five percent compounded annually unless applicant signs rejection, Cal. Ins. Code section 10237.5(a)
    - i. rejection statement must be verbatim, Cal. Ins. Code section 10237.5(b)
  - h. mandated offer goes to group policyholder, Cal. Ins. Code section 10237.1(d)
  - i. life insurance with accelerated benefits is exempt, Cal. Ins. Code section 10237.3
  - j. no limits on inflation protection
    - i. regardless of age, claim status, claim history, or policy term, Cal. Ins. Code section 10237.4(a)
    - ii. no reduction of inflation benefit increases due to payment of claims (net of claims issues), Cal. Ins. Code section 10237.4(c)
  - k. insurer must offer level premiums if offering automatic increases, Cal. Ins. Code section 10237.4(b)
  - l. outline of coverage must include:
    - i. 20-year graph contrasting inflation protection with no inflation protection, Cal. Ins. Code section 10237.6(a)(1)
    - ii. expected premium increases to pay for inflation protection, Cal. Ins. Code section 10237.6(a)(2)

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- iii. illustration must be reasonable, Cal. Ins. Code section 10237.6(b)
  - m. other optional forms of inflation protection
    - i. automatic, simple, and compound
    - ii. consumer price index (CPI)
    - iii. future purchase option (FPO)
- 6. Policy replacement
  - a. premium credits for replacement policies, Cal. Ins. Code section 10234.87
    - i. five percent of prior annual premium (not to exceed 50 percent)
  - b. replacement policy conversions, Cal. Ins. Code section 10236.5
  - c. exchange from group non-tax qualified to tax qualified, Cal. Ins. Code section 10232.2(d)
- 7. LTC personal worksheet with company-specific premium increase information, Cal. Ins. Code section 10234.95(c)(4)
  - a. in California
  - b. filed in any other state
- 8. Requirement to make specimen policy available on website and by request, Cal. Ins. Code section 10237.93(a)(10)
- 9. Insurer must retain auditable procedures for compliance of the Insurance Code, Cal. Ins. Code section 10234.93(a)(7)
- 10. Additional insurer obligations, Cal. Ins. Code section 10232.65
- 11. California Life and Health Insurance Guarantee Association (CLHIGA), Cal. Ins. Code sections 1067.02(a)(1) and 1067.02(b)(1)
  - a. insurers are assessed a payment based on an insolvency and under the law, can request some offset of that assessment by policy holders by surcharge
  - b. insurers can request payment of the surcharge (see Attachment IV)
- B. Agent Responsibilities and Prohibitions
  - 1. Duty of honesty, good faith, fair dealing, Cal. Ins. Code section 10234.8
  - 2. LTC training, Cal. Ins. Code section 10234.93
    - a. licensees must meet eight-hour mandatory LTC training requirement, Cal. Ins. Code section 10234.93(a)(A)(B)



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- b. non-resident agents must meet eight-hour mandatory long-term care training requirement, Cal. Ins. Code section 10234.93(a)(C)
- 3. Suitability, Cal. Ins. Code section 10234.95
  - a. agents must use company suitability standards
    - i. ability to pay
    - ii. applicant's goals or needs
    - iii. value, benefits, and costs of the applicant's existing insurance
  - b. personal worksheet
    - i. consumer may decline to provide information, Cal. Ins. Code section 10234.95(h)
- 4. Replacement
  - a. replacement coverage, Cal. Ins. Code section 10234.97
    - i. definition
    - ii. basis on improvement of insured's position
    - iii. applicability
    - iv. restriction on replacement sales commission
  - b. replacement of existing insurance notice, Cal. Ins. Code section 10235.16
- 5. Consumer protection
  - a. Each insurer shall provide "Taking Care of Tomorrow"(Department of Aging's Long-Term Care Shopper's Guide) to each prospective applicant. – which can be accessed on the Department of Aging's website at [www.aging.ca.gov](http://www.aging.ca.gov) (Cal. Ins. Code section 10234.93(a)(9))
  - b. CDI's toll-free Consumer Services hotline: 1-800-927-HELP
  - c. agents required to provide local HICAP program name, location, and telephone number, and statewide HICAP telephone number: 1- 800- 434-0222, Cal. Ins. Code section 10234.93(a)(8)
  - d. HICAP notice on outline of coverage, Cal. Ins. Code section 10232.3(c)(3)
  - e. rights to reduce benefits or duration, add, or purchase new coverage with health underwriting, Cal. Ins. Code sections 10235.50- 10235.52
  - f. right to choose a paid-up benefit (contingent benefit upon lapse) following a rate increase, Cal. Ins. Code sections 10235.35 and 10236.13(e)(3)

# California Department of Insurance

## Eight-Hour Mandatory Long-Term Care Course

### Topics to be Included in the Course Outline

- g. right to request and receive sample policy, Cal. Ins. Code section 10234.93(a)(10)
    - h. right to appeal specified in contract language, Cal. Ins. Code section 10235.94
  - 6. Replacement of long-term care insurance unnecessarily, Cal. Ins. Code section 10234.85
  - 7. Agent retention of records for five years, Cal. Ins. Code section 10508.5
  - 8. LTC rate and history guide: [www.insurance.ca.gov](http://www.insurance.ca.gov), Cal. Ins. Code section 10234.6
- C. Statutory Rate Stabilization Requirements
  - 1. Importance of rate stability in long-term care insurance
  - 2. Company responsibilities
    - a. understand the difference between existing rates/premiums and new rates/premiums, Cal. Ins. Code section 10236.1 and 10236.11
    - b. understand that CDI reviews and approves rate/premium increases, Cal. Ins. Code sections 10236.13 through 10236.15
    - c. understand rate/premium increase mitigation options
      - i. reduced benefit options offered to policyholders
      - ii. contingent non-forfeiture
    - d. premiums for hybrid policies are constructed and regulated differently

#### **VI. Administration and Enforcement**

- A. Authority to Bring Actions and Assess Penalties, Cal. Ins. Code section 10234.2
  - 1. Commissioner's administrative authority to assess penalties
  - 2. Attorney General, a District Attorney, or a City Attorney in Superior Court
  - 3. individuals in a civil action
    - a. reasonable attorney's fees and costs available to a prevailing party
- B. Violations and Penalties, Cal. Ins. Code section 10234.3 (See Attachment-III)
- C. Notice and Hearing, Cal. Ins. Code section 10234.5

#### **VII. Advertising Guidelines and Marketing Practices**

- A. Advertising Guidelines
  - 1. Advertisements must be filed, Cal. Ins. Code section 10234.9

# California Department of Insurance

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### Topics to be Included in the Course Outline

- a. provide copy of advertisement to the Commissioner 30 days before dissemination
    - i. advertisement must comply with all laws in California
    - ii. insurer will retain advertisement for at least three years, Cal. Ins. Code section 10508
  - b. advertisement designed to produce leads must contain specific language
    - i. “an insurance agent will contact you” if that is the case, Cal. Ins. Code section 10234.9(b)
  - c. information generated by a cold lead device must be immediately disclosed to the consumer, Cal. Ins. Code section 10234.9(c)
- 2. Identify the rules regarding Internet advertisements, Cal. Ins. Code section 1726
- B. Marketing Practices and Responsibilities, Cal. Ins. Code section 10234.93
  - 1. establish marketing procedures for agents
  - 2. submit to the Commissioner a list of all agents who are authorized to solicit individual consumers for the sale of long-term care insurance; these submissions shall be updated at least semiannually, Cal. Ins. Code section 10234.93(a)(3)
  - 3. provide continuing education training
  - 4. notice on page one of the policy: “this policy may not cover all costs associated with long-term care incurred by the buying during the period of coverage”
  - 5. written notice identifying local HICAP
  - 6. establish auditable procedures
  - 7. provide California Department of Aging’s Shoppers Guide (Taking Care of Tomorrow) prior to application
  - 8. determine applicant’s existing coverage
  - 9. fair and accurate comparisons of coverage
  - 10. no excessive insurance can be sold
  - 11. LTC insurance personal worksheet, Cal. Ins. Code section 10234.95(c)(d)

### **VIII. California Partnership for Long-Term Care (CPLTC)**

- A. Introduction to the Partnership (see Attachment V)  
([www.dhcs.ca.gov/services/ltc/pages/cpltc.aspx](http://www.dhcs.ca.gov/services/ltc/pages/cpltc.aspx))

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### Topics to be Included in the Course Outline

1. Asset protection means each dollar that a CPLTC policy paid in benefits protects one dollar of a policyholder's assets from Medi-Cal's estate recovery
2. Additional CPLTC training and certification is required in order to market, sell, solicit, or contact any person for the purpose of marketing a CPLTC policy or certificate, Cal. Ins. Code section 58056(a)
3. Distinct CPLTC benefits:
  - a. built-in automatic inflation protection
  - b. care coordination and monitoring by state-approved licensed health professionals independent of the insurance company to develop a plan of care based upon an individual's needs and resources
  - c. waiver of premium for all days the policy pays for care
  - d. premium increase limitation of 40% spread over three years

#### **IX. Attachments**

- A. Medi-Cal Requirements – Attachment I
- B. Tax Treatment of LTC Insurance & Expenses – Attachment II
  1. Provide sample of 1099 LTC form and instructions
  2. Provide copy of tax form 8853
- C. Applicable Laws & Penalties – Attachment III
- D. CLHIGA Surcharge Notice – Attachment IV
- E. Introduction to the CPLTC – Attachment V