58059 Required Benefits for Partnership Policies and Certificates

No long-term care insurance policy or certificate may beapproved, advertised, or solicited, in this state as a Partnership Long-TermCare Insurance Policy or Certificate which does not meet the standards ofArticle 3, and which has not been certified by the Department of HealthServices and approved by the Commissioner of the Department of Insurance as aPartnership Long-Term Care Insurance Policy or Certificate. A PartnershipLong-Term Care Insurance Policy or Certificate shall contain the followingbenefits and features:

(a)

coverage for either nursing facility and Residential Care Facility only, or Comprehensive Benefits. Policies or Certificates covering only nursing facility and Residential Care Facility benefits shall display prominently on page one (1) of the Policy or Certificate: "NURSING FACILITY AND RESIDENTIAL CARE FACILITY ONLY" POLICY [CERTIFICATE] Policies or Certificates covering Nursing Facility, Residential Care Facility, and home and community-based benefits shall display prominently on page one (1) of the Policy or Certificate: "COMPREHENSIVE" POLICY [CERTIFICATE]

(b)

a lifetime maximum benefit that is set in dollars and not in days or other units of care;

(c)

a lifetime maximum benefit which at the time of purchase is equivalent in dollars to at least three hundred sixty-five (365) times seventy percent (70%) of the Average Daily Private Pay Rate for Nursing Facilities;

(d)

if a Partnership Nursing Facility and Residential Care Facility Only Policy or Certificate, it shall provide a Residential Care Facility as well as a nursing facility benefit;

(e)

if a Partnership Comprehensive Benefits Policy or Certificate, it shall provide a Respite Care, a Residential Care Facility, and a Nursing Facility Benefit as well as the following home and community-based care benefits: (1) Home Health Care; (2) Adult Day Health/Social Care; (3) Personal Care Services; (4) Homemaker Services; and (5) Hospice Care. The definitions of these services must be identical to those contained in Article 1, and must appear verbatim in any Partnership Policy or Certificate.

(1)

Home Health Care;

(2)

Adult Day Health/Social Care;

(3)

Personal Care Services;

(4)

Homemaker Services; and

(5)

Hospice Care. The definitions of these services must be identical to those contained in Article 1, and must appear verbatim in any Partnership Policy or Certificate.

(f)

Care Management services by a Care Management Provider Agency. Changes for the initial assessment and individualized Plan of Care provided by a Care Management Provider Agency shall not be considered as a claim cost. Charges for coordinating the provision of care and monitoring services can be considered as a claim cost. Insurance benefit payments can count toward the Medi-Cal Property Exemption to the extent they are for Long-Term Care Services Countable Toward Medi-Cal Property Exemption delivered to insured individuals and are part of an individualized Plan of Care approved by the State-approved Care Management Provider Agency as the result of a face-to-face assessment conducted by the Care Management Provider Agency (or its Qualified Official Designee).

(g)

the Benefit Eligibility definition (appropriate for the type of Policy or Certificate), and the related definitions for Activities of Daily Living, Severe Cognitive Impairment, Hands-on Assistance, Standby Assistance, Substantial Supervision, Licensed Health Care Practitioner, Plan of Care, and Qualified Long-Term Care Services used to determine eligibility for benefits and when benefits begin counting toward the Medi-Cal Property Exemption. These definitions must be identical to those contained in Article 1, and must appear verbatim in any Partnership Policy or Certificate, except that policies or certificates issued by Issuers that are self-funded and not otherwise subject to compliance with the California Insurance Code may use in a Partnership Policy or Certificate different criteria for determining eligibility for policy benefits so long as the Policy or Certificate complies with the requirements of Section 7702 B of the Internal Revenue Code, and so long as the criteria used are approved by the Department of Health Services.(1) The Partnership will prescribe or approve the precise

