

1-1 By: Nelson S.B. No. 22
1-2 (In the Senate - Filed November 13, 2006; January 23, 2007,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 16, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 16, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 22 By: Van de Putte

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to long-term care insurance and a partnership for
1-11 long-term care program.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 32, Human Resources Code, is amended by
1-14 adding Subchapter C to read as follows:

1-15 SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

1-16 Sec. 32.101. DEFINITIONS. In this subchapter:

1-17 (1) "Approved plan" means a long-term care benefit
1-18 plan that is approved by the Texas Department of Insurance under
1-19 Subchapter C, Chapter 1651, Insurance Code.

1-20 (2) "Asset disregard" means the total equity value of
1-21 assets and resources not exempt under rules governing the medical
1-22 assistance program that are disregarded in determining eligibility
1-23 for the medical assistance program and in determining estate
1-24 recovery obligations.

1-25 (3) "Asset protection" means the right extended to a
1-26 plan holder of an approved plan to dollar-for-dollar asset
1-27 disregard under the medical assistance program.

1-28 (4) "Dollar-for-dollar asset disregard" means an
1-29 asset disregard in which the amount of the disregard is equal to the
1-30 sum of qualifying benefit payments made on behalf of the qualified
1-31 plan holder.

1-32 (5) "Executive commissioner" means the executive
1-33 commissioner of the Health and Human Services Commission.

1-34 (6) "Partnership for long-term care program" means the
1-35 program established under this subchapter and Subchapter C, Chapter
1-36 1651, Insurance Code.

1-37 Sec. 32.102. PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The
1-38 partnership for long-term care program is administered as part of
1-39 the medical assistance program by the department with the
1-40 assistance of the Texas Department of Insurance. The program must
1-41 be consistent with provisions governing the expansion of a state
1-42 long-term care partnership program established under the federal
1-43 Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

1-44 Sec. 32.103. ASSET DISREGARD. (a) To the extent allowed
1-45 by the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171)
1-46 and other federal law, the executive commissioner, in adopting
1-47 rules and standards governing the medical assistance program, shall
1-48 allow for dollar-for-dollar asset disregard in determining
1-49 eligibility for medical assistance for an individual receiving
1-50 long-term care services if the individual is or was covered by a
1-51 long-term care benefit plan providing coverage for long-term care
1-52 that meets the applicable minimum benefit standards of the
1-53 commissioner of the Texas Department of Insurance under Subchapter
1-54 C, Chapter 1651, Insurance Code, and other requirements for
1-55 approval under the partnership for long-term care program.

1-56 (b) The department may not consider the resources of an
1-57 individual who has used all or part of the individual's benefits
1-58 under an approved plan to the extent those resources are the subject
1-59 of a dollar-for-dollar asset disregard in determining:

1-60 (1) eligibility for medical assistance under the
1-61 medical assistance program;

1-62 (2) the amount of medical assistance provided; or

1-63 (3) any subsequent recovery by this state from the

2-1 individual's estate for medical assistance provided to the
 2-2 individual.

2-3 (c) The department may not provide to an individual eligible
 2-4 for medical assistance under this section those medical assistance
 2-5 services covered under the medical assistance program that are also
 2-6 covered by the individual's benefits under the approved plan until
 2-7 the individual has fully exhausted the individual's benefits under
 2-8 the plan.

2-9 Sec. 32.104. RECIPROCAL AGREEMENTS. The department may
 2-10 enter into reciprocal agreements with other states to extend asset
 2-11 protection to a resident of this state who purchased a long-term
 2-12 care benefit plan in another state that has a substantially similar
 2-13 asset disregard program.

2-14 Sec. 32.105. TRAINING; INFORMATION AND TECHNICAL
 2-15 ASSISTANCE. The Health and Human Services Commission shall provide
 2-16 information and technical assistance to the Texas Department of
 2-17 Insurance regarding that department's role in ensuring that each
 2-18 individual who sells a long-term care benefit plan under the
 2-19 partnership for long-term care program receives training and
 2-20 demonstrates evidence of an understanding of these plans as
 2-21 required by Section 1651.105, Insurance Code. The training must
 2-22 satisfy the training requirements imposed under the provisions
 2-23 governing the expansion of a state long-term care partnership
 2-24 program established under the federal Deficit Reduction Act of 2005
 2-25 (Pub. L. No. 109-171).

2-26 Sec. 32.106. RULES. (a) The executive commissioner shall
 2-27 adopt rules as necessary to administer the partnership for
 2-28 long-term care program and to implement this subchapter.

2-29 (b) In adopting rules under this section, the executive
 2-30 commissioner shall:

2-31 (1) provide for dollar-for-dollar asset disregard and
 2-32 asset protection for purchasers of an approved plan; and

2-33 (2) count benefits paid under the approved plan toward
 2-34 the dollar-for-dollar asset disregard to the extent the benefits
 2-35 are provided for covered services under the approved plan.

