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May 25, 2018

RE: AN ACT to amend the elder law and the insurance law, in relation to long term care insurance education, premiums and prohibition of exclusions for pre-existing conditions

A4737 (Walter)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York Conference of Blue Cross and Blue Shield Plans opposes the enactment of this legislation which would limit the ability of the Department of Financial Services (DFS) to approve increases in long term care insurance premiums. Specifically, this bill would limit long term care insurance premium rate increases to no greater than 3%, or the percentage change, in the consumer price index. Enactment of this legislation would endanger the solvency of long term care insurance plans, thereby reducing the options available for New York residents to obtain insurance coverage for long term care services. Perversely, enactment of this legislation will likely lead to a marketplace withdrawal of more long term care insurers at a time when the market is depleting and most insurers are facing significant financial challenges.

Under New York law, both initial premiums and any request for a premium increase to a long term care insurance policy must be approved in advance by the Department of Financial Services. Once an initial product is approved, long term care insurance premium rates are expected to remain in place throughout the life of the policy. However, in some instances where circumstances have changed significantly with respect to the original assumptions that were made for a particular policy, DFS *may* consider a premium increase to prevent the policy from closing.

While long term care insurance policies are intended to remain level over the life of the policy, there have been requests from long term care insurers across the country to raise premiums in order to keep existing policies in effect. These requests are largely based on policies that were issued more than a decade ago that did not adequately set premiums, failing to account for certain factors, such as precipitous increases in the costs of long term

care and historically low interest rates that have made it difficult for companies to achieve their anticipated return on invested premiums for policies to remain viable.

This bill would eliminate DFS's ability to support a premium rate increase, even where such an increase is based on sound actuarial assumptions and methods. Allowing the DFS the flexibility to adjust rates is critical for those instances where rate increases are necessary to maintain a plan's ability to cover incurred long term care expenses, limiting such an increase to an arbitrary rate such as the CPI is imprudent and unjustified. There is a very limited number of participating long term care insurers in the New York market, primarily because escalating health care costs have made long term care insurance a tremendously challenging business. Restricting a plan's ability to charge actuarially sound rates to preserve choice and keep existing policies intact would further constrict what is already a struggling business.

The sponsors of this bill state that, "total public and private spending for long-term care for the elderly could double from 2000 to 2025" and use these increases as a justification for this bill. This bill does not address the underlying causes of increasing long term care costs. In recent years, the rise in health care costs has accelerated and analysts predict that growth will continue. These underlying costs directly impact health insurance premiums. Implementing price controls on the end of the long term care financing chain – long term care insurance – without addressing cost drivers will have deleterious effects. This bill does nothing to address the contributing factors to the increase in health care costs. Rather, it imposes a burdensome premium rate cap on insurers that threatens their solvency while failing to mitigate substantial causes for premium increases.

For the foregoing reasons, the New York State Conference of Blue Cross and Blue Shield Plans opposes this legislation and urges that it not be enacted.

Respectfully submitted,

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Legislative Counsel for the Blue Cross and Blue Shield Plans of New York