

2025 SENATE INDUSTRY AND BUSINESS

SB 2172

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2172
1/20/2025

A bill relating to long-term care insurance policy terms and claim payments.
--

10:00 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- Language clarification
- Care level differences
- Long maintained policies
- Basic care facilities
- Facility type vs medical need
- Systematic denial
- Market conduct examiners
- Regulatory authority
- Premium increase
- Assisted living affects
- Rural facility issues
- Total membership
- Levels of licensure
- Staffing and workforce
- Flexibility in rural areas
- CMS staffing mandate
- Hidden stressors

10:01 a.m. Senator Dale Patten, District 26, introduced SB 2172.

10:04 a.m. Chrystal Bartuska, Life/Health/Medicare Division Director with the ND Insurance Department, testified in favor and submitted testimony #30036.

10:16 a.m. Nikki Wegner, President of the ND Long Term Care Association, testified in favor and submitted testimony #29995.

10:23 a.m. Chrystal Bartuska, Life/Health/Medicare Division Director with the ND Insurance Department, testified neutrally.

10:25 a.m. Nikki Wegner, President of the ND Long Term Care Association, testified neutrally.

10:32 a.m. Chairman Barta closed the hearing on SB 2172.

10:33 a.m. Senator Enget moved Do Pass on SB 2172.

10:34 a.m. Senator Klein seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Senator Klein will carry the bill.

10:35 a.m. Chairman Barta adjourned the meeting.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2172 ([25.0749.01000](#))

Industry and Business Committee (Sen. Barta, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2172 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

Testimony on Long Term Care Insurance Policy Terms and Claim Payments

Senate Industry and Business Committee January 20, 2025 Senate Bill 2172

Chairman Barta and Members of the Senate Industry and Business Committee. My name is Nikki Wegner, and I am the President with the North Dakota Long Term Care Association. Thank you for the opportunity to provide testimony in support of SB 2172, which ensures fairness and transparency in long term care insurance policies, particularly by allowing benefits to be used in basic care settings.

Long term care insurance should provide individuals with the flexibility to access care in the appropriate setting of their choice. However, residents of basic care facilities have historically faced challenges with delayed or denied payments.

To address this, former Insurance Commissioner Pomeroy issued a bulletin in 1991 prohibiting long term care insurance carriers from denying coverage based solely on the type of facility licensure. Despite this directive, the issue has persisted over the years. In response, current Insurance Commissioner Godfread issued a reminder bulletin in 2023. Unfortunately, the issue continues to resurface.

Basic care is unique to North Dakota and may not be familiar to long term care insurance carriers. Basic care is a cost-effective care option for individuals who are impaired in activities of daily living (ADLs) such as dressing, bathing, preparing meals, doing housework, taking medications, or doing laundry. It provides a balance between independent living and higher levels of care, offering a safe and supportive environment while fostering as much independence as possible.

The basic care setting is an affordable alternative to skilled nursing, making it an essential part of the care continuum for North Dakota's elderly and disabled populations. Basic care is particularly valuable for individuals who don't require the intensive medical oversight of a nursing home but still need help to maintain daily functioning and safety. Being denied coverage in this setting creates unnecessary financial burdens for families and pushes individuals into higher-cost settings they may not need.

Benefits for Families and Providers:

- Families purchase long term care insurance for financial security, but many face gaps in coverage when seeking basic care services.

- Ensuring benefits for basic care aligns with the purpose of these policies, relieving financial stress and supporting access to appropriate care.
- Currently, only 8% of basic care residents use long term care insurance to help pay for their care, compared to 28% of assisted living residents. This legislation would ensure more basic care residents can access their insurance benefits.
- Timely payments help basic care facilities remain sustainable, ensuring communities have access to this vital care option.

This bill also improves clarity by standardizing definitions like “activities of daily living” and ensures timely payments to basic care facilities, reducing delays and administrative barriers.

Conclusion:

Senate Bill No. 2172 ensures long term care insurance fulfills its promise to consumers by making benefits accessible for basic care services, addressing fairness, and supporting the care continuum. I urge the committee to support this critical legislation.

Thank you for your time and consideration.

