Opportunity for Public Comment

Comments may be sent to Catherine Grason, Director of Regulatory Affairs, Maryland Insurance Administration, 200 St. Paul Place, Ste. 2700, Baltimore, MD 21202, or call 410-468-2201, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through January 23, 2017. A public hearing has not been scheduled.

.10 Surplus Lines Exportable List.

A.—B. (text unchanged)

C. The surplus lines exportable list is as follows:

(1)—(38) (text unchanged)

(39) Short-term homeshare business multi-peril;

[(39)**]** *(40)*—**[**(49)**]** *(50)* (text unchanged)

ALFRED W. REDMER, JR.
Insurance Commissioner

Subtitle 14 LONG-TERM CARE

Notice of Proposed Action

[16-348-P]

The Insurance Commissioner proposes to:

(1) Amend Regulations **.13**, **.24**, and **.36** under **COMAR 31.14.01 Long-Term Care Insurance**; and

(2) Amend Regulations **.03—.06** and adopt new Regulation **.06-1** under **COMAR 31.14.02 Long-Term Care Insurance—Premium Rates and Reserves**.

Statement of Purpose

The purpose of this action is to update these regulations consistent with 2014 changes to the National Association of Insurance Commissioners' "Long-Term Care Model Regulation" (Model 641). These amendments do the following to mitigate large long-term care rate increases for consumers:

(1) Define a minimum composite moderately adverse experience (MAE) margin of 10% to encourage more conservative pricing.

(2) Require the insurer to submit an annual actuarial certification regarding the sufficiency of the current premium rate structure, which encourages an insurer to file a rate increase when needed, rather than delay which leads to requests of larger rate increases later.

(3) Require the insurer to replace the "58" in the current 58/85 loss ratio test for rate increases with the greater of 58 percent and the original lifetime loss ratio with the moderately adverse margin specified in the initial filing. For insurers that price at a loss ratio greater than 58 percent, this change makes it more difficult for the insurer to pass the loss ratio test. This change maintains the portion of original premiums to be used for benefits plus the higher portion of any rate increase in rate increase filings.

(4) Strengthen consumer disclosure requirements at the time of a rate increase.

(5) Reduce contingent nonforfeiture benefit triggers for older policies, and lower the rate increase trigger to 100 percent for policyholders with issue ages of 54 and younger. These changes provide greater value to any consumer who decides to lapse a long-term care policy following a rate increase.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. This regulation will impact consumer rates for long-term care insurance.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Limits to rate increases	(-)	Unknown
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Premium savings	(+)	Unknown

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D. These regulations decrease the dollar amount of rate increases that a carrier may submit on existing long-term care insurance policies.

F. Consumers with existing long-term care policies will be subjected to lower rate increases than under the previous regulations, potentially saving them premium dollars.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Lisa Larson, Assistant Director of Regulatory Affairs, Maryland Insurance Administration, 200 Saint Paul Place, Ste. 2700, Baltimore, Maryland 21202, or call 410-468-2007, or email to insuranceregreview.mia@maryland.gov, or fax to 410-468-2020. Comments will be accepted through January 23, 2017. A public hearing has not been scheduled.

31.14.01 Long-Term Care Insurance

Authority: Health-General Article, §19-705; Insurance Article, §§2-109, 14-124, Title 18, Subtitle 1, and Title 27; Annotated Code of Maryland

.13 Nonforfeiture Benefit Requirement.

A.—D. (text unchanged)

E. Contingent Benefit Upon Lapse Provision.

(1)—(6) (text unchanged)

(7) On or before the effective date of a substantial premium increase as described in §E(3) and (5) of this regulation, the insurer shall:

(a) Offer to reduce policy benefits provided by the current coverage **[**without the requirement of additional underwriting**]** *consistent with the requirements of Regulation .36 of this chapter* so that required premium payments are not increased;

(b)—(c) (text unchanged)

(8) (text unchanged)

(9) On or before the effective date of a substantial premium increase as described in §E(6)(a) and (c) of this regulation, the insurer shall:

(a) Offer to reduce policy benefits provided by the current coverage **[**without the requirement of additional underwriting**]** *consistent with the requirements of Regulation .36 of this chapter* so that required premium payments are not increased;

(b)—(c) (text unchanged)

(10)—(11) (text unchanged)

(12) For any long-term care policy issued in Maryland on or after September 1, 2017:

(a) If the policy or certificate was issued at least 20 years before the effective date of the increase, a value of 0 percent shall be used in place of all values in the table in §E(6)(c) of this regulation; and

(b) Values above 100 percent in the table in §E(5) of this regulation shall be reduced to 100 percent.