instruments to be used to determine if a Policy or Certificate holder has met the Benefit Eligibility definition. The Mental Status Questionnaire (MSQ), and the Folstein Mini Mental State Examination will be used to assess Severe Cognitive Impairment. Policy and Certificate holders will be deemed to have met the Severe Cognitive Impairment criteria for the Benefit Eligibility by: (A) failing to answer correctly at least seven of the ten questions on the MSQ test; or, (B) exhibiting specific behavior problems requiring daily supervision, including but not limited to wandering, abusive or assaultive behavior, poor judgment or uncooperativeness which poses a danger to self or others, and extreme or bizarre personal hygiene habits, and failing to answer correctly at least four questions on the MSQ, or achieving a score of 23 or lower on the Folstein Mini Mental State Examination. (2) To determine Benefit Eligibility based on Activities of Daily Living,(A) In a Comprehensive Policy or Certificate 2 Activities of Daily Living shall be used for home and community-based and Residential Care Facility benefits and either 2 or 3 Activities of Daily Living shall be used for the Nursing Facility benefit. (B) In a Nursing Facility and Residential Care Facility Only Policy or Certificate, either 2 or 3 Activities of Daily Living shall be used.

(1)

The Partnership will prescribe or approve the precise instruments to be used to determine if a Policy or Certificate holder has met the Benefit Eligibility definition. The Mental Status Questionnaire (MSQ), and the Folstein Mini Mental State Examination will be used to assess Severe Cognitive Impairment. Policy and Certificate holders will be deemed to have met the Severe Cognitive Impairment criteria for the Benefit Eligibility by: (A) failing to answer correctly at least seven of the ten questions on the MSQ test; or, (B) exhibiting specific behavior problems requiring daily supervision, including but not limited to wandering, abusive or assaultive behavior, poor judgment or

uncooperativeness which poses a danger to self or others, and extreme or bizarre personal hygiene habits, and failing to answer correctly at least four questions on the MSQ, or achieving a score of 23 or lower on the Folstein Mini Mental State Examination.

(A)

failing to answer correctly at least seven of the ten questions on the MSQ test; or,

(B)

exhibiting specific behavior problems requiring daily supervision, including but not limited to wandering, abusive or assaultive behavior, poor judgment or uncooperativeness which poses a danger to self or others, and extreme or bizarre personal hygiene habits, and failing to answer correctly at least four questions on the MSQ, or achieving a score of 23 or lower on the Folstein Mini Mental State Examination.

(2)

To determine Benefit Eligibility based on Activities of Daily Living,(A) In a Comprehensive Policy or Certificate 2 Activities of Daily Living shall be used for home and community-based and Residential Care Facility benefits and either 2 or 3 Activities of Daily Living shall be used for the Nursing Facility benefit. (B) In a Nursing Facility and Residential Care Facility Only Policy or Certificate, either 2 or 3 Activities of Daily Living shall be used.

(A)

In a Comprehensive Policy or Certificate 2 Activities of Daily Living shall be used for home and community-based and Residential Care Facility benefits and either 2 or 3 Activities of Daily Living shall be used for the Nursing Facility benefit.

(B)

In a Nursing Facility and Residential Care Facility Only Policy or Certificate, either 2 or 3 Activities of Daily Living shall be used.

(h)

either the Elimination Period definition contained in Section 58010(a) must appear verbatim, or the definition specified in Section 58010(b) which defines the number of days the insured must be disabled before the benefits are covered by the Policy or Certificate, must be used in any Partnership Policy or Certificate. The Elimination Period shall not be less than thirty days (30) for Partnership Policies and Certificates with lifetime maximum benefits which at time of purchase are equivalent in dollars to less than seven hundred and thirty (730) times the Average Daily Private Pay Rate for Nursing Facilities. An Elimination Period of not more than ninety days (90) shall be used in Partnership Policies and Certificates with lifetime maximum benefits which at time of purchase are equivalent in dollars to at least seven hundred and thirty (730) times the Average Daily Private Pay Rate for Nursing Facilities;

(i)

upon the issue date, if issued as an expense reimbursable Policy; (1) a nursing facility per diem benefit of no less than seventy percent (70%) of the Average Daily Private Pay Rate for Nursing Facilities, rounded to the nearest multiple of ten dollars ($10); (2) a Residential Care Facility benefit that is not less than seventy percent (70%) and not more than one hundred percent (100%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate; (3) a Respite Care Benefit in Policies or Certificates with Comprehensive Benefits that is not subject to the Elimination Period and not less than a total of 21 days in any calendar year for care in a Nursing Facility, Residential Care Facility, or in a home or a community-based program. The Respite Care benefit is payable at the daily and monthly maximum benefit amounts applicable for the type of service being used to provide the Respite Care; and (4) monthly home and community-based care benefits, for Partnership Policies or Certificates with Comprehensive Benefits,

of at least fifty percent (50%) and no more than one hundred (100%) of the nursing facility per diem benefit provided in the Partnership Policy or Certificate, multiplied by thirty. The home and community-based care benefits shall be issued in increments of ten percent (10%). Insurance products approved for residents in continuing care retirement communities are exempt from this provision;

