A REPORT BY THE SUPERINTENDENT OF FINANCIAL SERVICES

TO

THE GOVERNOR AND THE LEGISLATURE

ON

LONG TERM CARE HEALTH INSURANCE PLANS

(REPORT FOR THE TWO-YEAR PERIOD ENDING DECEMBER 31, 2022)

Adrienne A. Harris
SUPERINTENDENT

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Superintendent

To Governor Kathy Hochul and the Legislature:

I am pleased to submit this report of the Department of Financial Services on the implementation of Chapter 245 of the Laws of 1986 permitting approval of certain long term care health insurance plans in accordance with the provisions of such act. The current report is for the two-year period ending December 31, 2022.

Respectfully submitted,

Adrienne A. Harris
Superintendent of Financial Services

TABLE OF CONTENTS

Appendices

Executive Summary

Purpose of this Report

Pursuant to Chapter 245 of the Laws of 1986, the Superintendent of Financial Services (Superintendent) is required to make this biennial report to the Governor and the Legislature regarding long term care (LTC) insurance, including but not limited to a description of the plans authorized, factors contributing to or impeding the development of the enrollment in such plans, the adequacy of consumer information in relation to insurance coverage for LTC services, and such recommendations as the Superintendent may deem appropriate. The current report is for the two-year period ending December 31, 2022.

2023 Developments

The New York State Department of Financial Services (DFS) released a report earlier this year, initiated by Superintendent Harris, analyzing the LTC insurance market. The market nationwide is in crisis due to historical mispricing, which has led to ever-increasing premium rates and insurers leaving the market.

The report, Long Term Care Insurance: Looking Back and Thinking Ahead, identifies several issues that contributed to today's nationwide crisis. Insurers' ability to initially price LTC policies accurately was hindered by a lack of historical claims data and because claims were often made decades after the original premiums were established. Furthermore, when LTC insurers first sought approval from regulators, including the New York State Insurance Department (the predecessor to DFS), to significantly increase premium rates, regulators were reluctant to take action that could have increased rates or diminished benefits for policyholders who had purchased coverage as part of their long term care planning. The report specifies that DFS will review and reform premium rate approval methodologies; establish affordability measures to help consumers manage rate increases; and promote the adoption of LTC insurance offerings in New York State. Read the Long Term Care Report in Appendix 5.

Governor Hochul and the New York Legislature have additionally already taken essential action to protect New Yorkers with long term care policies. The 2023 enacted state budget included the establishment of a Health Guaranty Fund, a basic safety net used to protect consumers when and if their insurer becomes insolvent. For more information on the Health Guaranty Fund and its applicability, please visit The Life & Health Insurance Company Guaranty Corporation of New York here.

Governor Hochul and the New York Legislature additionally enacted legislation that adds additional disclosure requirements for LTC insurers and will greatly enhance transparency on LTC insurance premium rate adjustments. For LTC premium rate submissions received by DFS on or after January 1, 2024, DFS will post a summary of the pending rate adjustment to the DFS website, consumers will be able to submit comments to DFS and DFS will post a summary of the final action taken by DFS on the rate adjustment.

General Background

The predecessor agency to DFS, the New York State Insurance Department (Insurance Department), approved the first LTC plans in 1986. For the first two decades, the number of insurers offering such coverage remained steady. However, over the last fifteen to twenty years, reflecting a national trend, the number of insurers offering LTC coverage in New York State (NYS) has declined. As of the end of the reporting period, five insurers wrote individual LTC policies and there were no insurers that wrote group LTC policies in NYS. As of December 31, 2022, there were 58,682 persons enrolled in NYS Partnership for LTC (Partnership, described below) policies and 328,004 persons enrolled in non-Partnership policies.

Legislation and Programs to Encourage the Purchase of Coverage for Long Term Care

- In 1989, to encourage more New Yorkers to purchase LTC insurance, NYS established the Partnership program pursuant to Chapter 454 of the Laws of 1989. Under the Partnership program, NYS residents who purchase qualified LTC insurance policies will, upon exhaustion of the policy benefits, protect all or part of their assets in qualifying for Medicaid assistance. The NYS Partnership program is different than other states' Partnership programs which have been established under the federal Deficit Reduction Act of 2005 (DRA). The NYS program, the first of its kind in the nation, pre-dated the DRA programs by 16 years.

- In 1996, the federal government enacted the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936 (1996)) which, in part, provided federal tax incentives for purchasing LTC insurance. Pursuant to the law, benefits received by a chronically ill individual under a "qualified" LTC insurance policy are excludable from income if the payments are based on actual expenses incurred.

- In 1997, pursuant to Chapter 659 of the Laws of 1997, NYS began providing favorable state income tax treatment for those persons purchasing LTC policies that qualify for the federal income tax deduction. Chapter 659 of the Laws of 1997 also promoted the development of a broader and more integrated continuum of LTC coverage, financed by a range of private, public and public/private options, including the development of continuing care retirement communities (CCRCs).

- In 1998, pursuant to Chapter 585 of the Laws of 1998 and to further encourage the purchase of LTC insurance, NYS enacted the New York Public Employee and Retiree Long Term Care Insurance Plan (NYPERL). The NYPERL offered LTC coverage to State employees, retirees and eligible family members under a group policy issued to NYS. The full cost of the plan, including coverage of eligible family members, is paid by the employee or insured person and can be deducted from the employee's salary. Local governments and other public and quasi-public employers were also allowed to participate in the NYPERL if the employer was eligible for the NYS's health insurance program and the governing body elected to participate. The NYPERL is not currently offering LTC coverage to new applicants as the existing insurer, MedAmerica Insurance Company of New York, elected not to renew its contract with NYS in 2016. A Request for Proposal released by the NYS Department of Civil Service in 2016 failed to attract a new insurer to the NYPERL. Coverage remains in effect for existing insureds under the NYPERL.

- In 2000, NYS increased the tax deduction caps by allowing businesses and individuals to take a state tax credit equal to 10% of their LTC insurance premiums (NY Tax Law Section 606(aa)). The Legislature extended the tax credit in 2002 to NYS residents covered under a federally qualified out-of-state group LTC insurance contract. In 2004, NYS's tax credit for the purchase of LTC insurance increased from 10% to 20% of premiums. In 2020, additional legislation was passed capping the tax credit for LTC insurance premiums at $1,500 and making the tax credit only applicable to tax returns wherein adjusted gross income is below $250,000 for taxable years beginning in 2020.

- In 2005, the Insurance Department promulgated the Second Amendment to Insurance Regulation 144 (11 NYCRR 39). The amendment provided for three new LTC insurance product designs for the Partnership program in addition to the original product design. With this regulatory amendment, two product designs provided dollar for dollar asset protection, and two product designs provided total asset protection.

- In 2011, in an effort to add an important consumer protection, DFS promulgated the Forty-Third Amendment to Insurance Regulation 62 (11 NYCRR 52), establishing an internal appeal process for LTC insurance. The internal appeal procedure permits an insured to request a review by the insurer of a claim denial for payment of benefits under the policy.

- In 2012, DFS promulgated the Third Amendment to Insurance Regulation 144 (11 NYCRR 39). The amendment made the Partnership more affordable by establishing a new 3.5% annual compound inflation benefit option, and a lower cost minimum Partnership insurance plan design that enables the insured to protect all assets upon Medicaid eligibility. The amendment also made the Partnership more marketable by requiring consumer protections for NYS Partnership insureds who moved from NYS and subsequently became eligible for asset protection under another state's Medicaid program.

- In 2013, DFS promulgated the Fourth Amendment to Insurance Regulation 144 (11 NYCRR 39), which set forth the minimum daily benefit amounts for the five Partnership plan designs from January 1, 2014, through December 31, 2023.

Factors Contributing to or Impeding the Development of Long Term Care Plans

Key factors directly affecting the development of the enrollment in LTC insurance policies in NYS include:

1) consumer awareness;
2) high cost of policies and premium rate instability; and
3) innovation in products offered.

Purpose of Report

Chapter 245 of the Laws of 1986 added Section 1117 to the NYS Insurance Law to permit certain insurers authorized by the Superintendent to issue policies providing benefits for LTC. In pertinent part, the Act provides that "on or before January first, nineteen hundred eighty-eight, and biannually thereafter, the superintendent of insurance shall report to the governor and the legislature on the implementation of this act, including but not limited to a description of the plans authorized pursuant to this act, factors contributing to or impeding the development of the enrollment in such plans, the adequacy of consumer information in relation to insurance coverage for long term care services, and such recommendations as the superintendent may deem appropriate." The current report is for the two-year period ending December 31, 2022.

2023 Developments

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The report, Long Term Care Insurance: Looking Back and Thinking Ahead, identifies several issues that contributed to today's nationwide crisis. Insurers' ability to initially price LTC policies accurately was hindered by a lack of historical claims data and because claims were often made decades after the original premiums were established. Furthermore, when LTC insurers first sought approval from regulators, including the New York State Insurance Department (the predecessor to DFS), to significantly increase premium rates, regulators were reluctant to take action that could have increased rates or diminished benefits for policyholders who had purchased coverage as part of their long term care planning. The report specifies that DFS will review and reform premium rate approval methodologies; establish affordability measures to help consumers manage rate increases; and promote the adoption of LTC insurance offerings in New York State. Read the Long Term Care Report in Appendix 5.

Additionally, Governor Hochul and the New York Legislature have already taken essential action to protect New Yorkers with long term care policies. The 2023 enacted state budget included the establishment of a Health Guaranty Fund, a basic safety net used to protect consumers when and if their insurer becomes insolvent. For more information on the Health Guaranty Fund and its applicability, please click here.

Governor Hochul and the New York Legislature additionally enacted legislation that adds additional disclosure requirements for LTC insurers and will greatly enhance transparency on LTC insurance premium rate adjustments. For LTC premium rate submissions received by DFS on or after January 1, 2024, DFS will post a summary of the pending rate adjustment to the DFS website, consumers will be able to submit comments to DFS and DFS will post a summary of the final action taken by DFS on the rate adjustment.

General Background

The predecessor agency to DFS, the NYS Insurance Department, first approved LTC insurance plans in 1986. In 1991, the Insurance Department promulgated the Sixteenth Amendment to Insurance Regulation 62 (11 NYCRR 52), which established minimum standards and set forth disclosure requirements for LTC insurance. The regulations took effect on January 1, 1992.

To allow insurers some flexibility in designing benefit packages to meet the varying needs of the public, and to provide meaningful coverage that is affordable to the greatest number of consumers, the Insurance Department established four categories of insurance policies providing LTC type benefits:

1. **LTC Insurance** provides at least 24 months of coverage which meets one of the following options:

    - Coverage of all levels of care in a nursing home of at least $100 per day for policies sold in the New York City metropolitan area (i.e., the counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Suffolk, Rockland and Westchester) and $70 per day for all other parts of NYS. Home care coverage of at least 50% of the daily indemnity amount provided for care in a nursing home;
    - Coverage of all levels of care in a nursing home and coverage of home care, both at no less than 60% of the reasonable charge; and
    - Coverage of all levels of care in (1) a participating nursing home (one which has contracted with an insurer to provide services to its policyholders) at no less than 75% of the negotiated rate and (2) a non-participating nursing home at no less than 50% of the reasonable charge or $55 per day, whichever is less. Coverage of home care by (1) a participating home care provider at no less than 75% of the negotiated rate and (2) a non-participating home care at no less than 50% of the reasonable charge or $30 per day, whichever is less.

2. **Nursing Home and Home Care Insurance** provides at least 12 months of coverage for custodial care services of at least $50 a day while confined in a nursing home and coverage for custodial care services in a private home of at least $25 per day.

3. **Nursing Home Insurance Only** provides at least 12 months of coverage for custodial care services of at least $50 per day in a nursing home.

4. **Home Care Insurance Only** provides at least 12 months of coverage for custodial care services of at least $25 per day in a private home.

For all categories, the Insurance Department mandated the offering of the following additional benefits:

- **An inflation protection benefit.** An insurer must offer an insured one of the following three options:
    1) Five percent compound inflation (lower percentages are also permitted);
    2) Increased benefit levels in proportion to the increase in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, compounded annually; or
    3) Guaranteed purchase option (insurer periodically offers increased benefit levels without providing evidence of insurability or health status so long as the insured has not declined the option three consecutive times).

- **A nonforfeiture benefit.** An insurer must offer an insured the option to purchase a rider that provides a reduced benefit upon policy lapse, without the insured having to pay any additional premium.

As of the end of the reporting period, five insurers wrote individual LTC insurance policies and there were no insurers that wrote group LTC insurance policies in NYS. (See the chart below for details.)

Authorized Long Term Care Insurers

The following chart identifies the insurers currently offering LTC type coverage to New Yorkers as of the end of the reporting period[1]:

Insurer	Individual	Group
	NP	
Bankers Conseco Life Insurance Company	X	
Knights of Columbus	X	
Mutual of Omaha Insurance Company	X	
New York Life Insurance Company	X	
Northwestern Long Term Care Insurance Company	X	
NP = Non-Partnership coverage		

Legislation and Programs to Encourage the Purchase of Coverage for Long Term Care

Tax Incentives – Federal

In 1996, the federal government enacted the Health Insurance Portability and Accountability Act (HIPAA) which, in part, provided federal tax incentives for purchasing LTC insurance. Pursuant to the law, benefits received by a chronically ill individual under a "qualified" LTC insurance policy are excludable from income if the payments are based on actual expenses incurred.

Generally, for 2023, benefits received under "qualified" policies that pay on an indemnity basis are excludable from income so long as the benefit payments do not exceed $420 per day and are not in excess of the actual expenses. These caps will be indexed for inflation. Payments in excess of the cap are excludable from income only to the extent of actual costs incurred for LTC services. Amounts received in excess of the dollar cap for which no actual costs were incurred for LTC services are fully includable in income.

Individuals who itemize on their tax returns should be aware that, under HIPAA, premiums for "qualified" LTC insurance policies are treated as medical expenses for purposes of itemized deductions (medical expenses must be more than 10% of adjusted gross income to qualify for the deduction). The maximum amounts deductible in 2023 are set forth in the table below.

[1] Data regarding closed blocks of business can be found in Appendices.

In the case of an individual with an attained age before the close of the taxable year of:	The annual maximum deductible amount is:
40 or less	$480
41 to 50	$890
51 to 60	$1,790
61 to 70	$4770
71 & over	$5,960

Under HIPAA, for a LTC insurance policy to be qualified for the favorable tax treatment, the policy must meet the following requirements:

- Provide only coverage of qualified LTC services;
- Generally, does not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare, except where Medicare is a secondary payer, or where the contract makes per diem or other periodic payments without regard to expenses subject to federal interpretation of special rules in HIPAA;
- Be guaranteed renewable;
- Provide that refunds (other than refunds on the death of the insured or complete surrender or cancellation of the policy) and dividends under the policy must be used only to reduce future premiums or increase future benefits; and
- Not provide for a cash surrender value or other money that can be paid, assigned, pledged or borrowed.

HIPAA also provides that any policy issued before January 1, 1997, which meets the LTC insurance requirements of the state in which the policy was issued, will be treated as federally "qualified" LTC insurance policy for federal tax purposes, and services provided under the policy will be treated as qualified LTC services. The "grandfather" status for policies issued before January 1, 1997, will continue so long as there is no "material change" in the policy on or after January 1, 1997, within the meaning of federal law.

Tax Incentives – State

NYS has also encouraged the purchase of LTC insurance by enacting legislation that provides favorable state income tax treatment for those persons purchasing LTC policies that qualify for the federal income tax deduction. In 1997, pursuant to Chapter 659 of the Laws of 1997, premiums paid for "qualified" LTC policies were deductible to the same extent as under the federal law. The deduction in NYS was taken from federal adjusted gross income. This deduction, therefore, was available even to those taxpayers who did not itemize their deductions. Benefits received under federally "qualified" LTC policies were excluded from income on the same basis as under the federal law.

In 2000, NYS repealed this tax deduction for LTC insurance premiums and instead provided for a tax credit equal to 10% of LTC insurance premiums for taxable years beginning January 1, 2002. Also, in 2002, NYS amended its Tax and Insurance Laws to permit NYS residents covered under a federally qualified out-of-state group LTC insurance contract to deduct or receive a tax credit equal to 10% of the premium paid on their state income tax returns. Prior to this legislation, a NYS resident's premium payment had to be for the purchase of a LTC insurance policy, approved in NYS by the Superintendent of Insurance, in order to deduct or receive the tax credit. In 2004, legislation was enacted increasing the tax credit for LTC insurance premiums from 10% to 20% for tax years beginning in 2004. Additional legislation was passed in 2020 capping the tax credit for long term care insurance premiums at $1,500 and making the tax credit only applicable to tax returns wherein adjusted gross income is below $250,000 for taxable years beginning in 2020.

Thus, a NYS resident who pays $3,000 in premiums for a tax qualified LTC insurance policy in tax year 2023 would receive a NYS tax credit in the amount of $600 on their 2023 NYS income tax return. This tax credit translates into a direct dollar-for-dollar reduction of the amount of income tax owed to NYS.

Continuing Care Retirement Communities

In an effort to promote the development of a broader and more integrated continuum of LTC, financed by a range of private, public and public/private options, NYS amended the Public Health Law in 1997 to allow a continuing care retirement community (CCRC) the flexibility to offer more cost-conscious options of contracts such as a Type B contract. In addition to establishing a process for approval of CCRCs, the Public Health Law also provided for the following:

- Streamlining the approval process for residential health care facility beds and licensed home care service agencies operated as part of a CCRC;
- Establishing a comprehensive and flexible statutory and regulatory framework for an increased number of demonstration programs providing managed care for the elderly and chronically ill population who would not otherwise be served in a special needs plan or other managed care program;
- Making the LTC security demonstration program permanent; and
- Permitting accelerated payment of death benefits under a life insurance policy when the insured is chronically ill and requiring LTC services for the duration of their life.

Four different types of CCRC contracts are authorized for sale in NYS. Type A is all-inclusive, Type B provides modified services, Type C requires fee for service, and Type D provides care at home.

1) **Type A** contracts provide housing, residential services, many amenities and unlimited, specific health-related services, including LTC services. If the resident's health deteriorates to the point that they need LTC services or admission to the nursing home, all of the services covered under the contract are provided without an increase in the monthly fee (except for normal operating costs and inflation adjustments). The monthly fee also will not increase due to the amount of services the resident requires.

2) **Type B** contracts provide housing, residential services and many amenities. This contract differs from the Type A contract in the amount of LTC services that will be provided before an adjustment is made in the amount of the monthly fee paid by the resident. For example, under this type of contract, the CCRC could allow residents a specified number of days in a nursing home without a change in the monthly fee. Once

this limit is reached, the resident could be required to pay for continued nursing home services on a full per diem basis or a discounted per diem basis.

3) **Type C** contracts cover housing, residential services and amenities under the entrance fee and/or monthly fee in the same way as Type A and B contracts. This contract differs from the other two types of contracts in that all other health related services, including nursing home care, are paid for by the resident as they are needed on a fee for service basis. Under this type of contract, the resident pays lower fees upon entry, but in turn accepts the risk of paying for the care needed.

4) **Type D** contracts allow CCRCs to offer individuals an additional care option. This type of contract provides the traditional services and benefits of CCRCs while allowing individuals to remain in their own homes and receive home care prior to moving to the CCRC campus. Type D contracts are not currently offered by a CCRC in NYS, but a few CCRCs have indicated an interest in offering this contract type in the future.