2-36 Sec. 32.107. BIENNIAL REPORT. (a) Not later than
 2-37 September 30 of each even-numbered year, the department shall
 2-38 submit a report to the legislature on the progress of the
 2-39 partnership for long-term care program during the preceding
 2-40 biennium. The report must include:

2-41 (1) the number of approved plans sold during each year
 2-42 of the preceding biennium;

2-43 (2) the average age of individuals purchasing approved
 2-44 plans during each year of the preceding biennium; and

2-45 (3) a recommendation on whether to continue the
 2-46 program.

2-47 (b) The department may request information from the Texas
 2-48 Department of Insurance as necessary to prepare the report required
 2-49 by this section.

2-50 SECTION 2. Chapter 1651, Insurance Code, is amended by
 2-51 adding Subchapter C to read as follows:

2-52 SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

2-53 Sec. 1651.101. DEFINITIONS. In this subchapter:

2-54 (1) "Approved plan" means a long-term care benefit
 2-55 plan that is approved by the department under this subchapter.

2-56 (2) "Dollar-for-dollar asset disregard" and "asset
 2-57 protection" have the meanings assigned by Section 32.101, Human
 2-58 Resources Code.

2-59 (3) "Medical assistance program" means the medical
 2-60 assistance program established under Chapter 32, Human Resources
 2-61 Code.

2-62 (4) "Partnership for long-term care program" means the
 2-63 program established under Subchapter C, Chapter 32, Human Resources
 2-64 Code, and this subchapter.

2-65 Sec. 1651.102. APPLICABILITY. Except to the extent of a
 2-66 conflict, Subchapters A and B apply to a plan issued in accordance
 2-67 with this subchapter.

2-68 Sec. 1651.103. ASSISTANCE OF DEPARTMENT. The department
 2-69 shall assist the Health and Human Services Commission as necessary

3-1 for the commission to perform its duties and functions with respect
3-2 to the administration of the partnership for long-term care
3-3 program.

3-4 Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR
3-5 PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The commissioner, in
3-6 consultation with the Health and Human Services Commission, shall
3-7 adopt minimum standards for a long-term care benefit plan that may
3-8 qualify as an approved plan under the partnership for long-term
3-9 care program. The standards must be consistent with provisions
3-10 governing the expansion of a state long-term care partnership
3-11 program established under the federal Deficit Reduction Act of 2005
3-12 (Pub. L. No. 109-171).

3-13 Sec. 1651.105. REQUIRED TRAINING. (a) Each individual who
3-14 sells a long-term care benefit plan under the partnership for
3-15 long-term care program must complete training and demonstrate
3-16 evidence of an understanding of these plans and how the plans relate
3-17 to other public and private coverage of long-term care.

3-18 (b) Each long-term care benefit plan issuer that offers a
3-19 plan under the partnership for long-term care program shall certify
3-20 to the commissioner, in the form required by the commissioner, that
3-21 each individual who sells the plan on behalf of the issuer complies
3-22 with the requirements of this section.

3-23 Sec. 1651.106. EFFECT OF DISCONTINUATION OF PROGRAM ON
3-24 POLICY. If the partnership for long-term care program is
3-25 discontinued, an individual who purchased an approved plan before
3-26 the date the program is discontinued remains eligible to receive
3-27 dollar-for-dollar asset disregard and asset protection under the
3-28 medical assistance program.

3-29 Sec. 1651.107. RULES. The commissioner may adopt rules as
3-30 necessary to implement this subchapter.

3-31 SECTION 3. Subchapter B, Chapter 531, Government Code, is
3-32 amended by adding Section 531.0841 to read as follows:

3-33 Sec. 531.0841. LONG-TERM CARE INSURANCE AWARENESS AND
3-34 EDUCATION CAMPAIGN. (a) The commission, in consultation with the
3-35 Department of Aging and Disability Services and the Texas
3-36 Department of Insurance, shall develop and implement a public
3-37 awareness and education campaign designed to:

3-38 (1) educate the public on the cost of long-term care,
3-39 including the limits of Medicaid eligibility and the limits of
3-40 Medicare benefits;

3-41 (2) educate the public on the value and availability
3-42 of long-term care insurance; and

3-43 (3) encourage individuals to obtain long-term care
3-44 insurance.

3-45 (b) The Department of Aging and Disability Services and the
3-46 Texas Department of Insurance shall cooperate with and assist the
3-47 commission in implementing the campaign under this section.

3-48 (c) The commission may coordinate the implementation of the
3-49 campaign under this section with any other state outreach campaign
3-50 or activity relating to long-term care issues.

3-51 SECTION 4. The Health and Human Services Commission shall
3-52 amend this state's Medicaid plan as necessary to allow for
3-53 dollar-for-dollar asset disregard and asset protection for
3-54 purchasers of an approved policy under the partnership for
3-55 long-term care program established under Subchapter C, Chapter 32,
3-56 Human Resources Code, as added by this Act.

3-57 SECTION 5. If before implementing any provision of this Act
3-58 a state agency determines that a waiver or authorization from a
3-59 federal agency is necessary for implementation of that provision,
3-60 the agency affected by the provision shall request the waiver or
3-61 authorization and may delay implementing that provision until the
3-62 waiver or authorization is granted.

3-63 SECTION 6. This Act takes effect March 1, 2008.

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