

**Minutes of the Joint Meeting of the Management Committee and the Interstate Insurance Product
Regulation Commission
Monday, September 26th, 2011**

Members of the Management Committee in attendance:

Commissioner Roger Sevigny, Chair, New Hampshire
Commissioner Wayne Goodwin, Vice Chair, North Carolina
Matt Barton, as a designated representative for Director John Huff, Missouri
Susan Lamb, as a designated representative for Acting Director Jack Messmore, Illinois
Commissioner Sandy Praeger, Kansas
Ellen Woodall, as a designated representative for Commissioner Therese Goldsmith, Maryland
Aaron Sisk, as a designated representative for Commissioner Mike Chaney, Mississippi
Felix Schirripa, as a designated representative for Commissioner Tom Considine, New Jersey
Mary Miller, as a designated representative for Lieutenant Governor Mary Taylor, Ohio
Peter Camacci, as a designated representative for Commissioner Michael F. Considine, Pennsylvania
Sara Waitt, as a designated representative for Commissioner Eleanor Kitzman, Texas
Don Beatty, as a designated representative for Commissioner Jacqueline K. Cunningham, Virginia
Beth Berendt, as a designated representative for Commissioner Mike Kreidler, Washington
Sue Ezalarab, as a designated representative for Commissioner Ted Nickel, Wisconsin

Members of the Commission in attendance:

Robert Turner, as a designated representative for Commissioner Jim Ridling, Alabama
Tom Abel, as a designated representative for Commissioner Jim Riesberg, Colorado
Justin Durrance, as a designated representative for Commissioner Ralph Hudgens, Georgia
Colin Hayashida, as a designated representative for Commissioner Gordon Ito, Hawaii
Rebecca Vaughan, as a designated representative for Commissioner Stephen Robertson, Indiana
Lee Sellmeyer, as a designated representative for Commissioner Susan Voss, Iowa
Ray Perry, as a designated representative for Commissioner Sharon Clark, Kentucky
Barry Ward, as a designated representative for Commissioner Jim Donelon, Louisiana
Tom Record, as a designated representative for Superintendent Eric Cioppa, Maine
Ed Charbonnier, as a designated representative for Commissioner Joe Murphy, Massachusetts
Brian Pennington, as a designated representative for Commissioner Mike Rothman, Minnesota
Director Bruce Ramge, Nebraska
Tom Bowling, as a designated representative for Commissioner John Franchini, New Mexico
Susan Dobbins, as a designated representative for Commissioner John Doak, Oklahoma
Beth Dwyer, as a designated representative for Commissioner Joseph Torti III, Rhode Island
Andrew Dvorine as a designated representative for Commissioner David Black, South Carolina
Commissioner Julie Mix McPeak, Tennessee
Commissioner Neal Gooch, Utah
Susan Donegan, as a designated representative for Commissioner Steve Kimball, Vermont
Bill Kenny, as a designated representative for Acting Commissioner Michael D. Riley, West Virginia
Commissioner Ken Vines, Wyoming

State Regulators in attendance:

Tracy Bixler, Pennsylvania
Holly Blanchard, Nebraska
Annette James, Nevada

Michael Farley, Ohio
Jan Graeber, Texas
Ted Hamby, North Carolina
Paul Hyslop, Indiana
Betsy Jerome, Utah
John Rink, Nebraska
Tomasz Serbinowski, Utah

Members of the Legislative Committee in attendance:

Susan Nolan, National Conference of Insurance Legislators (NCOIL)
Mike Humphries, NCOIL

Members of the Industry Advisory Committee in attendance:

Tom English, New York Life
Mary Keim, State Farm Insurance
Miriam Krol, American Council of Life Insurers (ACLI)
Amanda Matthiesen, America's Health Insurance Plans (AHIP)
Jill Morgan, Symetra Life Insurance
Joe Muratore, New York Life Insurance Company
Marie Roche, John Hancock

Members of the Consumer Advisory Committee in attendance:

Sonja Larkin-Thorne, Consumer Advocate

Interested Parties in attendance:

Karen Alvarado, Insured Retirement Institute (IRI)
Jay Lindsey, Unum Provident
Beth Lindsey, ING
Colleen Schenck, Unum Provident

IIPRC staff in attendance:

Karen Schutter, Executive Director
MacKenzie Heidelmark, Administrative Coordinator
Jeanne Daharsh, Actuarial Consultant
Alice Fontaine, Actuarial Consultant
David Morris, Product Review Consultant
Maureen Hart Perry, Product Review Consultant
Charles Rapacciuolo, Product Review Consultant

NAIC staff in attendance:

Kara Binderup, Staff Attorney

Commissioner Sevigny called to order the Joint Meeting of the Management Committee and the Interstate Insurance Product Regulation Commission ("IIPRC"). Ms. Schutter took the roll call of the Management Committee, Commission, members of the Legislative Committee, members of the Industry Advisory Committee, members of the Consumer Advisory Committee, and other Interested Parties.

Commissioner Sevigny proceeded to the first item on the agenda; a public hearing on the individual disability income uniform standards and an amendment to the Rulemaking Rule. There are eight uniform standards which cover the individual disability income product line and one uniform standard for disability business overhead expense insurance policies. All of these uniform standards have been on the Rulemaking Docket for over 60 days. Five of these uniform standards were published for comment on April 29 and the remaining uniform standards were published for comment on July 1. The amendment to the Rulemaking Rule proposes adding a provision that would allow the Commission to solicit comments prior to the drafting of a uniform standard or rule. This amendment was published for comment on July 7. Three states, Illinois, Oklahoma and Massachusetts, have submitted written comments on the disability income uniform standards along with the Industry Advisory Committee. Due to the cancellation of the in-person meeting in Philadelphia on August 28, Commissioner Sevigny had requested the Product Standards Committee review these written comments and provide feedback for today's conference call. Commissioner Sevigny called on Ms. Ezalarab to review the Product Standards Committee's recommendations.

Ms. Ezalarab stated the Product Standards Committee reviewed the written comments submitted in response to the individual disability income uniform standards. The Product Standards Committee recommended the disability income application standard be amended to allow mix and match with state-approved components. All other disability income uniform standards would not be eligible for mix and match. Three amendments are also being recommended based on comments from Illinois. The first is to amend the current definition of injury to make it more specific by changing the phrase "independent of all other causes" to "independent of disease or bodily injury". The second amendment is to make a change to the definition of preexisting condition to change the preexisting condition period for symptoms that would cause a prudent person to seek diagnosis, care or treatment from a two-year period to a one-year period. The third amendment is to include specific language for timely payment of claims to require that if a claim is paid more than 30 days after a company receives satisfactory proof of loss, the delayed payment is subject to interest of 10% per year.

In its written comments, Illinois had some questions about how the two different provisions for time limits for certain defenses worked. The Product Standards Committee was able to clarify that one provision is a time limit for certain defenses for misstatements made by the insured on the application and the other is a time limit for certain defenses other than misstatements in the application such as preexisting conditions.

In its written comments, Oklahoma had concerns with the wording for the permitted exclusion for intoxicants, narcotics and other controlled substances and suggested narrowing the language such that the exclusion would cover losses that result only if the person violated state laws relating to intoxication. Currently, the language in this exclusion is for loss that results from the insured's legal intoxication defined by state law. Oklahoma has a low threshold blood alcohol limit for legal intoxication and was worried that this exclusion could preclude benefits for any injury a person sustained when their blood alcohol exceeded the legal limit even if the insured is not engaged in a law-breaking activity like driving under the influence. The Product Standards Committee considered this change but felt the current language is more in line with what states allow and companies have in their policies today. Further, the Product Standards Committee felt this exclusion addresses the public policy concern of excluding losses related to operating vehicles or other dangerous activity while legally intoxicated. Oklahoma was also concerned the war risk exclusion would permit exclusion for loss that results from terrorism. The Product

Standards Committee provided clarification that uniform standards and the drafting notes provide clear guidance that acts of terrorism cannot be excluded.