F.—K. (text unchanged)

.24 Reporting Requirements.

A.—G. (text unchanged)

H. Annual Rate Certification Requirements for Rate Schedules Currently Marketed.

(1) This section applies to any long-term care policy issued in Maryland on or after September 1, 2017 that is currently marketed.

(2) An insurer shall submit an annual actuarial certification to the Commissioner in accordance with the following conditions:

(a) The certification shall be prepared, dated, and signed by a member of the American Academy of Actuaries;

(b) The certification shall contain one of the following conclusions:

(i) The premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience, and is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or

(ii) Margins for moderately adverse experience may no longer be sufficient;

(c) The certification shall be based on calendar year data;

(d) The certification shall be submitted annually not later than May 1 of each year starting in the second year following the year in which the initial rate schedules are first used;

(e) The certification shall contain a description of the review performed that led to the applicable conclusion in §H(2)(b) of this regulation; and

(f) If the certification contains the conclusion set forth in §H(2)(b)(ii) of this regulation, the insurer shall provide to the Commissioner a plan of action subject to the following conditions:

(i) The plan shall be submitted within 60 days of the date the actuarial certification is submitted; and

(ii) The plan shall include a time frame for the reestablishment of adequate margins for moderately adverse experience such that the ultimate premium rate schedule would be reasonably expected to be sustainable over the future life of the form with no future premium increases anticipated.

(3) Failure to comply with §H(2)(f) of this regulation constitutes grounds for the Commissioner to withdraw or modify approval of a form for future sales under Insurance Article, §12-205, Annotated Code of Maryland.

I. Annual Rate Certification Requirements for Rate Schedules That are No Longer Marketed.

(1) This section applies to any long-term care policy issued in Maryland on or after September 1, 2017 that is no longer marketed.

(2) An insurer shall submit an annual actuarial certification to the Commissioner in accordance with the following conditions:

(a) The certification shall be prepared, dated, and signed by a member of the American Academy of Actuaries;

(b) The certification shall contain one of the following conclusions:

(i) The premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions; or

(ii) The premium rate schedule may no longer be sufficient;

(c) The certification shall be based on calendar year data;

(d) The certification shall be submitted annually not later than May 1 of each year starting in the second year following the year in which the initial rate schedules are first used;

(e) The certification shall contain a description of the review performed that led to the applicable certification or statement in §I(2)(b) of this regulation.

(f) If the certification contains the conclusion set forth in §I(2)(b)(ii) if this regulation, the insurer shall provide to the Commissioner a plan of action subject to the following conditions:

(i) The plan shall be submitted within 60 days of the date the actuarial certification is submitted; and

(ii) The plan shall include a time frame for the reestablishment of adequate margins for moderately adverse experience.

J. Actuarial Memorandum.

(1) An actuarial memorandum to support the actuarial certifications required by §§H and I of this regulation shall be submitted as follows:

(a) The actuarial memorandum shall be dated and signed by the member of the American Academy of Actuaries who prepares the actuarial certification;

(b) The actuarial memorandum shall be submitted at least once every 3 years with the certification;

(c) The actuarial memorandum shall contain at least the following information:

(i) A detailed explanation of the data sources and review performed by the actuary before drawing the appropriate conclusion in §H(2)(b) or §I(2)(b) of this regulation;

(ii) A complete description of experience assumptions and their relationship to the initial pricing assumptions;

(iii) A description of the credibility of the experience data; and

(iv) An explanation of the analysis and testing performed in determining the current presence of margins.

.36 Right to Reduce Coverage and Lower Premiums.