Nikki Wegner MS, OTR/L, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660
nikki@ndltca.org



TESTIMONY

Chrystal Bartuska, Division Director

Senate Industry and Business Committee

January 20, 2025

Good morning, Chairman Barta and members of the committee. My name is Chrystal Bartuska and I am the Life/Health/Medicare Division Director with the North Dakota Insurance Department. I am here today in support of Senate Bill 2172.

The Insurance Department regulates long term care insurance policies and recently we have received numerous complaints regarding claims not being paid on these policies. We are finding through the complaint process that some insurance companies are making it difficult for consumers to receive the benefits they have not only been promised, but have been paying for over potentially twenty plus years. It is very frustrating for these consumers since they maintain these policies for a long period of time, pay the rate increases over the years and then when they try and utilize the benefits they are denied.

These policies are unique in that they are what we consider lifetime policies with a very long contract period. Most insurance is renewed annually, but with long term care policies they are purchased and then potentially sit for decades before benefits are needed. Most of the issues we are seeing are from policies that were purchased thirty to forty years ago in the 80's and 90's and now they are trying to utilize those benefits many years later. The market, facilities and definitions in the policies have changed drastically over that timeframe.

The bill narrows the requirement of claim payments if a consumer is residing in basic care facilities. North Dakota is unique in that we have basic care facilities due to our rural nature and also have facilities with different sections or wings that treat different needs of patients. What we are finding is that companies are focusing on the facility type instead of the benefits needed under the activities of daily living and cognitive

impairment. Former Commissioner Pomeroy issued a bulletin back in 1991 when basic care facilities came into play in North Dakota. Commissioner Godfread re-issued the same bulletin in 2023 to reiterate the importance of evaluating a claim based on the medical need and not solely on the facility the consumers are residing in. However, we have received pushback on those bulletins and therefore, this bill is to codify the concept in order to give the department a bit more regulatory power to ensure the consumers get the benefits they have been paying for over the years.

We worked with Senator Patten on this bill and thank him for bringing this bill forward and therefore we respectfully request a “do pass” recommendation from the committee on SB2172 and I am happy to take any questions.

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2172

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2172
3/17/2025

A BILL for an Act to create and enact a new section to chapter 26.1-45 of the North Dakota Century Code, relating to long-term care insurance policy terms and claim payments.

10:30 a. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Finley-DeVile, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Long contract period
- Residing facility
- Contract verbiage
- Claim standards

10:30 a.m. Chrystal Bartuska, Life & Health Division Director, ND Insurance Department, testified in favor and submitted testimony #42190

10:47 a.m. Deanna Berg, Administrator, Cassia's Baptist Health and Rehabilitation, Member, North Dakota Long Term Care Association, testified in favor and submitted testimony #41739.

10:51 a.m. Representative Grindberg moved Do Pass.

10:53 a.m. Representative Grindberg rescinded the motion.

10:53 a.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

Testimony on Long Term Care Insurance Policy Terms and Claim Payments

**House Industry, Business and Labor Committee
Monday, March 17, 2025
Senate Bill 2172**

Chairman Warrey and Members of the House Industry, Business and Labor Committee. My name is Deanna Berg, and I am the Administrator for Cassia's Baptist Health and Rehab here in Bismarck, ND. I'm here today on behalf of the North Dakota Long Term Care Association. Thank you for the opportunity to provide testimony in support of SB 2172, which ensures fairness and transparency in long term care insurance policies, particularly by allowing benefits to be used in basic care settings.

Long term care insurance should provide individuals with the flexibility to access care in the appropriate setting of their choice. However, residents of basic care facilities have historically faced challenges with delayed or denied payments.

To address this, former Insurance Commissioner Pomeroy issued a bulletin in 1991 prohibiting long term care insurance carriers from denying coverage based solely on the type of facility licensure. Despite this directive, the issue has persisted over the years. In response, current Insurance Commissioner Godfread issued a reminder bulletin in 2023. Unfortunately, the issue continues to resurface.

Basic care is unique to North Dakota and may not be familiar to long term care insurance carriers. Basic care is a cost-effective care option for individuals who are impaired in activities of daily living (ADLs) such as dressing, bathing, preparing meals, doing housework, taking medications, or doing laundry. It provides a balance between independent living and higher levels of care, offering a safe and supportive environment while fostering as much independence as possible.

