

**Minutes from the Management Committee Meeting  
March 26, 2007**

Those IIPRC Management Committee Members in attendance were:

Commissioner Jane Cline, Chair, West Virginia

Commissioner Linda Watters, Vice Chair, Michigan

Commissioner Glenn Wilson, Treasurer, Minnesota

Margaret Whitten as designated representative for Commissioner John Oxendine,  
Georgia

Director Jim Atterholt, Indiana

Commissioner Jim Long, North Carolina

Peg Ising as designated representative for Commissioner Mary Jo Hudson, Ohio

Commissioner Kim Holland, Oklahoma

Brad Harker as a designated representative for Acting Commissioner Randy Rohrbaugh,  
Pennsylvania

Commissioner Paulette Thabault, Vermont

Don Beatty as designated representative for Commissioner Al Gross, Virginia

Commissioner Mike Kreidler, Washington

Doug Anderson, Ohio

Phil Keller, Vermont

Beth Berendt, Washington

IIPRC Office:

Frances Arricale, Executive Director

Commissioner Cline called the meeting of the Management Committee to order. Commissioner Cline stated the purpose of the meeting was to introduce the issue of Group Standards and then continue the discussion on "Mix and Match".

Commissioner Cline noted that during the NAIC National Standards Working Group meeting in NYC earlier in March, the Working Group requested an indication for the Commission regarding the intention to take up Group Product Standards. Group Standards are envisioned as products covered under the Compact. It is specifically addressed in the Compact Statute in Article II, Section 11 and defined as a "Product" as "individual or group annuity, life insurance, disability income or long term care insurance product". Questions have arisen as to the development of standards based upon the definition of a group. As three Member states who also sit on the Working Group requested that the Commission review this issue, Commissioner Cline called upon Vermont, Washington and Texas to provide their input on this issue.

Phil Keller from Vermont stated that he thought that the Industry would like to move forward on group standards. Mr. Keller also stated that "group" lacked in uniformity, but not necessarily in content; more pertaining as to what constitutes as an eligible group. Mr. Keller went on to state by way of example that Texas and Vermont permit discretionary groups, but Washington does not. Mr. Keller was concerned about the

Commission's rulemaking authority in terms of defining an eligible "group." Mr. Keller stated he understood that this is to be the undertaking of the Commission as far as group products were concerned.

Beth Berendt from the State of Washington raised a question as to whether or not the states retain authority in defining what an eligible group is, and whether a group product may or may not be sold in their borders. Assuming the state can maintain that authority, there may be some group products that can or can not be sold in the compacting states after their approval.

Commissioner Cline then called upon the other Members of the Commission for their thoughts.

Kevin Moriarty from Vermont stated that he thought that there were not specific provisions in the Commission Rules that state the Commission doesn't have jurisdiction to define a group product. Mr. Keller thought that the group standards issue was analogous to domestic partners and civil unions in terms of recognition in various states for insurance purposes. Mr. Moriarty also stated that the "group" decides who is and who is not eligible for coverage. If that premise is accepted that the Commission has jurisdiction and would need to accept a uniform standard for group products.

Don Beatty from Virginia suggested that an alternative definition be created for "group;" one that is narrow enough to fit all the states.

Ms. Berendt thought that it would be best for the Commission to move forward and further develop group standards, and then defer back to state legal counsel as to the definition of eligible groups.

Commissioner Cline asked if anyone from the Industry Advisory Committee had any comments regarding "Group Products". Miriam Krol from American Council of Life Insurers (ACLI) stated that the Uniform Standards dictate the type of group with which the standards are to be used. If there are no group standards, the industry will have to go to the Commission to verify content, and then to the Compacting States to verify the groups. Without the Uniform Standards, there is not way to make sure that the approved form can be used for an approved group. The Ms. Krol raised concern about bifurcating the whole process, and noted that the single point of uniformity in the Commission will eliminate the bifurcating process.

Michael Lovendusky from ACLI stated that it was clear the Commission has jurisdiction over groups; and it is up to the Commission as to how far they want to go in enforcing the definition of "group". The Industry Advisory Committee recommends an expansive perspective on that issue.

Rich Robleto from the State of Florida stated that it was a bad direction for the Compact to move in to impose different group definitions in order to move forward. He thought that the Commission should be the one to set the standards, but the states should be able

to make the decision in regards to groups to which products may be sold. Mr. Robleto also stated that the states should approve groups and then the products be sold to “state approved groups”.