A. Unless otherwise specified, the requirements of this regulation shall apply to any long-term care policy issued in Maryland on or after September 10, 2008.

[A.**]***B.* Required Provision in Long-Term Care Insurance Policies and Certificates.

(1) (text unchanged)

(2) An insurer may also offer reduction options other than those described in **[**§A(1)**]** *§B(1)* of this regulation, if the reduction options are consistent with the policy or certificate design or the insurer's administrative processes.

(3) For any long-term care policy issued in Maryland on or after March 1, 2018, if the reduction in coverage involves the reduction or elimination of the inflation protection provision, the insurer shall allow the policyholder to continue the benefit amount in effect at the time of the reduction.

[B.**]** *C.* The provision required by **[**§A**]** *§B* of this regulation shall include a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage.

[C.**]** *D. Premium for Reduced Coverage.*

(1) The age used to determine the premium for the reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force.

(2) For any long-term care policy issued in Maryland on or after March 1, 2018, the premium for the reduced coverage shall:

(a) Be based on the same age and underwriting class used to determine the premium for the coverage currently in force; and

(b) Be consistent with the approved rate table.

[D.**]** *E.*—**[**F.**]** *G.* (text unchanged)

[G. The requirements of this regulation shall apply to any long-term care policy issued in Maryland on or after September 10, 2008.**]**

31.14.02 Long-Term Care Insurance—Premium Rates and Reserves

Authority: Health-General Article, §19-705; Insurance Article, §§2-109, 14-124, Title 18, Subtitle 1, and Title 27; Annotated Code of Maryland

.03 Required Disclosure of Rating Practices to Consumers.

A. Applicability.

(1) Except as provided in §A(2) *and (3)* of this regulation, the provisions of this regulation apply to any long-term care policy or certificate issued in this State on or after October 1, 2002.

(2) For certificates issued on or after April 1, 2002, under an employer group long-term care insurance policy that was in force on April 1, 2002, the provisions of this regulation apply on the policy anniversary following April 1, 2003.

(3) The requirements of §K(2)(ii)-(iv) of this regulation shall apply to any rate increase implemented in Maryland on or after March 1, 2018.

B.—C. (text unchanged)

D. The insurer shall provide the following information to the applicant in accordance with §§B and C of this regulation:

(1) (text unchanged)

(2) An explanation of potential future premium rate revisions, and the policyholder's or certificate holder's **[**option**]** *options* in the event of a premium rate revision, *including the options described in §B of COMAR 31.14.01.36*; *and applicable disclosures described in §K(2)(iii) and (iv) of this regulation.*

(3)—(5) (text unchanged)

E.—J. (text unchanged)

K. Notice of Premium Rate Schedule Increase.

(1) (text unchanged)

(2) A notice shall include **[**the information required by §D of this regulation when a rate increase is implemented.**]***:*

(i) The information required by §D of this regulation when a rate increase is implemented;

(ii) An offer to reduce policy benefits provided by the current coverage consistent with the requirements of COMAR 31.14.01.36;

(iii) A disclosure stating that all options available to the policyholder may not be of equal value; and

(iv) In the case of a partnership policy, a disclosure that some benefit reduction options may result in a loss in partnership status that may reduce policyholder protections.

.04 Initial Filing Requirements.

A. *Applicability.*

(1) Sections B.-D. of **[**This**]** *this* regulation [applies] *apply* to any long-term care policy issued in Maryland on or after October 1, 2002 *and before September 1, 2017.*

(2) Sections E.—H. of this regulation apply to any to any long-term care policy issued in Maryland on or after September 1, 2017.

