

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1374 By: Treat of the Senate  
3 and  
4 Denney of the House  
5

6  
7 An Act relating to long-term health care; amending 36  
8 O.S. 2011, Section 4424, which relates to  
9 definitions; modifying certain definition; modifying  
10 certain payments; defining terms; adding category of  
11 prohibited entities; and providing an effective date.

12  
13 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
14 and insert

15  
16 "An Act relating to long-term health care; amending  
17 36 O.S. 2011, Section 4424, which relates to  
18 definitions; modifying certain definition; modifying  
19 certain payments; defining terms; adding category of  
20 prohibited entities; and providing an effective  
21 date.

22  
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24  
SECTION 1. AMENDATORY 36 O.S. 2011, Section 4424, is  
amended to read as follows:

Section 4424. Unless the context requires otherwise, the  
definitions in this section apply throughout the Long-Term Care  
Insurance Act.

1           1.   a.     "Long-term care insurance" means any insurance policy,  
2                           certificate or rider, including qualified long-term  
3                           care insurance contracts and long-term care  
4                           partnership program contracts, which are advertised,  
5                           marketed, offered or designed primarily to provide  
6                           coverage for not less than twelve (12) consecutive  
7                           months for each covered person on an expense incurred,  
8                           indemnity, prepaid, or other basis, for one or more  
9                           necessary or medically necessary diagnostic,  
10                          preventive, therapeutic, rehabilitative, maintenance,  
11                          or personal care services, provided in a setting other  
12                          than an acute care unit of a hospital.

13           b.     This term includes group and individual health  
14                          policies or riders or group and individual life  
15                          policies or annuities or riders which provide,  
16                          directly or as a supplement, coverage for long-term  
17                          care, whether issued by insurers, fraternal benefit  
18                          societies, nonprofit health, hospital, and medical  
19                          service corporations, prepaid health plans, health  
20                          maintenance organizations, life care communities, or  
21                          any similar organization.

22           c.     This term also includes a policy or rider which  
23                          provides for payment of long-term care benefits based  
24

1 upon cognitive impairment or the loss of functional  
2 capacity.

3 d. Long-term care insurance shall not include any  
4 insurance policy which is offered primarily to provide  
5 basic Medicare supplement coverage, basic hospital  
6 expense coverage, basic medical-surgical expense  
7 coverage, hospital confinement indemnity coverage,  
8 major medical expense coverage, disability income  
9 protection coverage or related asset-protection  
10 coverage, catastrophic coverage, comprehensive  
11 coverage, accident only coverage, specified disease or  
12 specified accident coverage, or limited benefit health  
13 coverage.

14 e. With regard to life insurance, this term does not  
15 include life insurance policies which accelerate the  
16 death benefit specifically for one or more of the  
17 qualifying events of terminal illness, medical  
18 conditions requiring extraordinary medical  
19 intervention, or permanent institutional confinement,  
20 and which provide the option of a lump-sum payment for  
21 those benefits and in which neither the benefits nor  
22 the eligibility for the benefits is conditioned upon  
23 the receipt of long-term care.  
24

1 f. Notwithstanding any other provision contained herein,  
2 any product advertised, marketed or offered as long-  
3 term care insurance shall be subject to the provisions  
4 of this act.

5 2. "Applicant" means:

6 a. in the case of an individual long-term care insurance  
7 policy, the person who seeks to contract for such  
8 benefits, and

9 b. in the case of a group long-term care insurance  
10 policy, the proposed certificate holder.

11 3. "Certificate" means any certificate issued under a group  
12 long-term care insurance policy, which certificate has been  
13 delivered, or issued for delivery, in this state.