In its written comments, Massachusetts commented that the terms Partial Disability and Residual Disability are interchangeable by their very definitions and could be confusing if both terms are used in a policy. The Product Standards Committee clarified that these two terms are intended to be mutually exclusive and any form reviewed by the Commission should not use both terms. Massachusetts also commented that the lists of permissible limitations and exclusions as well as the incidental benefit provisions in the uniform standards do not contemplate future development and whether they should accommodate the ability to respond to an ever-changing marketplace. The Product Standards Committee did not think a change in the uniform standards was needed at this time in response to this comment but rather is open to considering amending the standards to accommodate new provisions or creating a new uniform standard to handle new product features. All other comments referenced technical changes which the Product Standards Committee recommends should be made when approving these uniform standards.

Commissioner Sevigny opened the public hearing to receive oral comments on the individual disability income uniform standards, including the uniform standard for disability business overhead expense insurance policies, as well as comments on the Product Standards Committee's recommendations in response to the written comments. Commissioner Sevigny asked those states that had made written comments if they had any additional comments. There were no additional comments from Massachusetts, Oklahoma or Illinois. Commissioner Sevigny then asked if other Commission members, members of the Legislative Committee, members of the Consumer Advisory Committee, members of the Industry Advisory Committee had any comments. Ms. Krol stated that the Industry Advisory Committee submitted comments on August 15 on the disability business overhead expense standards. These comments are in regards to page 20 of the disability business overhead expense policy Section 3F Item 1B that would require a mandated refund in situations where the policyholder has duplicate coverage or benefits from other policies. Ms. Krol stated the product becomes dysfunctional with the mandate and companies would not be able to file a policy with the Compact, nor would they be able to file it with any state that would require a refund.

Jay Lindsey of Unum provided a brief explanation as to the purpose of the disability business overhead expense policy. He explained these policies are sold to owners of small businesses to provide funds to the disabled owner's business for certain specified expenses so that the business or the practice may remain viable during the recovery and return-to-work period of the disabled owner or principal of the business. This benefit allows the business owner to keep the doors open until he or she recovers, returns to work or decides that the disability is such that they will not be able to return to work and therefore closes or sells the business. The policy itself is structured in such a way that it functions as a reimbursement contract and is designed to reimburse the insured for certain business operating expenses incurred during the period of the insured's disability.

Mr. Lindsey explained that the policy defines what constitutes a covered expense versus a non-covered expense. The amount is typically based on the actual covered expenses incurred in the year prior to application, not on an unknown future projection of expenses. The intent is for the applicant to determine their insurable need as best as possible and for the underwriter to validate that need based on historical financial data. In the event of a claim, the benefit amount payable is based on the actual covered business expense incurred in each month of a disability. Because an operating business is not in a static state, the monthly expenses will fluctuate month-to-month. As a result, the actual benefit payable may be higher or lower than the amount of the business overhead expense in full force. This differs from the disability

income policy which provides a fixed amount of income replacement based on an applicant's insurable income at time of underwriting not at time of claim. In recognition of the fluctuation in covered expenses month-to-month and the uniqueness of this product, a number of disability insurers include carryover provisions in their policies. These carryover provisions allow for reimbursement of a number of covered expenses in a month that actually exceeds the stated face amount of the policy. Additionally, some policies provide for an extension of benefits, which allows the benefit payments to continue beyond the stated policy benefit period, essentially resulting in the aggregation of the benefit amount. The extension of benefits may extend several months after the policy period for those total benefits to be paid out. The consideration of mandating a refund of premium causes the policy to essentially become dysfunctional because it eliminates the fluidness and flexibility of this type of coverage.

Ms. Krol stated the language that is currently in the uniform standards does not provide guidance on how often and when the refund would be administered or how the refund would interact with the carryover benefit. The Industry Advisory Committee hopes that reconsideration will be given to the fact that the mandated refund makes the product dysfunctional and that this provision be removed.

Commissioner Sevigny asked if there were any other comments regarding the uniform standards or amendment to the Rulemaking Rule. There were no comments and Commissioner Sevigny then concluded the public hearing.