B.—D. (text unchanged)

E. An insurer shall provide the following information to the Commissioner at least 60 days before making a long-term care insurance form available for sale:

(1) A copy of the disclosure documents required by Regulation .03 of this chapter;

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

(a) 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;

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

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

(d) A statement that the premiums contain one of the following:

(i) At least the minimum composite margin for moderately adverse experience as specified in §G(1) of this regulation; or

(ii) The specification of and justification for a lower margin as required by §G(2) of this regulation; and

(e) One of the following:

(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;

(f) A statement that reserve requirements have been reviewed and considered. Support for this statement shall include:

(i) Sufficient detail or sample calculations to provide a complete depiction of the reserve amounts to be held; and

(ii) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; and

(g) If the statement required in §E(2)(f)(ii) of this regulation cannot be made, a complete description of the circumstances under which this does not occur; and

(3) An actuarial memorandum prepared, dated and signed by a member of the American Academy of Actuaries that:

(a) Addresses and supports each specific item required as part of the actuarial certification;

(b) Provides at least the following information:

(i) An explanation of the review performed by the actuary before making the statements in §E(2)(b) and (c) of this regulation;

(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 made in the actuarial certification under §E(2)(a) of this regulation;

(iv) An explanation of the analysis and testing performed in determining the sufficiency of the margins provided for in §E(2)(d) of this regulation, to include a clear description of the deviations in margins between ages, sexes, plans or states other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales; and

(v) A demonstration that the gross premiums include the minimum composite margin specified in §E(2)(d) of this regulation.

F. In providing the statement required by §E(2)(f)(ii) of this regulation, the insurer may base this statement on the following:

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

(2) If the gross premiums for certain age groups appear to be inconsistent with the requirement in §E(2)(f)(ii) of this regulation, the Commissioner may request a demonstration under §H of this regulation based on a standard age distribution.

G. The following provisions apply to the statement required under §E(2)(d) of this regulation:

(1) For the purposes of the actuarial certification under §E(2)(d)(i) of this regulation, a composite margin may not be less than 10 percent of lifetime claims;

(2) For the purposes of the actuarial certification under §E(2)(d)(ii) of this regulation, a composite margin less than 10 percent may be justified in uncommon circumstances, if the following is submitted:

(a) Full justification of the proposed amount; and

(b) Methods to monitor developing experience that would be the basis for withdrawal of approval for the lower margins;

(3) A composite margin lower than otherwise considered appropriate for the standalone long-term care policy may be justified for long-term care benefits if it is:

(a)Provided through a life insurance policy or an annuity contract; and

(b)The lower composite margin is justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product; and

(4) A greater margin may be appropriate if the insurer has less credible experience to support its assumptions used to determine the premium rates.

H. Additional Information.

(1) In any review of the actuarial certification and actuarial memorandum required by §E of this regulation, the Commissioner may request review by an independent actuary with experience in long-term care pricing.

(2) If the Commissioner asks for additional information under this section, the period in §E of this regulation does not include the period during which the insurer is preparing the requested information.

.05 Loss Ratio.

A. This regulation applies to all long-term care insurance policies or certificates except those covered under Regulations .04, **[**and**]** .06, *and .06-1* of this chapter.

B.—C. (text unchanged)

.06 Premium Rate Schedule Increases.

A. Applicability.

(1) Except as provided in §A(2) of this regulation, the provisions of this regulation apply to any long-term care policy or certificate issued in Maryland on or after October 1, 2002 *and before September 1, 2017*.

(2) For certificates issued on or after **[**the effective date of this amended regulation**]** *April 1, 2002*, under an employer group long-term care insurance policy that was in force on April 1, 2002, the provisions of this regulation apply on the policy anniversary following April 1, 2003.

B. Premium Rate Increase Filing Requirements.

(1) (text unchanged)

(2) The notice to the Commissioner required by §B(1) of this regulation shall include:

(a)—(b) (text unchanged)

(c) An actuarial memorandum justifying the rate schedule change request that includes:

(i)—(iv) (text unchanged)

(v) A statement that policy design, underwriting, and claims adjudication practices have been taken into consideration; **[**and**]**

(vi) If it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, composite rates reflecting projections of new certificates; *and*

(vii) A demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in Regulation .04B(2)(d) or .04E(2)(d) of this chapter is projected to be exhausted.

(d)—(e) (text unchanged)

(3) (text unchanged)

C. An insurer may request a premium rate schedule increase less than what is required under this regulation and the Commissioner may approve this premium rate schedule increase, without submission of the certification required under §B(2)(b)(i)of this regulation, if:

(1) The actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under §B(2)(b) of this regulation;

(2) The premium rate schedule increase filing satisfies all other requirements of §B of this regulation; and

(3) The premium rate schedule increase filing is, in the opinion of the Commissioner, in the best interest of policyholders.