The basic care setting is an affordable alternative to skilled nursing, making it an essential part of the care continuum for North Dakota's elderly and disabled populations. Basic care is particularly valuable for individuals who don't require the intensive medical oversight of a nursing home but still need help to maintain daily functioning and safety. Being denied coverage in this setting creates unnecessary financial burdens for families and pushes individuals into higher-cost settings they may not need.

Benefits for Families and Providers:

- Families purchase long term care insurance for financial security, but many face gaps in coverage when seeking basic care services.
- Ensuring benefits for basic care aligns with the purpose of these policies, relieving financial stress and supporting access to appropriate care.
- Currently, only 8% of basic care residents use long term care insurance to help pay for their care, compared to 28% of assisted living residents. This legislation would ensure more basic care residents can access their insurance benefits.
- Timely payments help basic care facilities remain sustainable, ensuring communities have access to this vital care option.

This bill also improves clarity by standardizing definitions like “activities of daily living” and ensures timely payments to basic care facilities, reducing delays and administrative barriers.

Conclusion:

Senate Bill No. 2172 ensures long term care insurance fulfills its promise to consumers by making benefits accessible for basic care services, addressing fairness, and supporting the care continuum. I urge the committee to support this critical legislation.

Thank you for your time and consideration. I’d be happy to try and answer any questions you may have.

Deanna Berg
Administrator
Cassia, Baptist Health & Rehab



TESTIMONY

Chrystal Bartuska, Division Director

House Industry Business and Labor Committee

March 17, 2025

Good morning, Chairman Warrey and members of the committee. My name is Chrystal Bartuska and I am the Life/Health/Medicare Division Director with the North Dakota Insurance Department. I am here today in support of Senate Bill 2172.

The Insurance Department regulates long term care insurance policies and recently we have received numerous complaints regarding claims not being paid on these policies. We are finding through the complaint process that some insurance companies are making it difficult for consumers to receive the benefits they have not only been promised but have been paying for over potentially twenty plus years. It is very frustrating for these consumers since they maintain these policies for a long period of time, pay the rate increases over the years and then when they try and utilize the benefits they are denied.

These policies are unique in that they are what we consider lifetime policies with a very long contract period. Most insurance is renewed annually, but with long term care policies they are purchased and then potentially sit for decades before benefits are needed. Most of the issues we are seeing are from policies that were purchased thirty to forty years ago in the 80's and 90's and now they are trying to utilize those benefits many years later. The market, facilities and definitions in the policies have changed drastically over that timeframe.

The bill narrows the requirement of claim payments if a consumer is residing in basic care facilities. North Dakota is unique in that we have basic care facilities due to our rural nature and also have facilities with different sections or wings that treat different needs of patients. What we are finding is that companies are focusing on the facility

type instead of the benefits needed under the activities of daily living and cognitive impairment. Former Commissioner Pomeroy issued a bulletin back in 1991 when basic care facilities came into play in North Dakota. Commissioner Godfread re-issued the same bulletin in 2023 to reiterate the importance of evaluating a claim based on the medical need and not solely on the facility the consumers are residing in. However, we have received pushback on those bulletins and therefore, this bill seeks to codify the concept in order to give the department a bit more regulatory power to ensure the consumers get the benefits they have been paying for over the years.

We worked with Senator Patten on this bill and thank him for bringing this bill forward and therefore we respectfully request a “do pass” recommendation from the committee on SB2172 and I am happy to take any questions.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2172
3/18/2025

A BILL for an Act to create and enact a new section to chapter 26.1-45 of the North Dakota Century Code, relating to long-term care insurance policy terms and claim payments.

2:20 p. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Finley-DeVile, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Committee Action

2:21 p.m. Representative Kasper moved to amend by adding number 3 on page 2 to say "An insurer shall provide a copy of the long-term care insurance policy to the insured or the insured's representative within 30 days of request. #42873.

2:21 p.m. Representative Bahl seconded the motion.

Voice vote.

Motion passed.

2:22 p.m. Representative Ostlie moved Do Pass as amended.

