**20:06:21:01.03.  Long-term care insurance.** The term, long-term care insurance, includes group and individual annuities and life insurance policies or riders that provide direct coverage or supplement long-term care insurance. The term also includes a policy or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term also includes qualified long-term care insurance contracts. Long-term care insurance does not include any insurance policy that is offered primarily to provide hospital confinement indemnity coverage, major medical expense coverage, or disability income or related asset-protection coverage. With regard to life insurance, this term does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits, and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. However, any rider to a life insurance policy that accelerates benefits and:

 (1)  the amount of the accelerated benefit is unrelated to the reimbursement of long-term care services;

 (2)  contains no separate premium for the rider; and

 (3)  is not marketed as long-term care insurance

is not subject to the requirements for long-term care insurance.

 Notwithstanding any other provision of SDCL chapter 58-17B, any product advertised, marketed, or offered as long-term care insurance or as an alternative to long-term care or nursing home insurance that conditions benefits based upon activities of daily living (ADLs) is subject to the provisions of chapter 20:06:21.

 **Source:** 28 SDR 157, effective May 19, 2002; 32 SDR 203, effective June 5, 2006.

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

 **Law Implemented:** SDCL 58-17B-2.