As of the end of the reporting period, 12 CCRCs have received a Certificate of Authority from the CCRC Council and are operating under Article 46 of the Public Health Law:

Name	County	Living Facilities
Canterbury Woods 705 Renaissance Dr. Williamsville, New York 14221 716-929-5817 www.canterburywoods.org	Erie	Independent living units, enriched housing units, nursing home beds
Fountaingate Gardens 32 Hauppauge Road Commack, NY (631) 715-2693 www.fountaingateli.org	Suffolk	Independent living units, enriched housing units, nursing home beds
Fox Run at Orchard Park One Fox Run Lane Orchard Park, NY 14127 716-662-5001 www.foxrunorchardpark.com	Erie	Independent living units, enriched housing units, nursing home beds
Glen Arden, Inc. 214 Harriman Drive Goshen, NY 10924 845-360-1400 www.glenardenny.com	Orange	Independent living units, enriched housing units, nursing home beds
The Harborside 300 East Overlook Port Washington, NY 11050 516-472-6610 www.theharborside.org	Nassau	Independent living units, enriched housing units, nursing home beds
Jefferson's Ferry 1 Jefferson Ferry Drive S. Setauket, NY 11720-9800 631-239-3881 www.jeffersonsferry.org	Suffolk	Independent living units, enriched housing units, nursing home beds

Name	County	Living Facilities
Kendal on Hudson 1010 Kendal Way Sleepy Hollow, NY 10591 914-922-1000 www.kohud.kendal.org	Westchester	Independent living units, enriched housing units, nursing home beds
Kendal at Ithaca 2230 N. Triphammer Road Ithaca, NY 14850 800-253-6325 www.kai.kendal.org	Tompkins	Independent living units, enriched housing units, nursing home beds
Peconic Landing at Southold, Inc. 1500 Brecknock Road Greenport, NY 11944 888-273-2664 www.peconiclanding.org	Suffolk	Independent living units, enriched housing units, nursing home beds
Summit at Brighton 2000 Summit Circle Drive Rochester, NY 14618 585-442-4500 www.jewishseniorlife.org	Monroe	Independent living units, enriched housing units, nursing home beds
The Knolls 55 Grasslands Road Valhalla, New York 10595 914-461-4500 www.theknolls.org	Westchester	Independent living units, enriched housing units, nursing home beds
Woodland Pond at New Paltz 100 Woodland Pond Circle New Paltz, NY 12561 877-505-9800 www.woodlandpondnp.org	Ulster	Independent living units, enriched housing units, nursing home beds

The New York State Partnership for Long Term Care Insurance

In an effort to encourage more New Yorkers to purchase LTC insurance, NYS established the NYS Partnership for Long Term Care Program (Partnership) pursuant to Chapter 454 of the Laws of 1989. The Partnership became operational in March 1993. The Partnership provides that NYS residents who purchase a qualified policy or certificate providing LTC insurance will become eligible for Medicaid assistance without spending down their assets once the benefits from the policy or certificate are exhausted. Income, however, would still be contributed toward the cost of care in accordance with regular NYS Medicaid rules.

Under the original Partnership, the Insurance Department promulgated Insurance Regulation 144 (11 NYCRR 39), which established minimum standards for a qualified policy or certificate under the program.

The minimum standards and benefit levels under the Partnership are more stringent than the minimum standards for non-Partnership policies, in order to protect the viability of the NYS Medicaid program which is legally bound to provide benefits on a special eligibility basis after the benefits of the qualified LTC policy or certificate are exhausted.

To be approved under the Partnership, LTC insurance policies must contain the following minimum benefits:

- A lifetime maximum.
  i. Nursing home benefit of at least 1½ or 2 years providing at least $374 per day for 2023 and increasing by at least 3.5% (with an insured option to choose 5%) compounded annually. Home care coverage must be provided in an amount that is 50% of the minimum required nursing home care benefit ($187 per day in 2023) and is payable when services are provided in the insured's home, in a group setting such as an adult day care center, or where human assistance is needed to aid the insured in necessary travel, such as to a physician's office; or
  ii. Nursing home benefit of either 2 or 4 years providing at least $374 per day for 2023 and increasing by at least 3.5% (with an insured option to choose 5%) compounded annually. The home care daily benefit amount is the same as the nursing home benefit rather than 50% of the nursing home benefit as described in the first option above.

- Bed reservation benefits, respite care, hospice care, care management and alternate care. Waiting periods for the 1½ or 2-year plans cannot exceed 60 days and waiting periods for the 2 or 4-year plans cannot exceed 100 days.

Total asset protection is available with Partnership policies providing 2 or 4 years of benefits. Upon exhaustion of the benefits in the 2 or 4-year total asset plan designs, the insured is able to apply for Medicaid and protect all of their assets. Dollar for dollar Partnership policies that provide 1½ or 2 years of nursing home benefits provide dollar for dollar asset protection which means that for every dollar of benefits covered under those policies, a dollar of assets will be protected. For all Partnership plan designs, income must be contributed toward the cost of LTC services in accordance with Medicaid rules.

The 1½, 2 and 4-year plans must all be written to qualify for favorable federal and NYS income tax treatment. The original 3-year plan may be written as qualifying for favorable federal and NYS income tax treatment, or it may be written as non-tax qualified (3-year plans issued before January 1, 1997, were issued before tax qualification standards existed, and thus they may be considered tax qualified if federal requirements are met).

As of the end of the reporting period, 84% of the total market for long term care insurance was comprised of non-Partnership policies and 16% was comprised of Partnership policies.

New York Public Employee and Retiree Long Term Care Insurance Plan (NYPERL)

In 1998, pursuant to Chapter 585 of the Laws of 1998 and to further encourage the purchase of LTC insurance, NYS enacted the New York Public Employee and Retiree Long Term Care Insurance Plan (NYPERL). The NYPERL offered two tax-qualified benefit designs: the Partnership option, which after the exhaustion of either a two or three-year nursing home benefit provides for coverage of LTC expenses under the State's Medicaid program; and a non-Partnership option, which provides benefits based upon a three-year or five-year benefit period that is selected by the insured at the time of application. The NYPERL is a group LTC insurance policy administered by the NYS Department of Civil Service with coverage provided by MedAmerica Insurance Company of New York.

Participation in the plan was at the option of the employee. All State employees and retirees who were eligible or became eligible for participation in the New York State Health Insurance Plan were also eligible to participate in the NYPERL. Local governments and other public and quasi-public employers were able to participate in the NYPERL if the employer was eligible for the State's health insurance program and the governing body elected to participate. Coverage remains in effect for employees who terminate employment while participating in the plan so long as they continue paying premiums. The full cost of the plan, including coverage of eligible family members, is paid by the employee or insured person and can be deducted from the employee's salary. Employees who terminate employment while participating in the plan will have the option to continue the coverage or convert it to an individual policy.

As of the end of the reporting period, the NYPERL was not offering LTC coverage to new applicants as the existing insurer, MedAmerica Insurance Company of New York, elected not to renew its contract with NYS in 2016. A Request for Proposal released by the NYS Department of Civil Service in 2016 failed to attract a new insurer to the NYPERL. Coverage remains in effect for existing insureds under the NYPERL.

Factors Contributing to or Impeding the Development of Long Term Care Plans

In order for DFS to better understand the factors affecting the development of the LTC insurance market, DFS continuously communicates with consumers, insurers and the National Association of Insurance Commissioners about LTC insurance and the LTC insurance market. The following three factors affect the development of and enrollment in LTC insurance coverage in NYS: (1) consumer awareness, (2) high cost of policies and premium rate instability; and (3) innovation in products offered. These are described in more detail below.

Consumer Awareness

Consumers' lack of awareness of the need for LTC insurance and the misperception that medical insurance, Medicare and/or Medicaid will cover these services are a large impediment to LTC insurance sales. There needs to be a regular program of consumer outreach, sponsored by NYS and/or the federal government, regarding the need to plan for LTC. Many individuals will voluntarily seek out information regarding LTC planning when there is an event within their own family but waiting for that moment to happen and hoping that the individual is still insurable or has the financial means to plan is not a reasonable way to create more awareness and demand for solutions. Another issue that affects the successful marketing of LTC insurance is that LTC is a subject that makes many people uncomfortable. People often refuse to believe they will need LTC and therefore refuse to plan for future LTC expenses.

A great deal of information is available to consumers about LTC insurance plans if they seek it out. DFS's website offers information on both LTC insurance and CCRCs. DFS also periodically updates the consumer guide entitled, "A Consumer's Guide to Long Term Care Insurance," which, among other things provides information on benefits and features available in the NYS market. The Partnership publishes the "New York State Partnership for Long Term Care Brochure" and a consumer brochure entitled "Medicaid Eligibility and the Treatment of Income and Assets under the New York State Partnership for Long Term Care." These publications are updated periodically and are available from the Partnership Office at the NYS

Department of Health. The Partnership Office at the NYS Department of Health can be found here: https://nyspltc.health.ny.gov/

Publications are also issued by entities other than state government that highlight the differences between Medicare, Medicaid and LTC insurance. A publication developed jointly by the National Association of Insurance Commissioners (NAIC) and the Centers for Medicare and Medicaid of the U.S. Department of Health and Human Services entitled "Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare" contains information indicating that Medigap policies do not cover LTC. This guide is updated periodically and is available on the DFS website at: https://www.dfs.ny.gov/consumer/caremain.htm

The NAIC also has available "A Shopper's Guide to Long-Term Care Insurance," which provides guidance on LTC insurance, as well as worksheets to assist consumers in obtaining information about the availability and cost of LTC services. This guide is also updated periodically and is available at: https://content.naic.org/sites/default/files/publication-ltc-lp-shoppers-guide-long-term.pdf.

In addition to efforts by government agencies and the NAIC, it is also incumbent for insurers to be proactive. Insurers must engage consumers about the importance and need for LTC insurance.

As noted, both federal and NYS laws provide for favorable tax treatment for the purchase of qualified LTC insurance policies. Insurers have indicated that the NYS tax credit has a larger impact on promoting LTC insurance purchases than the more limited favorable federal tax deduction. Insurers also believe that publicity generated by the enactment of federal and state laws providing for favorable tax treatment for qualified LTC policies has helped focus the public's attention on LTC issues. Insurers in general feel that the favorable tax treatment sends a positive message to consumers. Additionally, numerous insurers reported that they would like to see the federal and NYS tax incentives increased. Many insurers believe that more robust tax incentive programs would lead to a greater number of individuals covered by LTC insurance policies.

For individuals, the federal deduction allows LTC insurance premiums to be deducted if the insured's medical expenses exceed 10% of their adjusted gross income. If an "above-the-line"[2] deduction was allowed, it would provide an incentive for many more people to purchase LTC coverage. Insurers believe that pre-tax deductibility for LTC premiums and the inclusion of group LTC insurance in Cafeteria Plans (Section 125 of the Internal Revenue Code) would also have a major impact on encouraging sales of LTC insurance.

The NYS tax credit is an important incentive to the sale of LTC coverage. Some companies use the tax incentives in their marketing materials, with brochures highlighting the NYS tax credit and favorable federal tax treatment. Several insurers educate their agents about the NYS tax credit, who in turn provide the information to consumers during marketing or sale.

Medicaid estate planning is also a substantial impediment to the development of LTC insurance in NYS. Generally, assets of a Medicaid applicant and their spouse (if married) are considered for Medicaid eligibility purposes. Medicaid estate planning involves the transferring or

[2] An "above-the-line" deduction allows an individual to deduct certain expenses without itemizing them. These deductions can be claimed whether an individual itemizes deductions or takes the standard deduction.

sheltering of those assets to access Medicaid for coverage of the consumer's LTC needs. This transferring or sheltering of a consumer's assets allows a consumer to meet the asset test for Medicaid eligibility and receive LTC services without having to "spend down" their assets prior to becoming Medicaid eligible. As of the end of the reporting period, the asset test for Medicaid eligibility included a five-year look-back period. Many consumers see the use of Medicaid estate planning as a viable alternative to purchasing LTC insurance for their LTC needs.

High Cost of Policies and Premium Rate Instability

In recent years, many insurers have raised premium rates on LTC policies. Premium rate increases have been implemented nationally and in NYS. While DFS understands consumers' frustration and the financial difficulties caused by recent LTC premium rate increases, these increases were necessary and actuarially justified. At the time that sales of LTC insurance began, it was a new insurance product with no claims experience to draw from in establishing premium rates. Unfortunately, many of the initial assumptions used by insurers later proved to be incorrect. The lack of credible experience and flawed assumptions, coupled with rising healthcare costs and increased life expectancy, led to insufficient premiums. As a result, insurers have demonstrated the actuarial need for premium rate increases.

DFS seeks to minimize the impact of LTC premium rate increases on consumers and reminds insurers that they should be providing insureds the ability to change certain benefits, such as lowering their daily benefit amount, increasing their elimination period, or reducing their lifetime benefit maximum, at any time. All these options give insureds the ability to mitigate LTC premium rate increases and have an LTC policy that meets their needs.

LTC insurance coverage relies heavily upon various actuarial assumptions, including lapse rate, morbidity (need for benefits), and mortality (lifespan). Many insurers overestimated lapse rates and underestimated morbidity and mortality when initially pricing LTC coverage in the 1980s. In addition, the cost of care has risen significantly. As a result, and in retrospect, most LTC coverage was underpriced when it was first sold. Today, LTC insurers can price LTC coverage more accurately because of the more credible data. Consequently, initial premium rates have increased substantially and priced many individuals out of the market.

Innovation in Products Offered

Due to the numerous issues with traditional stand-alone LTC insurance, insurers and DFS have recognized the need for changes to products offered to consumers. In 2005, the Insurance Department promulgated an amendment to Insurance Regulation 143 (11 NYCRR 41) that allows insurers to offer consumers the option of accelerating the death benefit under a life insurance policy when the insured is chronically ill and may need additional financial resources to assist with meeting LTC needs and expenses. Access to existing resources such as the death benefit of a life insurance policy and the ability for insurers to provide for alternate ways to meet consumer's increasing LTC needs have become more necessary. The standards set forth by the regulation provide proper disclosure to consumers and ensure the favorable federal tax treatment for payment of the benefits. A few insurers have also explored whether to add an LTC rider to pay additional LTC benefits after the accelerated death benefit rider has been exhausted. These combination products provide more LTC benefits after the death benefit of the life insurance policy is exhausted. As of the end of the reporting period, multiple insurers offered a joint life insurance policy with an accelerated death benefit rider and additional LTC insurance rider.

Additionally, under the federal Pension Protection Act of 2006, the same favorable federal tax treatment granted to stand-alone LTC insurance was extended to combination annuity and LTC insurance products. DFS has received a few inquiries from insurers expressing interest in offering a combination annuity/LTC insurance product. As of the end of the reporting period, one insurer offered a combination annuity/LTC insurance product.

LTC insurance coverage with the addition of cost-sharing, such as, a deductible and/or coinsurance is a recent new LTC product offered. This type of LTC insurance coverage could lower premium rates to make coverage more affordable, while still providing for a robust benefit should the need arise. The first LTC insurance policy with cost-sharing was approved for sale in 2022.

General Recommendations

LTC insurance is an alternative to Medicaid for consumers seeking to finance LTC services. To further encourage the development and purchase of such policies, DFS makes the following recommendations:

- The LTC insurance industry should be encouraged to take the following actions:

  - Emphasize the marketing and sale of basic LTC type coverage to a younger demographic that would also be affordable for more middle-class New Yorkers; and
  - Offer new LTC products, such as additional combination life insurance/LTC riders, LTC insurance with various options of coinsurance and other original products designed to keep premiums affordable while still providing meaningful LTC benefits for New Yorkers.

- DFS, the NYS Department of Health, and the NYS Office for the Aging should continue efforts to encourage the purchase of LTC policies, including those qualifying under the Partnership.

- NYS should increase its efforts to educate the public about the benefits of LTC insurance, including the existence of NYS's tax credit for LTC premiums that provides a substantial tax benefit. Essentially, NYS will support and encourage its taxpayers to plan for future LTC expenses by paying 20% of the bill for LTC insurance premiums. This credit is available to any NYS taxpayer paying LTC insurance premiums, including adult children who pay for coverage on behalf of their parents. The NYS tax credit for LTC insurance premiums is capped at $1,500 and the tax credit is only applicable to tax returns wherein adjusted gross income is below $250,000 for taxable years beginning in 2020.

- The federal government should be encouraged to take the following actions:

  - Allow an above-the-line deduction or tax credit for LTC insurance premiums;
  - Permit 401(k) or Individual Retirement Account holders to take a distribution from their retirement account to fund the purchase of LTC without an early withdrawal penalty;
  - Allow LTC Savings Accounts similar to Health Savings Accounts;

- Provide funding for a federal education campaign around retirement security/planning for LTC needs;
- Allow LTC insurance to qualify as part of a Cafeteria Plan under Section 125 of the Internal Revenue Code to allow a before-tax deduction for insurance premiums; and
- Extend the Medicaid five-year look-back period (e.g., to ten years).

Further, DFS will take the following actions:

- DFS will review and reform premium rate approval methodologies, establish affordability measures to help consumers manage rate increases and foster the adoption of new LTC products;

- Continue to review the minimum standards for the form, content and sale of LTC insurance and amend the standards as necessary to incentivize the sale of meaningful LTC insurance to as many New Yorkers as possible;

- Continue to periodically update DFS's "A Consumer Guide to Long Term Care Insurance in New York";

- Continue to work with the NYS Department of Health and the NYS Office for the Aging in revitalizing the Partnership Program;

- Continue to provide information and assistance to senior citizens concerning LTC insurance and other coverage available, such as Medicare supplement insurance; and

- Continue to ensure that insureds are provided the ability to offset LTC premium rate increases with mitigation options and encouraging the phase-in of significant LTC premium rate increases.

APPENDIX I

Total in-force Long-Term Care Policies with Market Share as of December 31, 2022

Insurer	Non-Partnership	Partnership	Total Insureds	% of Market
Aetna Life Insurance Company	3,172	0	3,172	0.82%
Allianz Life Insurance Company of New York	911	0	911	0.24%
American Family Life Assurance of New York (AFLAC)	124	1	125	0.03%
American Progressive Life and Health Insurance Company of New York	635	49	684	0.18%
Athene Insurance Company of New York (including Aviva Life & Annuity Company of New York)	83	208	291	0.08%
Bankers Conseco Life Insurance Company (previously Conseco)	4,723	548	5,271	1.36%
Berkshire Life Insurance Company of America	2,877	0	2,877	0.74%
Brighthouse Life Insurance Company (previously Travelers and MetLife USA)	10,444	3,032	13,476	3.48%
Combined Life Insurance Company of New York	66		66	0.02%
Continental Casualty Company (CNA)	14,535	3,666	18,201	4.71%
Excellus Health Plan, Inc. (previously Blue Cross Blue Shield)	1	0	1	0.00%
First Unum Life Insurance Company	37,565	0	37,565	9.71%
Genworth Life Insurance Company of New York (previously GE Capital Life Assurance Company of New York)	50,421	23,694	73,689	19.06%
Globe Life Insurance Company of New York (previously First United American Life Insurance Company)	8	0	8	0.00%
Insurance Company of North America (including Connecticut General and CIGNA)	62	0	62	0.02%
John Hancock Life and Health Insurance Company	30,365	14,130	44,495	11.51%
John Hancock Life Insurance Company (USA)	19,125	77	13,646	3.53%
Knights of Columbus	1,275	0	1,275	0.33%
Massachusetts Mutual Life Insurance Company	6,747	331	7,078	1.83%

Insurer	Non-Partnership	Partnership	Total Insureds	% of Market
MedAmerica Insurance Company of New York	12,681	6,278	18,959	4.90%
Metropolitan Life Insurance Company	58,637	5,131	63,768	16.49%
Mutual of Omaha	11,739	40	11,779	3.05%
New York Life Insurance Company	12,267	168	12,435	3.22%
Northwestern Long Term Care Insurance Company	13,530	0	13,530	3.50%
Northwestern Mutual Life Insurance Company (67091)	3,192	0	3,192	0.83%
Principal Life Insurance Company	34	0	34	0.01%
Provident Life and Casualty Insurance Company	81	0	81	0.02%
Prudential Insurance Company of America	19,901	91	19,992	5.17%
River Source Life Insurance Co. of NY	4,211	0	4,211	1.09%
State Farm Mutual Automobile Insurance Company	1,478	0	1,478	0.38%
Talcott Resolution Life Insurance Company (previously Hartford Life Insurance Company)	8	0	8	0.00%
Teachers Insurance and Annuity Association of America	656	19	675	0.17%
Thrivent Financial for Lutherans (previously Aid Association for Lutherans)	201	0	201	0.05%
TIAA-Cref Life Insurance Company	375	0	375	0.10%
Transamerica Financial Life Insurance Company (including AUSA)	3,458	17	3,475	0.90%
Union Security Life Insurance Company (previously First Fortis)	2,133	1,202	3,335	0.86%
The United States Life Insurance Company In The City Of New York (American International Life Assurance Company of New York)	249	0	249	0.06%
VOYA Retirement Insurance and Annuity Company	34	0	34	0.01%
TOTAL	**328,004**	**58,682**	**386,686**	**100.00%**

All data provided has been self-reported by the insurers and has not been verified by DFS.

APPENDIX II

Number of Non-Partnership LTC Policies In-force in New York as of December 31, 2022

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
Aetna Life Insurance Company	60054	GR-700	12/14/1994		X	55	1239	1132	725	75	1	0	X		3172
		TOTALS		**0**	**1**	**55**	**1,239**	**1,132**	**725**	**75**	**1**	**0**	**1**	**0**	**3,172**
Allianz Life Insurance Company of New York	64190	10-P-Q-NY	10/3/2005	X		909	13	127	507	226	36	0	0	X	909
		GSC-1880-PL-1.0	5/8/1992		X	1	0	0	0	0	2	0	0	X	2
		TOTALS		**1**	**1**	**910**	**13**	**127**	**507**	**226**	**38**	**0**	**0**	**2**	**911**
American Family Life Assurance of New York (AFLAC)	60526	NY-20000	3/15/1991	X		0	0	0	0	0	0	0	X		0
		NY-21000	1/21/1992	X		12	0	3	6	3	0	0	X		12
		NY-22000	1/21/1992	X		1	0	0	0	1	0	0	X		1
		NY-26000	6/14/1995	X		0	0	0	0	0	0	0	X		0
		NY-27000	9/16/2002	X		89	20	56	34	1	0	0	X		111
		TOTALS		**5**	**0**	**102**	**20**	**59**	**40**	**5**	**0**	**0**	**5**	**0**	**124**
American Progressive Life and Health Insurance Company of New York	80624	APRLTNQ (3/99) NY	6/30/1999	X		25	4	2	14	5	0	0	X		25
		APRLTCQ (3/99) NY	6/30/1999	X		57	7	18	14	18	0	0	X		57
		CERT-HHC	7/97		X	2	0	0	0	2	0	0	X		2
		CERT-NHHH	7/97		X	2	0	1	1	0	0	0	X		2
		CERT-NHO	7/97		X	1	0	0	1	0	0	0	X		1
		HHC 1/98	1/98	X		240	0	11	65	142	22	0	X		240
		HHC-800	3/95	X		64	0	3	29	30	2	0	X		64
		NHHH-700	7/96	X		18	0	5	11	2	0	0	X		18
		NHO-700	7/96	X		12	0	0	6	6	0	0	X		12
		PR-NHO	10/00	X		28	0	10	28	11	0	0	X		49
		PR-NHOQ	10/00	X		51	0	28	40	8	0	0	X		76
		QC-HHC	7/97	X		6	0	0	1	5	0	0	X		6
		QI-HHC	7/97	X		56	0	3	20	31	2	0	X		56
		QI-NHHH	7/97	X		12	0	3	4	5	0	0	X		12

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		QI-NHO	7/97	X		15	0	0	3	11	1	0	X		15
		TOTALS		**12**	**3**	**589**	**11**	**84**	**237**	**276**	**27**	**0**	**15**	**0**	**635**
Athene Insurance Company of New York (including Aviva Life & Annuity Company of New York)	63932	NY-5762-P	2/17/1995	X		67	5	27	30	5	0	0	X		67
		NY-5762-P(Q)	2/17/1995	X		16	1	9	5	1	0	0	X		16
		TOTALS		**2**	**0**	**83**	**6**	**36**	**35**	**6**	**0**	**0**	**2**	**0**	**83**
Bankers Conseco Life Insurance Company *(previously Conseco)*	68560	ATIC-FQ-LTC-NY	3/4/1998	X		616	8	172	372	202	4		X		758
		ATIC-LTC-6-NY	1/13/1997	X		154	3	17	97	60	0		X		177
		ATIC-LTC-6B-NY	5/31/1997	X		37	0	4	22	14	0		X		40
		ATIC-LTC-10-NY	10/8/1996	X		4	0	1	1	2	0		X		4
		BLNY - GR-N500	9/12/2007	X		654	0	34	228	413	70		X		745
		BLNY - GR-N520	4/28/2006	X		16	0	0	5	14	1		X		20
		BLNY - GR-N540	4/28/2006	X		1	0	0	1	0	0		X		1
		BLNY - GR-N550	4/28/2006	X		133	6	20	68	66	5		X		165
		BLNY - GR-N620	5/18/2011	X		32	2	1	15	13	1				32
		BLNY - GR-N640	5/18/2011	X		15	0	0	2	13	0				15
		BLNY - GR-N650	5/18/2011	X		178	17	34	63	61	3	5			178
		BLNY - GR-N660	11/12/2015	X		46	0	1	12	24	9	3			46
		BLNY - GR-N665	11/12/2015	X		2542	0	115	964	1301	162	506			2542
		TOTALS		**13**	**0**	**4,428**	**36**	**399**	**1,850**	**2,183**	**255**	**514**	**8**	**0**	**4,723**
Berkshire Life Insurance Company of America	71714	BG01P(06/04)-NY	3/30/2004	X		1051	165	688	703	102	3	0	X		1661
		BG02P(06/04)-NY	3/30/2004	X		4	0	1	4	0	0	0	X		5
		BG03P(06/04)-NY	3/30/2004	X		339	136	188	211	23	0	0	X		558
		BG05P(06/04)-NY	3/30/2004	X		42	41	21	13	2	0	0	X		77
		BG06P(06/04)-NY	3/30/2004	X		1	1	0	0	0	0	0	X		1
		BG01P(01/09)-NY	4/15/2004	X		316	47	156	249	28	2	0	X		482
		BG03P(01/09)-NY	4/15/2004	X		58	27	29	27	3	0	0	X		86

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		BG05P(01/09)-NY	4/15/2004	X		4	0	4	3	0	0	0	X		7
		TOTALS		**8**	**0**	**1,815**	**417**	**1,087**	**1,210**	**158**	**5**	**0**	**8**	**0**	**2,877**
Brighthouse Life Insurance Company (*previously Travelers and MetLife USA*)	87726	LTC1	5/6/1989	X		3	0	1	2	0	0	0	X		3
		LTC2	3/18/1991	X		6557	154	1467	3539	1382	15	0	X		6557
		LTC4	12/30/1997	X		3884	89	875	2196	712	12	0	X		3884
		TOTALS		**3**	**0**	**10,444**	**243**	**2,343**	**5,737**	**2,094**	**27**	**0**	**3**	**0**	**10,444**
Combined Life Insurance Company of New York	78697	D44533 et al	9/8/1998	X		66	5	15	32	11	3	0	X		66
		TOTALS		**1**	**0**	**66**	**5**	**15**	**32**	**11**	**3**	**0**	**1**	**0**	**66**
Continental Casualty Company (CNA)	20443	P1-15203-A31	12/13/1991	X		437	5	188	202	42	0	0	X		437
		P1-16356-A31	12/13/1991	X		22	0	14	8	0	0	0	X		22
		P1-18876-A31	5/4/1995	X		84	3	23	41	16	1	0	X		84
		P1-18878-A31	5/4/1995	X		3	0	1	2	0	0	0	X		3
		P1-21295-A31	5/19/1995	X		178	6	45	102	24	1	0	X		178
		P1-21300-A31	5/19/1995	X		456	17	139	247	53	0	0	X		456
		P1-21305-A31	5/19/1995	X		4	1	0	2	1	0	0	X		4
		P1-59806-A31	11/23/1988	X		91	0	37	51	3	0	0	X		91
		P1-N0022-A31	2/28/1997	X		513	7	107	295	102	2	0	X		513
		P1-N0023-A31	2/28/1997	X		1	0	0	0	1	0	0	X		1
		P1-N0026-A31	2/28/1997	X		1312	30	359	726	195	2	0	X		1312
		P1-N0027-A31	2/28/1997	X		7	1	5	1	0	0	0	X		7
		P1-N0030-A31	2/28/1997	X		12	0	3	7	2	0	0	X		12
		P1-N0034-A31	2/11/1997	X		29	1	3	19	6	0	0	X		29
		P1-N0075-A31	5/27/1999	X		0	0	0	0	0	0	0	X		0
		P1-N0080-A31	5/27/1999	X		6	2	0	3	1	0	0	X		6
		P1-N0081-A31	5/27/1999	X		0	0	0	0	0	0	0	X		0
		P1-N0085-A31	5/27/1999	X		63	1	13	36	13	0	0	X		63
		P1-N0086-A31	5/27/1999	X		0	0	0	0	0	0	0	X		0

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		P1-N0090-A31	5/27/1999	X		20	0	3	12	5	0	0	X		20
		P1-N0091-A31	5/27/1999	X		1	0	0	1	0	0	0	X		1
		P1-N0095-A31	5/27/1999	X		323	2	74	194	48	5	0	X		323
		P1-N0100-A31	5/27/1999	X		2999	102	952	1617	324	4	0	X		2999
		P1-N0101-A31	5/27/1999	X		5	0	3	2	0	0	0	X		5
		SR-LTCP-31	9/16/1992		X	49	2110	2542	1344	136	2	0	X		6134
		GLTC-3-P-NY-01	3/5/2003		X	7	344	687	707	96	1	0	X		1835
		TOTALS		**24**	**2**	**6,622**	**2,632**	**5,198**	**5,619**	**1,068**	**18**	**0**	**26**	**0**	**14,535**
Excellus Health Plan, Inc. (*previously Blue Cross Blue Shield*)	55107	LTC-CD10-NY	4/15/1997	X		1	0	0	1	0	0	0	X		1
		TOTALS		**1**	**0**	**1**	**0**	**0**	**1**	**0**	**0**	**0**	**1**	**0**	**1**
First Unum Life Insurance Company	64297	B.LTC	33087		X	11803	7071	3047	1532	150	3	776	X		11803
		GLTC04	38411		X	8280	3804	2508	1673	281	14	586	X		8280
		LTC5092	33998	X		1			1			0	X		1
		LTC5292	33998	X		4	2	2				0	X		4
		LTC5492	33998	X		2		2				0	X		2
		LTC5592	33998	X		9	4		4	1		0	X		9
		LTCP03	37915	X		476	25	127	275	83	2	7	X		512
		LTCP03F	37915	X		228	87	88	64	11			X		250
		LTCT03	37915	X		88	15	30	26	13	2		X		86
		LTCT03F	37915	X		89	26	32	24	5			X		87
		NH94	34698	X		632	42	192	318	80		0	X		632
		NH94FQ	35597	X		2532	494	976	892	163	7	0	X		2532
		NH94Q	35597	X		12787	741	4028	6528	1440	50	0	X		12787
		NH94Q2	35597	X		1			1			0	X		1
		PHCQ	35597	X		4			3	1		0	X		4
		RLTCP03	37915	X		438	11	147	256	39	2	0	X		455

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		RLTCP03F	37915	X		110	16	57	40	6	1	0	X		120
		TOTALS		**15**	**2**	**37,484**	**12,338**	**11,236**	**11,637**	**2,273**	**81**	**1,369**	**17**		**37,565**
Genworth Life Insurance Company of New York (previously *GE Capital Life Assurance Company of New York*)	72990	6667 CRT	4/1/1989		x	18	0	2	13	3	0	0	X		18
		50100	1/1/1996	X		180	0	33	120	27	0	0	X		180
		50107	1/1/1996	X		560	11	115	321	112	1	0	X		560
		50110	1/1/1996	X		202	2	38	114	47	1	0	X		202
		51000	1/1/1996	X		55	2	3	36	13	1	0	X		55
		51002	1/1/1996	X		1742	16	215	985	515	11	0	X		1742
		51005	11/25/1998	X		6618	95	1144	3853	1473	53	0	X		6618
		51006	12/15/1998	X		162	0	15	80	61	6	0	X		162
		51007	9/28/1998	X		62	0	8	34	17	3	0	X		62
		51010	2/12/2001	X		14857	426	4320	7977	2021	113	0	X		14857
		51012	9/9/2004	X		2531	54	548	1388	503	38	0	X		2531
		51012REV	9/21/2007	X		1823	35	293	1034	438	23	0	X		1823
		51014	9/9/2004	X		4690	160	1325	2679	508	18	0	X		4690
		51014REV	9/21/2007	X		3160	71	850	1814	416	9	0	X		3160
		7048NY	5/25/2007	X		15	0	0	12	3	0	0	X		15
		7052NY	10/6/2011	X		4128	133	1050	2216	705	24	0	X		4128
		8000NY	10/3/2013	X		2550	62	591	1443	449	5	0	X		2550
		7050POL-NY	5/21/2009		X	215	39	67	94	13	2	0	X		215
		51009	7/12/1999		X	3715	1768	907	674	344	22	0	X		3715
		7046POL-NY	12/6/2008		X	730	215	261	211	42	1	0	X		730
		and subsequently 7046	12/22/2008												0
		7053POL NY	3/13/2012		X	1284	193	477	530	82	2	0	X		1284
		8000R1NY	11/3/2015	X		698	20	155	405	118	0	0	X		698
		ULPTLCIPGLI NY	11/1/2015	X			3	75	184	138	26	0		X	426
		TOTALS		**18**	**5**	**49,995**	**3,305**	**12,492**	**26,217**	**8,048**	**359**	**0**	**22**	**1**	**50,421**

<u>Insurer</u>	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
Globe Life Insurance Company of New York (*previously First United American Life Insurance Company*)	74101	NYNH3	1/31/1989	x		8		1	6	1		0	X		8
		TOTALS		**1**	**0**	**8**	**0**	**1**	**6**	**1**	**0**	**0**	**1**	**0**	**8**
Insurance Company of North America (including Connecticut General and CIGNA)	22713	TL-001445	4/20/1990		X	1	0	13	37	12	0	0	X		62
		TOTALS		**0**	**1**	**1**	**0**	**13**	**37**	**12**	**0**	**0**	**1**	**0**	**62**
John Hancock Life and Health Insurance Company	96310	BSC-02 NY	4/19/2002	X		280	4	47	165	60	4	0	X		280
		BSC-03 NY	11/14/2003	X		266	5	47	153	56	5	0	X		266
		LTC-02 NY	4/19/2002	X		5465	177	1449	2984	814	41	0	X		5465
		LTC-03 NY	11/26/2003	X		4824	132	1121	2634	891	46	0	X		4824
		LTC-03 NY (2007)	8/2/2007	X		730	20	157	394	151	8	0	X		730
		LTC-03 NY (2008)	5/22/2008	X		1913	73	427	1048	347	18	0	X		1913
		LTC-03 NY (2010)	5/24/2010	X		486	24	115	255	86	6	0	X		486
		LTC-06 NY	7/10/2006	X		398	19	126	205	48	0	0	X		398
		LTC-11 NY	7/15/2011	X		296	19	63	160	50	4	0	X		296
		LTC-11 NY 7/12	12/11/2012	X		1015	38	242	523	203	9	0	X		1015
		LTC-87	7/30/1987	X		14	5	3	6	0	0	0	X		14
		LTC-88A NY	4/15/1988	X		2	0	0	2	0	0	0	X		2
		LTC-88B NY	4/15/1988	X		275	31	113	121	10	0	0	X		275
		LTC-90 NY	9/7/1990	X		74	14	28	28	4	0	0	X		74
		LTC-94 NY	2/24/1994	X		1236	36	356	641	203	0	0	X		1236
		LTC-96 NY 5/01	7/5/2001	X		528	19	87	285	127	10	0	X		528

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		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		LTC-96 NY 9/96	1/16/1997	X		6435	124	1176	3553	1535	47	0	X		6435
		LTC-96CL NY 9/96	1/16/1997	X		3	0	0	3	0	0	0	X		3
		LTC-NY-91	12/31/1991	X		486	24	147	257	57	1	0	X		486
		NH-94 NY	2/24/1994	X		12	1	3	6	2	0	0	X		12
		NH-NY-91	12/31/1991	X		4	0	0	3	1	0	0	X		4
		SG-02 NY	4/19/2002	X		2072	82	501	1167	312	10	0	X		2072
		SG-03 NY	11/26/2003	X		1470	60	376	778	244	12	0	X		1470
		SG-03 NY (2007)	8/2/2007	X		248	18	59	125	45	1	0	X		248
		SG-03 NY (2008)	5/22/2008	X		726	48	177	369	126	6	0	X		726
		SG-03 NY (2010)	5/24/2010	X		205	5	48	109	40	3	0	X		205
		SG-06 NY	7/10/2006	X		249	20	67	130	31	1	0	X		249
		SG-11 NY	7/15/2011	X		82	5	31	34	11	1	0	X		82
		SGB-02 NY	4/19/2002	X		72	3	7	50	11	1	0	X		72
		SGB-03 NY	11/14/2003	X		131	1	27	67	31	5	0	X		131
		P-FACE (2009	10/21/2008		X	368	94	129	130	15	0	0	X		368
		TOTALS		**30**	**1**	**30,365**	**1,101**	**7,129**	**16,385**	**5,511**	**239**	**0**	**31**	**0**	**30,365**
John Hancock Life Insurance Company (USA)	65838	BSC-03 NY	11/14/2003	X		3	1	0	2	0	0	0	X		3
		LTC-02 NY	4/19/2002	X		49	4	11	24	9	1	0	X		49
		LTC-03 NY	11/26/2003	X		37	0	1	1	3	0	0	X		5
		LTC-03 NY (2007)	8/2/2007	X		5	0	1	1	3	0	0	X		5
		LTC-03 NY (2008)	5/22/2008	X		8	0	2	5	1	0	0	X		8
		LTC-06 NY	7/10/2006	X		2	0	1	1	0	0	0	X		2
		LTC-88B NY	4/15/1988	X		1	0	0	1	0	0	0	X		1
		LTC-90 NY	9/7/1990	X		1	1	0	0	0	0	0	X		1
		LTC-94 NY	2/24/1994	X		4	0	1	3	0	0	0	X		4
		LTC-96 NY 5/01	7/5/2001	X		7	1	0	4	2	0	0	X		7
		LTC-96 NY 9/96	1/16/1997	X		43	1	9	26	7	0	0	X		43
		LTC-NY-91	12/31/1991	X		3	0	1	2	0	0	0	X		3
		SG-02 NY	4/19/2002	X		15	1	6	8	0	0	0	X		15
		SG-03 NY	11/26/2003	X		13	0	6	4	1	2	0	X		13
		SG-03 NY (2008)	5/22/2008	X		4	0	2	1	1	0	0	X		4

