

**Minutes of the Annual Meeting of the
Interstate Insurance Product Regulation Commission and
Joint Meeting of the Management Committee and IIPRC
November 15 - 16, 2006
Lansdowne, Virginia**

Commission Members in Attendance:

Commissioner Diane Koken (PA), Chair
Director Linda Hall (AK)
Commissioner David Rivera (CO)
Margaret Witten (GA) as designated representative for Commissioner John Oxendine
Shelley Santo (HI)
Carol Mihalik (IN) as designated representative for Commissioner Jim Atterholt
Commissioner Susan Voss (IA)
Commissioner Sandy Praeger (KS)
Director Julie Mix McPeak (KY)
Thomas Record (ME) as designated representative for Superintendent Alessandro Iuppa
Commissioner R. Steven Orr (MD)
Commissioner Julianne Bowler (MA)
Commissioner Glenn Wilson (MN)
Director Tim Wagner (NE)
Barbara Richardson (NH) as designated representative for Commissioner Roger Sevigny
Commissioner Jim Long (NC)
Director Ann Womer Benjamin (OH)
Commissioner Kim Holland (OK)
Leila Alvarado (PR) as designated representative for Commissioner Dorelisse Juarbe Jimenez
Superintendent Joseph Torti III (RI)
Sara Waitt (TX) as designated representative for Commissioner Mike Geeslin
Commissioner Mike Geeslin (TX)
Commissioner Kent Michie (UT)
Herb Olson (VT) as designated representative for Commissioner John Crowley
Phil Keller (VT) as designated representative for Commissioner John Crowley
Don Beatty (VA) as designated representative for Commissioner Al Gross
Beth Berendt (WA) as designated representative for Commissioner Mike Kreidler
Commissioner Mike Kreidler (WA)
Commissioner Jane Cline (WV)
Commissioner Ken Vines (WY)

Legislative Committee Members in Attendance:

Senator Delores Kelley (MD)
Representative Brian Patrick Kennedy (RI)

Interim Consumer Advisory Committee in Attendance:

Brendan Bridgeland (Center for Insurance Research)

Interim Industry Advisory Committee in Attendance:

Michael Lovendusky (American Council of Life Insurers)
Dennis Herchel (MassMutual Life Insurance Company)
Michael Gerber (National Association of Insurance and Financial Advisors)
Julie Miller (America's Health Insurance Plans)

1. Formation of the Management and Election of Officers

Commissioner Koken reviewed Article III, Section 1(A) of the Bylaws regarding the composition of the Management Committee. The six (6) largest compacting states in terms of premium volume based upon the records of the NAIC are automatic members of the Management Committee. These states are 1) Texas (6.5% of the premium volume); 2) Pennsylvania (4.7%); 3) Ohio (4.1%); 4) North Carolina (2.8%); 5) Massachusetts (2.5%); and 6) Georgia (2.5%). The Bylaws provide that the next four (4) members of the Management Committee are from compacting states with more than 2% of the premium volume other than the six (6) largest states. There are presently only three (3) states in this category and they are Virginia, Minnesota and Indiana. The last four (4) members represent states with less than 2% of the premium volume that are elected by geographic zones. Each compacting state that has less than 2% of the premium volume elects their zone representative. Each zone nominated only one member, respectively, and each nominee accepted their zone's nomination. These four representatives are Vermont in the Northeastern Zone; West Virginia in the Southeastern Zone; Oklahoma in the Midwestern Zone; and Washington in the Western Zone.

Commissioner Koken reviewed Article IV of the Bylaws regarding the election of officers and the descriptions of duties of each officer position. Commissioner Cline made a motion, which was seconded by Director Womer Benjamin, to nominate Commissioner Long as Sergeant-at-Arms to conduct the election of the Chair.

Commissioner Long opened the floor for nominations for the Chair of the Commission. Commissioner Orr nominated Commissioner Koken and Commissioner Voss seconded the nomination. Commissioner Praeger moved to close the nominations and elect Commissioner Koken as chair of the Commission by acclamation and Director Womer Benjamin seconded. The motion passed.

Commissioner Koken opened the floor for nominations for Vice-Chair of the Commission. Director McPeak nominated Commissioner Cline and Commissioner Bowler seconded the nomination. Commissioner Long moved to close the nominations and elect Commissioner Cline as vice chair of the Commission by acclamation and Director Womer Benjamin seconded. The motion passed.

Commissioner Koken opened the floor for nominations for Treasurer of the Commission. Director Hall nominated Commissioner Wilson and Director Wagner seconded the nomination. Commissioner Long moved to close the nominations and elect Commissioner Wilson as vice chair of the Commission by acclamation and Director Womer Benjamin seconded. The motion passed.

Commissioner Koken noted the officers represented a cross-section of the Management Committee's tiers as well as the zones.

2. Report of the Executive Director Selection

Commissioner Koken reported that on November 13, 2006, the Commission met via conference call and voted in favor of two motions. The first motion was to recognize that in order to seize an opportunity and make an offer to a highly-qualified candidate, the Commission made an

exception to the procedures in the Bylaws which provides for a recommendation of the Management Committee with approval of the Commission to retain an Executive Director. The Commission moved forward and also voted in favor of extending a job offer to Frances Arricale.

Commissioner Koken indicated that Ms. Arricale has accepted the offer and that the Management Committee will work with her to reach the detailed terms through an employment contract. Ms. Arricale will begin her employment with the Commission on December 1, 2007.

Commissioner Koken described Ms. Arricale's background. Ms. Arricale most recently served as Associate Deputy Commissioner and General Counsel for the New York City Commission to the United Nations, Consular Corps and Protocol in the Office of the Mayor of New York. In this capacity, she worked on behalf of the City as liaison with the United Nations, foreign government officials and diplomatic representatives. Prior to this City appointment, Ms. Arricale was a Corporate Vice President in the Government Affairs Office of New York Life Insurance Company. Having been based in New York and in Washington, D.C., she managed a portfolio of domestic and international insurance regulatory matters, as well as global financial services and trade issues. Previously, Ms. Arricale also was a regulatory program officer for the U.S. Department of Education. Ms. Arricale is an attorney licensed in New York, California and the District of Columbia. She graduated from Brooklyn Law School and Fordham University. Additionally, Ms. Arricale completed certificate study in Legislative Affairs at the Government Affairs Institute of Georgetown University; as well as legal study in European Community Law on fellowship in Brussels, Belgium and in Public International Law with The Hague Academy of International Law in the Netherlands. She is a member of a number of local bar associations as well as the American Bar Association.

3. Report of the Legislative Committee

Representative Kennedy reported that the National Conference of Insurance Legislators (NCOIL) named as its four (4) members the following: 1) Rhode Island Representative Brian Patrick Kennedy for the northeastern zone; 2) Kentucky Representative Robert Damron for the southeastern zone; 3) Indiana Representative Michael Ripley for the midwestern zone; and, 4) Texas Representative Larry Taylor for the western zone. The National Conference of State Legislatures has appointed Kansas Senator Ruth Teichman and Maryland Senator Delores Kelly and is expected to appoint two additional legislators.

Representative Kennedy reported that the interim Legislative Committee made several recommendations to the Commission in September 2006 on its Bylaws and rulemaking rules, many changes were adopted. Representative Kennedy indicated the Legislative Committee was disappointed the Commission did not accept its recommendations to make the preparation of a regulatory analysis a mandatory requirement for every rule rather than a requirement upon a request for such analysis. Representative Kennedy also indicated the Legislative Committee has submitted a proposal for budget consideration to provide funding for reasonable and necessary expenses to maintain staff support as deemed necessary by the Legislative Committee.

4. Composition and Selection of Advisory Committees

Commissioner Koken stated that the Commission affords a prominent position and weight to the advisory committees' views and questions and places great importance on the function of these committees to represent their constituencies before the Commission. Commissioner Koken reviewed Article VIII, Section 2 of the Bylaws which charges the Commission with developing

procedures for the nomination and appointment of members of both the consumer and industry advisory committees. The Management Committee will appoint the members.

