Amend Ins 3601.03 (b)(1), effective 06/15/12 (Doc. #10154), to read as follows:

(b) (1) "Exceptional increase" means only those increases filed by an insurer as exceptional for which the commissioner determines the need for the premium rate increase is justified due to changes in laws or rules applicable to long-term care coverage in this state.

Amend Ins 3601.08 (e), effective 06/15/12 (Doc. #10154), to read as follows:

(e) An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least 45 days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall:

1. Include the information required by subsection (b) when the rate increase is implemented;
2. Include available benefit reduction and other rate increase mitigation options; and
3. Address the guaranteed renewable nature of the policy so that the insured shall understand that the premium rates may increase again in the future.

Readopt with amendment Ins 3601.19, effective 06/15/12 (Doc. #10154), to read as follows:

Ins 3601.19 Premium Rate Schedule Increases.

(a) This section shall apply to all requests for premium rate schedule increases.

(b) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least 30 days prior to the notice to the policyholders and shall include:

1. Information required by Ins 3601.08;
2. Certification by a qualified actuary that:
   a. If the requested premium rate schedule increase is implemented and the underlying assumptions are realized, then no further premium rate schedule increases are anticipated;
   b. The premium rate filing is in compliance with the provisions of this section;
3. An actuarial memorandum justifying the rate schedule change request that includes:
   a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;
      1. Annual values for the 5 years preceding the 3 years following the valuation date shall be provided separately;
      2. The projections shall include the development of the lifetime loss ratio;
3. The projections shall demonstrate compliance with subsection (c); and

4. For exceptional increases:
   
   (i) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

   (ii) In the event the commissioner determines as provided in Ins 3601.03 (a)(4) that offsets may exist, the insurer shall use appropriate net projected experience;

b. Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

c. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

d. A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

e. In the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates;

(4) A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner;

(5) Sufficient information for review and approval of the premium rate schedule increase by the commissioner; and

(6) In assessing the reasonableness of the assumptions proposed, the commissioner may use the services of an independent actuary and may charge the insurer for the cost of these services. The commissioner may also accept a review done by or for another state or states for the same or substantially the same policy form where any differences in benefits and premiums are not material and such review as completed within 18 months of the date of the premium rate schedule filing and substantially complies with these standards.

(c) All premium rate schedule increases shall be determined in accordance with the following requirements:

(1) Exceptional increases shall provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits;

(2) Premium rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

   a. For policies issued on or after May 1, 2004:
1. The accumulated value of the initial earned premium times the difference between 2 percent and the greater of the original anticipated loss ratio when the product was originally filed and 60 percent;

2. Eighty-five percent of the accumulated value of prior premium rate schedule increases on an earned basis;

3. The present value of future projected initial earned premiums times the difference between 2 percent and the greater of the original anticipated loss ratio when the product was originally filed and 60 percent; and

4. Eighty-five percent of the present value of future projected premiums not in subparagraph 3. on an earned basis;

b. For policies issued prior to May 1, 2004:

1. The accumulated value of earned premium, using rates that had been approved and implemented prior to January 1, 2016, times the difference between 2 percent and the greater of the original anticipated loss ratio when the product was originally filed and 62 percent;

2. Eighty percent for individual policies and 75 percent for group policies of the accumulated value of premium rate increases approved and proposed for implementation on or after January 1, 2016;

3. The present value of future projected earned premium using rates that had been approved and implemented prior to January 1, 2016, times the difference between 2 percent and the greater of the original anticipated loss ratio when the product was originally filed and 62 percent; and

4. Eighty percent for individual policies and 75 percent for group policies of the present value of future projected premiums not in subparagraph 3. on an earned basis;

(3) In the event that a policy form has both exceptional and other increases, the values in paragraph (2) b. and d. will also include 70 percent for exceptional rate increase amounts;

(4) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages;

(5) All calculated accumulated values shall use the actual experience of the product, except for the interest rate as specified in (4), in as close a manner to that used in the original development of rates as possible. This shall not preclude the inclusion of multiple policy forms into one rate increase determination if such pooling enhances the credibility of the combined accumulated experience; and

(6) All calculated present values shall use reasonable estimates of future premium payments and claim payments. Such estimates shall be based on reasonable assumptions, which may include a margin for moderately adverse experience, as characterized herein.
(d) For any single increase approved, at the requested amount and based on the actuarial assumptions pursuant to (b) above, the insurer shall not be permitted to implement any further increases on the subject policy for a period of 3 years following the date the approved increase was implemented and no increase shall be implemented for a period of 3 years following the issue date.

(e) In lieu of a single increase, the commissioner may approve a series of scheduled increases that are actuarially equivalent to the single increase pursuant to (d) above. The insurer shall not be permitted to implement any further increases on the subject policy during the period of such scheduled increases. The insurer shall not be permitted to implement any further increases within a period of 3 years following the date of the first approved scheduled increase was implemented.

(f) The commissioner shall not approve any increase if the resultant increase results in a percentage increase for any policyholder that exceeds an amount as set forth below based on the policyholder’s attained age:

<table>
<thead>
<tr>
<th>Attained Age</th>
<th>Increase</th>
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<tbody>
<tr>
<td>Under 50</td>
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(g) For each rate increase that is implemented, the insurer shall file for review by the commissioner updated projections, as defined in (b) (3) a., annually for the next 3 years and include a comparison of actual results to projected values. The commissioner may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in subsection (n), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(h) If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in subsection (b)(3)a., shall be filed for review by the commissioner every 5 years following the end of the required period in subsection (g). For group insurance policies that meet the conditions in subsection (n), the projections required by this subsection shall be provided to the policyholder in lieu of filing with the commissioner.