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		SG-06 NY	7/10/2006	X		4	0	0	2	2	0	0	X		4
		SGB-02 NY	4/19/2002	X		1	0	0	0	1	0	0	X		1
		P-FACE (2004)	10/19/1989		X	744	267	270	194	13	0	0	X		744
		GPB-COV-0002	12/24/1996		X	2,920	1224	1148	512	35	1	0	X		2920
		GCB-COV-0001	7/30/1990		X	639	170	239	184	46	0	0	X		639
		GDB-CRT-0001.16	6/28/1996		X	178	114	47	16	1	0	0	X		178
		GPB-COV-0002.01	10/17/2002		X	4,147	1366	1607	1034	138	2	0	X		4147
		P-FACE (2002-2)	2/15/2006		X	4,773	1177	1878	1522	195	1	0	X		4773
		PVUL	8/25/2005	X		87	23	34	23	7	0	0	X	X	87
		PVUL09	4/14/2009	X		142	32	51	45	14	0	0	X	X	142
		PVUL12	8/23/2012	X		857	152	238	351	115	1	0	X	X	857
		AVUL	2/22/2006	X		48	16	17	15	0	0	0	X	X	48
		AVUL09	10/27/2008	X		99	32	43	20	4	0	0	X	X	99
		AVUL14	4/30/2014	X		88	39	33	12	4	0	0	X	X	88
		AVUL19	10/29/2019	X		73	19	21	27	6	0	0	X	X	73
		MPVUL	5/18/2006	X		4	0	2	2	0	0	0	X	X	4
		MPIUL16	8/30/2017	X		3	0	0	3	0	0	0	X	X	3
		MVULX	10/30/2008	X		5	0	0	5	0	0	0	X	X	5
		INDEXED UL11	8/11/2011	X		54	14	20	16	4	0	0	X	X	54
		PIUL13	12/3/2013	X		10	1	3	6	0	0	0	X	X	10
		PIUL15	6/17/2015	X		129	21	54	41	13	0	0	X	X	129
		PIUL18	2/26/2020	X		35	10	10	13	2	0	0	X	X	35
		PIUL20	2/26/2020	X		52	7	15	23	7	0	0	X	X	52
		AIUL15	12/14/2015	X		13	6	7	0	0	0	0	X	X	13
		AIUL17	3/2/2017	X		26	6	9	10	1	0	0	X	X	26
		AIUL19	10/11/2019	X		6	1	1	2	2	0	0	X	X	6
		AIUL20	10/21/2020	X		3	1	1	1	0	0	0	X	X	3
		AIUL21	4/29/2021	X		10	3	2	4	0	1	1	X	X	10

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		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		AIUL21 REP	9/3/2021	X		1	0	0	1	0	0	36		X	1
		MAVUL19	3/19/2020	X		2	0	2	0	0	0	0	X	X	2
		MAIUL21	4/29/2021	X		1	0	0	1	0	0	1	X	X	1
		AUL06	2/27/2006	X		3	0	3	0	0	0	0	X	X	3
		AUL09	12/8/2008	X		44	8	16	12	8	0	0	X	X	44
		PRL11	9/15/2011	X		22	10	9	3	0	0	0	X	X	22
		PUL06	8/23/2006	X		6	2	3	1	0	0	0	X	X	6
		PUL08	8/23/2006	X		1	0	1	0	0	0	0	X	X	1
		PUL09	4/13/2009	X		6	0	1	4	1	0	0	X	X	6
		PUL10	5/6/2010	X		73	11	21	27	14	0	0	X	X	73
		PUL12	3/8/2012	X		277	14	63	126	66	8	0	X	X	277
		PUL13	5/7/2013	X		523	48	116	261	97	1	0	X	X	523
		PUL15	3/17/2015	X		299	35	62	149	53	0	0	X	X	299
		PUL16	3/17/2015	X		1688	173	387	761	359	8	0	X	X	1688
		ULG05	6/29/2005	X		9	3	2	1	2	1	0	X	X	9
		ULG06	2/14/2006	X		71	7	12	28	18	6	0	X	X	71
		ULG07	2/14/2006	X		54	0	10	26	13	5	0	X	X	54
		ULG08	9/8/2008	X		34	4	10	15	5	0	0	X	X	34
		ULG09	2/27/2009	X		89	5	28	41	15	0	0	X	X	89
		ULG10	2/11/2010	X		128	10	40	56	21	1	0	X	X	128
		ULG11	2/11/2010	X		147	13	39	65	27	3	0	X	X	147
		ULG7R	2/14/2006	X		118	8	32	55	19	4	0	X	X	118
		ULG9R	2/27/2009	X		116	9	33	56	16	2	0	X	X	116
		W1008	1/17/2007	X		2	2	0	0	0	0	0	X	X	2
		W1508	1/17/2007	x		4	2	0	2	0	0	0	X	X	4
		W2008	1/17/2007	x		3	0	2	1	0	0	0	X	X	3
		WFP08	1/17/2007	x		56	7	25	16	8	0	0	X	X	56

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		WFP11	12/6/2010	x		14	1	6	7	0	0	0	X	X	14
		WLC09	8/13/2009	x		3	0	0	1	2	0	0	X	X	3
		WLC10	8/13/2009	x		11	0	3	4	4	0	0	X	X	11
		WLP08	1/17/2007	x		5	5	0	0	0	0	0	X	X	5
		WLP11	12/6/2010	x		2	2	0	0	0	0	0	X	X	2
		TOTALS		**69**	**6**	**19,157**	**5,089**	**6,717**	**5,886**	**1,385**	**48**	**38**	**74**	**52**	**19,125**
Knights of Columbus	58033	LTC01-NY 6-99	10/18/2000	X		915	69	255	453	135	3	0	X		915
		NHC01-NY 6-99	10/18/2000	X		184	10	49	97	27	1	0	X		184
		LTC2 NY 7-14	1/6/2016	X		151	11	50	68	22	0	19			151
		NHC2 NY 7-14	1/6/2016	X		25	2	9	9	5	0	1			25
		TOTALS		**4**	**0**	**1,275**	**92**	**363**	**627**	**189**	**4**	**20**	**2**	**0**	**1,275**
Massachusetts Mutual Life Insurance Company	65935	MM-200-P-NY	7/28/2002	X		323	9	131	257	52	1	0	X		450
		MM-201-P-NY	7/28/2002	X		3	0	2	2	0	0	0	X		4
		MM-202-P-NY	7/28/2002	X		1	0	0	0	1	0	0	X		1
		MM-203-P-NY	7/28/2002	X		111	22	70	73	10	0	0	X		175
		MM-204-P-NY	7/28/2002	X		1	0	0	1	0	0	0	X		1
		MM-300-P-NY	3/13/2003	X		561	64	309	409	52	1	0	X		835
		MM-301-P-NY	3/13/2003	X		4	0	1	3	0	0	0	X		4
		MM-303-P-NY	3/13/2003	X		302	88	209	162	18	1	0	X		478
		MM-304-P-NY	3/13/2003	X		1	1	0	0	0	0	0	X		1
		MM-400-P-NY	4/8/2005	X		364	24	176	300	45	1	0	X		546
		MM-401-P-NY	4/8/2005	X		2	1	1	2	0	0	0	X		4
		MM-402-P-NY	4/8/2005	X		201	40	132	147	13	0	0	X		332
		MM-403-P-NY	4/8/2005	X		1	0	0	1	0	0	0	X		1
		MM-500-P-NY	3/19/2008	X		1176	57	323	641	149	6	0	X		1176
		MM-501-P-NY	3/19/2008	X		12	1	2	8	1	0	0	X		12
		MM-502-P-NY	3/19/2008	X		357	56	130	145	26	0	0	X		357
		MM-503-P-NY	3/19/2008	X		4	3	0	1	0	0	0	X		4
		MM-504-P-NY	3/19/2008	X		12	4	4	4	0	0	0	X		12
		MM-500-P-1-NY	1/30/2012	X		249	11	72	130	36	0	0	X		249

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		MM-501-P-1-NY	1/30/2012	X		4	0	0	3	1	0	0	X		4
		MM-502-P-1-NY	1/30/2012	X		64	9	23	31	1	0	0	X		64
		MM-503-P-1-NY	1/30/2012	X		1	0	0	1	0	0	0	X		1
		MM-504-P-1-NY	1/30/2012	X		2	1	1	0	0	0	0	X		2
		MM-500-P-2-NY	10/22/2012	X		1790	68	534	902	284	2	0	X		1790
		MM-501-P-2-NY	10/22/2012	X		8	0	0	8	0	0	0	X		8
		MM-502-P-2-NY	10/22/2012	X		229	18	78	112	21	0	0	X		229
		MM-504-P-2-NY	10/22/2012	X		6	0	4	2	0	0	0	X		6
		MM-505-P-2-NY	10/22/2012	X		1	0	1	0	0	0	0	X		1
		TOTALS		**28**	**0**	**5,790**	**477**	**2,203**	**3,345**	**710**	**12**	**0**	**28**	**0**	**6,747**
MedAmerica Insurance Company of New York	83437	FC-336-NY-et al	5/1/2012	X		491	61	126	220	78	6	0	X		491
		HTQ11-338-NY-998	3/23/2000	X		265	1	22	123	104	15	0	X		265
		LT-1-3	10/1/1987	X									X		0
		LTC89-CD1	4/18/1987	X		8	0	0	8	0	0	0	X		8
		LTC89-CD2	1/1/1989	X		34	12	10	10	2	0	0	X		34
		LTC89-CD3	4/18/1989	X		2	0	0	2	0	0	0	X		2
		LTC91-CD4-NY (10/91)	7/1/1991	X		489	12	76	318	83	0	0	X		489
		LTC-CD10-NY	4/15/1997	X		630	33	138	321	135	3	0	X		630
		LTC-CD6-NY	3/30/1993	X		27	0	3	20	4	0	0	X		27
		LTC-CD6TQ-NY	6/24/1997	X		66	0	7	46	13	0	0	X		66
		LTC-CD8-NY	7/31/1995	X		91	2	14	54	20	1	0	X		91
		LTC-CD8TQ-NY	1/29/1997	X		52	3	7	33	9	0	0	X		52
		LTC-LBP10-NY	4/15/1997	X		35	1	1	9	22	2	0	X		35
		LTC-LBP8-NY	7/31/1995	X		49	0	4	28	17	0	0	X		49
		LTC-LBP8TQ-NY	1/29/1997	X		15	0	1	9	5	0	0	X		15
		LTC-LBP-NY	9/23/1994	X		145	4	31	75	35	0	0	X		145
		LTQ11-336-NY-998	3/22/2000	X		794	71	217	374	121	11	0	X		794
		NTQ11-337-NY-998	3/23/2000	X		29	0	1	9	14	5	0	X		29
		PRT11-336-NY-998	2/20/2001	X		236	18	48	113	52	5	0	X		236
		SPL2-336-NY-et al	3/14/2007	X		2255	300	728	947	268	12	0	X		2255
		SPL-336-NY-et al	2/24/2002	X		2508	359	872	1048	223	6	0	X		2508

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		TRL-336-NY	11/2/2012	X		15	0	1	8	5	1	0	X		15
		CG-336-NY-et al	7/9/2015	X		9	1	7	1	0	0	0	X		9
		PRT11-336-NY-305	9/1/2006	X		159	5	59	76	19	0	0	X		159
		LTC89-CD1	4/18/1987		X	13	0	1	11	1	0	0	X		13
		LTC89-CD2	1/1/1989		X	276	94	104	70	8	0	0	X		276
		LTC89-CD3	4/18/1989		X	1	0	0	1	0	0	0	X		1
		GRP11342NY999	3/24/2000		X	791	283	320	174	13	1	0	X		791
		GRPSPL-342-NY	6/23/2005		X	173	63	66	41	3	0	0	X		173
		PGR11-342-NY-900	3/13/2001		X	1	1	0	0	0	0	0	X		1
		NYG11-342-NY-0612	11/28/2012		X	142	27	45	56	14	0	0	X		142
		NYG11-342-NY-200	6/1/2001		X	2781	508	1161	967	141	4	0	X		2781
		NYP11-342-NY-200	6/1/2001		X	99	10	39	44	5	1	0	X		99
		TOTALS		**24**	**9**	**12,681**	**1,869**	**4,109**	**5,216**	**1,414**	**73**	**0**	**33**	**0**	**12,681**
Metropolitan Life Insurance Company	65978	G.24113	6/27/1991		X	1	20	12	1	0	0	0	X		33
		G.24194	4/18/1995		X	1	11	5	1	0	0	0	X		17
		G.LTC1597	7/10/1997		X	2	3	1	1	0	0	0	X		5
		G.LTC1697	5/29/1998		X	6	6	1146	2805	1207	43	0	X		5207
		G.LTC197	11/8/2002		X	9	7612	6467	5181	930	36	0	X		20226
		G.LTC2095	6/28/1996		X	1	267	310	178	41	2	0	X		798
		GPNP99-LTC	1/1/2001		X	23	4856	6635	5307	1274	145	0	X		18217
		LTC.2500	1/1/1996		X	1	259	407	259	39	0	0	X		964
		1LTC-97-NY (00)	5/25/1999	X		1528	81	553	695	190	9	0	X		1528
		2LTC-97-NY (00)	5/25/1999	X		20	0	5	8	7	0	0	X		20
		LTC.02	12/23/1991	X		320	12	50	164	91	3	0	X		320
		LTC.03(NY)	3/31/1999	X		705	7	92	401	196	9	0	X		705
		LTC2007-NY	3/3/2009	X		487	43	157	219	64	4	0	X		487
		LTC2-FAC-NY	8/9/2002	X		20	2	6	3	8	1	0	X		20
		LTC2-IDEAL-NY	11/25/2002	X		1725	106	466	936	202	15	0	X		1725
		LTC2-PREM-NY	8/28/2002	X		309	35	113	137	22	2	0	X		309
		LTC2-VAL-NY	8/9/2002	X		2350	174	647	1204	299	26	0	X		2350
		LTC-FAC-NY	7/20/2005	X		38	4	7	25	1	1	0	X		38

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		LTC-IDEAL-NY	7/20/2005	X		2766	185	961	1410	205	5	0	X		2766
		LTC-PREM-NY	7/20/2005	X		237	42	99	86	9	1	0	X		237
		LTC-VAL-NY	7/20/2005	X		1769	118	559	878	202	12	2	X		1769
		TCL-LTC.04 (NY)	3/21/2000	X		896	24	166	512	188	6	0	X		896
		TOTALS		**14**	**8**	**13,214**	**13,867**	**18,864**	**20,411**	**5,175**	**320**	**2**	**22**	**0**	**58,637**
Mutual of Omaha	71412	LTC04	1/27/2005	X		352	8	87	231	87	6	0	X		419
		HCA	6/22/2000	X		13	1	4	4	7	1	0	X		17
		HCAQ	6/22/2000	X		33	2	8	19	15	0	0	X		44
		LT50	5/12/1998	X		112	10	39	63	29	0	0	X		141
		LTA	6/22/2000	X		10	0	4	10	2	0	0	X		16
		LTAQ	6/22/2000	X		124	6	45	76	17	0	0	X		144
		LTC12	4/28/1993	X		27	1	6	29	8	0	0	X		44
		LTC17	4/28/1993	X		18	4	8	9	5	0	0	X		26
		LTM12	4/28/1993	X		3	1	0	2	1	0	0	X		4
		NH11	1/28/1988	X		3	0	2	2	0	0	0	X		4
		NH27	2/3/1989	X		14	5	6	4	1	0	0	X		16
		NH28	2/3/1989	X		1	1	1	1	0	0	0	X		3
		NH3	12/10/1984	X		1	0	0	0	1	0	0	X		1
		NH50	4/17/1998	X		7	0	1	5	1	0	0	X		7
		NHA	6/22/2000	X		27	2	8	22	7	1	**0**	X		40
		NHAQ	6/22/2000	X		170	7	64	118	24	2	0	X		215
		LTC09	2/1/2010	X		3318	85	597	2235	934	54	0	X		3905
		LTC13	7/8/2015	X		6192	211	1089	3482	1782	67	806			6631
		LTC17	11/29/2018	X		62	8	27	24	3	0	48			62
		TOTALS		**19**	**0**	**10,487**	**352**	**1,996**	**6,336**	**2,924**	**131**	**854**	**17**	**0**	**11,739**
New York Life Insurance Company	66915	G-9065	12/16/1998		X	1	4	9	9	1	0	0	X		23
		21073(NY)	5/15/1995	X		21	0	0	16	5	0	0	X		21
		21084(NY)	5/15/1995	X		1	0	0	1	0	0	0	X		1
		ILTC-4300(NY)(0197)	2/11/1998	X		2566	431	1046	855	229	5	0	X		2566
		INH-4300(NY)(0197)	2/11/1998	X		12	1	3	6	2	0	0	X		12

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		ILTC-5000(NY)(1001)	12/20/2002	X		5584	871	1957	2182	555	19	0	X		5584
		INH-5000(NY)(1001)	12/20/2002	X		52	5	21	20	6	0	0	X		52
		FLTC-5000(NY)(0503)	5/18/2004	X		1275	333	440	415	79	8	0	X		1275
		FNH-5000(NY)(0503)	5/18/2004	X		6	1	1	2	2	0	0	X		6
		LTC6 (NY)	1/7/2016	X		2662	299	682	1196	470	15	622			2662
		FLTC6-U (NY)	9/23/2016	X		65	20	15	23	6	1	15			65
		TOTALS		**10**	**1**	**12,245**	**1,965**	**4,174**	**4,725**	**1,355**	**48**	**637**	**9**	**0**	**12,267**
Northwestern Long Term Care Insurance Company	69000	RS.LTC.(0708)	6/16/2008	X		2519	254	949	1067	214	8	0	X		2492
		RS.LTC.ML.(0708)	6/16/2008	X		395	108	114	138	28	1	0	X		389
		RS.LTC.(1101)	10/29/2001	X		1212	139	402	487	117	4	0	X		1149
		RS.LTC.ML.(1101)	8/22/2002	X		183	50	39	53	12	1	0	X		155
		TT.LTC.(1010)	6/16/2010	X		5363	838	1905	2025	431	16	0	X		5215
		TT.LTC.ML.(1010)	6/16/2010	X		753	282	231	171	33	0	0	X		717
		UU.LTC.(1014)	7/8/2015	X		3320	332	870	1573	453	13	366			3241
		UU.LTC.ML.(1014)	7/8/2015	X		177	45	40	66	13	0	14			164
		UU.LTC.ML.SN.(1014)	7/8/2015	X		8	4	2	2	0	0	0			8
		TOTALS		**9**	**0**	**13,930**	**2,052**	**4,552**	**5,582**	**1,301**	**43**	**380**	**6**	**0**	**13,530**
Northwestern Mutual Life Insurance Company	67091	UU.ACB.(0119)	4/6/2020	X		3228	2041	731	398	22	0	1255		X	3192
		TOTALS		**1**		**3,228**	**2,041**	**731**	**398**	**22**	**0**	**1,255**		**1**	**3,192**
Principal Life Insurance Company	61271	FR 601	1/1/1992		X	34	17	12	4	1	0	0	X		34
		TOTALS		**0**	**1**	**34**	**17**	**12**	**4**	**1**	**0**	**0**	**1**	**0**	**34**
Provident Life and Casualty Insurance Company	68209	2600	N/A		X	1	16	38	20	6	1	0	X		81
		TOTALS		**0**	**1**	**1**	**16**	**38**	**20**	**6**	**1**	**0**	**1**	**0**	**81**

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
Prudential Insurance Company of America	68241	83500 LTCR 8002, et al (AICPA GLTC-1)	6/30/1993		X	1	838	274	72	8	0	0	0	X	1192
		83500 GR1045 et al (GLTC-2)	6/30/1998		X	18	361	364	170	17	1	0	0	X	913
		83500 LTCR 200, LTC U 2001	10/4/1995												0
		83500 COV 1004	7/6/1999												0
		83500 COV 1004	12/1/2000												0
		83500 BFW 5005, et al (GLTC-3/3.5)	5/29/2002		X	47	2330	3102	2392	347	11	0	0	X	8182
		83500 COV 5022, et al (GLTC-4)	10/28/2008		X	17	635	1092	819	119	5	0	0	X	2670
		GRP 99210 (ILTC-1 SIMPLE)	6/10/1999	X		464	33	110	227	91	3	0	0	X	464
		GRP 99211 (ILTC-1 COMPOUND)	6/10/1999	X		1085	153	465	409	58	0	0	0	X	1085
		GRP 99212 (ILTC-1 PERIODIC)	6/10/1999	X		344	20	80	162	74	8	0	0	X	344
		GRP 112552 (ILTC-2)	9/3/2003	X		1240	81	415	558	175	11	0	0	X	1240
		GRP 112622 (ILTC-2 Franchise)	9/3/2003	X		280	24	67	143	45	1	0	0	X	280
		GRP 113141 (ILTC-3)	10/18/2006	X		1797	97	510	873	300	17	0	0	X	1797
		GRP 113772 (ILTC-3 Franchise)	8/16/2007	X		1661	159	424	840	225	13	0	0	X	1661
		GRP 114201 (Evolution ILTC4)	10/2/2009	X		25	5	9	8	3	0	0	0	X	25
		GRP 114202 (EvolutionFranchise)	10/27/2009	X		48	7	14	21	6	0	0	0	X	48
		TOTALS		**9**	**4**	**7,027**	**4,743**	**6,926**	**6,694**	**1,468**	**70**	**0**	**0**	**13**	**19,901**
River Source Life Insurance Co. of NY	80594	38240	10/20/1989	X		104	0	21	74	9	0	0	X		104
		38240C	12/31/1991	X		182	0	28	137	17	0	0	X		182
		38225	8/31/1994	X		2129	61	756	1129	179	4	0	X		2129
		38260A	11/10/1999	X		1796	51	637	896	208	4	0	X		1796
		TOTALS		**4**	**0**	**4,211**	**112**	**1,442**	**2,236**	**413**	**8**	**0**	**4**	**0**	**4,211**

