

Eye on elder issues

EYE on ELDER ISSUES
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NEW YORK'S LONG-TERM CARE REFORM CONCEPT DESERVES SUPPORT DESPITE OPPOSITION FROM THE INSURANCE INDUSTRY



No one believes the current long-term care system is working as well as it should. In fact, today an economic crisis threatens the Medicaid program and, specifically, its long-term care component. Recently, a New York Bar Association proposal called the "New York State Compact For Long Term Care" provides for an alternative means of financing long-term care. The Compact, as it is known, would assist seniors, providers and state governments in diffusing this problem that affects so many people.

NAELA believes that this concept deserves serious consideration. NAELA members have come to the conclusion that it is not working because **long-term care insurance does not provide a universal solution due to factors such as uninsurability and lack of affordability.**

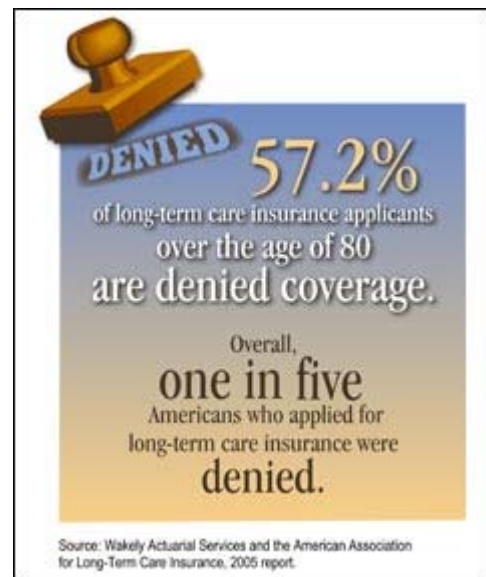
Insurance Industry Opposition

However, Stephen Moses, president of the Center for Long-Term Care Reform, which is largely funded by long-term care insurance companies, says the current crisis can be blamed on the current system because it does not result in enough sales of long-term care insurance policies.

But solutions proposed by Moses would force seniors to mortgage their homes or require that even those living on very minimal incomes purchase expensive long-term care insurance products, while the New York State Compact is much more realistic and practical. The fact is most Americans are simply unable to afford long-term care insurance. In addition, many of those who can afford it do not meet the underwriting criteria, which effectively require that the applicant be in good physical and mental condition. While long-term care insurance will continue to be a component of the long-term care financing system, the industry has vigorously guarded its proprietary underwriting criteria and its sales mechanisms. Despite the industry's backing of the Deficit Reduction Act of 2005, which further restricted Medicaid coverage for long-term care, sales of long-term care insurance have been tepid.

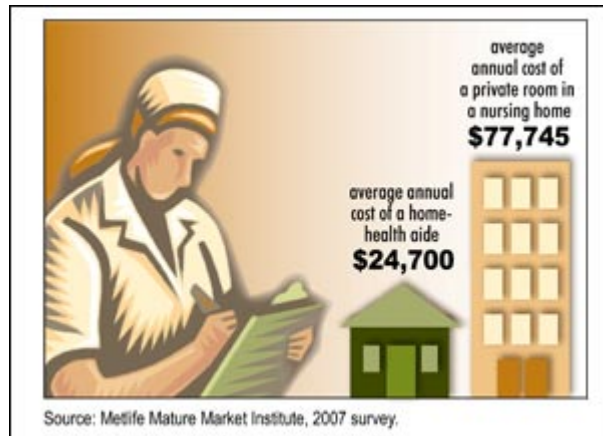
The Public and Government Should Work Together

The New York State Compact is sponsored by the 72,000-member New York State Bar Association and the



Compact Working Group of the Elder Law Section under the leadership of Howard S. Krooks and Vincent J. Russo. The Compact is based upon the premise that **the middle class and government should enter into a partnership in which seniors and those with disabilities commit a fair share of their personal assets and income in exchange for government support to pay for long-term care.** The basis of the Compact is that seniors would agree to spend down half of their assets (excluding their home) paying for long-term care and then the government would provide a subsidy for ongoing long-term care. Half of one's assets is a substantial premium to pay for Compact coverage but it is far better than the current Medicaid impoverishment requirement.

While critics such as Moses have complained that many Americans escape the financial impact of aging by entering into planning or taking other actions that do not involve long-term care insurance, the New York State Compact supports the idea that each American should sacrifice a portion of their assets to pay for long-term care while also acknowledging that as a society, we should not confiscate their entire estate in paying for such care. For closer review of the New York State Compact, please go to:



<http://www.abanet.org/leadership/2007/midyear/docs/SUMMARYOFRECOMMENDATIONS/tena.doc>

NAELA commends the American Bar Association for recently approving a resolution supporting the New York Compact and recognizes the New York State Compact Working Group which has authored the New York State Compact for Long-Term Care. NAELA encourages our elected representatives to host a meaningful debate to reform our funding of long-term care.



For more information about elder law attorneys and the National Academy of Elder Law Attorneys, visit www.naela.org. Established in 1987, NAELA provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to seniors and people with special needs.

Note to Our Readers: This e-newsletter, *Eye on Elder Issues*, is presented as a public service by the National Academy of Elder Law Attorneys (NAELA). We are pleased to send you this issue and welcome your comments. NAELA explores, reports and provides insight on timely topics affecting our nation's seniors and their families. In addition, the growing population of Baby Boomers is addressing issues for themselves and their families that are new and unique. This publication is intended to explore those issues from all sides and to educate consumers, aging network professionals, law makers, and members of the media.

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