Mr. Lovendusky reviewed the interim Industry Advisory Committee proposal regarding its composition and selection procedures. The recommendation is for the industry advisory committee members to work with the Executive Director to place information on the Commission web site with links to a description of the industry advisory committee and its role; an application form to obtain information regarding the experience and qualifications of an applicant; criteria for nomination and selection; and, a listing of the current members of the industry advisory committee. The recommendation is for the industry advisory committee to review applications thirty (30) days prior to the Commission's annual meeting and to provide the industry advisory committee's proposed list of committee members along with a list of all applicants. Under the industry advisory committee's recommendation, the Commission would make the final selection of the members of the industry advisory committee.

Commissioner Koken noted the industry advisory committee proposal would make the Commission's selection perfunctory. Commissioner Praeger indicated it may make sense to provide the industry advisory committee with a degree of independence to make recommendations on who should be representing their interests before the Commission.

Commissioner Koken asked whether the NAIC guidelines for the funded consumer representative program would be helpful and if nominations should also come from others outside of the advisory committees. Senator Kelley suggested the representatives of the consumer advisory committee have a basic size and representation requirement. Commissioner Koken asked whether it would be advisable to have open nominations for the consumer advisory committee where four (4) were nominated through the funded consumer representatives standard and four (4) were selected on a zone basis. Mr. Bridgeland indicated it would seem acceptable but that assistance from the Commission would be necessary to identify and encourage volunteers.

Commissioner Michie suggested that the Management Committee as well as members of NCOIL and NCSL actively recruit nominees for the consumer advisory committee. Senator Kelley suggested a generic press release that members could customize for outreach to their consumer groups.

The Commission members asked the Officers, working with the Executive Director, to draft proposed composition and selection procedures for the advisory committees for further consideration by the Management Committee and the Commission at their next meetings.

5. Report of the Interim Subcommittees

Commissioner Cline provided the report of the interim Rulemaking Subcommittee. The charges of the subcommittee were to formulate a plan for review and adoption of proposed rules and operating procedures for the Commission. The subcommittee drafted the rulemaking rule adopted by the Commission in September 2007 and the public access rule. The subcommittee is in the process of finalizing the following rules for recommendation to the Management Committee: product filing; notice and hearing; and implementation of uniform standards. The subcommittee deemed it was not necessary to draft rules for the withdrawal process as it is covered adequately by Article XIV of the Compact or rules for the adoption of uniform standards as it is covered adequately by the rulemaking rule. Commissioner Cline recommended the work of this subcommittee continue.

Ms. Waitt provide a report of the interim Product Standards Subcommittee. The charges of the subcommittee were to formulate a plan for review and finalize draft standards for Commission consideration. Ms. Waitt acknowledged the substantial work and dedication of the NAIC's Interstate Compact National Standards Working Group members and interested parties in providing a solid starting point for the subcommittee's efforts. The plan for adoption was based on historical SERFF filing volumes. The subcommittee has finalized for recommendation to the Management Committee several sets of standards, including adjustable life, life application, riders with benefit features related to accelerated and accidental death, and riders for benefit features related to waiver of premium. Ms. Waitt recommended the work of this subcommittee continue.

Director Womer Benjamin provided the report of the interim Technical Implementation Subcommittee. The subcommittee has not met since August 10, 2006 and is awaiting finalization of the public access rule and other rules before making technical recommendations. Director Womer Benjamin said that due to these pending issues, only \$136,000 of the \$236,000 budgeted for SERFF enhancements is expected to be spent in 2006. Director Womer Benjamin recommended the work of this subcommittee continue.

Commissioner Orr provided the report of the Communications Subcommittee. The subcommittee had three charges: 1) to consider content requirements for the Commission's website; 2) to provide ongoing feedback on the website; and 3) to develop an overall mechanism for communicating with constituents of the Commission. The subcommittee, with the assistance of NAIC staff, have designed and implemented the Commission's website and are in the process of preparing an informational video and media kits for the Commission to use in marketing the compact to non-compacting states. Commissioner Orr recommended the subcommittee could continue in an advisory role.

Director Wagner provide a report of the Budget/Staffing/Services Agreement Subcommittee. The subcommittee had three charges: 1) to prepare a proposed 2007 budget; 2) to review staffing requirements; and 3) to develop the terms of a Services Agreement between the Commission and the NAIC. The subcommittee agreed the Commission's staffing requirements include the Executive Director and at least two staff analysts as well as possible contracting with states to perform reviews during peak volume periods. The subcommittee reviewed the budget and the only change was to add an annual SERFF license fee of \$25,000. The subcommittee recommended the Executive Director provide significant review and input into the 2007 budget prior to its approval. The subcommittee expected it will need additional funding from the National Association of Insurance Commissioners in addition to the initial contribution of \$500,000. Director Wagner recommended the work of this subcommittee continue.

