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AB-567 Long-term care insurance. (2019-2020)

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Date Published: 10/14/2019 09:00 PM

Assembly Bill No. 567

CHAPTER 746

An act to add and repeal Section 10234.75 of the Insurance Code, relating to insurance.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 567, Calderon. Long-term care insurance.

Existing law provides for the regulation of long-term care insurance by the Insurance Commissioner and prescribes various requirements and conditions governing the delivery of individual or group long-term care insurance in the state. Existing law establishes the California Partnership for Long-Term Care Program to link private long-term care insurance and health care service plan contracts that cover long-term care with the In-Home Supportive Services program and Medi-Cal and to provide Medi-Cal benefits to certain individuals who have income and resources above the eligibility levels for receipt of medical assistance, but who have purchased certified private long-term care insurance policies.

This bill would establish the Long Term Care Insurance Task Force in the Department of Insurance, chaired by the Insurance Commissioner or the commissioner's designee, and composed of specified stakeholders and representatives of government agencies to examine the components necessary to design and implement a statewide long-term care insurance program. The bill would require the task force to recommend options for establishing this program and to comment on their respective degrees of feasibility in a report submitted to the commissioner, the Governor, and the Legislature by July 1, 2021. The bill would require the department to produce, no later than July 1, 2022, an actuarial report of those recommendations, to be shared with and approved by the task force. If approved, the bill would require the report to be submitted to the Legislature.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Recent public opinion research indicates that Californians, regardless of political party or income level, are worried about the costs of growing older. Two-thirds of respondents in the research said that they are apprehensive about being able to afford long-term care. Sixty-three percent of respondents worry as much about paying for long-term care as they do for their future health care.

(b) A majority of respondents could not afford more than three months of nursing home care at an average cost of six thousand dollars (\$6,000) per month in California. About four in 10 respondents could not afford a single month of care at that rate. Among Latino voters, 88 percent said they do not have long-term care insurance or are not sure whether they are covered for supportive services like in-home care. Concerns about paying for long-term care cut across all income levels and all partisan affiliations.

(c) It is the intent of the Legislature to enact legislation establishing a task force to explore the feasibility of developing and implementing a culturally competent statewide insurance program for long-term care services and supports.

SEC. 2. Section 10234.75 is added to the Insurance Code, to read:

10234.75. (a) The Long Term Care Insurance Task Force is hereby created in the Department of Insurance. Under the leadership of the commissioner, the task force shall examine the components necessary to design and implement a statewide long-term care insurance program.

(b) The task force shall consist of the following 15 voting members:

- (1) The commissioner, or the commissioner's designee, who shall serve as the chair of the task force.
- (2) The Director of Health Care Services, or the director's designee.
- (3) The Director of the Department of Aging, or the director's designee.
- (4) Four persons appointed by the Governor, as follows:
 - (A) A certified actuary with expertise in long-term care insurance.
 - (B) A nongovernment health policy expert.
 - (C) A representative of a long-term care provider association.
 - (D) A representative of a senior or consumer organization.
- (5) One person, appointed by the Speaker of the Assembly, from an employee representative organization that represents long-term care workers.
- (6) One person, appointed by the Senate Committee on Rules, from the long-term care insurance industry.
- (7) Six persons appointed by the commissioner, as follows:
 - (A) A representative of residential care facilities for the elderly.
 - (B) A representative of adult day services providers.
 - (C) A representative of hospice and palliative care providers.
 - (D) A representative of long-term care health professionals.
 - (E) A representative of independent providers of in-home personal care services.
 - (F) A representative of family caregivers.

(c) A task force member shall not receive a per diem or other similar compensation for serving as a member of the task force.

(d) The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) applies to meetings of the task force.

(e) The task force shall do all of the following:

- (1) Explore how a statewide long-term care insurance program could be designed and implemented to expand the options for people who are interested in insuring themselves against the risk of costs associated with functional or cognitive disability, and require long-term care, services, and supports.
- (2) Explore options for the design of the program, including eligibility, enrollment, benefits, financing, administration, and interaction with the Medi-Cal program and other publicly funded resources. In exploring these options, the task force shall consider all of the following:
 - (A) Whether and how a long-term care insurance program could be included as a benefit in the state disability insurance program structure, possibly through a nominal increase in the payroll tax, and whether the program could be structured in the same manner as Paid Family Leave benefits.
 - (B) Allowing for enrollment in the program of working adults who would make voluntary premium contributions either directly or through payroll deductions through their employer.
 - (C) To the extent feasible, requiring a mandatory enrollment with a voluntary opt-out option.

(D) Giving working adults the opportunity to plan for future long-term care needs by providing a basic insurance benefit to those who meet work requirements and have developed functional or equivalent cognitive limitations.

(E) Helping individuals with functional or cognitive limitations remain in their communities by purchasing nonmedical services and supports, including home health care and adult daycare.

(F) Helping offset the costs incurred by adults with chronic and disabling conditions. The program need not be designed to cover the entire cost associated with an individual's long-term care needs.

(3) Evaluate how benefits under the program would be coordinated with existing private health care coverage benefits.

(4) Evaluate the demands on the long-term care workforce as the need for long-term care in California grows, and how the long-term care workforce can be prepared to meet those demands.

(5) Consider the establishment of a joint public and private system to make long-term care accessible to as many individuals within California as possible.

(6) Make recommendations related to key regulatory provisions necessary for the public to access existing long-term care insurance programs and participate in future long-term care insurance programs, whether those programs are recommended by the task force or otherwise.

(f) The department shall operate within its existing budgetary resources for purposes of implementing this section. A governmental agency that participates in the task force shall operate within its existing budgetary resources for purposes of that participation.

(g) The task force shall recommend options for establishing a statewide long-term care insurance program and comment on the respective degrees of feasibility of those options in a report submitted to the commissioner, the Governor, and the Legislature on or before July 1, 2021. The report submitted to the Legislature shall be submitted in accordance with Section 9795 of the Government Code.

(h) To ensure an adequate benefit within a solvent program, the department shall, no later than July 1, 2022, produce an actuarial report of the recommendations made by the task force pursuant to subdivision (g). The report shall be shared with and approved by the members of the task force. If approved the report shall be submitted to the Legislature in accordance with Section 9795 of the Government Code.

(i) The commissioner may seek private funds for purposes of implementing this section.

(j) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.