

**California Department of Insurance****CHECKLIST FOR LONG-TERM CARE INSURANCE POLICIES (Last revised: May 2025)**

This checklist is intended as a guide for companies when drafting and filing federally qualified long-term care insurance products. It is not a complete list of all legal requirements and does not replace a thorough review of the law. If there are any discrepancies between this checklist and the applicable statutes and regulations, the statutes and regulations shall govern. The requirements in this checklist apply to any long-term care policy and any long-term care benefit that is supplemental to a life insurance policy or annuity contract, except as otherwise noted. Additional requirements may apply to policies certified by the California Partnership for Long-Term Care. All references are to the California Insurance Code unless otherwise stated.

**I. Long-Term Care Insurance defined - Ins. Code, § 10231.2.**

Long-term care insurance includes: A. Any insurance policy, certificate, or rider advertised, marketed, offered, solicited, or designed to provide coverage for diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. B. All products containing coverage for care in a Nursing Facility or Residential Care Facility, home care, or community-based services.

**II. Policy Requirements**

<b>A. First Page. The first page of a policy must include:</b>		<b>Yes</b>	<b>N/A</b>	<b>Page #</b>	<b>Comments</b>
1.	A prominent label, if the policy benefits are limited to "Nursing Facility and Residential Care Facility Only" or "Home Care Only." Only policies providing benefits for both institutional care and home care may be labeled "comprehensive long-term care" insurance. § 10232.1(b)-(d).	<input type="checkbox"/>	<input type="checkbox"/>	1	
2.	A verbatim statement on "Federally Qualified" policies. § 10232.1(a).	<input type="checkbox"/>		1	
3.	A verbatim statement on the California Partnership. Cal. Code Regs., tit. 22, § 58050(g).	<input type="checkbox"/>		1	
4.	A verbatim notice to buyer regarding policy limitations. § 10234.93(a)(5).	<input type="checkbox"/>		1	
5.	A renewability provision. §§ 10235.14(a), 10236.	<input type="checkbox"/>		1	
6.	A provision stating the insured's right to return the policy (not required for group long-term care insurance as described in section 10231.6 (a) and (b)). § 10232.7.	<input type="checkbox"/>	<input type="checkbox"/>	1	

<b>B. Triggers of Coverage - §§ 10232.8(b), 10232.92(d), 10232.97. A Licensed Health Care Practitioner must certify that the insured meets either one of two criteria:</b>		<b>Yes</b>		<b>Page #</b>	<b>Comments</b>
1.	The insured is unable to perform at least two activities of daily living without substantial assistance (hands-on assistance or standby assistance) for a period of at least 90 days, due to a loss of functional capacity. Ins. Code, § 10232.8(b)-(d); Pub. L. 104-191 § 321(a) (codified at 26 U.S.C. § 7702B(c)(2)).	<input type="checkbox"/>			
a.	The policy shall not require a period of impairment of longer than 90 days. § 10232.8(c).	<input type="checkbox"/>			
b.	"Hands-on assistance" means physical assistance of another person without which the individual would be unable to perform the activity of daily living. Ins. Code, § 10232.8(e); IRS Notice 97-31, issued May 6, 1997.	<input type="checkbox"/>			
c.	"Standby assistance" means the presence of another person within arm's reach of the individual that is necessary to prevent, by physical intervention, injury to the individual while the individual is performing the activity of daily living. Ins. Code, § 10232.8(e); IRS Notice 97-31.	<input type="checkbox"/>			

<b>B. Triggers of Coverage - §§ 10232.8(b), 10232.92(d), 10232.97. (Continued)</b>		<b>Yes</b>		<b>Page #</b>	<b>Comments</b>
d.	"Activities of daily living" includes eating, bathing, continence, dressing, toileting, and transferring, as those activities are defined in § 10232.8(f).	<input type="checkbox"/>			
2.	The insured needs substantial supervision due to severe cognitive impairment. § 10232.8 (b) and (d).	<input type="checkbox"/>			
a.	"Substantial supervision" means continual supervision (which may include cuing by verbal prompting, gestures, or other demonstrations) by another person that is necessary to protect the severely cognitively impaired individual from threats to his or her health or safety (such as may result from wandering). Ins. Code, § 10232.8(e); IRS Notice 97-31.	<input type="checkbox"/>			
b.	"Severe cognitive impairment" means a loss or deterioration in intellectual capacity that is (1) comparable to (and includes) Alzheimer's disease and similar forms of irreversible dementia; and (2) measured by clinical evidence and standardized tests that reliably measure impairment in the individual's short-term or long-term memory; orientation as to people, places, or time; and deductive or abstract reasoning. Ins. Code, § 10232.8(e); IRS Notice 97-31.	<input type="checkbox"/>			