Commissioner Sevigny moved onto the next agenda item and called on Ms. Ezalarab to give the report and recommendation of the Product Standards Committee. Ms. Ezalarab stated that the Product Standards Committee had no new standards for recommendation. The Product Standards Committee recommends that the Management Committee approve and the Commission adopt the set of uniform standards for individual disability income insurance. Commissioner asked if there were any questions for Ms. Ezalarab or the Product Standards Committee. Hearing none, Commissioner Sevigny deferred a motion to adopt the report of the Product Standards Committee.

The next agenda item is the consideration of the approval of the individual disability income uniform standards. Commissioner Sevigny asked if there were any motions to amend these uniform standards. Hearing none, Commissioner Sevigny asked Ms. Schutter to read each amendment that is being proposed by the Product Standards Committee. Ms. Schutter stated that the Product Standards Committee is proposing four amendments to the published set of individual disability income uniform standards. One is in the application standard and another is; to revise the mix and match language to indicate it would be available to be used in combination with state product components. The other changes are to the policy standard; one is to change the definition of "injury", to change the phrase "independent of all other causes" to "independent of disease or bodily injury", the other is to make an amendment to the definition of "preexisting condition" to change the period that a condition for which symptoms existed that would cause an ordinary prudent person to be diagnosed or seek treatment from a two-year period to a one-year period. To put in a timely payment of claims provision that would read "The policy shall state that if a claim is paid more than 30 days after a company receives a satisfactory proof of loss, the delayed payment shall be subject to simple interest at the rate of 10% per year, beginning with the 31st day after receipt of that proof of loss and ending on the day it is paid."

Commissioner Sevigny asked if there was a motion from a member of the Management Committee to incorporate all these amendments recommended by the Product Standards Committee into the uniform standards. Commissioner Goodwin made a motion and Mr. Schirripa seconded. There were no further comments or questions. Ms. Schutter took the roll call of the Management Committee and the motion

carried by supermajority. Commissioner Sevigny then asked if there were any other amendments to be proposed. None were noted.

Commissioner Sevigny noted that there are some concerns with the individual disability business overhead expense insurance policy standards. Commissioner Sevigny stated that he preferred the standard not be approved at this time and asked the Product Standards Committee to review these comments and provide a recommendation on whether any changes were needed. There were no objections to proceeding in this manner.

Commissioner Sevigny then asked Ms. Schutter to list the uniform standards that are ready for approval. Ms. Schutter listed the standards as: standards for individual disability income insurance policies, standards for individual disability income insurance outline of coverage, standards for individual disability income application, standards for individual disability income insurance initial rate filing, standards for filing revisions to rate filing schedules in individual disability income insurance policies, standards for individual disability income insurance application change form, standards for riders, endorsements or amendments used to effect individual disability income insurance policy changes, and standards for forms used to limit or exclude individual disability income insurance policy coverage based on the underwriting process.

Commissioner Sevigny asked for a motion from a member of the Management Committee to approve these uniform standards as amended. Commissioner Praeger made a motion and Ms. Ezalarab seconded. Commissioner Sevigny asked if there were any further questions. Hearing none, Ms. Schutter took a roll call of the Management Committee and the motion carried by supermajority. Commissioner Sevigny then asked for a motion from a member of the Commission to adopt the eight uniform standards for individual disability income insurance that were approved by the Management Committee. Director Rame made a motion and Ms. Donegan seconded. There was no further discussion. Commissioner Sevigny then asked Ms. Schutter to take a roll call of the Commission and the motion was carried by supermajority. Indiana and Iowa both abstained from this vote.

Commissioner Sevigny then moved ahead to the Report and Recommendation of the Finance Committee. Director Rame reported that the Finance Committee brings forth a recommendation to publish the draft 2011 IIPRC Budget and Schedule of Fees for notice and comment. By the beginning of 2012, 41 states will accept Compact products including New Jersey and Illinois which we have implemented this year along with Alabama, Nevada and Oregon which each passed the legislation this year. Individual long-term care uniform standards were implemented and the IIPRC has started to accept combination product filings. Individual disability income uniform standards should be available for filing by early next year. The 125 insurance companies registered to file with the Compact collect on a combined basis over 50% of the nationwide asset-based premium volume. The IIPRC is already \$200,000 ahead of where it was at this time last year in terms of self-generated revenue.