[C.**]** *D.*—**[**K.**]** *L.* (text unchanged)

.06-1 Premium Rate Schedule Increases for Policies Subject to Loss Ratio Limits Related to Original Filings.

A. Applicability.

(1) Except as provided in §A(2) of this regulation, this regulation applies to any long-term care policy or certificate issued in Maryland on or after September 1, 2017.

(2) For certificates issued on or after the effective date of this amended regulation under an employer group long-term care insurance policy as defined in Regulation .02B(1) of this chapter if the policy was in force at the time this amended regulation became effective, the provisions of this regulation shall apply on the policy anniversary following March 1, 2018.

B. Premium Rate Increase Filing Requirements.

(1) An insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the Commissioner at least 30 days before issuing the notice to the policyholders.

(2) The notice to the Commissioner required by §B(1) of this regulation shall include:

(a) Information required by Regulation .03 of this chapter;

(b) Certification by a qualified actuary that:

(i) If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and

(ii) The premium rate filing is in compliance with the provisions of this regulation;

(c) An actuarial memorandum justifying the rate schedule change request that includes:

(i) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase;

(ii) The method and assumptions used in determining the lifetime projections described in §B(2)(c)(i) of this regulation, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale;

(iii) Disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit on lapse;

(iv) 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 insurer have been relied on by the actuary;

(v) A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and

(vi) If 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;

(d) 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; and

(e) Sufficient information for review and approval of the premium rate schedule increase by the Commissioner.

(3) The lifetime projection and assumptions required to be filed under §B(2)(c)(i) and (ii) of this regulation shall comply with the following requirements:

(a) Annual values for the 5 years preceding and the 3 years following the valuation date shall be provided separately;

(b) The projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(c) The projections shall demonstrate compliance with §C of this regulation; and

(d) For exceptional increases:

(i) The projected experience shall be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and

(ii) If the Commissioner determines as provided in Regulation .07C of this chapter that offsets may exist, the insurer shall use appropriate net projected experience.

(4) The insurer may request and the Commissioner may approve a premium rate schedule increase less than what is required under this regulation without submission of the certification in §B(2)(b)(i) of this regulation, if:

(a) The actuarial memorandum discloses the premium rate schedule increase necessary to make the certification required under §B(2)(b) of this regulation;

(b) The premium rate schedule increase filing satisfies all other requirements of this regulation; and

(c) The premium rate schedule is, in the opinion of the Commissioner, in the best interest of policyholders.

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 lesser of the accumulated value of actual incurred claims, without the inclusion of active life reserves, or the accumulated value of historic expected claims, with the inclusion of active life reserves, plus the present value of the future expected incurred claims, projected without the inclusion of active life reserves, will not be less than the sum of the following:

(a) The accumulated value of the initial earned premium times 58 percent;

(b) 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(c) The present value of future projected initial earned premiums times 58 percent; and

(d) 85 percent of the present value of future projected premiums not in §C(2)(c) of this regulation on an earned basis;

(3) Expected claims shall be calculated as follows:

(a) Original filing assumptions shall be assumed until new assumptions are filed as part of a rate increase;

(b) New assumptions shall be used for all periods beyond each requested effective date of a rate increase;

(c) For each calendar year, expected claims shall be based on in-force business at the beginning of the calendar year;

(d) Expected claims shall include margins for moderately adverse experience that are:

(i) Amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing; or

(ii) Amounts as modified in any rate increase filing.

(4) If a policy form has both exceptional and other increases, the values in §C(2)(b) and (d) shall also include 70 percent for exceptional rate increase amounts;

(5) All present and accumulated values used to determine rate increases, including the lifetime loss ratio consistent with the original filing reflecting margins for moderately adverse experience, shall use the maximum valuation interest rate for contract reserves as specified in Regulation .13 of this chapter; and

(6) The actuary shall disclose as a part of the actuarial memorandum the use of any appropriate averages.