<b>C. Written Certification and Plan of Care - § 10232.8(c). The policy or certificate must explain each of the following:</b>		<b>Yes</b>		<b>Page #</b>	<b>Comments</b>
1.	An insured may submit a certification or submit a notice of claim and request that the insurer conduct an assessment. <i>Id.</i>	<input type="checkbox"/>			
2.	Certification must be provided by a Licensed Health Care Practitioner (LHCP) who is independent of the insurer: The LHCP shall not be an employee of the insurer and shall not be compensated in any manner that is linked to the outcome of the certification. <i>Id.</i>	<input type="checkbox"/>			
3.	If an LHCP determines that the insured is not chronically ill, and the LHCP did not personally examine the insured, the insured is entitled to a second assessment. <i>Id.</i>	<input type="checkbox"/>			
4.	A plan of care shall be developed by a LHCP after a personal examination. <i>Id.</i> A plan of care is a written description of the insured's needs and the type, frequency, providers, and cost (if any) of all long-term care services required by the insured. § 10232.8(d).	<input type="checkbox"/>			
5.	The costs to assess and certify the insured or develop a plan of care shall not count against the lifetime maximum of the policy. § 10232.8(c).	<input type="checkbox"/>			
6.	Assessments of chronic illness shall be performed promptly and certifications of chronic illness shall be completed as quickly as possible to ensure that an insured's benefits are not delayed. <i>Id.</i>	<input type="checkbox"/>			
7.	Written certification must be renewed every 12 months. <i>Id.</i>	<input type="checkbox"/>			

#### **RELATED TERMS**

**Licensed Health Care Practitioner** - Ins. Code, § 10232.8(d); Pub. L. 104-191 § 321(a) (codified at 26 U.S.C. § 7702B(c)(4)); Social Security Act § 1861(r)(1) (codified at 42 U.S.C. § 1395x(r)(1)). Any doctor of medicine or osteopathy authorized to practice medicine and surgery in the state where such action is performed, and any registered professional nurse, licensed social worker, or other individual designated by the United States Secretary of the Treasury.

D. Required Coverages		Yes	N/A	Page #	Comments
1.	<b>Nursing Facility and Residential Care Facility Coverage</b>				
a.	A policy covering care in a Nursing Facility must also cover care in a Residential Care Facility. § 10232.92.	<input type="checkbox"/>	<input type="checkbox"/>		
b.	Nursing Facility coverage must include per diem expenses and costs of ancillary supplies and services, up to any maximum daily Nursing Facility benefit. § 10232.95.	<input type="checkbox"/>	<input type="checkbox"/>		
c.	Any maximum daily, weekly, or monthly Residential Care Facility benefit must be at least 70% of the corresponding maximum Nursing Facility benefit. § 10232.92(b).	<input type="checkbox"/>	<input type="checkbox"/>		
d.	All expenses for Qualified Long-Term Care Services that are incurred by the insured while confined in a Residential Care Facility are covered and payable. § 10232.92(c).	<input type="checkbox"/>	<input type="checkbox"/>		
2.	<b>Home Care and Community-Based Services</b>				
a.	Every policy offering home care or community-based services must include at least Home health care, Adult day care, Personal care, Homemaker services, Hospice services, and Respite care. § 10232.9(a). Policy definitions must be no more restrictive than the definitions in § 10232.9(b).	<input type="checkbox"/>	<input type="checkbox"/>		
b.	A daily, weekly, or monthly home care and community-based services benefit must be at least 50% of any daily, weekly, or monthly benefit for institutional care, and no less than \$50 per day. § 10232.9(d). (Does not apply to products for residents in a Continuing Care Retirement Community.)	<input type="checkbox"/>	<input type="checkbox"/>		

#### RELATED TERMS

**Qualified Long-Term Care Services** - Ins. Code, § 10232.92(c); Pub. L. 104-191 § 321(a) (codified at 26 U.S.C. § 7702B(c)(1)). Necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which are required by a chronically ill individual and provided pursuant to a plan of care prescribed by a Licensed Health Care Practitioner.