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
State Farm Mutual Automobile Insurance Company	25178	97045NY.1	1/1/1998	X		474	103	155	173	41	2	0	X		474
		97045NY.2	5/8/2001	X		74	15	26	27	6	0	0	X		74
		97058NY	12/31/2001	X		424	115	111	164	33	1	0	X		424
		97059NY	9/21/2005	X		506	87	150	218	49	2	0	X		506
		TOTALS		**4**	**0**	**1,478**	**320**	**442**	**582**	**129**	**5**	**0**	**4**	**0**	**1,478**
Talcott Resolution Life Insurance Company (*previously Hartford Life Insurance Company*)	88072	SRP1353	1/28/1999		X	6	0	0	5	1	0	0	X		6
		SRP1366	7/1/1999	X		2	0	0	2	0	0	0	X		2
		TOTALS		**1**	**1**	**8**	**0**	**0**	**7**	**1**	**0**	**0**	**2**	**0**	**8**
Teachers Insurance and Annuity Association of America	69345	LTC.2500	1/1/1996		X	1	36	75	71	7	0	0	X		189
		LTC.02	12/23/1991	X		135	3	18	77	36	1	0	X		135
		LTC.03(NY)	3/31/1999	X		332	7	47	161	115	2	0	X		332
		TOTALS		**2**	**1**	**468**	**46**	**140**	**309**	**158**	**3**	**0**	**3**	**0**	**656**
Thrivent Financial for Lutherans (*previously Aid Association for Lutherans*)	56014	12105 NY	12/28/1998	X		177	5	64	81	27	0	0	X		177
		12106 NY	12/28/1998	X		24	1	2	16	5	0	0	X		24
		TOTALS		**2**	**0**	**201**	**6**	**66**	**97**	**32**	**0**	**0**	**2**	**0**	**201**
TIAA-Cref Life Insurance Company	60142	TCL-LTC.04 (NY)	3/21/2000	X		375	13	62	203	95	2	0	X		375
		TOTALS		**1**	**0**	**375**	**13**	**62**	**203**	**95**	**2**	**0**	**1**	**0**	**375**
Transamerica Financial Life Insurance Company (including AUSA)	70688	GCPLUS 2 1290 (NY)	6/28/1996	X		1	0	1	0	0	0	0	X		1
		LTC 304-198-NY	3/30/2001	X		49	2	11	30	5	1	0	X		49
		NLTCP TQ LTC FR (NY) 297	7/27/2000	X		20	0	5	12	3	0	0	X		20
		P-0001 (NY) 4/98	3/30/2001	X		34	0	7	25	1	1	0	X		34
		TFL 1-FP (NY) 402	5/20/2004	X		224	19	53	114	37	1	0	X		224
		TFL 2-P NY 0410	11/7/2011	X		1577	136	368	833	230	10	0	X		1577

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/22 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		TFL 2-P NYF 0410	11/7/2011	X		1553	309	415	668	159	2	0	X		1553
		TOTALS		**7**	**0**	**3,458**	**466**	**860**	**1,682**	**435**	**15**	**0**	**7**	**0**	**3,458**
Union Security Life Insurance Company *(previously First Fortis)*	81477	4062-NY	10/8/1998	X		106	1	20	56	25	4	0	X		106
		4063-NY	10/9/1998	X		2027	16	411	1245	350	5	0	X		2,027
		TOTALS		**2**	**0**	**2,133**	**17**	**431**	**1,301**	**375**	**9**	**0**	**2**	**0**	**2,133**
The United States Life Insurance Company In The City Of New York (American International Life Assurance Company of New York)	70106	64391-NY	12/17/1997	X		101	5	27	76	17	0	0	X		125
		64391-NYTQ	12/17/1997	X		104	0	15	86	22	1	0	X		124
		TOTALS		**2**	**0**	**205**	**5**	**42**	**162**	**39**	**1**	**0**	**2**	**0**	**249**
VOYA Retirement Insurance and Annuity Company	86509	NCF	10/19/1987	X		26	0	8	18	0	0	0	X		26
		NHP	5/2/1986	X		8	0	0	6	2	0	0	X		8
		TOTALS		**2**	**0**	**34**	**0**	**8**	**24**	**2**	**0**	**0**	**2**	**0**	**34**

APPENDIX III

Number of Partnership LTC Policies In-force in New York as of December 31, 2022

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
American Family Life Assurance of New York*	60526	NY-23000	12/2/1994	X		1	1						X		1
		TOTALS		**1**	**0**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**1**	**0**	**1**
American Progressive Life and Health Insurance Company of NY*	80624	APRLTCP (11/99) NY	11/1/1999	X		49	0	7	16	25	1	0	X		49
		TOTALS		**1**	**0**	**49**	**0**	**7**	**25**	**25**	**1**	**0**	**1**	**0**	**49**
Athene Insurance Company of New York (including Aviva Life & Annuity Company of New York)*	63932	NY-2500-P	2/18/1994	X		162	8	49	86	19	0		X		162
		NY-2500-P(Q)	2/18/1994	X		46	4	16	19	7	0		X		46
		TOTALS		**2**	**0**	**208**	**12**	**65**	**105**	**26**	**0**	**0**	**2**	**0**	**208**
Bankers Conseco Life Insurance Company *(previously Conseco)**	68560	ATIC-RWJ-NY	10/7/1996	X		446	4	64	360	119	1		X		548
		TOTALS		**1**	**0**	**446**	**4**	**64**	**360**	**119**	**1**	**0**	**1**	**0**	**548**
Brighthouse Life Insurance Company (previously Travelers and MetLife USA)*	87726	LC3	3/1/1997	X		1794	14	251	1059	465	5	0	X		1794
		LC4	3/9/1997	X		1238	12	221	765	236	4	0	X		1,238
		TOTALS		**2**	**0**	**3,032**	**26**	**472**	**1,824**	**701**	**9**	**0**	**2**	**0**	**3,032**

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
Continental Casualty Company (CNA)*	20443	P1-18584-A31	3/23/1993	X		703	12	140	380	168	3	0	X		703
		P1-18585-A31	3/23/1993	X		33	0	10	17	6	0	0	X		33
		P1-N0041-A31	7/29/1997	X		2497	58	512	1416	499	12	0	X		2497
		P1-N0042-A31	7/29/1997	X		16	0	0	12	4	0	0	X		16
		SR-LTCP-31	1/1/1994		X	4	80	203	114	19	1	0	X		417
		TOTALS		**4**	**1**	**3,253**	**150**	**865**	**1,939**	**696**	**16**	**0**	**5**	**0**	**3,666**
Genworth Life Insurance Company of New York *(previously GE Capital Life Assurance Co. of NY)*	72990	50109	1/1/1996	X		193	1	25	111	56	0	0	X		193
		51001	1/30/1996	X		642	1	80	373	182	6	0	X		642
		51011	8/31/2001	X		5546	137	1570	3233	589	17	0	X		5546
		51013	9/9/2004	X		3468	81	958	2092	331	6	0	X		3468
		51015	12/15/2005	X		1112	19	219	722	149	3	0	X		1112
		51015REV	9/26/2007	X		7161	96	1252	4528	1261	24	0	X		7161
		7052NYP	10/5/2011	X		2738	53	584	1679	414	8	0	X		2738
		8000NYP	10/3/2013	X		2659	45	418	1528	656	12	0	X		2659
		8000R1NYP	11/3/2015	X		175	1	32	108	33	1	0	X		175
		TOTALS		**9**	**0**	**23,694**	**434**	**5,138**	**14,374**	**3,671**	**77**	**0**	**9**	**0**	**23,694**
John Hancock Life & Health Insurance Company	96310	LTC-11 NYP	8/18/2011	X		61	1	13	26	20	1	0	X		61
		SG-11 NY 7/12	10/25/2012	X		163	12	37	73	40	1	0	X		163
		LTC-96RWJ NY 4/99	7/5/2001	X		457	3	62	272	114	6	0	X		457
		LTC-96RWJ NY 9/97	3/20/1998	X		6867	51	1020	4114	1606	76	0	X		6867
		LTC-NY-91-RWJ	3/25/1993	X		549	7	69	311	162	0	0	X		549
		NYP-05	2/9/2006	X		6033	96	1154	3846	910	27	0	X		6033
		TOTALS		**6**	**0**	**14,130**	**170**	**2,355**	**8,642**	**2,852**	**111**	**0**	**6**	**0**	**14,130**
John Hancock Life Insurance Company (U.S.A.)	65838	LTC-96RWJ NY 4/99	7/5/2001	X		3	0	0	2	1	0	0	X		3
		LTC-96RWJ NY 9/97	3/20/1998	X		43	1	6	31	4	1	0	X		43

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
		LTC-NY-91-RWJ	3/25/1993	X		5	0	1	3	1	0	0	X		5
		NYP-05	2/9/2006	X		26	0	6	17	3	0	0	X		26
		TOTALS		**4**	**0**	**77**	**1**	**13**	**53**	**9**	**1**	**0**	**4**	**0**	**77**
Massachusetts Mutual Life Insurance Company	65935	MM-202-P-NYP	7/28/2002	X		33	1	16	25	6	0	0	X		48
		MM-205-P-NYP	7/28/2002	X		4	0	2	3	1	0	0	X		6
		MM-302-P-NYP	3/13/2003	X		5	0	1	6	0	0	0	X		7
		MM-506-P-NYP	1/21/2009	X		120	3	24	75	17	1	0	X		120
		MM-507-P-NYP	1/21/2009	X		3	0	0	2	1	0	0	X		3
		MM-508-P-NYP	1/21/2009	X		31	1	6	24	0	0	0	X		31
		MM-510-P-NYP	1/21/2009	X		3	0	3	0	0	0	0	X		3
		MM-506-P-1-NYP	2/3/2012	X		4	0	2	2	0	0	0	X		4
		MM-508-P-1-NYP	2/3/2012	X		5	0	2	3	0	0	0	X		5
		MM-506-P-2-NYP	11/30/2012	X		93	2	30	46	15	0	0	X		93
		MM-507-P-2-NYP	11/30/2012	X		4	0	0	2	2	0	0	X		4
		MM-508-P-2-NYP	11/30/2012	X		5	0	0	3	2	0	0	X		5
		MM-510-P-2-NYP	11/30/2012	X		2	0	2	0	0	0	0	X		2
		TOTALS		**13**	**0**	**312**	**7**	**88**	**191**	**44**	**1**	**0**	**13**	**0**	**331**
MedAmerica Insurance Company of New York*	83437	LTC-CD6-NY	3/30/1993	X		291	9	34	169	79	0	0	X		291
		LTC-CD6TQ-NY	6/24/1997	X		651	6	94	385	164	2	0	X		651
		PRT11-336-NY-0612	2/6/2013	X		1097	49	203	625	208	12	0	X		1097
		PRT11-336-NY-305	9/1/2006	X		1348	50	346	661	272	19	0	X		1348
		PRT11-336-NY-998	2/20/2001	X		1844	67	388	983	377	29	0	X		1844
		NYP11-342-NY-0612	11/28/2012		X	73	10	23	31	9	0	0	X		73
		NYP11-342-NY-200	6/1/2001		X	964	114	371	383	92	4	0	X		964

Insurer	NAIC #	Policy: Form Number	Policy: Date of NYS DFS Approval	Type of Coverage (Individual or Group): I	Type of Coverage (Individual or Group): G	Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase): Under 45	45-54	55-64	65-74	75 and Over	Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		PGR11-342-NY-900	3/13/2001		X	10	0	4	6	0	0	0	X		10
		TOTALS		**5**	**3**	**6,278**	**305**	**1,463**	**3,243**	**1,201**	**66**	**0**	**8**	**0**	**6,278**
Metropolitan Life Insurance Company*	65978	G.LTC197-NYP	11/8/2002		X	1	27	103	255	53	3	0	X		441
		1LTC-97 NYP	8/31/2001	X		100	3	20	58	17	2	0	X		100
		LTC2-DD100-NYP	10/31/2005	X		28	0	1	20	6	1	0	X		28
		LTC2-DD50-NYP	10/31/2005	X		41	3	6	19	13	0	0	X		41
		LTC2-TD100-NYP	10/31/2005	X		989	47	282	573	85	2	0	X		989
		LTC2-TD50-NYP	10/31/2005	X		1619	41	352	995	209	22	0	X		1619
		LTC-VAL-NYP	12/16/2002	X		1853	64	512	1053	220	4	0	X		1853
		RWJ.01	2/25/1994	X		60	1	4	32	22	1	0	X		60
		TOTALS		**7**	**1**	**4691**	**186**	**1,280**	**3,005**	**625**	**35**	**0**	**8**	**0**	**5,131**
Mutual of Omaha Insurance Company*	71412	LTC20	10/26/1993	X		27	3	10	16	8	0	0	X		37
		LTM20	10/26/1993	X		3	0	2	1	0	0	0	X		3
		TOTALS		**2**	**0**	**30**	**3**	**12**	**17**	**8**	**0**	**0**	**2**	**0**	**40**
New York Life Insurance Company*	66915	21050RWJ	5/15/1995	X		24	1	8	14	1	0	0	X		24
		21050 50DDAP (0105)	3/20/2006	X		6	0	1	2	2	1	0	X		6
		21050 50TAP (0105)	3/20/2006	X		86	4	26	36	19	1	0	X		86
		21050 100TAP (0105)	3/20/2006	X		52	11	24	14	3	0	0	X		52
		TOTALS		**4**	**0**	**168**	**16**	**59**	**66**	**25**	**2**	**0**	**4**	**0**	**168**
Prudential Insurance Company of America*	68241	83500 PLTC 9001	11/14/1995		X	1	1	0	2	0	1	0	X		4
		(83500 LTCR 8003 - AICPA GLTC-1)													
		GRP 99865	11/27/2001	X		87	1	20	54	10	2	0	X		87
		TOTALS		**1**	**1**	**88**	**2**	**20**	**56**	**10**	**3**	**0**	**2**	**0**	**91**

Insurer	NAIC #	Policy		Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Check Box if Closed Block of Business	Check Box if Combination Life/LTC Coverage	Total Number of Insured Persons
		Form Number	Date of NYS DFS Approval	I	G		Under 45	45-54	55-64	65-74	75 and Over				
Teachers Insurance and Annuity Association of America	69345	RWJ.01	2/25/1994	X		19	0	3	11	5	0	0	X		19
		TOTALS		**1**	**0**	**19**	**0**	**3**	**11**	**5**	**0**	**0**	**1**	**0**	**19**
Transamerica Financial Life Insurance Company*	70688	LTC 304-198-NYP	3/11/2002	X		17	0	7	7	3	0	0	X		17
		TOTALS		**1**	**0**	**17**	**0**	**7**	**7**	**3**	**0**	**0**	**1**	**0**	**17**
Union Security Life Insurance Company *(previously First Fortis)**	81477	4051-NY	9/24/1998	X		1202	13	166	743	273	7	0	X		1202
		TOTALS		**1**	**0**	**1202**	**13**	**166**	**743**	**273**	**7**	**0**	**1**	**0**	**1202**

All data provided has been self-reported by the insurers and has not been verified by DFS.

APPENDIX IV

Number of Partnership and Non-Partnership LTC Policies In-force in New York as of December 31, 2022

	Type of Coverage (Individual or Group)		Number of Existing Policies	Number of Insured Persons Issued Coverage (by Age Group at Time of Purchase)					Number of Insured Persons Issued Coverage from 1/1/21 through 12/31/22	Closed Blocks of Business	Combination Life/LTC Coverage	Total Number of Insured Persons
	I	G		Under 45	45-54	55-64	65-74	75 and Over				
NON-PARTNERSHIP TOTALS	348	48	254,608	54,931	95,529	136,122	39,576	1,846	5,069	364	69	328,004
PARTNERSHIP TOTALS	65	6	57,694	1,330	12,077	34,652	10,293	330	0	71	0	58,682
PARTNERSHIP AND NON-PARTNERSHIP TOTALS	413	54	312,302	56,261	107,606	170,774	49,869	2,176	5,069	435	69	386,686

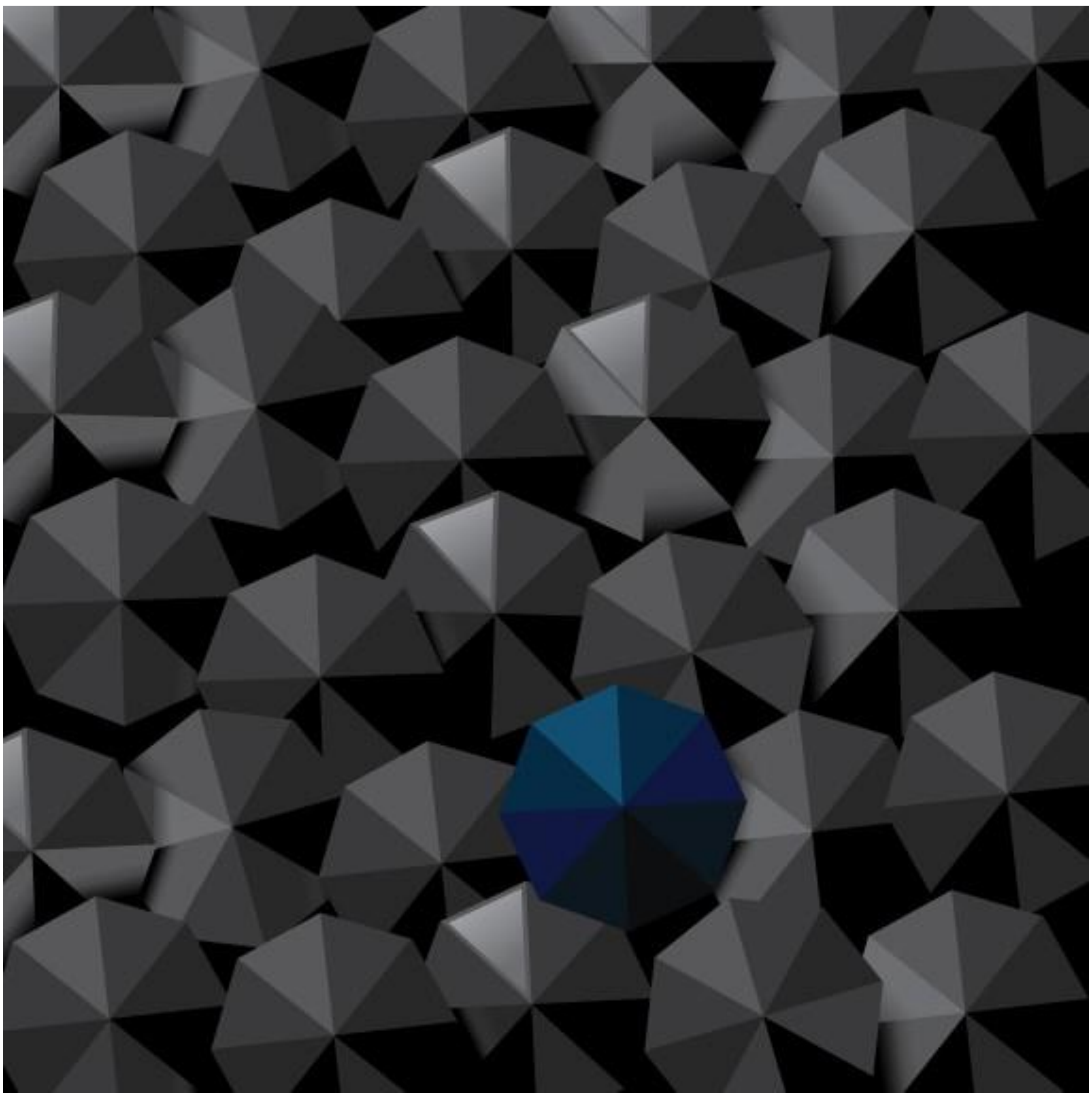
All data provided has been self-reported by the insurers and has not been verified by DFS.