D. Updated Projections.

(1) For each rate increase that is implemented, the insurer shall file for approval by the Commissioner updated projections, as described in §B(2)(c)(i) and (ii) of this regulation, annually for the next 3 years and include a comparison of actual results to projected values.

(2) The Commissioner may extend the period to greater than 3 years if actual results are not consistent with projected values from prior projections.

(3) For group insurance policies that meet the conditions in §K of this regulation, the projections required by this section shall be provided to the policyholder instead of filing with the Commissioner.

E. Lifetime Projections.

(1) 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 described in §B(2)(c)(i) and (ii) of this regulation, shall be filed for approval by the Commissioner every 5 years following the end of the required period in §D of this regulation.

(2) For group insurance policies that meet the conditions in §L of this regulation, the projections required by this section shall be provided to the policyholder instead of filing with the Commissioner.

F. Commissioner's Authority if Actual Experience Does Not Match Projected Experience.

(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 under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of premiums specified in §C of this regulation, 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 shall be given to §B(2)(c)(vi) of this regulation, if applicable.

G. Filing Required if Rate Increase Causes Eligibility for Contingent Benefit.

(1) 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:

(a) A plan, subject to the Commissioner's approval, for improved administration;

(b) A plan, subject to the Commissioner's approval, for improved claims processing; or

(c) Both plans, if applicable.

(2) A plan filed in accordance with §G(1) of this regulation shall:

(a) Demonstrate that it is designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases; or

(b) Demonstrate that appropriate administration or claims processing, or both, has been implemented or is in effect.

(3) If the insurer fails to file a plan required by §G(1) of this regulation or fails to receive approval from the Commissioner of the plan filed under §G(1) of this regulation, the Commissioner may impose the requirements in §H of this regulation.

H. Lapse Rates.

(1) 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, if a rate increase filing meets the following criteria:

(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) If the Commissioner determines during the review described in §H(1) of this regulation that 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.*

(3) If the Commissioner determines that a rate spiral exists as described in §H(2) of this regulation, 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.

(4) The offer required by §H(3) of this regulation shall:

(a) Be subject to the approval of the Commissioner;

(b) Be based on actuarially sound principles, but not be based on attained age; and

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

(5) Maintenance of Experience. 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:

(a) The maximum rate increase determined based on the combined experience; and

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

I. 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 §H of this regulation, prohibit the insurer from:

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

(2) Offering all other similar coverages; or

(3) Limiting marketing of new applications to the products subject to recent premium rate schedule increases.

J. Exemption for Incidental Coverage.

(1) Sections A—I of this regulation do not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Regulation .02B(3) of this chapter, if the policy complies with all of the following requirements:

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

(b) 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:

(i) The standard nonforfeiture requirements for life insurance found in Insurance Article, Title 16, Subtitle 3, Annotated Code of Maryland;

(ii) The standard nonforfeiture requirements for individual deferred annuities found in Insurance Article, Title 16, Subtitle 5, Annotated Code of Maryland; or

(iii) The requirements for variable annuities found in COMAR 31.09.04;

(c) The policy meets the disclosure requirements of Insurance Article, §§18-108 and 18-117, Annotated Code of Maryland;

(d) The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

(i) Policy illustrations for life insurance as required by COMAR 31.09.09;

(ii) Disclosure requirements for annuities as required by COMAR 31.15.04; and

(iii) Disclosure requirements for variable annuities as required by COMAR 31.09.04;

(e) An actuarial memorandum is filed with the Commissioner that includes:

(i) A description of the basis on which the long-term care rates were determined;

(ii) A description of the basis for the reserves;

(iii) A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) A description and a table of each actuarial assumption used;

(v) A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) The estimated average annual premium per policy and the average issue age;

(vii) A statement as to whether underwriting is performed at the time of application; and

(viii) 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 claim status.

(2) For the expense assumptions used in §J(1)(e)(iv) of this regulation, an insurer shall include percent of premium dollars per policy and dollars per unit, if any.

(3) Contents of Statement on Underwriting.

(a) The statement required by §J(1)(e)(vii) of this regulation shall indicate whether underwriting is used.