Commissioner Koken provided the report of the interim Management Committee. The committee was charged with overseeing the implementation of the operations of the Commission. The Commission adopted the Bylaws and Rulemaking Rule in September 2006 and decided to keep the interim structure in place until the annual meeting. The interim Management Committee has not met or taken action since its conference call on September 5, 2007 when it voted to begin the notice and comment period for the public access rule and the adjustable life uniform standards. The Commission has ratified the actions of the interim Management Committee and no other actions exist that need to be ratified.

Commissioner Long made a motion to accept the reports of the interim management committee and the interim subcommittees and to dissolve the interim committee and subcommittees. Director Wagner seconded the motion and the motion passed..

6. Formation of Committees or Subcommittees

Commissioner Koken reviewed Article VIII, Section 4 of the Bylaws regarding the establishment of committees or subcommittees. Director Womer Benjamin said in order to ensure the broadest representation, the structure should be committees of the Commission. Commissioner Koken stated that the committees could be populated by members of the full Commission and report to the Management Committee. Commissioner Michie stated the Management Committee is charged with the business affairs of the Commission and should be the body to establish operational committees. Ms. Alvarado made a motion to create the following committees of the Commission that will report to the Management Committee to be composed of no more than fourteen (14) members to serve from annual meeting to annual meeting: Product Standards, Rulemaking, Technology Implementation, Communications/Marketing and Finance. Director Womer Benjamin seconded the motion and the motion passed with members from Indiana, Texas, Utah, Vermont and Washington voting against the motion.

Ms. Waitt made a motion recommending the NAIC Interstate Compact National Standards Working Group continue drafting product standards for recommendation to the Commission. Ms. Berendt seconded the motion. Commissioner Koken said the working group process involves all states and contributes significant value to the Commission's efforts. Director Womer Benjamin clarified that there is no presumption these draft product standards will be automatically adopted by the Management Committee or Commission. Mr. Lovendusky stated the industry supported the motion as it is preserving the status quo of the NAIC demonstrating its leadership in this standard-setting process. The motion passed.

Ms. Waitt made a motion, seconded by Commissioner Michie, that the Commission constitute the Products Standards Committee and the Rulemaking Committee with the identical membership of the respective interim subcommittees. Director Womer Benjamin made a friendly amendment, that was accepted by Ms. Waitt and Commissioner Michie, to add the Technology Implementation Committee to the motion. The Commission voted in favor of the motion.

7. Report of the Audit Committee

Commissioner Michie provided the report of the Audit Committee. The Commission has established its books and accounts in August 2006 and has spent \$102,500 through September 30, 2006. The \$500,000 contribution from the NAIC was deposited to the Commission account in August 2006. The audit firm used by the NAIC will be used for the Commission's 2006 audit as it is expected to be small in scope and the Commission will realize a significant savings by using a firm familiar with the format of the accounts and records that the Commission will use. The Commission is working with the NAIC Finance Division to establish procedures for the internal controls of the financial operations of the Commission.

8. Technology Update

Julienne Fritz (NAIC) provided an updated on the efforts to enhance the System for Electronic Rate and Form Filing to meet the Commission requirements. She listed the issues that were still outstanding that would affect the enhancements to SERFF and indicated the timing of certain Commission decisions would affect whether the corresponding functionality would be ready. One of the outstanding issues is how to handle extension of filing approvals to a state that joins the Compact after a filing has been approved by the Commission. The Commission agreed to ask the Technology Implementation Committee to discuss these issues and provide a recommendation to the Management Committee at its next meeting.

9. Public Comment on the Public Access Rule

Mr. Bridgeland indicated he was in agreement with the written comments submitted by the Florida Department of Financial Services. Mr. Bridgeland said a pending approval exemption for filings does not seem necessary when the insurers are afforded trade secret protection under the rule. Mr. Bridgeland requested the rule include the ability to submit and fulfill records requests electronically. Mr. Bridgeland suggested revisions to Articles V and VIII to provide that fees charged by the commission would be reasonable in relation to the Commission's costs. Mr. Bridgeland suggested the exemption regarding pending or potential litigation involving members be related to litigation involving members duties to the Commission and the activities they undertake in relation thereto.

