

Kansas Administrative Regulations

Kansas Department of Insurance

Article 4.—Accident and Health Insurance

40-4-37i. Long-term care insurance; replacement; notice; waiver of waiting periods.

(a) Long-term care insurance application forms shall request information as to other accident and health insurance coverage in force and whether the insurance to be issued is intended to replace any other accident and sickness policy presently in force. A supplementary application or other form to be signed by the applicant containing such a question may be used.

(b) Upon determining that a sale will involve replacement, an insurer or its agent, other than a direct response insurer, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, notice regarding replacement of accident and sickness coverage. One copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant upon issuance of the policy the notice regarding replacement of accident and sickness coverage.

(c) If a long-term care policy replaces another long-term care policy issued by the company or an affiliated company, the replacing insurer shall waive any time periods applicable to pre-existing conditions, waiting periods, elimination periods and probationary periods present in the new long-term care policy for similar benefits to the extent such time was spent under the original policy.

(d) Solicitations other than direct response. Upon determining that a sale will involve replacement, an insurer or its agent, other than an insurer using direct response solicitation methods, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF
INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE
IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by (company name) Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision. STATEMENT TO APPLICANT BY AGENT (BROKER OR OTHER REPRESENTATIVE): (Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Agent, Broker or Other
Representative)

(Typed Name and Address of Agent or Broker)

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

(e) Direct response solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be provided in the following form:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF
ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE
IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by (company name) Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (company name and address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)

(f) Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Such notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

(g)(1) Every insurer shall maintain records for each agent of the agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(2) Each insurer shall, by June 30 of each year, report to the commissioner the names and addresses of the ten percent of its agents with the greatest percentages of lapses and replacements as measured by subsection (1) above.

(3) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or imply wrongdoing. The reports are for the purpose of monitoring agent activities regarding the sale of long-term care insurance.

(4) Every insurer shall, by June 30 of each year, report to the commissioner the number of lapsed policies as a percent of its total number of policies sold and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(5) Every insurer shall, by June 30 of each year, report to the commissioner the number of replacement policies sold as a percent of its total number of policies sold and as a percent of its total number of policies in force as of the preceding calendar year.

(6) For purposes of this section of this regulation, "policy" shall mean only long-term care insurance and "report" means on a statewide basis.

(Authorized by K.S.A. 40-103, K.S.A. 1991 Supp. 40-2228; implementing K.S.A. 1991 Supp. 40-2228; effective Jan. 4, 1993.)

***** Authenticated Kansas Administrative Regulation *****