This document supersedes the notice published at 38 Pa.B. 564 (January 26, 2008), and shall remain in effect until a subsequent notice is published in the Pennsylvania Bulletin.

On September 28, 2007, the Secretary of the Department of Public Welfare (DPW) submitted a State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services for approval of Pennsylvania's qualified long-term care insurance partnership (Qualified Partnership). The SPA was approved on December 19, 2007, with an effective date of the Qualified Partnership of July 1, 2007.

Qualified Partnership Policies (Qualified Partnership Policy) may provide valuable protections to purchasers of qualified State long-term care insurance policies. Qualified Partnership Policies permit individuals to protect certain resources if eligibility under the Medical Assistance Program is ever needed. The protection of resources when determining an individual's eligibility for Pennsylvania's Medical Assistance Long-Term Care Program permits the disregard of specific resources equal to the amount of insurance benefits that were paid from a Qualified Partnership Policy. If those specific resources are still in existence at the time of the individual's death and become part of the decedent's probate estate, they will not be recoverable under Pennsylvania's Medical Assistance Estate Recovery program. Pennsylvania's proposed Qualified Partnership is being adopted in accordance with the Deficit Reduction Act of 2005, Pub. L. No. 109-171 (the DRA).

To facilitate implementation of Pennsylvania's Qualified Partnership, the following provides guidance to insurers and insurance producers:

A. Producer training. The DRA requires DPW to provide information and technical assistance to the Insurance Department (Department) to assure that any individual who sells, solicits or negotiates Qualified Partnership Policies receives training and demonstrates evidence of an understanding of Qualified Partnership Policies and how such policies relate to other public and private coverage of long-term care services. Evidence of such training and understanding may be demonstrated by completion of a 1-hour training course prior to any sale, solicitation, or negotiation of a Qualified Partnership Policy; by completion of an 8-hour training course (which may include the 1-hour course if prior to any sale, solicitation or negotiation of a Qualified Partnership Policy) by December 31, 2008; and by completion of a 4-hour training course every licensing cycle thereafter. Each of these training courses may be qualified as continuing education and, if so qualified, may be counted towards a producer's 24 hour continuing education requirement. The satisfaction of substantively similar 8-hour or 4-hour approved training courses by a nonresident insurance producer in the producer's home state may also demonstrate evidence of such training and understanding.

to an offer of exchange are those for which the issuing entity has a comparable Qualified Partnership product available for sale: that is, an individual non-Qualified Partnership Policy will be subject to an offer of exchange if the issuing entity has an approved individual Qualified Partnership Policy product.

C. Inflation Protection. The DRA, at 42 U.S.C. § 1396p(b)(1)(A)(iii)(IV), requires that Qualified Partnership Policies provide certain levels of inflation protection based on the age of the individual as of the date of policy purchase. Pennsylvania will certify inflation protection options as meeting the DRA requirements subject to the following:

1) "Compound annual inflation protection" means compound coverage that automatically increases annually at a rate equal to the Consumer Price Index (CPI) or at a fixed rate of not less than 3%. Note that 31 Pa. Code § 89a.112 (relating to requirement to offer inflation protection) requires an offer of 5% compound annual inflation protection be made on all long term care policies offered in Pennsylvania.

2) "Some level of inflation protection" means either compound or simple inflation protection at a rate equal to the CPI or at a fixed rate of not less than 3%.

3) A future or guaranteed purchase option for inflation protection does not meet the requirements of the DRA.

4) Inflation protection options with a limited term (that is, 10 years or 20 years) do not meet the requirements of the DRA.

5) Inflation protection options that reduce the level of inflation protection as the individual ages are permitted only insofar as they are consistent with the age-triggered inflation protection levels outlined in the DRA.

D. Policy Certification. Under the DRA, at 42 U.S.C. § 1396p(b)(5)(B)(iii), the Insurance Commissioner may certify that policies identified as Qualified Partnership Policies meet certain consumer protection requirements set forth in the DRA. To provide to the Insurance Commissioner the information necessary to provide such certification, issuers of long-term care insurance policies identified as Qualified Partnership Policies may provide the Department information and a certification as described in Attachment A which is attached and is available on the Department's web site.

E. Policyholder Notification at Time of Purchase. The Department requests that the issuer provide a notice to the insured at the time of issuance that a policy being purchased is intended to be a Qualified Partnership Policy as described in Attachment B which is attached and is available on the Department's web site.

F. Policyholder Notification of Policy Status. The Department requests that issuers provide a notice to the insured of the status of any Qualified Partnership Policy against which claims have been made, upon request of the policyholder, policyholder representative or DPW, as described in Attachment C which is attached and is available on the Department's web site.

Questions regarding this notice may be directed to Shelley D. Bain, Director, Accident and Health Bureau, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-0873 or sbain@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

Attachment A
Issuer Qualified Long-Term Care Partnership (LTCP) Policy Certification Form

PENNSYLVANIA ISSUER CERTIFICATION FORM
(relating to Qualified State Long-Term Care Insurance Partnership)

Under 42 U.S.C. § 1396p(b)(5)(B)(iii) of the Deficit Reduction Act of 2005, Pub. L. No. 109-171 (the DRA), the Insurance Commissioner may certify that long-term care insurance policies (including certificates issued under a group insurance contract) covered under the qualified State long-term care insurance partnership (Qualified Partnership) meet certain consumer protection requirements, and policies so certified are deemed to satisfy such requirements. These consumer protection requirements are set forth in 42 U.S.C. § 1396p(b)(5)(A) and principally include certain specified provisions of the 2002 Pennsylvania Long-Term Care Insurance Regulation, the 1992 Pennsylvania Long-Term Care Act (referred to herein as the "Pennsylvania Regulation" and "Pennsylvania Act" respectively), Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000) (referred to herein as the "2000 Model Regulation" and "2000 Model Act" respectively).

To provide the Insurance Commissioner with information necessary to provide a certification for policies, this Pennsylvania Issuer Qualified LTCP Policy Certification Form requests information and a certification from issuers of long-term care insurance policies with respect to policy forms that may be covered under the Pennsylvania Qualified Partnership.

An insurance company may request certification of policies from time to time and, accordingly, may supplement this issuer certification form, that is, as it introduces new long-term care insurance policy forms for issuance.

I. GENERAL INFORMATION
A. Name, address and telephone number of issuer:


B. Name, address, telephone number and email address (if available) of an employee of issuer who will be the contact person for information relating to this form:


C. Policy form number(s) (or other identifying information, such as certificate series) for policies covered by this Issuer Certification Form:


Specimen copies of each of the above policy forms, including any riders and endorsements, shall be provided upon request.
II. QUESTIONS REGARDING APPLICABLE PROVISIONS OF THE PENNSYLVANIA LONG-TERM CARE ACT AND REGULATION AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) MODEL REGULATION AND ACT

Please answer each of the questions that follow with respect to the policy forms identified in section I.C. previously. For purposes of answering the questions that follow, any provision of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act listed shall be treated as including any other provision of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act necessary to implement the provision.

Are the following requirements of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C. previously?

Yes ______ No ______ N/A ______

A. 31 Pa. Code § 89a.105(a) (relating to guaranteed renewable or noncancellable).

Yes ______ No ______ N/A ______

B. 31 Pa. Code § 89a.105(b) (relating to limitations and exclusions).

Yes ______ No ______ N/A ______

C. 31 Pa. Code § 89a.105(c) (relating to extension of benefits).

Yes ______ No ______ N/A ______

D. 31 Pa. Code § 89a.105(d) (relating to continuation or conversion).

Yes ______ No ______ N/A ______

E. 31 Pa. Code § 89a.105(e) (relating to discontinuance and replacement).

Yes ______ No ______ N/A ______


Yes ______ No ______ N/A ______


Yes ______ No ______ N/A ______

H. 31 Pa. Code § 89a.108 (relating to required disclosure of rating practices to consumers).

Yes ______ No ______ N/A ______

I. 31 Pa. Code § 89a.110 (relating to prohibition against postclaims underwriting).

Yes ______ No ______ N/A ______


Yes ______ No ______ N/A ______

K. 31 Pa. Code § 89a.113 (relating to requirements for application forms and replacement coverage); 2000 Model Regulation Section 14F (relating to accelerated long-term care benefits)

Yes ______ No ______ N/A ______

L. 31 Pa. Code § 89a.114 (relating to reporting requirements).

Yes ______ No ______ N/A ______

M. 31 Pa. Code § 51.4(d) (relating to advertising file).

Yes ______ No ______ N/A ______

N. 31 Pa. Code § 89a.120 (relating to standards for marketing).
Yes ______ No ______ N/A ______ O. 31 Pa. Code § 89a.121 (relating to suitability).