Ms. Krol replied that the initial focus should be on groups that do not have variances among the states. She also mentioned that employment versus membership language differs and that this will cause a problem with “group”. Ms. Krol thought that it would be very difficult to set a Uniform Standard for group life insurance policy (for example) without knowing what the groups are because the content is different for each group.

Ms. Berendt agreed with Ms. Krol and stated that there are problems also associated with both association and discretionary groups. Ms. Berendt also agreed with Mr. Robelto and that it should be left to the states to decide if the product is being sold to an eligible group.

Commissioner Cline requested a motion to have the Product Standards Committee review the Group Standards issue. Commissioner Cline suggested that the Committee review with staff as to which groups are common to all states and that the Committee should plan on making a recommendation to the Management Committee on the process for taking up Group Standards.

Commissioner Watters from Michigan made the motion and Commissioner Mike Kreidler seconded the motion. The motion was carried by a unanimous Roll Call vote.

Commissioner Cline then turned to the continuation of the discussion on “Mix and Match”. Commissioner Cline thanked Ohio and Vermont for their diligent work on this issue, as well as the Industry Advisory Committee, and then called upon Ohio and Vermont to provide an overview of their changes to the proposal.

Doug Anderson and Peg Ising from Ohio and Phil Keller and Kevin Moriarty from Vermont went through their proposed revisions to the Operating Procedure for the Filing and Approval of Product Filings. Before Doug Anderson started with the step by step changes that were made, Mr. Moriarty explained the process they utilized to get the draft together. Mr. Moriarty explained that he and Mr. Anderson along with Ms. Krol went back and forth to go through the draft and changed things accordingly. What is presented to the Management Committee is the end product of those meetings.

Mr. Anderson went through the revisions of the Rule. He started with the definitions and explained that the revisions of the definitions were due to technical reasons. “Approval” was replaced with “filing” or “review” to allow for a Self-Certification Operating Procedure to be created. “Product Component” also was revised. Mr. Anderson pointed out that the definition of “Mix and Match” had been changed to reflect that it was combination of a State Product Component with Commission Product Components. He explained §110 b3 allowed the state insurance commissioners to have full authority and not be prohibited by the Commission on taking action based on the combined product.

Mr. Moriarty stated that §110 State Filings, b2(i) and (ii) were added and were similar to all the other fairness provisions from all the other standards. It was explained that some states may require such information as stated in §110, b2(i) and it may vary from state to state. It gives the state discretion to ask for information as needed.

After the reviewing of §110 b4, it was explained that the expiration timeline is proposed to be two (2) years from the date of adoption of the last standard in a product line suite, so that if a particular combined product will be used, it will fall under the universal 2 year allowance for “Mix and Match.” There are two exceptions to this 2 year window; the first being in-force contracts. §110 b4(i) allows “Mix and Match” to continue if a mix and match product was developed during the window. The second exception, §110 b4(ii) gives the Executive Director, subject to oversight of the Management Committee, discretion if special circumstances were to arise that would merit the use of “Mix and Match.”

It was explained that §110 b5 states “Mix and Match” would be allowed for lines of business that are subject to the jurisdiction to the Commission. If the line of business has no jurisdiction with the Commission, then it may not be used.

After Ohio and Vermont reviewed their proposal, the floor was opened for questions and comments from Member states.

Ms. Berendt inquired if there could be a situation where this violates a specific provision of the state law. For the State of Washington, Ms. Berndt pointed out that there are components of the “Mix and Match” rule that possibly could not meet the minimum requirements for the state’s non-forfeitures laws.

Commissioner Watters asked how many years does this proposal contemplate once all the lines of a particular standard have been adopted? Is there a maximum time frame to allow for “Mix and Match”?

Mr. Anderson from Ohio replied that had there been more time, they would have created an “Appendix A” that will list each of the standards planned to be taken up by the Commission. The Appendix would then give a definitive timeline for “Mix and Match” for each standard.

It was then asked where the Commission was in its standards-setting timeline. Becky McElduff, NAIC Interim Staff for the Product Standards Committee, replied that in response to the Industry Advisory Committee’s suggestions, endowment standards would be next followed by annuities and that the current work is well with in the proposed time line.

Ms. Krol explained from the Industry’s perspective that the Uniform Standards product timeline focused on a yearly basis and what can be accomplished on a yearly basis. It

was in New York this past year that a request was made to create a universe or full list with all the standards.

Ms. Berendt asked if this means that it could be several years out if there are several outstanding products. She stated that she was very concerned that this process will be a lengthy one to get Appendix A established.