(i) (1) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections demonstrate that incurred claims will not exceed proportions of premiums specified in subsection (c), the commissioner may require the insurer to implement any of the following:
   a. Premium rate schedule adjustments; or
   b. Other measures to reduce the difference between the projected and actual experience.

   (2) In determining whether the actual experience adequately matches the projected experience, consideration should be given to subsection (b)(3)e., if applicable.

(j) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file:

   (1) A plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect; otherwise the commissioner may impose the condition in subsection (k) of this section; and
(2) The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to subsection (c) had the greater of the original anticipated lifetime loss ratio or 58 percent been used in the calculations described in subsection (c)(2)a. and c.

(k) (1) For a rate increase filing that meets the following criteria, the commissioner shall review, for all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase to determine if significant adverse lapsation has occurred or is anticipated:

   a. The rate increase is not the first rate increase requested for the specific policy form or forms;

   b. The rate increase is not an exceptional increase; and

   c. The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse.

(2) In the event significant adverse lapsation has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the commissioner may determine that a rate spiral exists. Following the determination that a rate spiral exists, the commissioner may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

   a. The offer shall:

      1. Be subject to the approval of the commissioner;

      2. Be based on actuarially sound principles, but not be based on attained age; and

      3. Provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

   b. The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of:

      1. The maximum rate increase determined based on the combined experience; and

      2. The maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10 percent.

(l) If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the commissioner may, in addition to the provisions of subsection (k) of this section, prohibit the insurer from either of the following:

   (1) Filing and marketing comparable coverage for a period of up to 5 years; or

   (2) Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases.
(m) Subsections (a) through (l) shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Ins 3601.03 (b), if the policy complies with all of the following provisions:

1. The interest credited internally to determine cash value accumulations, including long-term care, if any, rate guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

2. The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following:
   a. RSA 409; and
   b. RSA 409-A;

3. The policy meets the disclosure requirements of RSA 415-D:8 VI., VII., and VIII.;

4. The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in policy illustrations as required by Ins 309;

5. An actuarial memorandum is filed with the insurance department that includes:
   a. A description of the basis on which the long-term care rates were determined;
   b. A description of the basis for the reserves;
   c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;
   d. A description and a table of each actuarial assumption used. For expenses, an insurer shall include percent of premium dollars per policy and dollars per unit of benefits, if any;
   e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;
   f. The estimated average annual premium policy and the average issue age;
   g. A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and
   h. A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care status.

(n) Subsections (h) and (k) shall not apply to group insurance policies as defined in RSA 415-D:3 IV. (a) where:

1. The policies insure 250 or more persons and the policyholder has 5,000 or more eligible employees of a single employer; or
(2) The policyholder, and not the certificateholders, pays a material portion of the premium, which shall not be less than 20 percent of the total premium for the group in the calendar year prior to the year a rate increase is filed.

Amend Ins 3601.27(d)(1), effective 06/25/12 (Doc. #10154), to read as follows:

(d) (1) After rejection of the offer required under RSA 415-D:10, for individual and group policies without nonforfeiture benefits, the insurer shall provide a contingent benefit upon lapse.

Amend Ins 3601.27(d), effective 06/25/12 (Doc. #10154), by inserting new subparagraph (5) and readopting and renumbering existing subparagraphs (5) and (6) to (6) and (7), so that (d)(5)-(7) reads as follows:

(5) Notwithstanding the requirements delineated above, a contingent nonforfeiture benefit on lapse shall also be triggered every time an insurer increases premium rates in the policyholder’s 21st duration or later.

(6) On or before the effective date of a substantial premium increase as defined in subparagraph (3) above, the insurer shall:

a. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased;

b. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of (e) below. This option may be elected at any time during the 120-day period referenced in subparagraph (d)(3); and

c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (d) shall be deemed to be the election of the offer to convert in subparagraph (b) above unless the automatic option in paragraph (6)(c) applies.

(7) On or before the effective date of a substantial premium increase as defined in paragraph (4) or (5) above, the insurer shall:

a. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased.

b. Offer to convert the coverage to a paid-up status where the amount payable for each benefit is 90 percent of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in subsection (d); and

c. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in subsection (d)(4) shall be deemed to be the election of the offer to convert in subparagraph b. above if the ratio is 40 percent or more.

Amend Ins 3601.27, effective 06/25/12 (Doc. #10154), by deleting paragraph (h) and readopting and renumbering existing paragraphs (i), (j), and (k) to (h), (i), and (j), cited and to read as follows:
(h) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Ins 3601.18 or Ins 3601.19, whichever is applicable, treating the policy as a whole.

(i) To determine whether contingent nonforfeiture upon lapse provisions are triggered under (d)(3) or (d)(4), a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(j) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

1. The nonforfeiture provision shall be appropriately captioned;
2. The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the commissioner for the same contract form; and
3. The nonforfeiture provision shall provide at least one of the following:
   a. Reduced paid-up insurance;
   b. Extended term insurance;
   c. Shortened benefit period; or
   d. Other similar offerlings approved by the commissioner.
### APPENDIX

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<tr>
<th>Rule</th>
<th>Statute</th>
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<tbody>
<tr>
<td>Ins 3601.03 (b)(1)</td>
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<tr>
<td>Ins 3601.08 (c)</td>
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<td>Ins 3601.27 (h)-(j) [renumbered from (i)-(k)]</td>
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