**Nursing Facility** - The policy definition must not be more restrictive than: a facility, or portion thereof, that is licensed, as required, to provide inpatient care and recurring or continuous skilled nursing care and supportive care. Ins. Code, § 10235.2(c); Health & Safety Code, §§ 1250(c) and (d).

**Residential Care Facility** - Ins. Code, § 10232.92(a), 10235.2(c); Health & Safety Code, § 1569.2(p). In California, a facility licensed as a residential care facility for the elderly or a residential care facility as defined in the Health and Safety Code. Outside of California, a facility that is licensed, as required, and engaged primarily in providing ongoing care and related services sufficient to support needs resulting from impairment in activities of daily living or impairment in cognitive ability and which also provide care and services on a 24-hour basis, have a trained and ready-to-respond employee on duty in the facility at all times to provide care and services, provide three meals a day and accommodate special dietary needs, have agreements to ensure that residents receive the medical care services of a physician or nurse in case of emergency, and, have appropriate methods and procedures to provide necessary assistance to residents in the management of prescribed medications.

**Continuing Care Retirement Community** - Health & Safety Code, § 1771(c). A facility located within the State of California which promises to provide nursing, medical, or other health-related services, protection or supervision, or assistance with the personal activities of daily living to an elderly resident for the duration of his or her life or for a term in excess of one year.

E. Required Provisions		Yes	N/A	Page #	Comments
1.	Maximum Lifetime Benefit - § 10232.93: Must be defined as a single dollar amount that may be used interchangeably for any covered services. No limits are allowed except for a daily, weekly, or monthly limit set for home- and community-based care, care in a Residential Care Facility, and care in a Nursing Facility.	<input type="checkbox"/>	<input type="checkbox"/>		
2.	An offer of a nonforfeiture benefit. 26 U.S.C. § 7702B(g). A standalone policy must offer a shortened benefit period nonforfeiture benefit with the features stated in Ins. Code, § 10235.30. An accelerated death benefit is exempt from Ins. Code, § 10235.30 but must still be offered with a nonforfeiture benefit per 26 U.S.C. § 7702B(g) if tax qualified.	<input type="checkbox"/>			

E. Required Provisions (Continued)		Yes	N/A	Page #	Comments
3.	Offer to purchase inflation protection (not required in a life insurance policy that accelerates benefits for long-term care). § 10237.1.	<input type="checkbox"/>	<input type="checkbox"/>		
a.	Inflation protection benefits must continue without regard to age, claim status, claim history, or the length of time insured under the policy. § 10237.4(a).	<input type="checkbox"/>	<input type="checkbox"/>		
b.	Increases shall not be reduced due to the payment of claims. § 10237.4(c).	<input type="checkbox"/>	<input type="checkbox"/>		
c.	Does not apply to group long-term care insurance under section 10231.6 (a), (b), or (c), or group insurance issued to a Continuing Care Retirement Community, if the inflation protection is offered to the group policyholder and the offer is declined. § 10237.2.				
4.	Continuation of confinement benefits after termination. § 10235.10 .	<input type="checkbox"/>			
5.	Reinstatement of coverage after lapse if the insured is chronically ill. § 10235.40(e).	<input type="checkbox"/>			
6.	Right to reduce coverage and lower premiums. § 10235.50.	<input type="checkbox"/>			
7.	Right to increase coverage. § 10235.51 .	<input type="checkbox"/>			
8.	Notification of new benefits, policies with new benefits or new eligibility (not required for group long-term care insurance as described in section 10231.6 (a), (b), or (c), if an offer is made to the group policyholder and the offer is declined). § 10235.52.	<input type="checkbox"/>	<input type="checkbox"/>		
9.	Right to appeal. § 10235.94.	<input type="checkbox"/>			
10.	Compulsory provisions – §§ 10350 to 10350.11. (See Cal. Code Regs., tit. 10, §§ 2232.17 to 2232.28, for compulsory provisions applicable to group policies.)	<input type="checkbox"/>			