Director Rame reported that the revenue projections for the remainder of the year have been taken down due to the slower-than-anticipated registration and filing activity through the mid-year point. We continue to budget for substantial growth in 2012 in our self-generated revenue. Additionally, next year the IIPRC is holding their expenses relatively flat when compared to the 2011 budget growing less than 1% over the amount budgeted in 2011. The Finance Committee is also proposing two new types of fees in its 2012 Schedule of Fees. The first is a filing fee for individual disability income product filings. The proposed filing fee is \$1,000 per product filing which is similar to the filing fees for individual long-term care product filings as both types of products require the review of rates. The second is a new type of

registration fee which is called an Update-Only Registration Fee. This would provide flexibility for companies that are not planning to make new product filings with the Compact but wish to simply keep their previously-approved products current with mix-and-match and add-a-state. The amount of this Update-Only Registration Fee is proposed to be \$1,500. The Finance Committee held a conference call on August 17 to receive public comments and approve this recommendation to publish the 2011 draft budget and schedule of fees for notice and comment. There were no questions or comments for Director Range. Commissioner Sevigny asked for a motion from a member of the Management Committee to adopt the recommendation of the Finance Committee to publish the 2012 IIPRC Budget and Schedule of Fees. Ms. Berendt made a motion and Mr. Beatty seconded. There was no further discussion. Ms. Schutter then took a roll call of the Management Committee and the motion passed.

Commissioner Sevigny then moved the report and recommendation of the Rulemaking Committee. Mr. Beatty reported that on June 27th, the Rulemaking Committee recommended that the Management Committee expose for notice and comment a new provision within the Rule for Adoption, Amendment and Repeal of Rules for the IIPRC (known as the "Rulemaking Rule"). The new Section 103 is intended to provide a procedure for potential rulemaking in order to solicit participation from interested parties during the initial drafting stage. This new section allows any committee to publish a notice of potential rulemaking with a request for comments during a 60-day period. Advance notice of potential rulemaking can be used for a rule, operating procedure or uniform standard. There is also one addition to the renumbered Section 108 to clarify that a notice of potential rulemaking does not constitute a notice of a proposed rule. The Management Committee published the revisions to the Rulemaking Rule on July 7. No comments were received. At this time, the Rulemaking Committee recommends that the Management Committee approve and the Commission adopt the revisions to the Rulemaking Rule regarding notice of potential rulemaking. The next priority for the Rulemaking Committee is to prepare for the required 5-year review of rules and standards required under the Rulemaking Rule. A subgroup consisting of Tennessee, Utah and Virginia will be meeting in early October to designate a process for periodic review. There were no comments regarding the report. Commissioner Sevigny deferred a motion to adopt the report of the Rulemaking Committee and take all the reports in one motion later in the meeting.

Commissioner Sevigny asked if there was a motion from a member of the Management Committee to approve the amendments to the Rulemaking Rule. Mr. Beatty made a motion and Ms. Berendt seconded. Ms. Schutter took a roll call of the Management Committee and the motion was carried. Commissioner Sevigny asked if there was a motion from a member of the Commission to adopt the amendments to the Rulemaking Rule as approved by the Management Committee. Ms. Dwyer made a motion and Mr. Record seconded. There were no further comments. Ms. Schutter then took a roll call of the Commission and the motion carried.

Commissioner Sevigny then moved to the consideration of the written request from the Indiana Department of Insurance for a 90-day extension of its Stay of the Effectiveness of the Individual Long-Term Care Uniform Standards. Indiana's stay was effective starting on December 1, 2010 and they have been granted two stays. Based on their request, Indiana has published a regulation to opt-out of the individual long-term care uniform standards and held a public hearing in August. Ms. Vaughan stated that Indiana had no further comments. There were no further questions about this request. Originally, this request was to be considered at the August 28 meeting in Philadelphia. Commissioner Sevigny asked for a motion from a member of the Commission to grant Indiana's Request for a 90-day Extension of its Stay of the Individual Long-Term Care Uniform Standards in Indiana retroactive to August 29. Mr. Charbonnier made a motion and Mr. Turner seconded. Ms. Schutter took a roll call of the Commission and the motion carried unanimously.

