**20:06:21:04.  Permissible exclusions from coverage.** A long-term care insurance policy may exclude or limit coverage for the following:

 (1)  Declared or undeclared war;

 (2)  Suicide or self-inflicted injuries;

 (3)  Alcoholism or drug abuse. This subdivision does not permit an exclusion or limitation for long-term care services due to the insured's alcoholism or drug abuse, other than for the treatment of alcoholism or drug abuse;

 (4)  Mental or emotional disorder;

 (5)  Pre-existing conditions;

 (6)  Participation in a felony, riot, or insurrection;

 (7)  Treatment in a government facility at no charge to the insured or that portion of any treatment which is paid by a government plan;

 (8)  Limitations based on territory;

 (9)  Mental or nervous disorders. This subdivision does not permit exclusion or limitation of benefits because of Alzheimer's disease;

 (10)  Aviation. This exclusion applies only to passengers who have not paid fares;

 (11)  Workers' compensation. Work-related injuries or illnesses if benefits are paid under workers' compensation or other similar laws;

 (12)  Service or care provided by a family member unless:

 (a)  The family member is a regular employee of the service or care provider furnishing the service or care;

 (b)  The service or care provider receives the payment for the service or care; and

 (c)  The family member receives no compensation other than the normal compensation for an employee in his or her job category; or

 (13)  For group coverage issued on a guaranteed issue basis an inability to perform activities of daily living or a severe cognitive impairment that predated the coverage and was continuous in determining whether the benefit triggers have been met. An inability to perform an activity of daily living that pre-dated coverage is considered continuous unless the insured demonstrates that the insured has regained the ability to perform that activity of daily living based on the same standards that are applied as benefit triggers under the policy.

 **Source:** 16 SDR 208, effective June 3, 1990; 22 SDR 97, effective December 18, 1995; 28 SDR 157, effective May 19, 2002; 29 SDR 107, effective February 5, 2003; 31 SDR 21, effective August 23, 2004.

 **General Authority:** SDCL 58-4-1, 58-17B-4, 58-17B-15.

 **Law Implemented:** SDCL 58-17B-11.