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BULLETIN 89-2

TO: ALL COMPANIES WRITING NURSING HOME AND LONG TERM CARE COVERAGE

FROM: EARL R. POMEROY, COMMISSIONER OF INSURANCE

DATE: SEPTEMBER 15, 1989

SUBJECT: ELIMINATION OF THE PRIOR HOSPITALIZATION REQUIREMENT

The N.D. Legislature passed two statues (HB 1123 and HB 1275) which substantially impact Long Term Care Insurance products sold in North Dakota.

HB 1275, codified as N.D.C.C. 26.1-04-03(9)(1) defines failure to pay for care ordered by a physician other than custodial care as an unfair claims settlement practice. Custodial care is statutorily defined as care provided primarily for the purpose of meeting personal needs without supervision by a registered nurse or licensed practical nurse. No policy may contain a more stringent definition of custodial care. This section prohibits an insurer from conditioning other than custodial nursing home coverage upon a 3-day prior hospitalization requirement and became law on July 1, 1989.

The Legislature also adopted a series of amendments to the minimum standards for long term care insurance products. These provisions include:

- prohibition of 3-day prior hospitalization requirement for all levels of care after July 1, 1990;

- prohibition of conditioning eligibility for benefits on receipt of a higher level of care effective July 1, 1990;
- requirement that group certificates be guaranteed renewable for life;
- changed contestability period for LTC insurance products from two years to 6 months unless affirmatively proven insured made intentional misrepresentations at time of application.

North Dakota also adopted the new NAIC long term care model regulation which includes a new standard format for the "Outline of Coverage."

All companies issuing long term care business in North Dakota should revise their policy forms accordingly. Please contact Vance Magnuson if you have any questions.