F. Prohibited Terms and Provisions		Confirm that the policy does not violate the stated prohibition:			
1.	<b>Generally prohibited provisions. § 10233.2</b>				
a.	Cancellation, nonrenewal, or termination due to age or deterioration of mental or physical health.	<input type="checkbox"/>			
b.	Providing for a new waiting period after conversion or replacement of existing coverage (except for voluntary benefit increases).	<input type="checkbox"/>			
c.	Coverage for skilled nursing care only, or significantly more coverage for skilled care than lower levels of care.	<input type="checkbox"/>			
d.	Payment of benefits based on a standard described as “usual and customary,” “reasonable and customary,” or words of similar import.	<input type="checkbox"/>			
e.	Termination or premium increase due to divorce.	<input type="checkbox"/>			
f.	Including an additional benefit (a benefit not required by statute) with a known market value, unless the additional benefit provides for payment of at least five times the daily benefit and the value of the additional benefit is stated in the schedule page of the policy.	<input type="checkbox"/>			
2.	A life insurance policy issued after 1/1/2021 that provides long-term care benefits and permits policy loans or cash withdrawals shall not limit access to loans or withdrawals due to the payment of long-term care benefits, except as permitted in § 10235.45(a).	<input type="checkbox"/>			

F. <u>Prohibited Terms and Provisions</u> (Continued)		Confirm that the policy does not violate the stated prohibition:			
3.	<b>Home care benefit provisions cannot (§ 10232.9(c)):</b>				
a.	Require that the receipt of home care prevent a need for care in a nursing facility.	<input type="checkbox"/>			
b.	Require skilled services to be used before or with unskilled services.	<input type="checkbox"/>			
c.	Require the existence of an acute condition.	<input type="checkbox"/>			
d.	Limit benefits to services provided by Medicare-certified providers or agencies.	<input type="checkbox"/>			
e.	Limit benefits to those provided by licensed or skilled personnel when other providers could provide the service, unless certification or licensure is required by law.	<input type="checkbox"/>			
f.	Define an eligible provider in a manner that is more restrictive than that used to license that provider by the state where the service is provided.	<input type="checkbox"/>			
g.	Require “medical necessity” or similar standard as a criteria for benefits.	<input type="checkbox"/>			
4.	<b>A Residential Care Facility benefit provision cannot:</b> Restrict who may provide Qualified Long-Term Care Services while the insured is confined. § 10232.92(c).	<input type="checkbox"/>			

G. <u>Exclusions and Limitations</u> - § 10235.8. Confirm that the policy does not limit or exclude coverage by type of illness, treatment, medical condition, or accident, except as stated below:		<input type="checkbox"/>			
1.	Preexisting conditions or diseases (subject to § 10232.4).				
2.	Alcoholism or drug addiction.				
3.	Illness, treatment, or a medical condition arising out of: war or act of war; participation in a felony, riot, or insurrection; service in the Armed Forces or units auxiliary thereto; suicide, attempted suicide, or intentionally inflicted injury; aviation, if a non-fare-paying passenger.				
4.	Treatment provided in a government facility (unless otherwise required by law).				
5.	Services available under Medicare or other governmental programs (except Medi-Cal or Medicaid), state or federal workers' compensation, employer's liability or occupational disease law, or a motor vehicle no-fault law.				
6.	Services provided by a member of the covered person's immediate family.				
7.	Services for which no charge is normally made in the absence of insurance.				
8.	Exclusions and limitations by type of provider or territorial limitations.				

H. <u>Group Requirements</u>		Yes	N/A	Page #	Comments
1.	Group certificate requirements - § 10233.6	<input type="checkbox"/>	<input type="checkbox"/>		
2.	Continuation or conversion coverage - § 10236.5	<input type="checkbox"/>	<input type="checkbox"/>		

<b>I. Group Exceptions</b>					
1.	Group long-term care insurance under section 10231.6 (a) and (b) is exempt from the right to return provided under section 10232.7.				
2.	Group long-term care insurance under section 10231.6 (a), (b), and (c) is exempt from section 10235.52, if the new benefit, policy, or eligibility is offered to the group policyholder and the offer is declined.				
3.	Group long-term care insurance under section 10231.6 (a), (b), and (c), and group insurance issued to a Continuing Care Retirement Community, is exempt from section 10237.1, if the group policyholder is offered inflation protection and declines the offer.				