(b) If underwriting is used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting.

(c) If coverage is under a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs.

K. Sections F and H of this regulation do not apply to employer group long-term care insurance if:

(1) The policies insure 250 or more individuals and the policyholder has 5,000 or more eligible employees of a single employer; or

(2) The policyholder, and not the certificate holders, pays a material portion of the premium, which may not be less than 20

percent of the total premium for the group in the calendar year before the year a rate increase is filed.

ALFRED W. REDMER, JR.
Insurance Commissioner

Title 35
MARYLAND DEPARTMENT OF VETERANS AFFAIRS

Subtitle 03 VETERANS CEMETERIES

35.03.01 Burial in State Veterans' Cemeteries

Authority: State Government Article, §9-906, Annotated Code of Maryland

Notice of Proposed Action

[16-357-P]

The Secretary of Veterans Affairs proposes amend Regulation **.05** under **COMAR 35.03.01 Burial in State Veterans' Cemeteries**.

Statement of Purpose

The purpose of this action is to define the cost of burial of a veteran's eligible dependent, and to establish the fee for burial of an eligible dependent to be equal to the burial plot allowance provided by the United States Department of Veterans Affairs for burial of a veteran in a State veterans' cemetery.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. By making the dependent burial fee equal to the U.S. Department of Veterans Affairs burial plot allowance for casketed or noncasketed burial of a veteran, eligible dependents will no longer pay a lower fee for a noncasketed burial than for a casketed burial.

II. Types of Economic Impact.	Revenue (R+/R-) Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Increase in dependent burial fee	(R+)	$125,000 (FY 2018 estimated)
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	NONE	
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Increase in dependent burial fee	(-)	$125,000 (estimated for FY 2018)

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. COMAR Title 35.03.01.05 currently establishes the dependent burial fee at $400 for a noncasketed burial and $600 plus the Department's cost of a liner and associated services for casketed remains. Upon implementation of the proposed changes, the dependent fee for both casketed and noncasketed burials will be equal to the U.S. Department of Veterans Affairs burial plot allowance, currently $749.00. There will be a resulting increase in revenue to the issuing agency as a result, primarily due to the change in fee for noncasketed dependent burials.

F. COMAR Title 35.03.01.05 currently establishes the dependent burial fee at $400 for a noncasketed burial and $600 plus the Department's cost of a liner and associated services for casketed remains. Upon implementation of the proposed changes, the dependent fee for both casketed and noncasketed burials will be equal to the U.S. Department of Veterans Affairs burial plot allowance, currently $749.00. There will be a resulting increase in the fee charged for the burial of an veteran's eligible dependent in a State veterans' cemetery, primarily due to the change in fee for noncasketed dependent burials.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Peter Pantzer, Director of Finance and Administration, Maryland Department of Veterans Affairs, 16 Francis St., 4th Fl., Annapolis, MD 21401, or call 410-260-3867, or email to peter.pantzer@maryland.gov, or fax to 410-216-7928. Comments will be accepted through January 23, 2017. A public hearing has not been scheduled.

.05 Burial in a State Veterans' Cemetery.

A. — B. (text unchanged)

[C. An eligible family member shall be buried in the plot assigned to the veteran after payment of the following fees:

(1) The actual cost to the Department for a grave liner and associated services for casketed remains;

(2) An opening and closing cost of $600 for casketed remains of each dependent spouse or spouses or dependent children; and

(3) An opening and closing cost of $400 for cremated remains of each dependent spouse or spouses or dependent children.

D. The Department may evaluate the opening and closing costs on a yearly basis and may adjust opening and closing costs not to exceed the Department's actual cost of the opening and closing.**]**

C. An eligible family member shall be buried in the plot assigned to the veteran after payment of the cost of burial, which shall be a sum equivalent to the amount of the burial plot allowance from the U.S. Department of Veterans Affairs, effective as of the date of death of the dependent, for burial of casketed or cremated remains of a veteran in a State veterans' cemetery.

[E.**]** *D.* — **[**I.**]** *H.* (text unchanged)

GEORGE W. OWINGS III
Secretary of Veterans Affairs