Ms. Miller provided comments on behalf of the interim Industry Advisory Committee. Ms. Miller said the proposed rule strikes an appropriate balance between public access and insurer trade secret. The industry would have significant concerns if the rule allowed access to pending, withdrawn or disapproved filings. Ms. Miller stated the Commission should create an environment that encourages new and innovative filings to be filed with the Commission. Ms. Miller said there were instances when the nature of the pending filing would need protection from public access as it may reveal the company's intent to enter a new market or product line.

Senator Kelley said it is reasonable for the Commission to listen to the industry's concerns on this matter. Superintendent Torti said his state allows access to the pending filing and has examples of domestic companies submitting new and innovative product filings without encountering the problems posed by the Industry Advisory Committee. Director Womer Benjamin indicated the Commission is considering a sixty-day or shorter turnaround period for product approval which would still provide the company with a strategic advantage as others could not move to get a competing product filed, approved, and in the market within this period. Director Womer Benjamin said it is worth preserving transparency by making the filing public at the time it is filed. Ms. Waitt stated her office does not receive a large number of requests for pending filings even though they are public in Texas.

Rich Robleto (Florida Department of Financial Services) provided comments on behalf of Commissioner Kevin McCarty to express their concerns with the proposed public access rule. According to Mr. Robleto, actuarial guidelines in Florida are not automatically considered trade secrets. Mr. Robleto stated the Commission should not put restrictions in the manner in which public records are requested and suggested a change to the rule to allow verbal and e-mail requests. Mr. Robleto said the Commission should consider using a procedure similar to Florida when a request for trade secret information is received, and that is, Florida notifies the company of such a request and requires the company to obtain an injunction if it wants to prevent the information from being provided. Mr. Robleto suggested the public access rule could include a similar provision but place the onus on the requestor to obtain an injunction.

Senator Kennedy expressed concern with Florida's proposal to allow verbal requests to access Commission records as it would put the Commission at risk from a liability standpoint. Mr. Robleto said that the process should not be so cumbersome as to discourage access to information. Commissioner Michie asked why the governmental sector should impose public access on the private sector in requiring everything filed to be open even before approved. Miriam. Krol (American Council of Life Insurers) stated that there are numerous examples of government filings, such as patents and private letter rulings, that are not made public until final disposition.

10. Consider Comments and Amendments to Public Access Rule

Commissioner Holland said that her department gets very few requests for filings and that there is merit to allowing companies to protect research and development efforts to the point of approval. She indicated she would be supportive of an amendment for pending filings in order to ensure compacting members are able to make low-cost products available to the insurance-buying public. She indicated today there was a wide disparity among states in terms of processing times and that the Commission is expected to expedite this process such that approval will be quicker and the filing available sooner. Senator Kelley said she is very supportive of a governmental entity operating in the open and that she believes the proposed industry amendment is reasonable until a pending filing is approved as the Commission should not be a vehicle for competitors to scrutinize proposed products that are offered through the efforts of another company. Commissioner Bowler stated that transparency in government is transparency of our process, and she is supportive of keeping a filing confidential during the review process, but once it is approved, everything becomes open including the review process.

Commissioner Holland made a motion of the Management Committee to amend Article III, Section 2 by adding a new subsection as follows: “*product filings that are pending approval, have been disapproved or are withdrawn.*” Mr. Beatty seconded the motion. A majority of the Management Committee voted in favor with the following states voting in the negative: Georgia, Ohio, Texas and Vermont.

Commissioner Long made a motion, seconded by Director Womer Benjamin, to make the following technical amendments:

1. Article II, Section 8 – replace “including” after the phrase “means any information” with *which may include*;
2. Article IV, Section 7 – add “to” after “are subject” in first sentence;
3. Article V, Section 2 – add the following sentence at the end “*All fees established under this rule shall be reasonable in relation to the services provided.*”;
4. Article VIII, Section 2 – add the following sentence at the end “*All fees established under this rule shall be reasonable in relation to the services provided.*”;
5. Add a new section that provides for the effective date of the rule pursuant to the procedures set forth in the rulemaking rule;
6. Change the section headings to conform to the style of the rulemaking rule;

The motion passed unanimously.