<b>J. Accelerated Death Benefits. The following provisions do not apply to an accelerated death benefit for long-term care:</b>					
1.	Premium credits towards replacement policies - § 10234.87				
2.	Suitability standards - § 10234.95				
3.	Shortened benefit period benefit - § 10235.30. (But, the policy must still offer a nonforfeiture benefit per 26 U.S.C. § 7702B(g).)				
4.	Certain requirements after approval of a rate increase - § 10236.15				
5.	Option to purchase inflation protection - §§ 10237.1, 10237.3				

### III. Required Notices and Forms

<b>A. Application for Long-Term Care Insurance</b>		Yes	N/A	Page #	Comments
1.	Each health question must: be clear, unambiguous, short, and simple; contain no more than one health inquiry; and require no more than a yes/no answer. § 10232.3(a).	<input type="checkbox"/>			
2.	Must include a verbatim statement on "Federally Qualified" policies. § 10232.1(a).	<input type="checkbox"/>			
3.	Must include a verbatim "Caution" statement. § 10232.3(b).	<input type="checkbox"/>			
4.	Must include a list of documents to be given to the applicant. § 10232.3(c).	<input type="checkbox"/>			
5.	Must include a rejection of inflation protection with signature line (not required with accelerated death benefits). § 10237.5.	<input type="checkbox"/>	<input type="checkbox"/>		
6.	Must include a Replacement Notice (may be a separate form). § 10235.16 or § 10235.18.	<input type="checkbox"/>			

<b>B. Personal Worksheet (not required for a life insurance policy that accelerates benefits for long-term care) - § 10234.95(c).</b>		Yes			Comments
Use the current version in the Long-Term Care Insurance Model Regulations of the NAIC. In the premium section, add the verbatim statement in (c)(3) on California's consumer rate guide and disclose all rate increases and rate increase requests for the 9 preceding years.		<input type="checkbox"/>			

<b>C. <u>Outline of Coverage.</u> Must be in the form stated in § 10233.5 and include:</b>		<b>Yes</b>	<b>N/A</b>	<b>Page #</b>	<b>Comments</b>
1.	A prominent label, if policy benefits are limited to “Nursing Facility and Residential Care Facility Only” or “Home Care Only”. § 10232.1(b)-(d).	<input type="checkbox"/>	<input type="checkbox"/>		
2.	A verbatim statement on “Federally Qualified” policies. § 10232.1(a).	<input type="checkbox"/>			
3.	A verbatim notice to buyer regarding policy limitations. § 10234.93(a)(5).	<input type="checkbox"/>			
4.	A graphic comparison of benefit levels. § 10237.6. (Accelerated death benefits are <i>not</i> exempt from this requirement.)	<input type="checkbox"/>			

<b>D. <u>Protections Against Unintended Lapse</u></b>		<b>Yes</b>	<b>N/A</b>	<b>Page #</b>	<b>Comments</b>
1.	A form provided at the time of application must allow the applicant to designate at least one individual to receive notice of lapse. § 10235.40(a).	<input type="checkbox"/>			
2.	If a universal life policy provides long-term care benefits and may lapse due to insufficient account value even if all scheduled premiums are paid on time and no loans or withdrawals are taken, then an applicant must be provided the disclosure in § 10235.40(f).	<input type="checkbox"/>	<input type="checkbox"/>		

#### IV. Other References

A. California Insurance Code: [leginfo.ca.gov/faces/codes.xhtml](http://leginfo.ca.gov/faces/codes.xhtml)

B. California Code of Regulations: [govt.westlaw.com/calregs](http://govt.westlaw.com/calregs)

C. IRS Notice 97-31: [www.irs.gov/pub/irs-irbs/irb97-21.pdf](http://www.irs.gov/pub/irs-irbs/irb97-21.pdf)

D. California Partnership for Long-Term Care: More information about the California Partnership for Long-Term Care can be found at Welf. & Inst. Code, §§ 22000 through 22011, Cal. Code Regs., tit. 22, §§ 58000 through 58082, and [www.dhcs.ca.gov](http://www.dhcs.ca.gov)

#### V. Certification

- ☐ I have carefully read the checklist as well as each of the applicable statutes and regulations cited in the checklist.
- ☐ I have made a good faith effort to conform the policy and other forms to each applicable statute and regulation.
- ☐ I understand that failure to comply with California law will lead to delay in approval of the filing and may result in rejection of the filing.

Name (print): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_