(1)

a nursing facility per diem benefit of no less than seventy percent (70%) of the Average Daily Private Pay Rate for Nursing Facilities, rounded to the nearest multiple of ten dollars ($10);

(2)

a Residential Care Facility benefit that is not less than seventy percent (70%) and not more than one hundred percent (100%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate;

(3)

a Respite Care Benefit in Policies or Certificates with Comprehensive Benefits that is not subject to the Elimination Period and not less than a total of 21 days in any calendar year for care in a Nursing Facility, Residential Care Facility, or in a home or a community-based program. The Respite Care benefit is payable at the daily and monthly maximum benefit amounts applicable for the type of service being used to provide the Respite Care; and

(4)

monthly home and community-based care benefits, for Partnership Policies or Certificates with Comprehensive Benefits, of at least fifty percent (50%) and no more than one hundred (100%) of the nursing facility per diem benefit provided in the Partnership Policy or Certificate, multiplied by thirty. The home and community-based care benefits shall be issued in increments of ten percent (10%). Insurance products

approved for residents in continuing care retirement communities are exempt from this provision;

(j)

upon the issue date, if issued on an expense incurred basis, benefits that pay no less than seventy percent (70%) and no more than one hundred (100%) of the cost incurred by the insured for all covered services;

(k)

an inflation protection provision which satisfies one (1) of the following criteria: (1) if the Partnership Policy or Certificate is issued on an expense incurred basis, as specified in Section 58059(j), the lifetime maximum benefit must automatically increase at five percent (5%) each year over the previous year for each year that the contract is in force with the following exception: the Partnership Policy or Certificate may be issued with a lifetime maximum benefit that automatically increases each year by a fixed amount equal to five percent (5%) of the original amount issued provided that the applicant is seventy (70) years of age or over at the time the application is taken, the applicant is first offered an inflation protection provision that automatically increases by five percent (5%) each year over the previous year for each year that the contract is in force, and the applicant is given a graph which illustrates the difference in policy benefits payable between the two inflation protection provisions and the cost of care; or (2) if the Partnership Policy or Certificate is issued on an expense reimbursable basis, the nursing facility per diem benefit, the lifetime maximum benefit, and the monthly home and community-based care benefit if a Comprehensive Benefits Policy or Certificate, must automatically increase at five percent (5%) each year over the previous year for each year that the contract is in force, with the following exception: the Partnership Policy or Certificate may be issued with a nursing

facility per diem benefit, a lifetime maximum benefit, and a monthly home and community-based care benefit if a Comprehensive Benefits Policy or Certificate, that automatically increases by five percent (5%) each year over the amount initially issued provided that the applicant is seventy (70) years of age or over at the time the application is taken, the applicant is first offered an inflation protection provision that automatically increases by five percent (5%) each year over the previous year for each year that the contract is in force, and the applicant is given a graph which illustrates the difference in policy benefits payable between the two inflation protection provisions;

(1)

if the Partnership Policy or Certificate is issued on an expense incurred basis, as specified in Section 58059(j), the lifetime maximum benefit must automatically increase at five percent (5%) each year over the previous year for each year that the contract is in force with the following exception: the Partnership Policy or Certificate may be issued with a lifetime maximum benefit that automatically increases each year by a fixed amount equal to five percent (5%) of the original amount issued provided that the applicant is seventy (70) years of age or over at the time the application is taken, the applicant is first offered an inflation protection provision that automatically increases by five percent (5%) each year over the previous year for each year that the contract is in force, and the applicant is given a graph which illustrates the difference in policy benefits payable between the two inflation protection provisions and the cost of care; or

(2)

if the Partnership Policy or Certificate is issued on an expense reimbursable basis, the nursing facility per diem benefit, the lifetime maximum benefit, and the monthly home and community-based care benefit if a Comprehensive Benefits Policy or Certificate,

must automatically increase at five percent (5%) each year over the previous year for each year that the contract is in force, with the following exception: the Partnership Policy or Certificate may be issued with a nursing facility per diem benefit, a lifetime maximum benefit, and a monthly home and community-based care benefit if a Comprehensive Benefits Policy or Certificate, that automatically increases by five percent (5%) each year over the amount initially issued provided that the applicant is seventy (70) years of age or over at the time the application is taken, the applicant is first offered an inflation protection provision that automatically increases by five percent (5%) each year over the previous year for each year that the contract is in force, and the applicant is given a graph which illustrates the difference in policy benefits payable between the two inflation protection provisions;

(l)

a Shortened Benefit Period Non-Forfeiture Benefit, or a provision that gives the Policy or Certificate holder the option to elect, at the time the Partnership Policy or Certificate is issued, to pay an extra premium for a rider providing such a benefit. The Shortened Benefit Period Non-Forfeiture Benefit must have the following features:(1) eligibility begins no later than after ten (10) years of premium payments; (2) the lifetime maximum benefit is no less than the dollar equivalent of three (3) months of care at the nursing facility per diem benefit contained in the Partnership Policy or Certificate and, in the case of an expense reimbursable Policy or Certificate, the nursing facility per diem and monthly home and community-based care benefit, if a Comprehensive Benefits Policy or Certificate, are no less than the benefits already contained in the Policy or Certificate. (3) the lifetime maximum benefit, and, in the case of an expense reimbursable Policy or Certificate, the nursing facility per diem benefit, and the monthly home and community care benefit if a Comprehensive Benefits Policy or Certificate, increases

each year in the same amount and is computed in the same manner as the inflation protection provision issued with the Policy or Certificate as specified in subsection (k) of this section; (4) the lifetime maximum benefit may be reduced by the amount of any claims already paid; (5) Cash back, extended term, and reduced paid-up forms of non-forfeiture benefits will not be allowed. Other non-forfeiture benefits that meet the requirements of this Section may be allowed if they are acceptable to the Department of Health Services and the Department of Insurance.

(1)

eligibility begins no later than after ten (10) years of premium payments;

(2)

the lifetime maximum benefit is no less than the dollar equivalent of three (3) months of care at the nursing facility per diem benefit contained in the Partnership Policy or Certificate and, in the case of an expense reimbursable Policy or Certificate, the nursing facility per diem and monthly home and community-based care benefit, if a Comprehensive Benefits Policy or Certificate, are no less than the benefits already contained in the Policy or Certificate.

(3)

the lifetime maximum benefit, and, in the case of an expense reimbursable Policy or Certificate, the nursing facility per diem benefit, and the monthly home and community care benefit if a Comprehensive Benefits Policy or Certificate, increases each year in the same amount and is computed in the same manner as the inflation protection provision issued with the Policy or Certificate as specified in subsection (k) of this section;

(4)

the lifetime maximum benefit may be reduced by the amount of any claims already paid;

(5)

Cash back, extended term, and reduced paid-up forms of non-forfeiture benefits will not be allowed. Other non-forfeiture benefits that meet the requirements of this Section may be allowed if they are acceptable to the Department of Health Services and the Department of Insurance.

(m)

Self-funded Issuers not subject to California Insurance Code are exempt from:(1) the requirement of Subsection (e) that the definition for Homemaker Services be used verbatim in each Comprehensive Policy and Certificate as long as the definition conforms to Section 58017; and (2) the requirement of Subsection (i)(2) to include a Residential Care Facility Benefit that is no less than seventy percent (70%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate, as long as a Residential Care Facility Benefit is included at no less than fifty percent (50%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate.

(1)

the requirement of Subsection (e) that the definition for Homemaker Services be used verbatim in each Comprehensive Policy and Certificate as long as the definition conforms to Section 58017; and

(2)

the requirement of Subsection (i)(2) to include a Residential Care Facility Benefit that is no less than seventy percent (70%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate, as long as a Residential Care Facility Benefit is included at no less than fifty percent (50%) of the nursing facility per diem benefit contained in the Partnership Policy or Certificate.