APPENDIX V

LONG TERM CARE INSURANCE

Looking Back and Thinking Ahead

June 7, 2023



I. Executive Summary

Most Americans, at some point in their lives, will face the difficult task of arranging long term care for themselves, their family members, or both. This care can be in a facility, such as a nursing home or assisted living facility, or at one's home, and can cover a variety of services, including healthcare services or assistance with everyday personal tasks.

The cost of these vital services can be staggering. In New York, just one year of care in a nursing home costs, on average, approximately $159,000 per person. Even if one receives care at home, the average annual cost in New York is approximately $66,000 per person. In 2018 alone, Americans paid approximately $55 billion in out-of-pocket expenses for long term care, and even that eye-popping sum was a distant second to the Medicaid program, which paid three times that amount — roughly $159 billion — toward long term care expenses. This incredible burden is expected to worsen over time as the country's population ages; by one estimate, long term care expenses could be 3% of U.S. gross domestic product by 2050, more than double what it was in 2010.

Faced with the prospect of depleting their remaining assets on long term care — through out-of-pocket expenses, spending down their assets to qualify for Medicaid, or both — some Americans have turned to long term care insurance ("LTC insurance"). In exchange for paying an insurance premium, policyholders have at least some portion of their long term care expenses covered when long term care is needed. New Yorkers have been able to purchase LTC insurance policies since 1988.

In the approximately 35 years since, however, the LTC insurance market has struggled. The number of New Yorkers who have LTC insurance policies today is roughly half of what it was at its peak, declining from approximately 754,000 in 2002 to only 394,000 policyholders in 2020. Further, only a fraction of the insurers that at some point sold long term care policies in New York still do so today, and several of those that do remain face financial instability. These struggles were evidenced this past February when the Department of Financial Services ("DFS") was forced to take over a New York-based insurer whose principal line of business is LTC insurance after its Pennsylvania-based parent insurance company was nearing the conclusion of its own liquidation.

Struggles in the LTC insurance market can in large part be traced to pricing errors made from its inception. Simply stated, LTC insurance plans across the country were initially offered at premium rates that were far lower than they should have been. Insurance pricing relies on assumptions about various things, including policyholder behavior, the costs of future heath care, and future market conditions, including the interest rate environment. When insurers began offering long term care policies (and when regulators across the country first approved the offering of those policies), insurers and regulators did not have a reservoir of historical data to inform these assumptions as they would have for other, traditional insurance products such as health and property insurance. Indeed, even after insurers began writing LTC insurance policies, it took many years to generate real-world data on how these policies would perform given the unusually long time lag between the issuance of an LTC insurance policy and the onset of claims for long term care benefits.

It was only with the passage of time that insurers and regulators across the country realized that the assumptions used when initially pricing premiums were inaccurate, and, as a result, premium rates were substantially underpriced for many years. As a result, insurers sustained significant losses, many stopped selling new LTC insurance policies, and the ability of some insurers to maintain adequate reserves to satisfy future claims was put in jeopardy.

When LTC insurers first sought approval from the New York State Insurance Department (the "Insurance Department"), DFS's predecessor agency, to significantly increase premium rates, those requests were either denied altogether or approved at lower-than-requested levels. An examination of the premium rate increase requests over time now shows, with the benefit of hindsight, that the Insurance Department's rate approval decisions were too conservative, particularly in the early part of the relevant period. Though those decisions were informed by the laudable consideration of trying to protect consumers from potentially unnecessary rate increases that they may not have been able to afford, the Insurance Department (as well as insurance regulators in many other states) should have confronted sooner the insurers' initial mispricing to better safeguard the sustainability of the LTC insurance market as a whole: earlier action on rates might have benefitted consumers in the long run by keeping more insurers in the market, thereby increasing consumer options, and avoiding financial instability that could imperil consumer benefits.

II. <u>Introduction</u>

LTC insurance plans were initially authorized by the New York Legislature in Chapter 245 of the Laws of 1986, and the first LTC insurance offerings were purchased by New York consumers in 1988. Since that time, the LTC insurance market has generated controversy and suffered from financial instability. Significantly higher than expected costs coupled with lower than expected income resulting from a lengthy low-interest-rate environment have put acute financial pressure on LTC insurance carriers notwithstanding substantial, unpopular, and burdensome premium increases on consumers.

Indeed, the LTC insurance market in New York (and throughout the nation) is struggling. Despite legislative and regulatory initiatives intended to promote the purchase of LTC insurance policies to help address the rising costs of elder care, consumer adoption of LTC insurance remains lower than anticipated. Further, insurers have voiced concerns about the sustainability of the LTC insurance market given the financial losses they have sustained in connection with LTC insurance offerings. Despite substantial increases in LTC insurance premium rates that have been approved around the country to address these concerns, most insurance providers that entered the LTC insurance market no longer issue new policies, and several have ceased business operations altogether, necessitating governmental and regulatory intervention.

This report examines the LTC insurance market, including the root causes of the problems that the market has experienced. The report provides an overview of long term care and the LTC insurance market generally, including a discussion of the legislative incentives to promote the market to help address the rising costs of elder care. The report goes on to detail how the insurers made assumptions and projections when initially offering LTC insurance that were inaccurate with respect to both costs and income; as a result, the insurers initially priced (and regulators around the country approved) premium rates that were far too low, causing significant long term financial instability in the market. The report then reviews the history of LTC insurers' requests to increase LTC insurance premium rates in New York and the decisions by the Insurance Department (and later DFS) to approve or deny those premium rate increase requests. Finally, this report summarizes the current state of the LTC insurance market in New York and reiterates

DFS's commitment to the LTC insurance market and to promoting other solutions to the societal issue of the high cost of elder care.

In preparing this report, DFS reviewed a wide range of sources, including scholarly, industry, and regulatory agency publications; LTC insurance market research studies; and historical LTC insurance premium rate filings in New York. Additionally, DFS surveyed certain DFS-licensed LTC insurers that currently service or continue to offer LTC insurance policies in New York and reviewed documents relating to the insurers' past applications to increase LTC insurance premium rates and the information upon which the insurers relied to support those applications, such as actuarial studies and marketing studies and materials. The insurers' responses are referenced throughout this report.

III. <u>Background and Origins of Long Term Care Insurance</u>

A. The Basics of Long Term Care Funding

The term "long term care" refers to a wide range of services intended to assist people with long term physical or cognitive limitations who require ongoing attention and assistance in the performance of everyday personal tasks, often referred to as activities of daily living, such as bathing, dressing, using the bathroom, and eating. Long term care services can be provided in an institutional setting, such as a nursing home, or within the care recipient's home.

The nation is aging. More than half of Americans turning 65 today are estimated to develop a disability serious enough to require long term care.[1] Long term care and other support programs are expected to make up an increasing portion of the country's gross domestic product, with expenses potentially constituting 3% of GDP by 2050 (up from 1.3% in 2010).[2]

Long term care services are indeed very expensive. Current national estimates put the annual, per-person cost of nursing home care at $108,000 and home health care at $61,000.[3] These numbers are even higher for New Yorkers, where the per-person average annual nursing home cost is $159,000 and home health care cost is $66,000.[4] The costs for such services are most often funded through one or a combination of private, out-of-pocket payments; Medicaid; and LTC insurance.[5]

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[1] "Long-Term Services and Supports for Older Americans: Risks and Financing (2022)," U.S. Department of Health and Human Services, available at: https://aspe.hhs.gov/sites/default/files/documents/8f976f28f7d0dae32d98c7fff8f057f3/ltss-risks-financing-2022.pdf.

[2] "Long-Term Services and Supports for Older Americans: Risks and Financing Research Brief," Office of the Assistance Secretary for Planning and Evaluation (last modified June 2015), available at: https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//142116/ElderLTCrb-rev.pdf.

[3] "Annual Median Costs: New York - State (2021)," Genworth Cost of Care Survey, available at: https://www.genworth.com/aging-and-you/finances/cost-of-care.html.

[4] *Id*.

[5] "Paying for Long-Term Care," National Institute on Aging, available at: https://www.nia.nih.gov/health/paying-long-term-care. LTC insurance is also offered as a rider to combination life insurance and annuity vehicles. As of 2021, approximately 54,000 New Yorkers held combination annuity/LTC insurance policies.

Contrary to what some consumers think, Medicare — federal health insurance for people above 65 or those under 65 with certain disabilities or conditions[6] — does not cover long term care, as it does not cover custodial care.[7] Rather, Medicare covers only medically necessary care, such as physician visits and hospital care, if ordered by a doctor.[8] This arrangement is more akin to a traditional hospital stay than to long term care, as it is considered medically necessary, whereas LTC insurance covers the cost of assistance with activities of daily living that may not necessarily be medical in nature.[9] Thus, consumers who want long term care must consider other ways to finance it beyond Medicare benefits.

Medicaid, a federal program administered by states that covers medical costs for certain individuals with limited income and financial resources,[10] is the largest payer of long term care expenses. According to the Congressional Research Service, in 2020, Medicaid paid out roughly $200 billion in long term care expenses while individuals' out-of-pocket spending was approximately $64 billion.[11] However, Medicaid is need-based and has stringent asset and income requirements.[12] States have varying eligibility criteria for Medicaid, but, in general, individuals are not eligible if their assets exceed $2,000.[13] Given this requirement, as part of their estate planning, some individuals (and, if applicable, their spouses) "spend down," that is, shed, their assets to have their long term care covered through Medicaid.[14]

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[6] "What's the difference between Medicare and Medicaid?," U.S. Department of Health and Human Services, available at: https://www.hhs.gov/answers/medicare-and-medicaid/what-is-the-difference-between-medicare-medicaid/index.html.

[7] "Nursing Home Care," Medicare.gov, available at: https://www.medicare.gov/coverage/nursing-home-care ("Medicare doesn't cover custodial care, if it's the only care you need. Most nursing home care is custodial care, which helps you with activities of daily living.")

[8] "An Overview of the U.S. LTC Insurance Market (Past and Present): The Economic Need for LTC Insurance, the History of LTC Regulation & Taxation and the Development of LTC Product Design Features," Society of Actuaries (2014), available at: https://www.soa.org/globalassets/assets/files/resources/essays-monographs/managing-impact-ltc/mono-2014-ltc-manage-narva.pdf.

[9] *See* "Inpatient Hospital Care," Medicare.gov, available at: https://www.medicare.gov/coverage/inpatient-hospital-care (Medicare Part A covers inpatient hospital care if insured is admitted to the hospital as an inpatient after an official doctor's order that states insured needs inpatient hospital care to treat their illness or injury.).

[10] "What's the difference between Medicare and Medicaid?", U.S. Department of Health and Human Services, available at: https://www.hhs.gov/answers/medicare-and-medicaid/what-is-the-difference-between-medicare-medicaid/index.html.

[11] "Who Pays for Long-Term Services and Supports?" Congressional Research Service (2022), available at: https://crsreports.congress.gov/product/pdf/IF/IF10343.

[12] Mackenzie, George A. (Sandy), "Long-Term Care in the United States: History, Financing, and Directions for Reform." Kalamazoo, MI: W.E. Upjohn Institute for Employment Research(November 28, 2022), available at: https://doi.org/10.17848/9780880996891 ("Long-term care coverage is severely limited by the stringent asset and income tests that Medicaid requires for eligibility for nursing homes and HCBS.")

[13] The eligibility criteria for Medicaid in New York State is available at: https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/22ma14_att1.pdf

[14] "Long-Term Care Insurance: Recommendations for Improvement of Regulation," U.S. Department of the Treasury (August 2020), available at: https://home.treasury.gov/system/files/136/Report-Federal-Interagency-Task-Force-Long-Term-Care-Insurance.pdf.

For consumers eligible for Medicaid, New York State offers Managed Long Term Care ("MLTC") programs, which are designed to streamline the delivery of long term care services to people who are chronically ill or disabled and who wish to stay in their homes and communities.[15] The MLTC programs available in New York State include Medicaid Advantage Plus, Program of All-Inclusive Care for the Elderly ("PACE"),[16] and the MLTC Medicaid Plan.[17]

B. Long Term Care Insurance as a Funding Source

Continued reliance on Medicaid to fund long term care expenses may prove infeasible, however, due to chronic funding shortfalls at both federal and state levels. As a result, long term care may increasingly require more private, out-of-pocket expenditures, which could prove to be prohibitively expensive for many consumers.[18]

Regulators and legislators nationwide have sought to facilitate financial arrangements and payment structures to ease the burden of these increasing costs. One such method was to permit the sale of LTC insurance for purchase directly by consumers. Depending on the terms of the policy, LTC insurance may cover custodial care, hospice care, home healthcare, assisted living care, adult day care, and other forms of assistance. From the consumer's perspective, LTC insurance is structured much like other insurance policies: a consumer purchases an insurance policy to reflect the coverage they want, pays premiums so long as the policy is active, and submits a claim when they need to use coverage, *i.e.*, when a healthcare provider prescribes long

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[15] "Managed Long Term Care (MLTC)," New York State Department of Health (2023), available at: https://www.health.ny.gov/health_care/managed_care/mltc/; "Medicaid Managed Long Term Care, New York State Department of Health, available at: https://www.health.ny.gov/health_care/medicaid/redesign/docs/mltc_guide_e.pdf.

[16] "Program for All-Inclusive Care for the Elderly (PACE); Discussion of Structural Alternatives for PACE Expansion in New York" New York State Department of Health (June 2022), available at: https://www.health.ny.gov/facilities/public_health_and_health_planning_council/meetings/2022-06-02/docs/pace.pdf. Not all individuals are qualified to receive services under PACE: the program requires that an individual be age 55 or over, reside in a PACE organization service area, be eligible for a nursing home, and be able to live safely in a community setting. Benefits under PACE are broader than those offered in LTC insurance and can include primary care, hospital care, prescription drugs, nursing home services, and home health services. *See* "Programs of All-Inclusive Care of the Elderly (PACE)," Center for Medicare and Medicaid Services (June 9, 2011), https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/pace111c01.pdf.

[17] "Medicaid Managed Long Term Care," New York State Department of Health, available at: https://www.health.ny.gov/health_care/medicaid/redesign/docs/mltc_guide_e.pdf. The New York State Department of Health also regulates Assisted Living Programs ("ALP"), available to both Medicaid recipients and private payers who are medically eligible for, and would otherwise require, placement in a nursing home due to the lack of a home or suitable home environment.[17] ALPs do not, however, provide continual nursing care, a type of services typically covered by LTC insurance. *See* Assisted Living Program," New York State Department of Health, available at: https://www.health.ny.gov/health_care/medicaid/program/longterm/alps.htm.

[18] "An Overview of the U.S. LTC Insurance Market (Past and Present): The Economic Need for LTC Insurance, the History of LTC Regulation & Taxation and the Development of LTC Product Design Features," Society of Actuaries (2014), available at: https://www.soa.org/globalassets/assets/files/resources/essays-monographs/managing-impact-ltc/mono-2014-ltc-manage-narva.pdf ("Medicaid benefits may be scaled back in years ahead (or eligibility tightened) due to the severity of fiscal constraints at both the state and federal government levels.").

term care assistance.[19] However, the average LTC insurance policyholder holds the insurance policy and pays premiums over a lengthy span, often more than 20 years, before claiming any benefits.[20] As discussed more fully below, this lag has had an important impact on the predictability of the costs associated with these policies.

LTC insurance plans have been offered in New York for about 35 years. Chapter 245 of the Laws of 1986 added Section 1117 to the New York Insurance Law to permit certain insurers authorized by the Insurance Department to issue LTC insurance policies. The Insurance Department first approved LTC insurance plans in 1986,[21] and the initial LTC insurance offerings were purchased by New York consumers in 1988. In 1991, the Insurance Department amended Insurance Regulation 62 (11 NYCRR 52), establishing minimum standards and setting forth disclosure requirements for LTC insurance, which took effect on January 1, 1992. Additionally, as detailed further below, New York has introduced a number of initiatives to incentivize consumers to purchase LTC insurance policies.

As of 2021, 38 insurance companies were servicing existing LTC insurance policies purchased by New York policyholders. Of those 38 companies, however, only five currently offer new LTC insurance products for purchase; the remaining 33 insurers continue to service previously purchased LTC insurance policies but have discontinued writing new policies due in part to the financial challenges facing the market discussed below.

C. Legislative Incentives to Promote LTC Insurance

Although LTC insurance has been available since the late 1980s, only about 2% of Americans have purchased some form of LTC insurance (the proportion is slightly higher among New Yorkers, approximately 2.9%),[22] suggesting that private LTC insurance is underutilized relative to the potential demand.[23] To encourage consumer use, federal and state governments have

[19] In certain instances, however, LTC insurance policyholders are subject to an elimination period where the insured must cover cost of care before the policy will pay a claim, similar to a deductible.

[20] "Long-Term Care Insurance: Recommendations for Improvement of Regulation," U.S. Department of the Treasury (August 2020), available at: https://home.treasury.gov/system/files/136/Report-Federal-Interagency-Task-Force-Long-Term-Care-Insurance.pdf ("Unlike short-term medical insurance or publicly-funded Medicaid, the structure of LTCI relies on the pre-funding of benefits. Typically, purchasers buy LTCI at relatively younger ages, in their 50s or 60s, and then hold the insurance while paying premiums for a lengthy period, often over twenty years.").

[21] "A Report by the Superintendent of Financial Services to the Governor and the Legislature on Long Term Care Health Insurance Plans (Report for the Two-Year Period Ending December 31, 2020), Department of Financial Services, (2021), available at: https://www.dfs.ny.gov/system/files/documents/2022/02/ltc_report_2021.pdf ("2021 DFS LTC Insurance Report") at p. 5.

[22] American Association for Long-Term Care Insurance (2020), available at: www.aaltci.org ("7.5 million Americans have some form of long-term care insurance as of January 1, 2020.").

[23] "Long-Term Care Insurance: Recommendations for Improvement of Regulation," U.S. Department of the Treasury (2020), available at: https://home.treasury.gov/system/files/136/Report-Federal-Interagency-Task-Force-Long-Term-Care-Insurance.pdf.

devised various frameworks to incentivize consumers to purchase LTC insurance, mainly in the form of tax breaks.

In 1996, President Clinton signed into law the Health Insurance Portability and Accountability Act ("HIPAA"), which, in pertinent part, sought to improve accessibility and affordability of LTC insurance.[24] To that end, HIPAA provides favorable federal income tax treatment to holders of "qualified" LTC insurance policies.[25] To be a qualified LTC insurance policy, however, the policy, among other things, must exclude a cash surrender value. In other words, a policyholder cannot receive any cash value for terminating the policy irrespective of any prior premiums paid, and thus any lapse in the policy would result in the policyholder losing all benefits under the policy without recovering the value of any premiums already paid. Further, to qualify for the HIPAA tax benefit, the individual must have a policy requiring a showing, usually made through a physician's examination, that the individual is unable to perform, without substantial assistance from another person, at least two activities of daily living for a period of at least 90 days due to a loss of functional capacity before paying any claims.[26] For many individuals, these requirements, notwithstanding the tax incentives, make LTC insurance less desirable.[27]

For decades, New York policymakers and regulators have worked to make LTC insurance coverage more affordable and accessible to New Yorkers, including through the following:

- The New York State Legislature established the NYS Partnership for Long Term Care Program (the "NYS Partnership"), which became operational in 1993. Under this program, New York residents who purchase a qualified policy or certificate providing LTC insurance become eligible for Medicaid assistance without spending down their assets once the benefits from the policy or certificate are exhausted.[28]

- In 1997, pursuant to Chapter 659 of the Laws of 1997, New York began providing favorable state income tax treatment to consumers who purchased LTC insurance policies that qualified for favorable tax treatment under HIPAA.[29]

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[24] Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936 (1996)).