Yes ______ No ______ N/A ______ P. 31 Pa. Code § 89a.122 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

Yes ______ No ______ N/A ______ Q. 31 Pa. Code § 89a.123 (relating to nonforfeiture benefit requirement).

Yes ______ No ______ N/A ______ R. 31 Pa. Code § 89a.126 (relating to standard format outline of coverage).

Yes ______ No ______ N/A ______ S. 31 Pa. Code § 89a.127 (relating to requirement to deliver shopper's guide); 2000 Model Regulation Section 30 (relating to life policies with accelerated LTC benefits).

Yes ______ No ______ N/A ______ T. 40 P. S. § 991.1105(c) (relating to preexisting condition).

Yes ______ No ______ N/A ______ U. 40 P. S. § 991.1108 (relating to prior hospitalization).

Yes ______ No ______ N/A ______ V. 31 Pa. Code § 89a.123 (relating to nonforfeiture benefit requirement).

Yes ______ No ______ N/A ______ W. 40 P. S. § 991.1110 and Section 6F (relating to right to return).

Yes ______ No ______ N/A ______ X. 40 P. S. § 991.1111 (relating to outline of coverage provisions).

Yes ______ No ______ N/A ______ Y. 2000 Model Act Section 6H (relating to requirements for certificates under group plans).

Yes ______ No ______ N/A ______ Z. 2000 Model Act Section 6J (relating to policy summary).

Yes ______ No ______ N/A ______ AA. 2000 Model Act Section 6K (relating to monthly reports on accelerated death benefits).

Yes ______ No ______ N/A ______ BB. 2000 Model Act Section 7 (relating to incontestability period).

In order for a policy to be covered under the Pennsylvania Qualified Partnership, the answers to all questions above should be "yes" (or "N/A" where all requirements with respect to a provision above are not applicable). If answers differ between policy forms (that is, a requirement would be answered "Yes" for one form and "N/A" for another), you should use separate Pennsylvania Issuer Certification Forms for such policies.

Yes ______ No ______ N/A ______ Certification by company officer that the submitted Qualified LTCP policy will only be sold by producers who have received training and demonstrated evidence of an understanding of Qualified LTCP policies and how they relate to other public and private coverage of long-term care.

Yes ______ No ______ N/A ______ Certification by company officer that the appropriate inflation protections will be offered.

III. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, and complete.

______ __________Date __________Name and title of officer of the Issuer
Attachment B
Policyholder Long-Term Care Partnership (LTCP)
Program Notification Form
[Issuer Letterhead]
Important Notice Regarding Your Policy's
LTCP Status at Time of Purchase
(Please keep this Notice with Your Policy or Certificate)

The Pennsylvania Qualified Partnership. The Pennsylvania Qualified Partnership is an innovative partnership between Pennsylvania's Department of Public Welfare (DPW), the Pennsylvania Insurance Department and private insurers of long-term care insurance policies. The Pennsylvania Qualified Partnership program is offered in accordance with the Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

Notice of Qualified Partnership Policy Status. This Notice identifies the long-term care insurance policy or certificate that you've purchased as a Qualified Partnership Policy. This Notice explains the valuable Medical Assistance asset protection that you may receive from purchasing a Qualified Partnership Policy.

Medical Assistance Resource Protection Provided. Long-term care insurance helps individuals prepare for future long-term care needs. Qualified Partnership Policies provide an additional level of protection. In particular, such policies permit individuals to protect resources under Pennsylvania's Medical Assistance Long-Term Care Program if assistance is ever needed under that program and the individual would be otherwise eligible for Medical Assistance Long-Term Care. In addition, if these specific protected resources are still in existence when the individual dies and they are part of the decedent's probate estate, they will not be recoverable under Pennsylvania's Medical Assistance Estate Recovery Program. The Medical Assistance Estate Recovery Program is a Federally mandated program that requires Pennsylvania's DPW to recover the cost of long-term care and related services provided under the Medical Assistance Program from the estates of certain individuals who have died.

Specifically, the resource, eligibility, and estate recovery provisions of the Pennsylvania Medical Assistance program permit the disregard of an amount of assets which is equal to the amount of insurance benefits you have received from your Qualified Partnership Policy. For example, if you receive $200,000 of insurance benefits from your Qualified Partnership Policy, you would be able to retain $200,000 of resources and still be eligible for long-term care services provided under the Medical Assistance Program. This disregard is above and beyond the resources normally permitted to be retained by an individual and still qualify for Medical Assistance. This protection of assets applies to individuals in need of long term care services both in the community or residing in a long-term care facility.

All Medical Assistance eligibility requirements besides the resources protected through the ownership of a Qualified Partnership Policy must be met to qualify for long-term services under Pennsylvania's Medical Assistance Program. You must meet the Medical Assistance Program's income requirements and you will be required to pay some of your income to the costs of your care in a long-term care facility. You should be aware that Medical Assistance eligibility requirements may change over time.
Additional Consumer Protections. In addition to providing Medical Assistance asset protection, your Qualified Partnership Policy has other important features. Under the rules governing Pennsylvania's Qualified Partnership, your Qualified Partnership Policy must be a qualified long-term care insurance contract under Federal tax law. As such the insurance benefits you receive from the policy generally will be subject to beneficial income tax treatment. (Please note that a policy can be a tax qualified long-term care insurance contract under Federal tax law, with the same beneficial income tax treatment, even if it is not a Qualified Partnership Policy.) In addition, if you were under age 76 when you purchased your Qualified Partnership Policy, it must provide inflation protection to help protect against potential future increases in the cost of long-term care. (For older purchasers, an offer of inflation protection is required.)

What Could Disqualify Your Policy as a Partnership Policy? If you make any changes to your policy or certificate, such changes could affect whether your policy or certificate continues to qualify as a Qualified Partnership Policy. Before you make any changes, you should consult with the issuer of your policy to determine the effect of a proposed change. In addition, if you move to a State that does not maintain a Qualified Partnership or does not recognize your policy as a Qualified Partnership Policy, you would not be eligible to receive Medical Assistance asset protection in that State. Also, changes in Federal or State law could affect the Medical Assistance asset protection available with respect to your Qualified Partnership Policy.

Additional information. If you would like further information about the Medical Assistance asset protection provided by your Qualified Partnership Policy or the Pennsylvania Qualified Partnership, please call [insert number] or visit [insert website].

Provided to Policyholder on

Date
Copy: Policyholder
Issuer Records
[Record of date provided to policyholder may be on separate cover sheet.]

Attachment C
Policyholder Long-Term Care Partnership (LTCP)
Program Status Form
[Issuer Letterhead]
7. The inflation coverage is [] Simple Inflation [] Compound Inflation [] None
8. The inflation coverage is currently in effect on the coverage [] Yes [] No
   If no, the date inflation coverage ceased
   ______
9. The policy meets the standards of a tax qualified long-term care policy [] Yes [] No
10. The cumulative dollar amount of insurance benefits paid $ ______
   (Note: The indicated amount does not include any payments for cash surrender,
   return of premium death benefits, or waiver of premium, and if joint coverage, the
   amount is for the indicated insured only.)
11. The total dollar amount of insurance benefits remaining available $ ______
    under the policy
12. Date this form was completed __________
13. The name, phone number and email address of the person completing this form

_________________________
Name and Title
_________________________
Phone Number
_________________________
Email Address
   I hereby certify that the information is true and accurate to the best of my knowledge at
the time of this certification.
_________________________
Date:                  Signature

[Pa.B. Doc. No. 08-771. Filed for public inspection April 18, 2008, 9:00 a.m.]