11. Update on Operational Matters

Director Wagner said the interim Budget/Staffing/Services Agreement Subcommittee looked at several different options for a filing fee structure, including a fee based on each form and a fee based on each company. The subcommittee was mindful the structure should generate fees to cover the Commission’s operations. Director Wagner also said the subcommittee recommended additional funding from the NAIC as the Commission is still in its start-up phase and not sure of

its revenue streams. Ms. Krol commented the industry would prefer a fee that is not based on the number of forms and would suggest it be similar to the manner in which the SERFF transaction fee is measured. Ms. Krol said that the industry would prefer the Commission develop a formula that allows payment of one fee or surcharge to cover all state filing fees so that the companies would not have to continue to pay individual state filing fees.

Representative Kennedy said that a basic premise of the state enactment of the Compact was that it would not involve a diminution of state filing fees as that would have a negative impact on state budgets. The new Executive Director will be asked to work with the Finance Committee to develop a proposal for an appropriate filing fee structure.

Commissioner Koken said that she will ask the new Executive Director to review the draft 2007 budget and propose several changes to reflect some of the change in assumptions. Senator Kennedy said the proposal of the Legislative Committee for funding should be considered and proposed \$24,000 for travel of Legislative Committee members; \$4000 for travel of NCOIL and NCSL staff; and \$20,000 to cover administrative costs for NCOIL and NCSL staff in providing support to the Legislative Committee members. Director Wagner said the Commission wants the Legislative Committee engaged and has assumed the Commission staff would support the committee.

Commissioner Koken said the Commission and the NAIC were discussing the terms of a Services Agreement for administrative and technical services, including providing facilities and use of SERFF.

12. Public Comments on Adjustable Life Standards

Mr. Bridgeland asked the committee to apply strong disclosure requirements in the standards to address cases where an actuarial report submitted on a policy form showed that non-forfeiture benefit may be lower than a premium payment. He proposed using NAIC model language disclosure for small face value policies. Mr. Bridgeland stated that the fraud exception approach proposed by Kansas appeared reasonable.

Ms. Krol presented the comments on behalf of the Industry Advisory Committee. Ms. Krol was concerned that many of the changes made by the interim Product Standards Subcommittee to the drafts adopted by the NAIC Interstate Compact National Standards Working Group were process issues and not content issues. Ms. Krol said that as process issues, these items did not belong in the product standards as the Commission has jurisdiction over the content of forms – the policy, application, riders, and endorsements. Ms. Krol stated that complaint notices should not be included in the standards as states have different requirement. According to Ms. Krol, replacement notice is also another example of a process issue.

Senator Kelley asked why the industry would not want uniformity on these matters but rather state-by-state requirements. Mr. Herchel said the concern was that the Commission would not have authority over requirements outside the content of the form such as the format of an annual report to the policyholder.

Mr. Lovendusky said the industry strongly supports a definitive fraud exception in all product standards as it would establish a bright line solution and would send a message that the Commission does not tolerate fraud. Mr. Lovendusky said the Kansas proposal offers a partial solution but does not go far enough in making a firm pronouncement that fraud is an exception to the incontestability clause.

Commissioner Bowler asked why it is not possible to detect fraud within the two-year contestability period with vigorous underwriting, medical questionnaires and tests, and whether it is fair for the company to wait until after someone dies to raise a fraud claim. Commissioner Bowler said a carte blanche fraud exception could cause companies not to perform sufficient due diligence in underwriting. Mr. Lovendusky stated that very few companies will risk bad faith claims stemming from denied policyholder claims as it is very expensive to prove these claims and companies risk damage to their reputation and exposure to punitive damages.

Commissioner Geeslin asked if the industry had any data to show the type of fraud and the prevalence as there is a fine line between a fraud exception to the incontestability clause and post-claims underwriting. Senator Kelley stated the industry was asking for procedural coverage from the Commission for solvency issues. She said she has not heard the industry articulate what type of fraud they are attempting to prevent or that such fraud happens with great frequency or has such a negative impact. She stated an exception could allow a company to go after elderly insured who do not list all their medications during the application process. Mr. Herchel stated that companies price their policies for mortality and not for fraudulent activity, and that a fraud action requires a very high standard of intent to defraud with the burden on the company.