14 4. "Group long-term care insurance" means a long-term care  
15 insurance policy which is delivered, or issued for delivery, in this  
16 state and issued to:

17 a. one or more employers or labor organizations, or to a  
18 trust or to the trustees of a fund established by one  
19 or more employers or labor organizations, or a  
20 combination thereof, for employees or former  
21 employees, or a combination thereof or for members or  
22 former members, or a combination thereof, of the labor  
23 organizations, or

1           b. any professional, trade or occupational association  
2           for its members or former or retired members, or  
3           combination thereof, if such association:

4           (1) is composed of individuals, all of whom are or  
5           were actively engaged in the same profession,  
6           trade or occupation, and

7           (2) has been maintained in good faith for purposes  
8           other than insurance, or

9           c. an association, a trust, or the trustee or trustees of  
10          a fund established, created, or maintained for the  
11          benefit of members of one or more associations. Prior  
12          to advertising, marketing or offering such policy  
13          within this state, the association or associations, or  
14          the insurer of the association or associations, shall  
15          file evidence with the Insurance Commissioner that the  
16          association or associations shall have at the outset  
17          of transacting long-term care insurance in this state  
18          a minimum of one hundred (100) persons in the  
19          association or associations and shall have been  
20          organized and maintained in good faith for purposes  
21          other than that of obtaining insurance; shall have  
22          been in active existence for at least one (1) year;  
23          and shall have a constitution and bylaws which provide  
24          that (i) the association or associations hold regular

1 meetings not less than annually to further purposes of  
2 the members, (ii) except for credit unions, the  
3 association or associations collect dues or solicit  
4 contributions from members, and (iii) the members have  
5 voting privileges and representation on the governing  
6 board and committees. Thirty (30) days after such  
7 filing the association or associations shall be deemed  
8 to satisfy such organizational requirements, unless  
9 the Commissioner makes a finding that the association  
10 or associations do not satisfy those organizational  
11 requirements, or

12 d. a group other than as described in subparagraphs a, b  
13 and c of this paragraph, subject to a finding by the  
14 Commissioner that:

- 15 (1) the issuance of the group policy is not contrary  
16 to the best interest of the public,  
17 (2) the issuance of the group policy would result in  
18 economies of acquisition or administration, and  
19 (3) the benefits are reasonable in relation to the  
20 premiums charged.

21 5. "Not-for-Profit Life care community" within the meaning of  
22 Section 1-853.1 of Title 63 of the Oklahoma Statutes means any not-  
23 for-profit organization that enters into an arrangement pursuant to  
24 which a person contracts for a place of residence and personal care

1 services, including but not limited to services which progress from  
2 independent living to semi-dependent nursing care to acute nursing  
3 care, in consideration of ~~a payment or payments of fees prior to the~~  
4 ~~delivery of services and accommodations.~~ Life an endowed  
5 prepayment, license or entry fee which has been actuarially  
6 established to meet the cost of the promised services and  
7 accommodations. For communities commencing operations after January  
8 1, 2016, the amount of the endowed prepayment must be independently,  
9 actuarially determined, in compliance with the Actuarial Board,  
10 prior to opening the community and annually thereafter to ensure  
11 that sufficient payments are collected to meet the future services  
12 of the residents. The actuarial study shall take into consideration  
13 projected or actual project costs, resident fees and charges,  
14 resident contract provisions and any other factors affecting the  
15 operation of the facility. It shall contain mortality and morbidity  
16 data and an actuary's signed opinion that the proposed is feasible  
17 and that the study has been prepared in accordance with standards  
18 adopted by the American Academy of Actuaries. A not-for-profit life  
19 care community shall not include the following:

- 20 a. traditional landlord and tenant agreements utilizing
- 21 periodic rental and security deposit payments,
- 22 b. residential care homes licensed pursuant to the
- 23 Oklahoma Residential Care Act,
- 24

- 1 c. assisted living centers and continuum of care  
2 facilities licensed pursuant to the Oklahoma Continuum  
3 of Care and Assisted Living Act, ~~or~~  
4 d. facilities licensed pursuant to the Oklahoma Nursing  
5 Home Care Act, or  
6 e. any facility where the endowed prepayment, license or  
7 entry fee is less than Fifty Thousand Dollars  
8 (\$50,000.00).

9 6. "Policy" means any policy, contract, certificate, subscriber  
10 agreement, rider or endorsement delivered, or issued for delivery,  
11 in this state by an insurer, fraternal benefit society, nonprofit  
12 health, hospital, or medical service corporation, prepaid health  
13 plan, health maintenance organization, life care community, or any  
14 similar organization.