[25] "Long-Term Care Insurance Tax-Deductibility Rules" American Association for Long Term Care Insurance, available at: https://www.aaltci.org/long-term-care-insurance/learning-center/tax-for-business.php.

[26] Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936 (1996) Sec. 321(C)(2)(B)).

[27] "An Overview of the U.S. LTC Insurance Market (Past and Present): The Economic Need for LTC Insurance, the History of LTC Regulation & Taxation and the Development of LTC Product Design Features," Society of Actuaries (2014), available at: https://www.soa.org/globalassets/assets/files/resources/essays-monographs/managing-impact-ltc/mono-2014-ltc-manage-narva.pdf.

[28] 2021 DFS LTC Insurance Report at p. 11. Note that the NYS Partnership program is different from other states' Partnership programs, which have been established under the federal Deficit Reduction Act of 2005 ("DRA"). The NYS program — the first of its kind in the nation — pre-dated the DRA programs by 16 years.

[29] *Id.* at p. 2.

- In 2000, the New York State Legislature provided residents with the opportunity to receive a tax credit equal to 10% of LTC insurance premiums.[30]

- In 2012, DFS amended Insurance Regulation 144 (11 NYCRR 39), to establish a lower cost minimum insurance plan, enabling insureds to protect all assets upon Medicaid eligibility.[31]

- In 2013, DFS amended Insurance Regulation 144 (11 NYCRR 39), to set forth minimum daily benefit amounts for the five NYS Partnership plan designs from January 1, 2014, through December 31, 2023.[32]

Despite these initiatives to help consumers purchase LTC insurance policies, consumer adoption of LTC insurance remains low. The number of LTC insurance policies in New York has steadily declined from a peak of 754,000 policies in 2002 to only approximately 394,000 sold in 2020.[33]

One factor for the low consumer adoption rate is that LTC insurance policies can be cost prohibitive to some consumers relative to other insurance products, such as health and life insurance.[34] The relatively higher cost of LTC insurance has been attributed to the rapidly increasing cost of long term care itself. Moreover, the various "unknowns" associated with long term care make an LTC insurance policy inherently a less certain proposition for the consumer than traditional health or life insurance — there is a possibility, for example, that a consumer may never use long term care benefits, as opposed to the level of certainty of return on a life insurance policy or the higher likelihood of utilization for traditional health insurance benefits.[35]

Another reason for lower adoption of LTC insurance is the increased use of Medicaid estate planning. Medicaid estate planning involves the transferring or sheltering of assets to access Medicaid for coverage of the consumer's long term care needs to allow a consumer to meet the asset test for Medicaid eligibility and receive long term care services without having to "spend down" their assets to become Medicaid eligible. Many consumers see the use of Medicaid estate

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[30] *Id*. at p. 3. In 2020, legislation capped the tax credit for LTC insurance premiums at $1,500 and made the tax credit applicable only to tax returns where the adjusted gross income is below $250,000 for taxable years beginning in 2020. *Id*. at p. 8.

[31] *Id*. at p. 3.

[32] *Id*.

[33] "The State of Long-Term Care Insurance: The Market, Challenges and Future Innovations," National Association of Insurance Commissioner, (May 2016), available at: https://content.naic.org/sites/default/files/inline-files/cipr_current_study_160519_ltc_insurance_0.pdf; 2021 DFS LTC Insurance Report at p. 38.

[34] *Id*. at p.27, available at https://content.naic.org/sites/default/files/inline-files/cipr_current_study_160519_ltc_insurance_0.pdf.

[35] "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1 ("Thus, the actual required capital is very high per dollar of earned premium or reserves because of the perceived product risk, the long-term nature of the guaranteed renewable coverage, and the fact rating action impacts are muted as policyholders continue to age."); 2021 DFS LTC Insurance Report at p. 17.

planning as a viable alternative to purchasing LTC insurance for their long term care needs.[36] However, consumer reliance on Medicaid in its current form is an untenable solution to the problem of the high costs of long term care.

IV. Roots of the Crisis: Inaccurate Assumptions Regarding LTC Insurance Pricing

As noted at the outset of this report, the LTC insurance market has struggled. LTC insurers have suffered financial losses despite substantial rate increases borne by consumers, and these losses have prompted the majority of LTC insurers to stop writing new policies. Some of the insurers that remain suffer from significant financial challenges, putting their viability (and consumers' future benefits) at risk. Consumers, meanwhile, have also suffered as they have shouldered the burden of increased LTC insurance premium rates.

This challenging situation stems from a series of inaccurate assumptions that insurers made about long term care when LTC insurance policies were first written. In essence, the insurers underestimated how much the coverage they were offering would cost while simultaneously overestimating how much they could earn on reserves.

Insurers are supposed to set LTC insurance premiums at a price sufficient to ensure that the insurance product is self-supporting; that is, that the premium payments received will be sufficient to cover all future claims.[37] Initial rates must be approved by DFS. Estimating what future claims will cost to determine an appropriate premium to charge requires the creation of mathematical models based on probability distributions and confidence intervals. In essence, insurance companies must make projections as to what will happen in the future to impact the cost of whatever coverage is being offered. These models make assumptions about various factors that, in the case of LTC insurance, include lapse rates, mortality rates, morbidity rates, and interest rates (each of which is discussed more fully below).[38] The initial assumptions made by insurers with respect to LTC insurance in New York and nationwide have proven to be less accurate than the assumptions made with regard to most other lines of insurance, for a number of reasons:[39]

- **Lack of Experience Data.** When LTC insurance was initially offered, the product's relative novelty increased the difficulty of pricing the risk. Most other insurance products are older than LTC insurance, and companies have the benefit of years of data of how insurance claims actually occur in real life — so called "experience data" — to use as

[36] *See* 2021 DFS LTC Insurance Report at p. 16.

[37] *See* New York Insurance Law § 1117(f)(3).

[38] "Understanding the Volatility of Experience and Pricing Assumptions in Long-Term Care Insurance," Society of Actuaries (2014), available at: https://www.soa.org/resources/research-reports/2014/research-2014-understanding-volatility/.

[39] *See* "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1.

inputs to create accurate pricing models.[40] In the case of LTC insurance, for which claims were expected years or even decades later, no such actual experience data existed. In the absence of reliable data, insurers relied on so-called "proxy" data from health and life insurance policies and long term disability experience data, as well as nursing facility studies containing morbidity rates. Unfortunately, the insurers erred in relying on those sources, and therefore substantially underestimated the costs of long term care claims made in real life.

- **Guaranteed Renewability.** While most insurance policies renew on an annual basis and are thus subject to changing premiums from year to year, LTC insurance is a guaranteed renewable product. This means that the policyholder has the right to continue the policy in force so long as premiums are paid.[41] Moreover, although premium rate increases are possible with DFS approval, unlike other products such as health insurance for which the rate is expected to change each year, premiums in the LTC insurance market are generally designed to (and for many years did in fact) remain the same year after year. Because of these factors, LTC insurers were not able to adjust premiums quickly to adapt to changing economic and public policy factors on an annual basis, as insurers can do with most other products.

- **Policy Length.** Because of the uniquely long "tail" of the risk associated with LTC insurance — that is, the length of time between issuance of an LTC insurance policy and the onset of a claim for long term care benefits — actual insured experience data did not become available until decades after the initial rollout of LTC insurance products.[42]

As referenced above, in connection with the preparation of this report, DFS surveyed LTC insurers to obtain industry insight on the challenges faced by the industry. Insurers consistently noted that in determining initial LTC insurance premiums, they relied on erroneous assumptions that failed to accurately predict LTC claims. The following is a summary of these insurers' anecdotal insights on the factors that caused initial underwriting failures.

- **Lapse Rates.** Lapse rates — the rates at which policies are discontinued or cancelled before benefits are claimed — for LTC insurance policies were much lower in reality than initially expected. Insurers examined lapse rates of other insurance products as references when initially pricing LTC insurance premiums, but in practice, a higher percentage of policyholders retained their LTC insurance policies (and subsequently

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[40] *See* "An Overview of the U.S. LTC Insurance Market (Past and Present): The Economic Need for LTC Insurance, the History of LTC Regulation & Taxation and the Development of LTC Product Design Features," Society of Actuaries (2014), available at: https://www.soa.org/globalassets/assets/files/resources/essays-monographs/managing-impact-ltc/mono-2014-ltc-manage-narva.pdf; "Understanding the Volatility of Experience and Pricing Assumptions in Long-Term Care Insurance," Society of Actuaries (May 2014), available at: https://www.soa.org/resources/research-reports/2014/research-2014-understanding-volatility/.

[41] "Comparing LTC Policies," New York State Department of Financial Services, available at: https://www.dfs.ny.gov/consumers/health_insurance/long_term_care_insurance/comparing_policies,

[42] *See* "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation, (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1.

made claims) than policyholders of other insurance products. Because fewer policies were dropped before claims were made than initially expected, the costs of coverage were higher than anticipated which, in turn, meant that the initial premium rates proved too low.

- **Mortality Rates.** Mortality rates also were much lower than initially projected.[43] Some LTC insurers relied on data from Group Annuity Mortality Tables from the 1980s published by the Society of Actuaries as a proxy for anticipated mortality rates to calculate initial LTC insurance premium rates. Subsequent LTC insurance experience data, however, showed that actual mortality rates were much lower, meaning that more policyholders reached an older age at which they were likely to file LTC insurance claims, and thus more claims were initiated than had been expected. Again, this meant that the initial premium rate calculations were too low.[44]

- **Morbidity Rates.** Morbidity rates — the rates at which policyholders file claims pursuant to their LTC insurance benefits — were much higher than expected. The calculations used to make morbidity rate assumptions are based on several other assumptions about factors, such as incidence rates (*i.e.*, the rate at which policyholders claim benefits for long term care services), claim continuance patterns (*i.e.*, the frequency and/or time periods that policyholders claim benefits for long term care services), and unpredictable disability patterns and disability recovery rates that may impact the necessity and provision of long term care services.[45] Because of the lack of historical data for long term care products at the time of their initial offering, there was no standard long term care morbidity rate calculation that insurers could use to make morbidity assumptions.[46] Further, the time it takes to establish a reliable long term care morbidity rate assumption is typically longer than the time it takes to establish reliability with respect to other assumptions — such as lapse rates — that LTC insurers use to determine premium rates. When initial LTC insurance products were offered to New York consumers, insurers relied on the results of the 1985 National Nursing Home Survey, the 1982 Long Term Care Survey, and the 1984 follow up to the Long Term Care Survey to determine initial morbidity rate assumptions. In the decades that followed, insured experience data showed that actual morbidity rates were much higher than initially expected, that is, more policyholders used LTC insurance benefits at higher rates than

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[43] "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1.

[44] *Id*.

[45] "An Overview of the U.S. LTC Insurance Market (Past and Present): The Economic Need for LTC Insurance, the History of LTC Regulation & Taxation and the Development of LTC Product Design Features," Society of Actuaries (2014), available at: https://www.soa.org/globalassets/assets/files/resources/essays-monographs/managing-impact-ltc/mono-2014-ltc-manage-narva.pdf.

[46] "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1.

initially projected. This factor, like the ones above, once again meant that the initial premium rates were too low.[47]

- **Interest rates.** For much of the period since LTC insurance policies were first written, interest rates have been significantly lower than projected by insurers at the time of initial offering. Insurers use projected interest rates to calculate projected investment earnings on premiums paid; the higher the earnings that an insurance company makes on premiums already paid, the more reserves are available from which LTC insurance claims would be paid to policyholders.[48] In practice, lower-than-projected interest rates have resulted in less return on investment and therefore smaller reserves held by insurers, once again meaning that premium rates were too low.[49]

In sum, when first writing LTC insurance in the late 1980s and 1990s, the insurers made inaccurate projections (and regulators approved premium rates based upon those projections) as to both the cost and income sides of the equation: the costs of the long term care claims were much higher than expected due to lower lapse rates, lower mortality rates, and higher morbidity rates, while the income made on reserves was lower than expected due to the lengthy low-interest-rate environment.

These inaccurate projections led to premium rates being set substantially lower than were needed to sustain policies. As a result, insurers sustained significant losses,[50] and their ability to maintain adequate reserves for satisfaction of policyholders' claims going forward has in some cases been seriously jeopardized. Those financial losses (and projected losses into the future) prompted insurers to ask the Insurance Department (and later DFS) to authorize significant increases in LTC insurance premium rates and, in many cases, to discontinue selling new LTC insurance policies.

Today, one LTC insurer is in the process of being rehabilitated. American Independent Network Insurance Company of New York ("AINIC") is a New York-domiciled insurer that sold LTC insurance in New York. AINIC's parent company is domiciled in Pennsylvania and is in the process of winding up its liquidation by the Pennsylvania Insurance Department.[51] As a result of the Pennsylvania Insurance Department's action, DFS filed for rehabilitation to oversee the liquidation of AINIC, the New York subsidiary, which itself faces significant financial troubles. A Petition for Receivership was filed for AINIC with the Supreme Court of the State of New

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[47] *Id*.

[48] *See id*..

[49] *See id*. Insurers surveyed in connection with this report claimed that investment earnings on held reserves were significantly lower than originally projected due to the sustained low-interest-rate environment.

[50] One insurer surveyed in connection with this report stated that it had sustained upward of $3.5 billion in losses on legacy LTC insurance policies.

[51] In the Matter of the Application of Adrienne A. Harris, Superintendent of Financial, Services of the State of New York, for an order to take possession and rehabilitate the business and affairs of American Independent Network Insurance Company of New York (AINIC), Verified Petition (February 22, 2023), available at: https://www.penntreaty.com/Portals/3/AINIC%20Petition%20%28incl_%20exhibits%29%28as%20filed%29.pdf.

York, New York County on February 22, 2023. That matter is ongoing as of the time of the issuance of this report.

V. LTC Insurance Premium Rates Did Not Increase Fast Enough to Address Initial Mispricing of Policies

Pursuant to New York Insurance Law § 1117(f)(3), DFS is authorized to approve applications from insurers requesting increased LTC premium rates upon the determination that an insurer's proposed premium rate is reasonably related to the benefits provided and that the premium rate is self-supporting, that is, that the premium payments received by the insurer are sufficient to cover future claims from policyholders.[52] Upon DFS's approval of an LTC insurance premium rate increase request, LTC insurance policyholders are provided with notice of the increased premium rate along with information relating to the options available to retain, modify or terminate their policy. The implementation of some premium rate increases were phased in over time, providing the policyholder with time to consider their options and make a determination with respect to their LTC insurance policy.

A. The Insurance Department's Initial Reluctance to Approve Requests for LTC Insurance Premium Rate Increases

As discussed above, the assumptions relied upon when LTC insurance policies were first offered in the late 1980s and early 1990s were inaccurate. By the mid-2000s, LTC insurers began to realize the initial assumptions were inaccurate after collecting more reliable insured experience data that was not previously available to them. At that time, LTC insurers began to ask for LTC insurance premium rate increases to both mitigate the financial losses they had already sustained, as detailed above, and to be able to pay future claims while avoiding insolvency.

When considering any request for rate increases, DFS must balance the needs for a sound and substantial insurance market with the impact to consumers who will be paying higher premiums.[53] Concerns about consumer impact are particularly acute when looking at increases to LTC insurance rates, as LTC policyholders tend to be elderly and on fixed incomes, meaning that they are particularly vulnerable to cost increases, and the policyholders typically budget for premiums in their long term financial planning, which can be difficult to alter.[54] Further, unlike long term investments in many types of life insurance policies, LTC policies often have no surrender value so, should policies become unaffordable after years or decades of paying premiums, policyholders lose their entire investment. Together this means that increases in LTC premiums can have a very significant adverse impact on consumers.[55] In addition to consumer concerns, the unique nature of LTC insurance — in particular, the long tail between purchase and use of the policy — has meant that, for many years, it was not clear to regulators whether the

[52] New York Insurance Law § 1117(f)(3).

[53] *See* New York Insurance Law § 1117; 11 NYCRR § 52.40.

[54] Pursuant to New York Financial Services Law § 102, the goals of DFS include the promotion of insurance products at affordable costs to New York citizens and consumers and the protection of the public interest of policyholders.

[55] Some LTC insurers, however, offer non-forfeiture benefits that provide the insured with the amount of the premiums paid prior to lapse, and DFS has required non-forfeiture benefits to be offered in connection with approving large rate increases in the past.

insured experience data relied upon by insurers in connection with their requests was in fact reliable.

Given these concerns, as reflected in the table below, insurers' early requests to increase LTC insurance premium rates in New York (roughly, prior to 2010) were largely denied by the Insurance Department.[56] Further, even when requests were granted, rate increases were approved at levels lower than those requested by the insurers.[57] Although the insurers' requests often showed anticipated future losses on the LTC insurance portfolios, the Insurance Department's decisions to deny premium rate increase requests early in the relevant period took into account the fact that, notwithstanding that LTC insurance policies had been available for years, the claim experience data remained relatively unsettled and there was uncertainty concerning factors that could have, over time, improved insurers' future financial condition and therefore solidified insurers' ability to pay anticipated policyholder claims despite the original mispricing of the insurance. For example, the low-interest-rate environment could reverse (which has in fact recently occurred), meaning that insurance companies could make a better return on investments made with premiums, thereby ensuring that funds would be available to pay policyholder claims. Moreover, medical advances and other improvements in health care could decrease future claims and thus mean that future rate increases would prove unnecessary. In sum, at least during the early part of the relevant period, inherent uncertainties led the Insurance Department to be very conservative with respect to approving rate increases.

Although a denial of a rate increase request protects policyholders from increased rates in the short-term, it might also have negative consequences to consumers over time: rate increase denials could trigger an insurer to cease development of further LTC insurance products or to cease offering new LTC insurance products altogether.[58] Indeed, over the past 15 years, many LTC insurance providers decided to stop marketing and selling LTC insurance products in New

[56] LTC insurance premium rate increase requests were submitted to and approved or denied by the Insurance Department up until the establishment of DFS in 2011.

[57] Some LTC insurers — in New York and nationwide — have reported that decisions to deny or only partially approve premium increase requests have contributed to discouraging insurers from continuing to sell new LTC insurance products in New York. *See, e.g.*, "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market," Office of the Assistance Secretary for Planning and Evaluation (June 30, 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1 (insurers surveyed cited "the ability to obtain rate increases in a timely manner or at all" as influencing the insurer's decision to exit the LTC insurance market). Other insurers have cited the delays in approving requested premium rate increases — *i.e.*, denying rate increase requests early on, but approving at a later date — as impeding insurers' ability to achieve their targeted loss ratio and negatively impacting the insurers' available reserves from which policyholders draw their claims.

[58] "The State of Long-Term Care Insurance: The Market, Challenges an Future Innovations," National Association of Insurance Commissioners (May 2015), at p.25, available at: https://content.naic.org/sites/default/files/inline-files/cipr_current_study_160519_ltc_insurance_0.pdf ("Product performance — not hitting profit objectives — was the most cited reason for leaving the market. Incorrect assumptions about two underlying pricing assumptions — voluntary lapses and interest rates — have had a lot to do with this and have been key drivers behind the need of many insurers to increase rates on products."); *id*. ("The concern about the ability to obtain needed rate increases from state insurance departments was the second most cited reason for market exit.").

York.[59] This trend is not unique to New York: nationwide, more than half of insurers that offered LTC insurance products had stopped selling new policies by 2016.[60]

B. Decisions on Requests for LTC Insurance Premium Rate Increases

The table on the following page sets forth a summary of the requested and approved LTC insurance premium rate increases from 2006 through 2021. The table details: the number of companies that made a premium rate increase for each year, along with the total number of policyholders associated with the premium rate increase requests, the total number of filing requests made,[61] the total number and the percentage of filing requests that were denied across all companies for each year. The chart also includes, for approved premium rate increase requests, the average premium rate request increase and the average approved premium rate increase weighted by the number of members associated with the approved premium rate increase policies for each year.