Robert Huxel, Director of Government Affairs for the National Fraternal Congress of America, requested the Commission's consideration of including provisions for fraternal insurance companies in the products standards so that his members could file with the Commission. Hugh Alexander, Counsel to Woodmen of the World Fraternal, said the fraternal insurance industry is asking for inclusion within the products standards and requesting four changes in all standards: 1) scope section; 2) section on amendments, 3) arbitration provision; and 4) the entire contracts section. Mr. Alexander indicated the remaining provisions that would be unique to fraternal companies could be set out in an appendix to the standards and referenced by footnote. These unique issues included membership issue and maintenance of solvency. Mr. Alexander represented these provisions are nothing different than what is provided in state law with regards to fraternal companies.

Mr. Alexander noted the arbitration provision is different for fraternal as by their very nature, they are governed by their members in their lodges. Arbitration starts at the lodge level and then percolates up to state, regional and national levels. Mr. Alexander said arbitration matters usually involve lodge and membership disputes but can occasionally pertain to insurance certificates. Ms. Krol stated that the NAIC's Interstate Compact National Standards Working Group began to draft provisions for fraternal and stopped when it learned the Commission would handle it.

Josh May of The Coventry Group stated that his company believes Arkansas is the only state with a true fraud exception. Mr. May said that the incontestability clause is one of the most pro-consumer provisions and there are four reasons it is absolute and should not be subject to a fraud exception: 1) it encourages insurers to investigate facts promptly; 2) it protects insured's reasonable expectations of recovery; 3) it prevents insurers from relying on minor misstatements to void policies; 4) it precludes life insurers from making charges against deceased individuals who are unable to rebut them. Mr. May said that the fraud exception would undermine the purpose of the incontestability clause and the Commission should send a strong pro-consumer message by not including a fraud exception.

Mr. Robleto said that the fraud exception issue was controversial in the NAIC's working group discussion and remains controversial today. Mr. Robleto said there are persuasive arguments on both sides, that is, laws should not protect someone's ability to commit fraud and with an

exception, an allegation could tie claims up for years with innocent beneficiaries impotent to contest the fraud claim. Mr. Robleto said that Florida supported keeping the standards unchanged on this issue.

Commissioner Julie Benafield Bowman (AR) addressed the Commission to request an amendment to the standards to permit a contest for fraud based on the state's law where the policy is issued. Commissioner Bowman said that Arkansas does not like fraud and that consumers are the ones that pay for it. She indicated that states like Arkansas who have a strong public policy against fraud in the procurement would be hard-pressed to join the Compact without this change.

13. Consider Comments and Amendments to Adjustable Life Uniform Standards

Ms. Alvarado stated that the Commission must embrace a new reality of the marketplace, that is, bilingual consumers represent the largest growing segment of the nation's population. Ms. Alvarado stated that Puerto Rico feels strongly that the Hispanic community is better served by access to applications, endorsements, riders and insurance contracts that they can understand. She said that since consumer education and applicable rights and obligations under insurance policies are paramount to strong insurance regulation, she would encourage the Commission to look into this issue. Commissioner Holland made a motion to charge the Product Standards Committee with studying and making a recommendation to the Management Committee whether uniform standards should include a requirement that forms filed with the Commission be accompanied by a Spanish translation version with a certification that the translated copy is a true and faithful translation of the English version. Director Womer Benjamin seconded the motion and the Management Committee voted in favor of the motion.

As moved by Commissioner Long and seconded by Commissioner Wilson, the Management Committee agreed to amend the standards by:

1. Adding an appendix about the structure, obligation and operation of fraternal benefit societies;
2. Adding drafting notes to the *Scope, Amendments, Arbitration* and *Entire Contract* provisions allowing fraternal benefit societies to implement, as required or permitted by law, their respective articles, bylaws and making any changes thereto applicable to all certificate holders; and
3. Adding a new section for *Membership* allowing fraternal benefit societies to include a provision indicating the owner is accepting membership into the fraternal as required or permitted by law.
4. Adding a new section for *Maintenance of Solvency* allowing fraternal benefit societies to include a provision stating the legal rights and obligations in the event of the society's financial impairment.

