

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE  
Adrin Nazarian, Chair  
AB 567 (Calderon) – As Introduced February 13, 2019

**SUBJECT:** Long-term care insurance.

**SUMMARY:** Establishes a task force to design a statewide, public long-term care insurance program. Specifically, **this bill:**

- 1) Requires the Insurance Commissioner (commissioner) to chair a task force to design a statewide long-term care (LTC) insurance program.
- 2) Specifies the membership of the task force as follows:
  - a) Insurance Commissioner, Chair
  - b) Director of Health Care Services
  - c) Director of the Department of Aging
  - d) A certified actuary with LTC insurance experience, appointed by the Governor
  - e) A non-government health policy expert, appointed by the Governor
  - f) A representative of an LTC service provider organization, appointed by the Governor
  - g) A representative of a senior or consumer organization, appointed by the Governor
  - h) A representative of an employee representative organization with LTC workers appointed by the Speaker
  - i) A representative of the LTC insurance industry appointed by the Senate Rules Committee
- 3) Requires the task force to explore many aspects of providing LTC services and insurance including:
  - a) Insurance program design options for eligibility, enrollment, benefits, financing, administration, and interaction with Medi-Cal and other public programs.
  - b) The feasibility of including a LTC benefit in the State Disability Insurance program (SDI).
  - c) Payroll deductions for premiums.
  - d) Mandatory and optional enrollment options.
  - e) Coordination of benefits with other private insurance.
  - f) Impact on the LTC workforce.

- 4) Requires the Department of Insurance and other participating governmental agencies to fund the task force with existing resources.
- 5) Requires the task force to issue its report and recommendations on or before July 1, 2021.
- 6) Requires the Department of Insurance to provide an actuarial report based on the recommendations of the task force to assess adequacy of the proposed benefit and the funding required for the program to remain solvent.
- 7) Permits the commissioner to seek private funds to pay for the task force.

**EXISTING LAW:**

- 1) Provides for the regulation of LTC insurance by the commissioner and prescribes various requirements and conditions governing the delivery of individual or group long-term care insurance in the state.
- 2) 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 and subsequently exhausted the benefits of these private policies.

**FISCAL EFFECT:** This bill has not yet been analyzed by a fiscal committee.

**Author's Statement:** According to the author, "Californian's have two options for the elderly to receive the care and personal assistance they need to remain in their home. The first is for a person to qualify for Medi-Cal. By qualifying for Medi-Cal, seniors and persons with disabilities may qualify for many programs administered by the state such as In-Home Supportive Services. The second option is for a person to earn and/or save enough disposable income to hire a private home care aide or pay for residential care. Recent public opinion research shows over 60% of working adults fear they will not be able to afford LTC and health care costs during their golden years. The majority of participants indicated they could not afford more than three months of care at a nursing facility with an average cost of \$6,000 per month, while 40% of participants indicated they could not afford a single month of care in a nursing home... A long-term care insurance task force would be the first step towards building a robust long-term care system in California."

**What is Long Term Care:** LTC services provide individuals who, because of illness or disability, are generally unable to perform activities of daily living, such as bathing, dressing, toileting, and getting around the house, or suffer from cognitive impairments. LTC services are provided in a variety of settings, such as nursing homes, assisted living facilities, and private residences. Only about 20% of the elderly who need LTC services live in an institutional setting. The roughly 80% living in the community primarily live in private homes, but a small number live in residential communities catering to the needs of elderly people. For those living at home, most receive assistance from unpaid family members and friends (referred to as informal care) while some pay for assistance (referred to as formal care) from home health aides. Elderly people with severe functional and cognitive limitations who require around-the clock assistance often live in institutional settings. According to data from the Medicare Current Beneficiary

Survey, the elderly nursing home population has declined over the past 10 years as more elderly people are living in residential care facilities, community-based housing with supportive services, and in their homes.

**How is LTC Paid For?** More than half of LTC services are provided as informal care. The Congressional Budget Office estimates that the value of informal care provided in 2011 was approximately \$234 billion. Of the \$192 billion spent on formal LTC services in 2011 roughly two-thirds is paid by Medicare and Medicaid (with the remainder paid out-of-pocket by consumers or by private insurance). Medi-Cal (sometimes with a little Medicare added in) is the de facto LTC insurance policy for those who aren't wealthy enough to afford LTC insurance premiums or to pay LTC costs out-of-pocket. Creating a public LTC insurance product as envisioned by this bill would be protective of the state General Fund (which pays for 50% of Medi-Cal costs for most recipients) to the extent that consumers elect to buy the insurance. However, given that a reasonably affordable LTC policy will cover only a part of the LTC expenses for most people, it is likely that a great many of those who buy the policy will spend down their assets and become Medi-Cal eligible at some point. For most Californians, buying an LTC insurance policy shifts the financial burden for the LTC services away from the General Fund and onto the individual.

**Problems in the LTC Market:** The long-term care insurance marketplace is problematic for both insurers and consumers. In recent years, 10 of the top 20 LTC insurers have stopped selling new LTC policies. Insurers have struggled with setting premiums adequate to cover their costs in the absence of sufficient claims data. LTC insurance is a relatively new product that requires years of paying premiums before claims are made. Only in recent years have the insurers begun to receive claims for many of the policies sold early on, and those claims have been much higher than the insurers anticipated. In addition to misjudging the cost of claims, insurers have struggled with anticipating policy lapse rates, LTC inflation, and life span increases. Those factors, and others, have led to LTC insurance being much more expensive than expected when insurers were initially determining what premium to charge. The early mistakes in pricing LTC policies have led to multiple rounds of major premium increases which adds marketing challenges to a product that is already, according to insurance agents, difficult to sell.

Genworth is the largest issuer of private LTC insurance and it has suffered massive financial losses on the product in recent years. It has added nearly \$1 billion to the loss reserves for its LTC policies and has had its bonds reduced to junk status by multiple rating agencies. These losses are occurring despite Genworth having significantly increased the premiums charged for its existing policies in many states. More recently, General Electric has been forced to commit to increasing claims reserves for its legacy LTC insurance policies (retained when GE spun off Genworth) by \$15 billion causing a major drop in the GE stock price and triggering an SEC investigation into GE accounting practices. Losses in LTC insurance previously caused both MetLife and Prudential to exit the LTC insurance market.

In May 2017, a Pennsylvania based LTC insurer (Penn Treaty) was liquidated, and that liquidation process brought to light challenges presented by LTC insurer insolvencies.

**Previous Legislation:** AB 332 (Calderon) of 2015 which proposed an effort similar to this bill, was vetoed.

To the Members of the California State Assembly:

I am returning Assembly Bill 332 without my signature.

This bill would establish a nine-member task force to explore the design and implementation of a statewide long-term care insurance program.

Since the federal government and a number of private organizations have undertaken essentially the same task, I don't think that this bill is necessary. Moreover, I'm hesitant to start down a path that may lead to a large and potentially costly new mandate.

Sincerely,

Edmund G. Brown Jr.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Commission on Aging  
California School Employees Association

**Opposition**

None on file.

**Analysis Prepared by:** Barry Brewer / AGING & L.T.C. / (916) 319-3990