**20:06:21:61.  Initial filing requirements.**

(1)  This section applies to any long-term care policy issued in this state on or after November 1, 2002;

(2)  An insurer shall provide the information listed in this section to the director 30 days prior to making a long-term care insurance form available for sale:

(a)  A copy of the disclosure documents required in § 20:06:21:60; and

(b)  An actuarial certification consisting of at least the following:

(i)    A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;

(ii)   A statement that the policy design and coverage provided have been reviewed and taken into consideration;

(iii)  A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;

(iv)  A complete description of the basis for contract reserves that are anticipated to be held under the form, to include:

(I)    Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held;

(II)   A statement that the assumptions used for reserves contain reasonable margins for adverse experience;

(III)  A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted); and

(IV)  A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur;

(A)  An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship;

(B)  If the gross premiums for certain age groups appear to be inconsistent with this requirement, the director may request a demonstration under subdivision (3) of this section based on a standard age distribution; and

(v)(I)    A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or

(II)  A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences;

(vi)  A statement that the premiums contain at least the minimum margin for moderately adverse experience defined in subdivision (2)(b)(vi)(I) or the specification of and justification for a lower margin as required by subdivision (2)(b)(vi)(II);

(I)  A composite margin shall not be less than 10% of lifetime claims;

(II)  A composite margin that is less than 10% may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount, and methods to monitor developing experience that would be the bases for withdrawal of approval for such lower margins must be submitted;

(III)  A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. This lower composite margin, if utilized, shall be justified by the appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product;

(IV)  A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rate;

(c)  An actuarial memorandum prepared, dated and signed by a member of the Academy of Actuaries shall be included and shall address and support each specific item required as part of the actuarial certification and provide at least the following information:

(i)  An explanation of the review performed by the actuary prior to making the statements in subdivisions (2)(b)(ii) and (iii);

(ii)  A complete description of pricing assumptions;

(iii)  Sources and levels of margins incorporated into the gross premiums that are the basis for the statement in subdivision (2)(b)(i) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans or states shall be clearly described. Deviations in margins required to be described are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium sales; and

(iv)  A demonstration that the gross premiums include the minimum composite margin specified in subdivision (2)(b)(vi);

(3)  In any review of the actuarial certification and actuarial memorandum, the director may request review by an actuary with experience in long-term care pricing who is independent of the company. In the event the director asks for additional information as a result of any review, the period in subdivision (1) of this section does not include the period during which the insurer is preparing the requested information.

**Source:** 28 SDR 157, effective May 19, 2002; 44 SDR 184, effective June 25, 2018.

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

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