15 7. "Qualified long-term care insurance contract" means any:

- 16 a. individual or group insurance contract if the contract  
17 meets the requirements of Section 7702(B) of the  
18 Internal Revenue Code, as amended, and if:  
19 (1) the only insurance protection provided under the  
20 contract is coverage of qualified long-term care  
21 services,  
22 (2) the contract does not pay or reimburse expenses  
23 incurred for services or items to the extent that  
24 such expenses are reimbursable under Title XVIII



1 of the Social Security Act as amended, or would  
2 be so reimbursable but for the application of a  
3 deductible or coinsurance amount. The  
4 requirements of this subparagraph do not apply to  
5 contracts where Medicare is a secondary payor, or  
6 where the contract makes per diem or other  
7 periodic payments without regard to expenses,

8 (3) the contract is guaranteed renewable,

9 (4) the contract does not provide for a cash  
10 surrender value or other money that can be paid,  
11 assigned, pledged as collateral for a loan, or  
12 borrowed. All refunds of premiums and all  
13 policyholder dividends or similar amounts, under  
14 such contract are to be applied as a reduction in  
15 future premiums or to increase future benefits,  
16 except that a refund of the aggregate premium  
17 paid under the contract may be allowed in the  
18 event of death of the insured or a complete  
19 surrender or cancellation of the contract, and

20 (5) the contract contains the consumer protection  
21 provisions set forth in Section 7702(B)(g) of the  
22 Internal Revenue Code, or

23 b. life insurance contract which provides long-term care  
24 coverage by rider or as part of the contract if the

1 contract complies with the applicable provisions of  
2 Section 7702(B) of the Internal Revenue Code, as  
3 amended.

4 8. "Qualified long-term care services" means necessary  
5 diagnostic, preventive, therapeutic, curing, treating, mitigating,  
6 and rehabilitative services, and maintenance for personal care  
7 services for which an insured is eligible under a qualified long-  
8 term care insurance contract, and which are provided pursuant to a  
9 plan of care prescribed by a licensed health care practitioner.

10 SECTION 2. This act shall become effective November 1, 2016."

11 Passed the House of Representatives the 6th day of April, 2016.

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14 \_\_\_\_\_  
15 Presiding Officer of the House of  
Representatives

16 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

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19 \_\_\_\_\_  
20 Presiding Officer of the Senate  
21  
22  
23  
24

1 ENGROSSED SENATE  
2 BILL NO. 1374

By: Treat of the Senate

3 and

4 Denney of the House

5  
6 An Act relating to long-term health care; amending 36  
7 O.S. 2011, Section 4424, which relates to  
8 definitions; modifying certain definition; modifying  
9 certain payments; defining terms; adding category of  
10 prohibited entities; and providing an effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 3. AMENDATORY 36 O.S. 2011, Section 4424, is  
13 amended to read as follows:

14 Section 4424. Unless the context requires otherwise, the  
15 definitions in this section apply throughout the Long-Term Care  
16 Insurance Act.

- 17 1. a. "Long-term care insurance" means any insurance policy,  
18 certificate or rider, including qualified long-term  
19 care insurance contracts and long-term care  
20 partnership program contracts, which are advertised,  
21 marketed, offered or designed primarily to provide  
22 coverage for not less than twelve (12) consecutive  
23 months for each covered person on an expense incurred,  
24 indemnity, prepaid, or other basis, for one or more

1           necessary or medically necessary diagnostic,  
2           preventive, therapeutic, rehabilitative, maintenance,  
3           or personal care services, provided in a setting other  
4           than an acute care unit of a hospital.

5           b.   This term includes group and individual health  
6           policies or riders or group and individual life  
7           policies or annuities or riders which provide,  
8           directly or as a supplement, coverage for long-term  
9           care, whether issued by insurers, fraternal benefit  
10          societies, nonprofit health, hospital, and medical  
11          service corporations, prepaid health plans, health  
12          maintenance organizations, life care communities, or  
13          any similar organization.

14          c.   This term also includes a policy or rider which  
15          provides for payment of long-term care benefits based  
16          upon cognitive impairment or the loss of functional  
17          capacity.