The next agenda item is to consider the written request from the Illinois Department of Insurance for a 90-day extension of its Stay of the Effectiveness of certain variable life and variable annuity uniform standards. Illinois' stay was effective starting on November 29, 2010 and they have been granted two stays. The Illinois Department has been working with their fellow members on the IIPRC Actuarial Working Group and has also been in consultation with the IIPRC Office and is making forward progress on their questions and issues. Illinois had no further comments. Commissioner Sevigny asked for a motion from a member of the Commission to grant Illinois' Request for a 90-day Extension of its Stay of certain individual life and annuity uniform standards in Illinois retroactive to August 29. Mr. Schirripa made a motion and Mr. Sellmeyer seconded. There were no further questions regarding this request. Ms. Schutter took a roll call vote of the Commission and the motion carried.

Commissioner Sevigny moved to the report of the Communications Committee. Mr. Sisk reported that the Communications Committee met with the IIPRC Office in July to receive an update on the implementation of key outreach initiatives for 2011. In the Spring, the IIPRC launched a consumer resources web page on the Compact website. This page provides information about the Consumer Advisory Committee and how to apply to be on the Committee; information as to how to contact the various departments within the Compacting States; and information about how to make public access requests. The IIPRC Office is also sponsoring no-cost informational webinars for consumer representatives to learn more about the Compact's structure, process and activities. We are still looking to fill five seats on the Consumer Advisory Committee and would ask if you have an active consumer advocacy organization in your state for life, annuities, long-term care or disability income issues, to let the IIPRC Office know as they can help outreach to gauge interest in serving on this committee. The IIPRC Office has released three new self-guided web-based tutorials for regulators in Compacting States. These tutorials may be found on the Regulators Resources page of the Compact website. The IIPRC Office has made numerous presentations at industry conferences throughout the year including ones sponsored by the Association for Insurance Compliance Professionals, the Insured Retirement Institute, the Society of Actuaries, ACLI and IRES. Starting October 5, the IIPRC is holding a series of webinars for companies to learn more about the Compact ranging from basics about the Compact to an overview of the different standards. We have found one of the most effective forms of outreach is outreach done by the Commissioners and their staff to encourage companies to use the IIPRC platform when they have a product that could be filed under the uniform standards. There were no comments or questions regarding this report. Commissioner Sevigny then asked for a motion from a member of the Management Committee to adopt the reports of the Product Standards Committee, Rulemaking Committee, Finance Committee and Communications Committee. Mr. Schirripa made a motion and Commissioner Goodwin seconded. There was no further discussion. Commissioner Sevigny then called for a voice vote. The motion carried.

Commissioner Sevigny then moved to the next item on the agenda, the approval of minutes. He then asked if there was a motion from the Management Committee to approve the meeting minutes of the Management Committee's June 27 conference call. Mr. Sisk made a motion and Mr. Schirripa seconded. A voice vote was taken and the motion passed. Commissioner Sevigny then asked for a Commission motion to adopt the meeting minutes of the May 23 Joint Meeting of the Management Committee and Commission. Commissioner Praeger made a motion and Mr. Beatty seconded. A voice vote of the Commission was taken and the motion was approved.

Commissioner Sevigny then asked Ms. Schutter to provide an operational update. Ms. Schutter reported that 125 companies have registered so far this year, and the IIPRC has a goal of 150 companies. Also, 250

filings have been submitted to the Compact so far, which is a slight growth from the previous year. The IIPRC has done a great deal of outreach these past few months, and will be offering a free webinar series this Fall. Ms. Schutter concluded her report, and hearing no other matters, Commissioner Sevigny asked for a motion and a second to adjourn. Mr. Beatty made a motion and Commissioner Praeger seconded. The Joint Meeting of the Management Committee and the Interstate Insurance Product Regulation Commission was adjourned.