2:22 p.m. Representative Grindberg seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Jorin Johnson	Y
Representative Landon Bahl	Y
Representative Collette Brown	AB
Representative Timothy Brown	Y
Representative Lisa Finley-DeVile	Y
Representative Karen Grindberg	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Mike Schatz	AB
Representative Austin Schauer	AB
Representative Daniel R. Vollmer	Y

Motion 10-0-4.

2:23 p.m. Representative Grindberg will carry the bill.

2:23 p.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

CO
3/18/25
10fz

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2172

Introduced by

Senators Patten, Cleary, Hogan, Roers

Representatives Dobervich, Frelich

- 1 A BILL for an Act to create and enact a new section to chapter 26.1-45 of the North Dakota
2 Century Code, relating to long-term care insurance policy terms and claim payments.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1.** A new section to chapter 26.1-45 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Defined term requirements - Claim payments.**

- 7 1. A long-term care insurance policy delivered or issued for delivery in this state may not
8 include the following terms, unless the terms are defined in the policy and consistent
9 with the following requirements:
- 10 a. "Activities of daily living" means bathing, continence, dressing, eating, toileting,
11 and transferring.
- 12 b. "Bathing" includes washing oneself by sponge bath, or in a tub or shower, and
13 the process of getting into and out of the tub or shower.
- 14 c. "Cognitive impairment" includes a deficiency in an individual's:
- 15 (1) Short-term or long-term memory;
- 16 (2) Orientation as to an individual, place, or time;
- 17 (3) Deductive or abstract reasoning; or
- 18 (4) Judgment as it relates to safety awareness.
- 19 d. "Continence" includes the ability to maintain control of bowel and bladder
20 function, or when unable to maintain control of bowel or bladder function, the

1 ability to perform associated personal hygiene, including caring for a catheter or
2 colostomy bag.

3 e. "Dressing" includes putting on and taking off any item of clothing and any
4 necessary brace, fastener, or artificial limb.

5 f. "Eating" includes feeding oneself from a receptacle, including a plate, cup, or
6 table, or being fed through a feeding tube or intravenously.

7 g. "Toileting" includes getting to and from the toilet and on and off the toilet, and
8 performing associated personal hygiene.

9 h. "Transferring" includes moving into or out of a bed, chair, or wheelchair.

10 2. A policy defined under this chapter may not prohibit or delay payment of policy
11 benefits to a basic care facility as defined under section 23-09.3-01 if the insured:

12 a. Meets the criteria for eligibility for benefits under the policy for care or services
13 that are medically necessary;

14 b. Is unable to perform two or more activities of daily living without supervision or
15 direct assistance; or

16 c. Has cognitive impairment requiring continual supervision.

17 3. An insurer shall provide a copy of the long-term care insurance policy to the insured or
18 a representative of the insured within thirty days of a request for a copy of the policy.

**REPORT OF STANDING COMMITTEE
SB 2172**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS** ([25.0749.01001](#)) and when so amended, recommends **DO PASS** (10 YEAS, 0 NAYS, 4 ABSENT OR EXCUSED AND NOT VOTING). SB 2172 was placed on the Sixth order on the calendar.

SB 2172

Rep Kasper and Chair Warrey,

My apologies for sending more email as I am sure you get plenty of them. But I don't want this to hold up any of your committee work on this one if you work on it tomorrow. I may need to be in Senator Lee's committee for some things.

Rep Kasper suggested some verbiage via Jordan and Beth, and we are agreed with it as follows:

An insurer shall provide a copy of the long-term care insurance policy to the insured or the insured's representative within 30 days of request.

We prefer an insurer vs insurance company as that is the term used throughout our title. Also, in Kasper's suggestions there was some reference to applying a penalty, but we already have penalty authority in 26.1-45 as follows:

26.1-45-12. Penalties. In addition to any other penalties provided by the laws of this state, any insurer and any insurance producer found to have violated any requirement of this title relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars, whichever is greater.

So we feel it would be duplicative, but agree with the 30 day timeframe.

If you have a set time for the committee work on this one and still want someone in the room I can send someone down or be there if I am not in Senate HS.

Thank you

CHRYSTAL BARTUSKA | Division Director, Life & Health/Medicare
North Dakota Insurance Department