Commissioner Kreidler suggested that the revisions were sufficiently extensive that the Management Committee should ask the Product Standards Committee to review and make a recommendation. A majority of the Management Committee voted in favor of the motion to amend with the following states voting against the motion: Georgia, Vermont, Virginia, Washington and West Virginia.

As moved by Director Womer Benjamin and seconded by Commissioner Holland, the Management Committee agreed to amend the standards by deleting the *Complaint Contact Information* provision. The interim Industry Advisory Committee commented that the provision

was not necessary because companies view the contact information required by each Compacting State as a process issue to be determined by state law, and that companies filing with the Commission were prepared to continue observing the state-specific requirements for providing complaint contact information to policy owners. A majority of the Management Committee voted in favor of the motion with Texas voting against the motion.

As moved by Mr. Beatty and seconded by Ms. Mihalik, the Management Committee agreed to amend the Reports to Owner provision by restating item (1)(c) as follows: “The *policy shall state that the report must* shall contain at least the following information.” The discussion indicated that the standards should require the policy form to state the elements of the periodic reports to the policy owner. The motion carried with none opposed.

As moved by Commissioner Holland and seconded by Director Womer Benjamin, the Management Committee agreed to insert “or” in item (1) of the *Right to Examine* provision to indicate that the policy shall contain a minimum 10 day period for new policies and a minimum 30-day period for replacement policies. The motion carried with none opposed.

As moved by Commissioner Bowler and seconded by Commissioner Holland, the Management Committee agreed to modify the *Assignment* provision of the uniform standards as follows: “The policy shall ~~not include any restrictions on the availability of~~ *contain a provision allowing* assignments, ~~other than~~ *except* in situations where restrictions are required for tax qualification purposes or for purposes of satisfying applicable laws or regulations.” The motion carried with none opposed.

As moved by Mr. Keller and seconded by Commissioner Cline, the Management Committee agreed to modify item (2)(a) of the *Death Benefit Proceeds* provision as follows: “Interest shall accrue and be payable from the date of ~~due proof of death.~~” The Legislative Committee and interim Consumer Advisory Committee spoke in support of using the date of death to trigger the accrual of interest on the death benefit proceeds instead of the date of due proof of death, based on the date of death being more friendly to the interests of consumers and family members of insured who might experience unintentional delays in providing due proof of death to the company. The motion carried with none opposed.

As moved by Commissioner Long and seconded by Mr. Keller, the Management Committee agreed to amend the *Ownership* provision as follows: “The policy shall contain an ownership provision. The provision shall describe the ~~terms and conditions~~ procedures for designating or changing the owner and indicating when the designation is effective. *The policy shall not include any restriction on change of owner other than for purposes of satisfying applicable laws or regulations.*” The motion carried with none opposed.

As moved by Mr. Keller and seconded by Commissioner Holland, the Management Committee agreed to add a new item (5)(c) to the *Incontestability* provision as follows: “*Fraud in the procurement of the policy, when permitted by applicable law in the state where the policy is delivered or issued for delivery.*” Suggested by Commissioners Bowman and Praeger, the modification permits the policy form to contain an exception to the incontestability period for fraud in the procurement of the policy where permitted by applicable law. The Management Committee voted in favor of the motion with Washington opposed.

As moved by Commissioner Bowler and seconded by Mr. Keller, the Management Committee agreed to add a new item (9) to the *Cover Page* provision of the Individual Modified Single Premium Adjustable Life Policy standards as follows: “*A policy shall clearly and prominently*

disclose that, if the owner cancels the policy, such cancellation may result in a substantial penalty.” Suggested by the interim Consumer Advisory Committee and supported by the interim Industry Advisory Committee, this modification is consistent with existing requirements in several states. The motion carried with none opposed.

On a motion by Mr. Keller and seconded by Commissioner Kreidler, the Management Committee adopted a motion to distribute notice of the proposed amended adjustable life uniform standards to the Compacting state legislative committees of jurisdiction as required by the Rulemaking Rule advising of the Management Committee’s intention to vote on the proposed standards at its December 2007 meeting.

Having no further business, the annual meeting was adjourned.