

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



LAWRENCE M. REIFURTH
DIRECTOR


J. P. SCHMIDT
INSURANCE COMMISSIONER

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
P. O. BOX 3614
HONOLULU, HAWAII 96811-3614
335 MERCHANT STREET, ROOM 213
HONOLULU, HAWAII 96813
PHONE NO: (808) 586-2700
FAX NO: (808) 586-2806
www.hawaii.gov/dcca/ins

November 28, 2007

MEMORANDUM 2007-3aR

TO: Issuers Transacting Long Term Care Insurance Business in the State of Hawaii

FROM: J.P. Schmidt, Insurance Commissioner 

RE: 2007 Session Laws of Hawaii, Act 233, Part II

Issuers of long term care insurance policies and certificates are advised to review the mandates of 2007 Session Laws of Hawaii ("SLH"), Act 233, Part II.

To ensure compliance with the statutory provisions effective January 1, 2008, issuers are requested to complete the attached Certification of Compliance with Chapter 431, Article 10H, as amended by 2007 SLH, Act 233, Part II, for each policy/certificate which will be used in Hawaii on or after January 1, 2008.

The certification should be submitted to the Insurance Division with new, replacement, or revised policies/certificates and/or applicable endorsements. An issuer's submission should consist of two printed copies and one electronic copy on a CD/DVD mailed to the Insurance Division. Due to the anticipated increase in filing submissions, we strongly urge issuers to utilize a delivery tracking system for confirmation that Certification of Compliance submissions have been delivered by January 1, 2008.

To facilitate the Division's review of a new or replacement policy/certificate/endorsement, along with the final printed copy, please present the entire contract language with pagination and line numbers and indexed to the statutory mandates of Chapter 431, Article 10H, as amended by 2007 SLH, Act 233, Part II. For a revised policy/certificate/endorsement, please include a marked copy underscoring additions and striking deletions along with an itemization of such changes indexed to the statutory mandates of Chapter 431, Article 10H, as amended by 2007 SLH, Act 233, Part II.

The on-line version of Hawaii Revised Statutes has been updated for all Acts passed in the 2007 Legislative session. The Insurance Code, Hawaii Revised Statutes, Chapter 431, is in Volume 9 at the following website: <http://www.capitol.hawaii.gov/hrscurrent/>

Questions or concerns to this memorandum should be submitted in writing and addressed to Shelley Santo, Rate and Policy Analysis Manager.

CERTIFICATION OF COMPLIANCE
CHAPTER 431, ARTICLE 10H
as amended by 2007 Session Laws Hawaii (SLH), Act 233

Name of Issuer	NAIC Group and Co-Code

Market Type	§431:10H-104 Group Definition	Mark 'X' if applicable		
		Tax Qualified	Non Tax- Qualified	Fixed/Limited Premium Paying Period
Individual	-----			
Group	1			
Group	2			
Group	3			

Form Type	Mark 'X' if applicable			Form #	Form Date/Ed	Replacement of Form #
	Current No Change	New	Revised			
Policy						
Certificate						
Endorsement						
Rider						

By checking the appropriate boxes, the Issuer Certifies the following for the long term care policy/certificate to be issued on or after January 1, 2008, to residents in the State of Hawaii:

DISCLOSURES TO CONSUMERS

- Pursuant to HRS §431:10H-217.5, **Required disclosure of rating practices to consumers**, Issuer will utilize the consumer disclosure notice prescribed: Appendices B and F of the April 2002, NAIC Model Long-Term Care Insurance Model Regulation.
- Pursuant to HRS §§431:10H-112 and 431:10H-235, with respect to outline of coverage, Issuer's format is substantially similar to the Outline of Coverage in section 29 of the April 2002, NAIC Long-Term Care Insurance Model Regulation.
- Pursuant to HRS §431:10H-229(a)(9), **Standards for marketing**, Issuer shall provide an explanation of contingent benefit upon lapse as provided for in section 431:10H-233(f).
- Pursuant to HRS §431:10H-231(g), **Suitability**, Issuer will utilize the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" in the format contained in Appendix C to the December 2006, NAIC Long-Term Care Insurance Model Regulation.

Name of Issuer	NAIC Group and Co-Code

POLICY/CERTIFICATE/ENDORSEMENT/RIDER

- The Issuer's forms are compliant with HRS Chapter 431, Article 10H, as amended by Act 233, 2007 SLH, including but not limited to HRS §§431:10H-104, **Definitions**; 431:10H-201, **Policy definitions**; 431:10H-202, **Renewability**; 431:10H-203, **Limitations and exclusions**; 431:10H-233, **Nonforfeiture benefit requirement**; and, if applicable, 431:10H-234.5, **Additional standards for benefit triggers for qualified long-term care insurance contracts**.
- The Issuer's forms DO NOT represent a statutory exception subject to approval by the Insurance Commissioner.
- The Issuer's form proposes a statutory exception subject to approval by the Insurance Commissioner. Submit Attachment A-1, clearly citing the appropriate statutes and providing the Issuer's justification/explanations.

RATES/RATING PRACTICES

- The Issuer has conducted an actuarial review to ensure that under moderately adverse experience, the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated.
- The Issuer has not conducted an actuarial review to ensure that under moderately adverse experience, the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated, but will file and justify future rate changes in accordance with HRS §431:10H-207.5.
- The Issuer is able to bifurcate experience and other data for policies/certificates issued prior to January 1, 2008, and policies/certificates issued on or after January 1, 2008, if it intends to file and justify future rate increases under both HRS §§431:10H-226 and 431:10H-207.5; or

Under a group long-term care insurance policy, as defined in paragraph (1) of the definition of "group long-term care insurance" in HRS §431:10H-104, in force on July 1, 2007, the issuer is able to bifurcate experience and other data for certificates issued prior to the policy anniversary following July 1, 2007, and on or after the policy anniversary following July 1, 2007, if it intends to file and justify future rate increases under both HRS §§431:10H-226 and 431:10H-207.5.

If none of the boxes for Rates/Rating Practices have been checked, submit Attachment A-2, providing the Issuer's reasons or explanations.

Signature Name (print/type)

Date Title
(Must be an Officer of the Issuer)

Name of Issuer	NAIC Group and Co-Code

Market Type	§431:10H-104 Group Definition	Mark 'X' if applicable		
		Tax Qualified	Non Tax- Qualified	Fixed/Limited Premium Paying Period
Individual	-----			
Group	1			
Group	2			
Group	3			

Form Type	Mark 'X' if applicable			Form #	Form Date/Ed	Replacement of Form #
	Current No Change	New	Revised			
Policy						
Certificate						
Endorsement						
Rider						

POLICY/CERTIFICATE/ENDORSEMENT/RIDER

The Issuer's form proposes a statutory exception subject to approval by the Insurance Commissioner. The appropriate statutes and the Issuer's justification/explanations are as follows:

Name of Issuer	NAIC Group and Co-Code

Market Type	§431:10H-104 Group Definition	Mark 'X' if applicable		
		Tax Qualified	Non Tax- Qualified	Fixed/Limited Premium Paying Period
Individual	-----			
Group	1			
Group	2			
Group	3			

Form Type	Mark 'X' if applicable			Form #	Form Date/Ed	Replacement of Form #
	Current No Change	New	Revised			
Policy						
Certificate						
Endorsement						
Rider						

RATES/RATING PRACTICES

The Issuer's reasons or explanations for not checking any Rates/Rating Practices boxes are as follows: