

**11 NCAC 12 .1022 PROTECTION AGAINST UNINTENTIONAL LAPSE**

(a) No individual policy shall be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy for nonpayment of premium; or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. Every applicant has the right to so designate at least one person. Designation does not constitute acceptance of any liability on the part of the designated person or persons for services provided to the insured. The form used for the designation must provide space clearly designated for listing at least one person. The designation shall include each person's full name and home address. If an applicant elects not to designate any person, a written, signed waiver shall state:

"Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice."

The insurer shall notify the insured of the right to change this written designation no less often than once every two years.

(b) When a policyholder pays premium for a policy through a payroll or pension deduction plan, the requirements contained in Paragraph (a) of this Rule need not be met until 60 days after the policyholder is no longer on such a payment plan. The application or enrollment form for such policies shall clearly indicate the payment plan selected by the applicant.

(c) No individual policy shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to any person or persons designated under Paragraph (a) of this Rule, at the addresses provided by the insured. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of five days after the date of mailing.

(d) In addition to the requirement in Paragraph (a) of this Rule, each policy shall provide for reinstatement of coverage if the insurer is furnished proof of cognitive impairment or the loss of functional capacity of the insured. This option is available to the insured if requested within five months after lapse or termination; and the insurer may require payment of past due premium before reinstatement, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity, if any, contained in the policy.

*History Note: Authority G.S. 58-2-40(1); 58-55-30(a);  
Eff. December 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,  
2018.*