Ms. Krol responded no because once all the standards are agreed upon, the universe becomes Appendix A and the Commission will move forward with those. Ms. Krol also addresses Ms. Berendt's concerns about the timeline in establishing the contents for Appendix A and proposed that the Commission begin the listing process.

Mr. Anderson clarified that Appendix is not a list of universal standards, but rather a finite, agreeable, sensible list of Uniform Standards the Commission contemplates on adopting. He had hoped to have this Appendix A together by the next meeting of the Management Committee.

Josh May from Coventry asked regarding the last adoption date, for one line of life insurance products; will "Mix and Match" continue until the very last of all the life insurance product standards are adopted or will the product lines be delineated on a more detailed level? He stated that he was concerned that it becomes a situation of "pick and choose" throughout.

Mr. Anderson replied that it would be for the four lines of business (life, long-term care, disability, and annuities) the way it is in the Compact legislation.

Malinda Shepherd from Kentucky asked about Critical Illness Riders. In Kentucky, these are considered health products and the Commission does not deal with Health. She wanted to know what happens with these particular riders, since the Commission does not deal with Health Insurance.

Mr. Robelto responded that the NAIC working group worked to accommodate those types of riders as they are used with life insurance. If the rider is incidental, then it goes through the Commission for acceptance and approval. If it is not incidental and has a value of 10% of the base life policy, then it does not go through the Commission for approval.

Brendan Bridgeland of the Interim Consumer Advisory Committee stated that he was opposed to open-ended "Mix and Match." He thought that it was detrimental to the Commission. Mr. Bridgeland did question why there was a two- year timeline if the timeline was going to be a moving timeline? He also inquired as to whether or not the Commission has the authority to enforce when the use of mix and match is no longer valid?

Mr. Anderson replied that he didn't think that the Commission has the enforcement arm to each state, just the approval of Uniform Standards. It is really up to the state insurance commissioners to seek enforcement.

Mr. Moriarty agreed with him. He went on to state that as the Commission exists right now it is a carve-out of current, existing state rights and should be left to the states to enforce. Mr. Moriarty replied to Mr. Bridgeland's timeline question, the two-year period might be necessary to approve necessary components for the lines of business.

Ms. Berendt stated that Washington would be voting against this proposal, but if it went forward, it would be helpful to have a catch-all section in the proposal to deal with some of the issues of concern mentioned. She thought that it would be helpful for each state that may need to take individual action.

Ms. Shepherd from Kentucky stated that she had some questions on other parts of the rule especially with § 109 – Self Certification. She stated that when they lobbied state legislators in Kentucky, they told them that the Commission will have very strong standards and therefore the states will be protected. Ms. Shepherd believes that the Self Certification language reduces the security that was promised to the Legislature.

Mr. Anderson replied that the Commission provides for self-certification and in the future may adopt a self-certification process for certain filings.

Pat Nelson from Minnesota asked if this "Mix and Match" proposal will accomplish everything that everyone needs in order to have companies willing to file and use the Commission.

Commissioner Cline responded that she hoped that this was the case and would need reassurance from the industry and regulators. On the same note, Mr. Anderson stated that this was the intent of the work done by Ohio and Vermont. Ms. Krol also stated that the member companies have worked along side of Ohio and Vermont and everyone related to the Industry Advisory Committee is pleased with the work and would like to get the filings expedited.

It was agreed that the Committee would have additional time of 15 days to review the proposal while the Appendix A was being drawn up.

Under the agenda item of "Any Other Matters," Commissioner Cline raised the possibility of the Commission's consideration of a Rule on Conforming Amendments. Commissioner Cline stated that as a result of working through the standards-setting process, a need was being encountered to make amendments to the standards and rules which have already been adopted to conform to standards and rules that are currently in development and moved for adoption. She thought that it would be beneficial for the Commission to consider a Rule on Conforming Amendments.

Ms. Ising made a motion to ask the Rulemaking Committee to draft a proposed Rule on Conforming Amendments. Mr. Beatty seconded the motion.

Before the Roll Call was taken for the vote, Commissioner Cline asked if there were any further comments on Conforming Amendments. Mr. Keller asked what happens to the conforming amendments that have already been adopted without this Rule on Conforming Amendments already in place. Mr. Moriarty highlighted that the proposal was suggested for there to be a more streamlined rule on this. He then suggested that the Product Standards Committee draft a short paragraph for the Rules Committee as to why the Rule was needed on Conforming Amendments.

The motion was carried by a unanimous Roll Call vote.

No other business was brought up and Mr. Beatty made a motion to adjourn the meeting. Commissioner Watters seconded. The motion was approved by a unanimous voice vote.