Date of Hearing: June 21, 2016

ASSEMBLY COMMITTEE ON AGING AND LONG-TERM CARE
Cheryl Brown, Chair
SB 1384 (Liu) – As Amended June 14, 2016

SENATE VOTE: 39-0

SUBJECT: California Partnership for Long-Term Care Program.

SUMMARY: This bill requires the California Partnership for Long-Term Care to allow insurers to offer long-term care policies at a lower-priced option in addition to the 5% inflation escalator policy currently issued, permits participating insurers to offer home care coverage only policies, and creates a task force to provide advice and assistance in implementing reforms to the California Partnership for Long-Term Care. Specifically, **this bill**:

1) Requires the California Partnership for Long-Term Care (Partnership) to allow insures to offer long-term care insurance policies at a lower-priced option in addition to the 5% inflation escalator policy currently required to be issued.

2) Requires the insurer, at the time a person is applying for a policy, to provide a graph that illustrates the difference in premium rates and policy benefits payable in accordance with the inflation protection provisions.

3) Requires the Partnership to certify home-care only policies, without nursing home coverage, but requires those policies to cover electronic or other devices used for remote monitoring of the insured.

4) Creates an executive and legislative task force to provide advice and assistance in implementing reforms to the California Partnership for Long-Term Care Program and to consider other means to assist consumers in paying for long-term care services and supports.

5) Requires the task force to consist of representatives designated by the Department of Health Care Services (DHCS), The State Department of Social Services, The California Department of Aging, The Department of Insurance, The Department of Managed Health Care, The Senate Committee on Rules and The Speaker of the Assembly.

6) Requires the task force to consult with persons knowledgeable with long-term care issues, including, but not limited to, consumers, health care providers, representatives of long-term care insurance companies and administrators of health care service plans which cover long-term care, private employers, academic specialists in long-term care and aging, and representatives of the Public Employees' Retirement System and the State Teachers' Retirement System.

EXISTING LAW:

1) Provides for the regulation of Long Term Care Insurance (LTCI) by the California Department of Insurance and prescribes various requirements and conditions governing the delivery of individual or group LTCI in the state.

2) Establishes the Partnership within DHCS to link private LTCI with Medi-Cal and In-Home Supportive Services (IHSS) program eligibility requirements and Medi-Cal estate recovery.

3) Establishes the Medi-Cal program, administered by the Department of Health Care Services, under which low income individuals are eligible for long-term care services.

4) Requires DHCS to claim against the estate of a deceased Medi-Cal beneficiary an amount equal to the payments for medical and long-term care services received up to the value of the estate ("estate recovery").

FISCAL EFFECT: The Senate Appropriations analysis no longer applies.

COMMENTS:

Author's Statement: According to the author "California created the Long Term Care Partnership as allowed and in accordance with federal law to fill the LTCI gap, but by all accounts this program has failed. Of the three remaining participating insurers, one no longer issues new policies and CalPERS may only offer coverage to active CalPERS members, retirees, and their eligible family members. In comparison, Washington advertises 12 participating issuers of Partnership policies; Oregon, 19; New York, 3, and North Dakota, 21.

"Although sales of regular individual LTCI and Partnership policies have declined nationally, California has been hit particularly hard. The sale of Partnership policies has slowed to a trickle. In 2004, 13,369 consumers applied for Partnership policies (8,425 were approved), but only 858 applied in 2014 (of those, only 611 were approved).

"SB 1384 addresses the major concerns with the California Partnership that are repeatedly articulated by LTC stakeholders and policy providers:

- It takes too long for policies to be approved
- The requirements for designing a product are not flexible enough to meet consumer needs.
- The requirements for what benefits policies must provide make the policies too expensive for the target market they are intended to serve."

Background: Early in the 1990s, four states joined with the federal government to establish a program called the Partnership for Long-Term Care ("Partnership") that would make LTCI coverage more attractive and affordable to the middle class consumers. The Partnership brings together private insurers and state government to offer Californians a product with benefits that coordinate with Medi-Cal's long-term care eligibility and asset recovery program.

The California Partnership for Long-Term Care is overseen by the Department of Health Care Services. Through the Partnership, individuals can purchase long-term care insurance that provides certain benefits with respect to the state's Medi-Cal program. Insurance policies are issued by participating private insurance companies, not the state.

Partnership policies provide two kinds of protection for policy holders that subsequently require Medi-Cal coverage for long-term care services. First, Partnership beneficiaries are allowed to withhold assets from Medi-Cal's asset tests equal to the benefits paid from their policy. (For example, if a Partnership policy holder has a policy that pays out $100,000 in benefits and is then exhausted, that individual could qualify for Medi-Cal even if he or she had up to $102,000 in assets.) Second, the amount of asset recovery sought by the state upon a Medi-Cal beneficiary's death is reduced by the amount of benefits paid from their policy. (For example, if a beneficiary incurred Medi-Cal expenses over $200,000, the beneficiary has a home worth $200,000, and his or her Partnership policy paid out $100,000 in benefits, the state would only seek to recover $100,000 from his or her estate.)

In principle, Partnership long-term care insurance policies provide useful financial protections for individuals who may eventually need Medi-Cal long-term care services. In practice, however, premium rates for Partnership policies are generally too high for most people who will ever qualify for Medi-Cal to afford. Few consumers purchase adequate long-term care insurance, and those who do are likely to need substantial services at some point. This creates a poor risk pool for insurers, which leads to high premiums, and a disincentive for healthy individuals to purchase coverage.

Because LTCI is a long-term planning product, inflation protection is critical to maintaining the value of the benefit. The Partnership requires that all certified policies include a 5% compound inflation escalator. (An inflation escalator automatically increases the policy's daily and lifetime maximum benefit limit.) In contrast the inflation rate for home and community based care has been at 2% and nursing home care at 4% over the last 5 years. (Some experts estimate that the required inflation protection feature can more than double the premium when compared to an equivalent 3% option.)

Coverage for Nursing Home Care: Nursing home care is the most expensive form of long-term care coverage. The Partnership requires that all certified policies include nursing home coverage even though of the people age 65 or older receiving chronic illness care, 80% live in private homes. Many people simply prefer to be at home when they are not well. For those who require nursing home services, it is unknown whether there will be enough beds to satisfy demand. Fortunately, new technology is making home care far more viable for many types of serious and expensive illnesses. For example, the availability of sensors and tracking devices are enabling people with severe cognitive impairments, such as Alzheimer's disease and dementia, to stay at home longer. Providing home care coverage only policies will help make long term care policies more affordable.

Under California law, the DHCS has the authority to adopt emergency regulations to make Partnership policies more affordable. DHCS is currently in the process of adopting emergency regulations that should make the policies more affordable, but it has not released the details.

Support: In support, the California Health Advocates recognize that long-term care insurance alone cannot address the needs of every Californian. But for those moderate income people who are most likely to spend all their assets if they need long-term care, the Partnership can offer them some limited protection against the depletion of all of their assets.

Opposition: The California Advocates for Nursing Home Reform oppose the bill because it has concerns about the marketing practices of the Partnership program as administered by DHCS and believes that the California Department of Insurance (CDI) is the most suitable candidate to take over administration of the Partnership because of CDI's expertise in LTCI and its understanding of insurance marketing scams.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Life and Health Insurance Companies
California Association for Health Services at Home (CAHSAH)
California Health Advocates – Support with Amendments
California Long Term Care Insurance Services, Inc.

Opposition

California Advocates for Nursing Home Reform (CANHR)

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