**20:06:21:60.  Required disclosure of rating practices to consumers -- Rate stabilization.**

 (1)  This subdivision applies as follows:

 (a)  Except as provided in subdivision (1)(b) of this section, this subdivision applies to any long-term care policy or certificate issued in this state on or after November 1, 2002;

 (b)  For certificates issued on or after May 19, 2002, under a group long-term care insurance policy as defined in SDCL 58-17B-2(4)(a), which policy was in force at the time this rule became effective, the provisions of this subdivision applies on the policy anniversary on or after May 1, 2003;

 (2)  Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in this section to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all of the information listed in this subdivision to the applicant no later than at the time of delivery of the policy or certificate:

 (a)  A statement that the policy may be subject to rate increases in the future;

 (b)  An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision;

 (c)  The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase;

 (d)  A general explanation for applying premium rate or rate schedule adjustments that must include:

 (i)   A description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and

 (ii)  The right to a revised premium rate or rate schedule as provided in subdivision (2)(b) of this section if the premium rate or rate schedule is changed;

 (e)  (i)    Information regarding each premium rate increase on this policy form or similar policy forms over the past ten years for this state or any other state that, at a minimum, identifies:

 (1)  The policy forms for which premium rates have been increased;

 (2)  The calendar years when the form was available for purchase; and

 (3)  The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics;

 (ii)   The insurer may, in a fair manner, provide additional explanatory information related to the rate increases;

 (iii)  An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to the acquisition;

 (iv)  If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of May 19, 2002, or the end of a 24-month period following the acquisition of the block or policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with subdivision (2)(e)(i) of this section;

 (v)   If the acquiring insurer in subdivision (2)(e)(iv) of this section files for a subsequent rate increase, even within the 24-month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from nonaffiliated insurers referenced in subsection (2)(e)(iv) of this section, the acquiring insurer shall make all disclosures required by subdivision (2)(e) of this section, including disclosure of the earlier rate increase referenced in subdivision (2)(e)(iv) of this section;

 (3)  An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under subdivision (2)(a) and (e) of this section. If due to the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate;

 (4)  An insurer shall use the forms in Appendices E and I to comply with the requirements of subdivisions (1) and (2) of this section;

 (5)  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 include the information required by subdivision (2) of this section when the rate increase is implemented.

 **Source:** 28 SDR 157, effective May 19, 2002; 30 SDR 39, effective September 28, 2003.

 **General Authority:** SDCL 58-17B-4.

 **Law Implemented:** SDCL 58-17B-4.