[59] "Exiting the Market: Understanding the Factors behind Carriers' Decision to Leave the Long-Term Care Insurance Market" Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services (June 2013), available at: https://aspe.hhs.gov/reports/exiting-market-understanding-factors-behind-carriers-decision-leave-long-term-care-insurance-market-1 (containing survey of executives from 26 LTC carriers that exited the market or segment of the market and analysis of the NAIC Experience Exhibit Reports from 2000, 2009, 2010, and 2011).

[60] "The State of Long-Term Care Insurance: The Market, Challenges and Future Innovations," National Association of Insurance Commissioners (May 2015), at p. 25, available at: https://content.naic.org/sites/default/files/inline-files/cipr_current_study_160519_ltc_insurance_0.pdf.

[61] A separate request is made with respect to each policy form, so one insurance company can (and did in this case) file more than one rate request in a given year.

Premium Rate Increase Requests from LTC Insurers, 2006-2021

						Only For Approved Rate Increases	
Year	# Companies	# Members	# Filings	# Denied	% Denied	Requested Rate	Approved Rate
2006	4	38,049	9	6	67%	25.0%	15.0%
2007	4	25,894	7	6	86%	30.0%	15.0%
2008	4	67,433	13	11	85%	13.6%	12.2%
2009	6	71,848	9	7	78%	22.8%	15.0%
2010	7	46,578	17	6	35%	18.5%	11.3%
2011	5	50,695	20	3	15%	24.1%	12.6%
2013	15	248,615	51	12	24%	37.6%	21.0%
2014	7	49,474	19	4	21%	51.2%	6.5%
2015	7	244,949	22	-	0%	50.9%	27.8%
2016	6	59,734	23	-	0%	73.0%	13.2%
2017	6	268,806	34	1	3%	47.7%	12.3%
2018	6	137,385	23	1	4%	72.9%	13.1%
2019	13	270,709	58	2	3%	45.8%	10.7%
2020	3	22,794	7	-	0%	49.6%	8.8%
2021*	13	281,525	54	4	7%	65.5%	14.7%

Note: only rate filings with members included in weighted average table above

** partial year*

C. DFS's Methodology for Considering Requests for LTC Insurance Premium Rate Increases

In later years, with the benefit of more historical consumer experience data and claim histories, it became clearer to the Insurance Department (and later to DFS) that the premium rates at the time LTC insurance was first offered in New York were insufficient, largely due to the earlier erroneous assumptions on lapse rates, morbidity rates, mortality rates, and interest rates discussed above. As a result, as seen in the chart above, beginning in roughly 2010, the Insurance Department started approving LTC insurance premium rate increase requests with greater frequency, albeit still typically at rates substantially lower than those requested by insurers.

Through most of the period reflected in the chart above, though LTC insurance experience data was more robust than it was at the time of initial offering, it was still not entirely reliable given the long tail nature of the product. The Insurance Department, in light of this uncertainty and mindful of the impact of increased rates to consumers, developed a framework that examined, among other things, three components of the actuarial data provided by the insurer in an attempt to balance these competing interests. The Insurance Department's methodology attributed a potential 5% rate increase to each component:

- First, the actual versus expected loss ratio (*i.e.*, the ratio of policyholder claims to "gross" premiums at the particular point in time the request is made). If the actual loss ratio was higher than the expected loss ratio, a rate increase may have been justified for this component.

- Second, the lifetime loss ratio (*i.e.*, the ratio of the present value of expected claims to the present value of expected premiums projected over the life of a policy), taking into account an insurer's adjustments to morbidity, mortality, or interest rate assumptions. If the modified lifetime loss ratio (on a cumulative basis) was 5% or more above the minimum New York State lifetime loss ratio or the originally filed lifetime loss ratio, then a maximum 5% rate increase may have been justified for this component.

- Third, the threshold year (*i.e.*, the projected year in which the New York State minimum lifetime loss ratio[62] is reached, evaluated on a cumulative basis since inception of the policies). If the threshold year (as developed in the revised projection of the rate increase request) was reached within ten years of the request, a maximum 5% rate increase may have been justified for this component. If the threshold year was 15 or more years into the future, no increase for this component would have been granted. If the threshold year was between ten and 15 years into the future, the percentage increase would vary taking other metrics into account.

In addition, the Insurance Department also evaluated factors that may vary from one insurer to another, including the financial stability of the requesting insurance company, the historical

[62] The New York State minimum lifetime loss ratio is 65% for policies issued to insureds age 65 and over and 60% for policies issued to insureds age 64 and under. *See* 11 NYCRR 52.45(h).

premium rates for the LTC insurance policies at issue, and the percentage of LTC insurance policies relative to the insurer's entire book of business.[63]

DFS's approvals of premium-rate increases in recent years, generally at more moderate levels, were warranted to sustain the continued offering and service of LTC insurance policies to consumers. It is worth noting that, though current adoption of new LTC insurance policies is lower than when they were initially offered, according to surveyed insurers, for those that already hold LTC insurance policies, New York policyholders have overwhelmingly opted to retain their policies even at increased premium rates. Because the time between the purchase of an LTC insurance policy and the time at which a claim may be made (if one is made at all) is so long, some insurers have speculated that one reason policyholders are likely to keep their policy as-is and pay the higher premium rate is because of the amounts they have already invested in the policy.

With the benefit of hindsight and acknowledging the factors that make pricing LTC insurance so difficult, the Insurance Department's (and later DFS's) approach may have been too conservative, and premium rate increases in many cases could have been granted sooner and in larger amounts in order to better stabilize the market as a whole and to flatten out eventual rate increases for consumers. As vital as it is to protect consumers from burdensome rate increases whenever possible, the Insurance Department and DFS probably could have confronted sooner the insurers' initial mispricing through earlier (and larger) rate increases to better safeguard the sustainability of the LTC insurance market as a whole. In this troubled insurance market, it is fair to ask whether earlier rate increases, though no doubt painful to consumers, might have led to less consumer burden in the long run by reducing the need for later, even larger, rate increases; by keeping more insurers in the LTC insurance market, thereby increasing competition and consumer choice; and by shoring up LTC insurers that could otherwise suffer from financial distress that could threaten consumer benefits.

VI. Going Forward: Continued Stabilization and Encouraging the Continued Availability and Development of LTC Insurance

The echoes of the initial mispricing in the LTC insurance market still trouble the market today, and at least some of the insurers continue to suffer losses that jeopardize their viability and thus the future payment of benefits. As a result, the unfortunate truth is that in some cases, substantial additional premium increases will be required to stabilize the situation. Although DFS is very mindful that such increases are burdensome to consumers, they are necessary to safeguard policyholder benefits over the long term.

There are, however, reasons to hope that rate increases now will put the LTC insurance marketplace on firmer ground for a more stable, predictable future in the years and decades to come. Although predicting costs of benefits in the LTC insurance market has, for the reasons discussed above, proven to be very difficult, LTC insurers and regulators alike now have the benefit of decades of real world experience data to better guide realistic pricing. Further, interest

[63] For example, everything else being equal, in order to ensure the viability of an insurer's business (thus protecting consumers' benefits in the long term), a larger premium rate increase may be justified for financially insecure insurers; for insurers that had relatively lower initial premium rates; and for insurers where LTC insurance policies largely comprise their books of business, among other things.

rates are higher than they have been in recent years, meaning that insurance companies can make a better return on payments made, bolstering the financial condition of LTC insurers and better ensuring that sufficient funds will be there in the future to pay the benefits to which policyholders are entitled. In sum, moving forward, once premium rates are necessarily increased to be more aligned with current assumptions and actuarial justifications, assumptions behind the rate making should be more predictable and rates should be less likely to increase over time.[64]

Going forward, the question becomes how to hold LTC insurers accountable to their actuarial assumptions and marketed premium rates while allowing for sufficient premium increases, if necessary, to maintain LTC insurers' solvency and the market's viability. DFS's efforts to strike this balance are discussed below.

A. Review and Reform Premium Rate Approval Methodologies

As a consumer-focused insurance regulator, DFS must continue to review applications for new LTC policies or rate increases rigorously to ensure they are sound and justified. In responses to surveys for this report, some LTC insurers noted there is a lack of clarity in how rate increases are assessed and a lack of consistency in how these rate requests are handled by different insurance regulators.[65] Approval of LTC insurance premium rate increase requests can vary widely from state to state. Therefore, consumers from different states are paying substantially different amounts for the same policy and benefits. While some of that variation is attributable to differences in the cost of care across states, consistency and cooperation among states and regulators in arriving at a consistent framework for calculating LTC insurance premium rates would provide greater certainty to insurers in the calculation of their projections and greater transparency into the processes insurers currently have to navigate across each jurisdiction in which they operate.

DFS continues to examine and refine its own methodology with respect to reviewing LTC insurance rate increase requests. In April 2022, the NAIC Long-Term Care Insurance Task Force and NAIC Long-Term Care Insurance Multistate Rate Review Subgroup of the task force issued the "Long Term Care Insurance Multistate Rate Review Framework," setting forth a process for multi-state review of rate applications.[66] Interestingly, even that multi-state task force did not reach consensus on the single best actuarial methodology, reflecting the difficulty in determining accurate premium rates for LTC insurance even today.[67] DFS is reviewing the approaches set forth by the NAIC as well as the work of the Society of Actuaries, other states, and other experts

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[64] "Long-Term Care Insurance," National Association of Insurance Commissioners Center for Insurance Policy and Research (last updated April 3, 2023), available at: https://content.naic.org/cipr-topics/long-term-care-insurance.

[65] It is worth noting that the National Association of Insurance Commissioners has assembled a multi-state working group to outline a consistent national approach for the review of LTC insurance rates. *See* https://content.naic.org/industry/long-term-care-insurance-multistate-rate-review. Insurers surveyed in connection with this report support the adoption of the NAIC's framework and a more consistent methodology to reduce state-by-state inequities.

[66] *See* "Long-Term Care Insurance Multistate Rate Review Framework," National Association of Insurance Commissioners (April 2022), available at: https://content.naic.org/sites/default/files/inline-files/MSA%20Framework_040822_Adopted.pdf.

[67] *See id*. at pp. 13-15 (setting forth the "Minnesota Approach" and "Texas Approach" methodologies.

in the field in developing an updated methodology in connection with a number of pending LTC insurance premium rate increase requests.

B. Establish Affordability Measures to Help Consumers Manage LTC Insurance Premium Rate Increases

The fact that rate increases have been (and may continue to be) necessary to protect future benefit payments gives little solace to policyholders who cannot afford to pay those higher rates. Indeed, as noted above, given the vulnerable nature of the consumers in the LTC insurance market, many of whom are on fixed incomes, higher rates can quickly become prohibitively expensive, which would force some policyholders to abandon their policies (and in essence forfeit all past premiums paid) and lose the protection afforded by the policy. In an effort to provide some relief from this all-or-nothing dilemma, DFS and LTC insurers continue to work together to provide consumers with additional options to modify their LTC insurance policies to allow consumers to maintain LTC policies, albeit with reduced benefits, within their financial means.

One example of such collaboration between DFS and LTC insurers was the development of the concept of a "landing spot," which was introduced to allow policyholders to mitigate, either partially or fully, large LTC insurance premium rate increases. Policyholders were given a fixed set of options — the so-called landing spot — to lower policy benefits as an alternative to paying a higher premium rate. In order to be authorized to offer this mitigating option, insurers had to demonstrate to DFS that the landing spot option was actuarially equivalent to the approved premium rate increase. One insurer surveyed in connection with this report indicated that, when offered a landing spot option in connection with an approved premium rate increase, nearly half of its LTC insurance policyholders chose that option to offset the cost of rate increases. Another provider surveyed cited some difficulties in implementing mitigation options but noted that engagement with DFS was productive in arriving at a mitigation measure that would support its ability to pay future claims.

Further, DFS has approved premium rate increases containing a tiered rate increase for policyholders in certain age ranges and carving out older policyholders from the increased rates. For example, in August 2021, DFS approved a request from an LTC insurer for an increase of 80% for policyholders aged 68 or younger, 45% for policyholders aged between 69-74, and no increase for policyholders aged 75 or older, all to be phased in over time in order to provide policyholders with time to consider their options and make a determination regarding their policy. This approved rate increase was also accompanied by a lifetime premium rate guarantee, meaning those LTC insurance policies will not be subject to any future premium rate increases, providing those policyholders with certainty regarding the cost of their policies going forward.

DFS will continue working with the industry to develop options to help mitigate the impact of necessary rate increases.

C. Promote the Adoption of LTC Insurance Offerings in New York

As of 2021, only five of the 38 insurance companies that at one point offered LTC insurance in the state continue to sell new policies. Those insurers surveyed that still sell LTC insurance products, however, believe that there is room for growth in this market. Certain insurers that currently market and sell LTC insurance to New York consumers have indicated their continued commitment to remaining in the LTC insurance market in New York and are offering a variety of new LTC insurance products to New York consumers.

The LTC insurance products currently offered to New York consumers include standalone LTC insurance as well as linked-benefit LTC insurance options, like life insurance with an LTC insurance rider and an annuity contract with an LTC insurance rider.[68] Another LTC insurance offering recently approved by DFS gives New Yorkers the option of electing varying levels of cost-sharing. The addition of deductibles or coinsurance provides New York consumers who are willing to self-fund a portion of their care the choice of a lower premium rate policy with pre-determined benefit amounts. DFS will continue to monitor, evaluate, and establish options to consumers at different benefit levels and costs to encourage increased adoption of LTC insurance.

D. Enactment of the New York Health Insurer Guaranty Fund to Protect Consumer Investments

Another issue facing consumers who have already purchased LTC insurance policies is the possibility that an LTC insurer may no longer be able to service an LTC insurance policy because the company ceases business operations or is in the process of liquidation. In this event, in order to ensure that affected policyholders maintain their benefits, DFS may exercise its authority to establish a rehabilitation plan for an LTC insurer that applies for rehabilitation or ceases business operations. To support future rehabilitation plans for LTC insurers, DFS strongly recommended, and New York State legislature approved, the enactment of a New York health insurer guaranty fund as part of New York's 2023-2024 Executive Budget.[69] A guaranty fund is a basic safety net used to protect consumers when and if their insurer becomes insolvent. The New York Health Insurer Guaranty Fund is based on the NAIC's Life and Health Insurance Guaranty Association Model Act, upon which every other state bases its fund. Enactment of a health insurer guaranty fund in New York will close this consumer protection gap and provide a safety net for New York consumers as they age.

VII. Policymakers Must Address Long Term Care Funding Beyond LTC Insurance

It is very likely that the cost of long term care will continue to increase, and, as the country's population continues to get older, funding long term care will constitute a growing challenge. Even assuming that the actions DFS is currently taking are successful in stabilizing the LTC insurance market, LTC insurance is expensive and will not be a viable option for many consumers. The Medicaid program, which is, as discussed above, the largest source of long term care funding, is itself under extreme stress as states struggle to maintain funding levels. There can be little doubt that policymakers in New York and nationwide must take a hard look at how long term care will be funded in the future.

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[68] A combination life insurance policy with an LTC rider allows consumers the option of accelerating the life insurance death benefit prior to death to assist in funding their long term care. A combination annuity contract with an LTC insurance rider allows a consumer to access annuity funds to assist in funding their long term care.

[69] *See* New York Senate Bill S.4007-C/A.3007-C, Part Y, Subpart D.

New York has taken an important first step in such an examination. On November 4, 2022, Governor Hochul signed an Executive Order to create the New York State Master Plan for Aging (the "MPA"), the first of its kind in the state, to address the needs of aging New Yorkers across all state programs and policies.[70] The MPA, coordinated by the New York State Department of Health and New York State Office for the Aging, is intended to coordinate existing and new state policy and programs, and to create a blueprint of strategies to be implemented to address the needs of older New Yorkers.[71] One of Governor Hochul's stated objectives of the MPA is to provide the state with tools to ensure aging New Yorkers have access to quality long term care, and the MPA Advisory Council has announced it is developing an aging and long term care landscape report in connection with the creation of the MPA.[72] The Department is a member of the MPA Advisory Council and is working with other members and stakeholders on preparation of the long term care landscape report and to develop strategies to address the current issues faced by consumers in the New York LTC insurance market.

It will also be worth watching developments in other states. In 2019, Washington state became the first state to enact legislation, the WA Cares Fund, that provides workers with access to a lifetime earned benefit amount that can be used to pay for long term care services.[73] Workers in Washington state will begin contributing $0.58 per $100 of earnings to the WA Cares Fund in July 2023, and benefits will be available to qualified, eligible workers in July 2026.[74] Workers, but not employers, contribute to the WA Cares Fund and the benefits provided also can be supplemented by the purchase of private LTC insurance.[75]

VIII. Conclusion

As the population ages and long term care costs continue to rise, consumers' access to reliable and affordable LTC insurance is perhaps more important than it has ever been. Unfortunately, the LTC insurance market has long struggled financially, stemming in large measure from overly optimistic pricing assumptions made by the LTC insurance companies decades ago. Over time, the economic instability caused by these struggles triggered financial distress in some insurers, thereby putting consumer benefits at risk, and prompted other insurers to stop offering LTC insurance products, thereby limiting competition and consumer choice. For their part, insurance regulators across the country, including the Insurance Department in New York, were hesitant to grant large premium increases in an effort to minimize consumer harm but in doing so failed to

[70] Executive Order No. 23 Establishing the New York State Master Plan for Aging (November 4, 2022), available at: https://www.governor.ny.gov/sites/default/files/2022-11/EO_23.pdf.

[71] *Id*.

[72] "Governor Hochul Signs Executive Order to Create New York's First-Ever Master Plan for Aging," New York State Office of the Governor (November 4, 2022), available at: https://www.governor.ny.gov/news/governor-hochul-signs-executive-order-create-new-yorks-first-ever-master-plan-aging; "A Master Plan for Aging Council Meeting #3", New York State Department of Health and New York State Office for the Aging (February 22, 2023), available at: https://www.ny.gov/sites/default/files/2023-02/StateAgencyCouncilMeeting3.pdf.

[73] "About the WA Cares Fund," WA Cares Fund, available at: https://wacaresfund.wa.gov/about-the-wa-cares-fund/.

[74] *Id*.

[75] *Id*.

fundamentally address the inherent pricing issues, thereby inadvertently allowing the crisis to fester.

New York has begun to course correct. As noted above, now equipped with the benefit of more reliable policyholder data, DFS has revised its methodology for approving premium rate increase requests from LTC insurers. In doing so, DFS has taken a thoughtful approach that seeks to protect its most vulnerable consumers and to ensure that New York consumers will have affordable, reliable access to LTC insurance. DFS is also encouraging the adoption of a variety of different types of LTC insurance policies so that more consumers can find benefits that suit their needs at a cost that is manageable. And, thanks to the recently enacted New York Health Insurer Guaranty Fund, New Yorkers now have a safety net should their LTC insurer become insolvent. Moving forward, the agency remains committed to working with all stakeholders to transparently address the issues affecting the LTC insurance industry and its vulnerable consumers.

About The New York State Department of Financial Services

The New York State Legislature created the Department of Financial Services in 2011 from the merger of the former Banking and Insurance Departments, and widened DFS's purview to include "the regulation of new financial services products" by establishing "a modern system of regulation, rulemaking and adjudication" responsive to the needs of New York consumers. DFS is the primary regulator of a broad spectrum of financial services providers that operate in the State of New York, including insurance companies and their agents and brokers, state-chartered banks, foreign banks with branches in New York, virtual currency businesses, non-depository lenders, money transmitters, and check cashers. DFS supervises and examines licensed entities, promulgates applicable regulations, and enforces the law through investigations and, where necessary, administrative proceedings.

DFS seeks to build an equitable, transparent, and resilient financial system that benefits individuals and supports business. Through engagement, data-driven regulation and policy, and operational excellence, DFS and its employees are responsible for empowering consumers and protecting them from financial harm; ensuring the health of the entities we regulate; driving economic growth in New York through responsible innovation; and preserving the stability of the global financial system.