18          d.   Long-term care insurance shall not include any  
19          insurance policy which is offered primarily to provide  
20          basic Medicare supplement coverage, basic hospital  
21          expense coverage, basic medical-surgical expense  
22          coverage, hospital confinement indemnity coverage,  
23          major medical expense coverage, disability income  
24          protection coverage or related asset-protection

1 coverage, catastrophic coverage, comprehensive  
2 coverage, accident only coverage, specified disease or  
3 specified accident coverage, or limited benefit health  
4 coverage.

5 e. With regard to life insurance, this term does not  
6 include life insurance policies which accelerate the  
7 death benefit specifically for one or more of the  
8 qualifying events of terminal illness, medical  
9 conditions requiring extraordinary medical  
10 intervention, or permanent institutional confinement,  
11 and which provide the option of a lump-sum payment for  
12 those benefits and in which neither the benefits nor  
13 the eligibility for the benefits is conditioned upon  
14 the receipt of long-term care.

15 f. Notwithstanding any other provision contained herein,  
16 any product advertised, marketed or offered as long-  
17 term care insurance shall be subject to the provisions  
18 of this act.

19 2. "Applicant" means:

- 20 a. in the case of an individual long-term care insurance  
21 policy, the person who seeks to contract for such  
22 benefits, and  
23 b. in the case of a group long-term care insurance  
24 policy, the proposed certificate holder.

1       3. "Certificate" means any certificate issued under a group  
2 long-term care insurance policy, which certificate has been  
3 delivered, or issued for delivery, in this state.

4       4. "Group long-term care insurance" means a long-term care  
5 insurance policy which is delivered, or issued for delivery, in this  
6 state and issued to:

7           a. one or more employers or labor organizations, or to a  
8 trust or to the trustees of a fund established by one  
9 or more employers or labor organizations, or a  
10 combination thereof, for employees or former  
11 employees, or a combination thereof or for members or  
12 former members, or a combination thereof, of the labor  
13 organizations, or

14           b. any professional, trade or occupational association  
15 for its members or former or retired members, or  
16 combination thereof, if such association:

17               (1) is composed of individuals, all of whom are or  
18 were actively engaged in the same profession,  
19 trade or occupation, and

20               (2) has been maintained in good faith for purposes  
21 other than insurance, or

22           c. an association, a trust, or the trustee or trustees of  
23 a fund established, created, or maintained for the  
24 benefit of members of one or more associations. Prior

1 to advertising, marketing or offering such policy  
2 within this state, the association or associations, or  
3 the insurer of the association or associations, shall  
4 file evidence with the Insurance Commissioner that the  
5 association or associations shall have at the outset  
6 of transacting long-term care insurance in this state  
7 a minimum of one hundred (100) persons in the  
8 association or associations and shall have been  
9 organized and maintained in good faith for purposes  
10 other than that of obtaining insurance; shall have  
11 been in active existence for at least one (1) year;  
12 and shall have a constitution and bylaws which provide  
13 that (i) the association or associations hold regular  
14 meetings not less than annually to further purposes of  
15 the members, (ii) except for credit unions, the  
16 association or associations collect dues or solicit  
17 contributions from members, and (iii) the members have  
18 voting privileges and representation on the governing  
19 board and committees. Thirty (30) days after such  
20 filing the association or associations shall be deemed  
21 to satisfy such organizational requirements, unless  
22 the Commissioner makes a finding that the association  
23 or associations do not satisfy those organizational  
24 requirements, or

1 d. a group other than as described in subparagraphs a, b  
2 and c of this paragraph, subject to a finding by the  
3 Commissioner that:

4 (1) the issuance of the group policy is not contrary  
5 to the best interest of the public,

6 (2) the issuance of the group policy would result in  
7 economies of acquisition or administration, and

8 (3) the benefits are reasonable in relation to the  
9 premiums charged.

10 5. "Not-for-Profit Life care community" within the meaning of  
11 Section 1-853.1 of Title 63 of the Oklahoma Statutes means any not-  
12 for-profit organization that enters into an arrangement pursuant to  
13 which a person contracts for a place of residence and personal care  
14 services, including but not limited to services which progress from  
15 independent living to semi-dependent nursing care to acute nursing  
16 care, in consideration of a payment or payments of fees prior to the  
17 delivery of services and accommodations. Life an endowed  
18 prepayment, license or entry fee which has been actuarially  
19 established to meet the cost of the promised services and  
20 accommodations. The amount of the endowed pre-payment must be  
21 independently, actuarially determined, in compliance with the  
22 Actuarial Board, prior to opening the community and annually  
23 thereafter to insure that sufficient payments are collected to meet  
24 the future services of the residents. The actuarial study shall



1 take into consideration projected or actual project costs, resident  
2 fees and charges, resident contract provisions and any other factors  
3 affecting the operation of the facility. It shall contain mortality  
4 and morbidity data and an actuary's signed opinion that the proposed  
5 is feasible and that the study has been prepared in accordance with  
6 standards adopted by the American Academy of Actuaries. A not-for-  
7 profit life care community shall not include the following:

- 8 a. traditional landlord and tenant agreements utilizing
- 9 periodic rental and security deposit payments,
- 10 b. residential care homes licensed pursuant to the
- 11 Oklahoma Residential Care Act,
- 12 c. assisted living centers and continuum of care
- 13 facilities licensed pursuant to the Oklahoma Continuum
- 14 of Care and Assisted Living Act, ~~or~~
- 15 d. facilities licensed pursuant to the Oklahoma Nursing
- 16 Home Care Act, or
- 17 e. any facility where the endowed prepayment, license or
- 18 entry fee is less than Fifty Thousand Dollars
- 19 (\$50,000.00).

20 6. "Policy" means any policy, contract, certificate, subscriber  
21 agreement, rider or endorsement delivered, or issued for delivery,  
22 in this state by an insurer, fraternal benefit society, nonprofit  
23 health, hospital, or medical service corporation, prepaid health  
24

1 plan, health maintenance organization, life care community, or any  
2 similar organization.

3 7. "Qualified long-term care insurance contract" means any:

4 a. individual or group insurance contract if the contract  
5 meets the requirements of Section 7702(B) of the  
6 Internal Revenue Code, as amended, and if:

7 (1) the only insurance protection provided under the  
8 contract is coverage of qualified long-term care  
9 services,

10 (2) the contract does not pay or reimburse expenses  
11 incurred for services or items to the extent that  
12 such expenses are reimbursable under Title XVIII  
13 of the Social Security Act as amended, or would  
14 be so reimbursable but for the application of a  
15 deductible or coinsurance amount. The  
16 requirements of this subparagraph do not apply to  
17 contracts where Medicare is a secondary payor, or  
18 where the contract makes per diem or other  
19 periodic payments without regard to expenses,

20 (3) the contract is guaranteed renewable,

21 (4) the contract does not provide for a cash  
22 surrender value or other money that can be paid,  
23 assigned, pledged as collateral for a loan, or  
24 borrowed. All refunds of premiums and all

1 policyholder dividends or similar amounts, under  
2 such contract are to be applied as a reduction in  
3 future premiums or to increase future benefits,  
4 except that a refund of the aggregate premium  
5 paid under the contract may be allowed in the  
6 event of death of the insured or a complete  
7 surrender or cancellation of the contract, and

8 (5) the contract contains the consumer protection  
9 provisions set forth in Section 7702(B)(g) of the  
10 Internal Revenue Code, or

11 b. life insurance contract which provides long-term care  
12 coverage by rider or as part of the contract if the  
13 contract complies with the applicable provisions of  
14 Section 7702(B) of the Internal Revenue Code, as  
15 amended.

16 8. "Qualified long-term care services" means necessary  
17 diagnostic, preventive, therapeutic, curing, treating, mitigating,  
18 and rehabilitative services, and maintenance for personal care  
19 services for which an insured is eligible under a qualified long-  
20 term care insurance contract, and which are provided pursuant to a  
21 plan of care prescribed by a licensed health care practitioner.

22 SECTION 4. This act shall become effective November 1, 2016.  
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1 Passed the Senate the 7th day of March, 2016.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2016.

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8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives