

**INDIVIDUAL LONG TERM CARE INSURANCE APPLICATION STANDARDS**

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*\* To be updated before draft is recommended to Management Committee \**

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As recommended by the Product Standards Committee

Highlighting reflects disposition of public comments received 11/3 and 12/17

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## INDIVIDUAL LONG TERM CARE INSURANCE APPLICATION STANDARDS

**Scope:** These standards are intended to apply to paper, telephonic or electronic applications for coverage provided by individual long term care insurance policy forms. These standards are intended to apply to new business applications as well as applications used to request changes to existing policies.

The company may submit one multi-purpose application to accommodate new business and all policy changes (reinstatement, plan changes, addition of benefit feature, changes to existing benefit feature, etc.), submit separate applications for each purpose, or submit an application with any combination of purposes (new business and reinstatement only, all policy changes only, etc.).

**Mix and Match:** These standards ~~are~~ are not available to be used in combination with State Product Components as described in Section 110(b) of the Operating Procedure for the Filing and Approval of Product Filings.

**Self-Certification:** These standards are not available to be filed on a self-certification basis.

**Drafting Note:** ~~The Interstate Insurance Product Regulation Commission shall develop guidelines for the filing of combination applications for individual life, annuity, disability income and/or long term care insurance.~~ A policy approved by the Interstate Insurance Product Regulation Commission may qualify as a Partnership plan in any state with an operational Partnership program subject to the company meeting all the Partnership requirements of each state.

As used in these standards the following definitions apply:

“Application” means any form used to apply for long term care insurance whether or not the form is attached to the policy at issue. The application shall be filed for approval.

“Model Act” means the NAIC Long-Term Care Insurance Model Act (#640) as adopted by the NAIC on September 1, 2000 and as subsequently amended.

“Model Regulation” means the NAIC Long-Term Care Insurance Model Regulation (#641) as adopted by the NAIC on September 1, 2000 and as subsequently amended.

“Signed or signature” means any symbol or method executed or adopted by a person with the present intention to authenticate a record, and which is on or transmitted by paper, electronic or telephonic media, and which is consistent with applicable law.

“Written or writing” means a record which is on or transmitted by paper, electronic or telephonic media, and which is consistent with applicable law.

### Drafting Notes:

(1) Any reference to “policy” in these standards shall include a rider, endorsement or amendment used to provide long term care insurance. “Policy” shall not include a group policy or a group certificate because these standards only apply to individual forms.

(2) The references to “policy” do not preclude Fraternal Benefit Societies from substituting “certificate” in their forms.

(3) As the NAIC models referenced in these standards are revised by the NAIC, specific section numbers referenced may change and shall be changed in the standards accordingly.

**§ 1. ADDITIONAL SUBMISSION REQUIREMENTS**

**A. GENERAL**

The following additional filing submission requirements shall apply:

- (1) All forms filed for approval shall be included with the filing. Changes to a previously approved form shall be highlighted.
- (2) The application may be submitted in a proof format for preliminary review, provided that the company certifies that the text and format so filed accurately reflects what the final copy would look like, including contrasting color, font size, bold face, highlighting, or any other similar type of differentiation that may be used. If the application is determined to be acceptable, the company shall submit a final copy for approval, along with a certification that the final copy represents an exact copy of the proof and that no changes had been made after the company was notified that the proofs were determined to be acceptable.
- (3) If the application is submitted for use by more than one company, the following requirements shall apply:
  - (a) The name of each company shall appear at the top of the first or cover page of the application, and a means of designating the appropriate company must be available, such as checkboxes in front of each company's name. A "blank space write in" format will not be acceptable;
  - (b) Multiple companies may be represented in one filing, provided that:
    - (i) All companies shown at the top of the first or cover page of the application are properly licensed in all states for which the filer is requesting approval;
    - (ii) The filer is requesting approval for an identical filing (no exceptions for any company represented in the filing) in all states for which the filer is requesting approval; and
    - (iii) Separate filing fees may apply and transaction fees for each combination of company and state shall apply; and
  - (c) The application shall have the same form number for each company, and the form number shall be unique within each company.
- (4) If the application will be used for multiple purposes:
  - (a) The intended purpose shall appear at the top of the first or cover page of the application, and a means of designating the intended purpose shall be available, such as a checkbox in front of each purpose. A "blank write in" format is not acceptable.
  - (b) The applicant shall be provided instructions that specify which sections of the application must be completed for each purpose.
- (5) **The filing shall include** all the sections and questions that may be required to be completed by an applicant, including additional drop downs, scripts, questions, questionnaires or supplements that would be required if the applicant answers questions in a certain way, such as a "yes" response.
- (6) If a filing is being submitted on behalf of a company, **include** a letter or other document authorizing the firm to file on behalf of the company shall be included with the filing.

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- (7) If the application contains variable items, ~~the submission shall~~ include the Statement of Variability required in the specific ~~Interstate Insurance Product Regulation Commission- national product uniform standard~~. The submission shall also include a certification that any change or modification to a variable item shall be administered in accordance with the requirements in the Variability of Information section, including any requirements for prior approval of a change or modification.
- (8) ~~Include Aa~~ certification signed by a company officer that the application has a minimum Flesch score of 50.
- (9) ~~Include Aa~~ statement of the types of policy forms and plans with which the application will be used. For example, individual long term care insurance.
- (10) ~~Include Aa~~ statement of how the application will be used, such as paper, electronic, and/or telephonic. For electronic and telephonic uses, the company shall:
  - (a) Describe the procedures that will be used to verify the authenticity of the transaction; and
  - (b) Include a John Doe sample that shows additional sections and questions that are required to be completed by an applicant, including additional drop downs, scripts, questions, questionnaires or supplements, if the applicant answers questions in a certain way, such as a “yes” response.

Additionally, for telephonic uses the company shall describe the process by which the applicant is given the completed application for signature prior to or on the date the policy is delivered or issued for delivery.

- (11) ~~Include Aa~~ description of any innovative or unique features of the application.

~~(12) If the other coverage in force and replacement questions will be included in a separate form, a certification that this is the case.~~

## **B. VARIABILITY OF INFORMATION**

- (1) The company may identify items that will be considered variable in the application, such as:
  - (a) The company, address and other contact information;
  - (b) In the case of applications for use by more than one company, the name of each company may be variable only to permit:
    - (i) Deletion if the company ceases to do new business; and
    - (ii) Addition of a company authorized to do business by the respective compacting states;
  - (c) Plan information, such as plan marketing name or logo, discounts, plan design, premium modal options, etc.

The item shall be bracketed or otherwise marked to denote variability. The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change.

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- (2) If the company identifies plan information that may be variable in the application, such information shall be consistent with the Statement of Variability that has been or is being filed for use with the respective policy form.

### C. READABILITY REQUIREMENTS

- (1) The application text shall achieve a minimum score of 50 on the Flesch reading ease test or an equivalent score on any other approved comparable reading test. See Appendix A for Flesch methodology.
- (2) The application text shall be presented in not less than ten point type, ~~and one point leaded, except that some forms used with the application require a presentation in not less than twelve point type,~~ as prescribed in the Model Regulation.
- (3) The style, arrangement and overall appearance of the application shall give no undue prominence to any portion of the text or section of the application.

**Comment [b1]:** The PSC made this change to simplify the wording and because the font size of the forms used with the application is covered in separate standards.

## § 2. GENERAL FORM REQUIREMENTS

### A. COVER PAGE OR FIRST PAGE

- (1) The full corporate name of the company shall appear in prominent print on the cover page or first page of the application. "Prominent print" means, for example, all capital letters, contrasting color, underlined or otherwise differentiated from the other type on the form.
- (2) If an application will be used by more than one company, each company's full corporate name shall appear in prominent print on the cover page of the application, and a means of designating the appropriate company must be available, such as checkboxes in front of each company's name.
- (3) If the application will be used for multiple purposes, the intended purpose shall appear at the top of the first or cover page of the application and a means of designating the appropriate purpose must be available, such as a checkbox in front of each purpose.
- (4) If the application will be used for policy changes, the application shall:
  - (a) Instruct the applicant to provide the policy number for the existing policy for which change is requested; and
  - (b) Identify the insured to whom the changes apply.
- (5) A marketing name or logo may also be used on the cover page or first page of the application provided that the marketing name or logo does not mislead as to the identity of the company.
- (6) Each company's complete mailing address shall appear on the cover page or first page of the application.
- (7) A form identification number shall appear at the bottom of the application in the lower left hand corner of the application. The form number shall be adequate to distinguish the form from all others used by the company. The form number shall include a prefix of ICCxx (where xx represents the appropriate year the form was submitted for filing) to indicate it has been approved by the Interstate Insurance Product Regulation Commission.
- (8) A brief description **that** shall appear in prominent print on the cover page or the first page of the application indicating that the application is for individual long term care insurance.

**B. FAIRNESS**

- (1) The application shall not contain inconsistent, ambiguous, unfair, inequitable or misleading clauses, provisions that are against public policy as determined by the Interstate Insurance Product Regulation Commission, nor shall it contain exceptions and conditions that unreasonably affect the risk purported to be assumed in the general coverage of the policy forms with which the application will be used.
- (2) The application questions shall be presented as single direct questions, not as declaratory statements.
- (3) The application questions shall not require the applicant to make a diagnosis of a medical condition of the proposed insured. Questions such as “Are you in good health,” “Do you have symptoms of,” “Do you have any known indication of,” or “Do you think you have” are not acceptable.

(4) Open-ended questions are not permitted.

**Comment [BMCELDUF2]:** The PSC believes this provision from the Individual Life Insurance Application Standards had been mistakenly excluded from these standards.

**§ 3. APPLICATION SECTIONS**

**A. BEFORE YOU APPLY SECTION**

- (1) The application may include a set of preliminary questions with instructions that if the applicant answers “yes” to any one of these questions, that the applicant should not continue to complete the other sections of the application.
- (2) If included, this section may include questions, such as:
  - (a) Does the applicant have, or ever had, a diagnosis for specified conditions, such as:
    - (i) Alzheimer’s Disease;
    - (ii) Amyotrophic Lateral Sclerosis;
    - (iii) Cystic Fibrosis;
    - (iv) Dementia;
    - (v) Huntington’s Chorea;
    - (vi) Memory Loss;
    - (vii) Mental Retardation;
    - (viii) Multiple Myeloma;
    - (ix) Multiple Sclerosis;
    - (x) Muscular Dystrophy;
    - (xi) Myasthenia Gravis;
    - (xii) Parkinson’s Disease;
    - (xiii) Schizophrenia;
    - (xiv) Sclerodema;
    - (xv) Spinal Cord Injury; or
    - (xvi) Stroke/CVA.
  - (b) Does the applicant currently require human assistance or supervision with any specified activities, such as:
    - (i) eating;
    - (ii) dressing;
    - (iii) toileting;
    - (iv) transferring from bed to chair;
    - (v) walking;

- (vi) maintaining continence; or
  - (vii) bathing.
- (c) Does the applicant currently reside in, or has the applicant been advised to enter, or is the applicant planning to enter a nursing home, assisted living facility or other custodial facility?
  - (d) Is the applicant currently receiving specified services, such as home health care services or attending adult day care?
  - (e) Does the applicant currently use specified medical equipment, such as wheelchair, walker, hospital bed, quad cane, or stairlift?
  - (f) Is the applicant currently receiving specified treatment, such as oxygen or dialysis?
  - (g) Has the applicant ever been:
    - (i) Diagnosed or treated by a member of the medical profession for specified symptoms such as: immune deficiency, anemia, recurrent fever, fatigue or unexplained weight loss, malaise, loss of appetite, diarrhea, fever of unknown origin, severe night sweats; unexplained or unusual infections or skin lesions; unexplained swelling of the lymph glands; Kaposi's Sarcoma or Pneumocystis Carinii Pneumonia; or
    - (ii) Diagnosed by a member of the medical profession or tested positive for Human Immunodeficiency Virus (AIDS virus) or Acquired Immune Deficiency Syndrome (AIDS)?

**B. APPLICANT(S)**

- (1) The application shall request the information that the company determines it needs to identify the applicant(s) and provide contact information, such as: name, address, telephone number, email address, age, date of birth, place of birth, gender, occupation, tax identification or social security number, marital status, driver license number and state and country of issue, or other official document used to verify identity. The section may also ask for the best time to call the applicant(s).

**C. COVERAGE DATA**

- (1) The application shall allow the applicant to specify the type of long term care insurance plan selected for the proposed insured, such as: the benefit amount, whether daily or monthly, the benefit period, inflation protection option ~~and which shall be subject to the requirements of Section 13, Requirements of Offer Inflation Protection, of the Model Regulation,~~ optional benefit features such as nonforfeiture ~~which shall be subject to the requirements of Section 28, Nonforfeiture Benefit Requirement, of the Model Regulation.~~

**D. INFLATION PROTECTION**

- (1) ~~-This section does shall not apply to a life insurance policy or rider that provides long term care benefits only in the form of an acceleration of the death benefit.~~
- (2) The application shall include the option to purchase a policy with an inflation protection feature no less favorable than one of the following:

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- (a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%);
  - (b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or
  - (c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.
- (3) Inflation protection shall be included in the policy unless the applicant rejects the option of inflation protection as If the applicant rejects the option of inflation protection, such rejection shall be evidenced by the applicant's signature or initials, provided separately within the application, as follows:

I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans \_\_\_\_\_, and I reject inflation protection.

Drafting Note: Compound inflation protection at five percent (5%), if declined, can be replaced by other forms of inflation protection options or benefit increases.

~~*Drafting Note Regarding Rejection of Inflation Protection: Section 13.A.(1), Requirement to Offer Inflation Protection, of the Model Regulation requires that a company offer to each applicant at the time of purchase the option to purchase an inflation protection benefit no less favorable than as described in the section. If the applicant rejects the offer of inflation protection the rejection shall comply with the requirements of Section 13.G.(1) and (2), Requirement to Offer Inflation Protection, of the Model Regulation.*~~

#### **DE. DISCOUNT DATA**

- (1) The application may allow the applicant to specify the type of discount for which the applicant may be eligible, such as a marital/legally-sanctioned domestic partnership or civil union (when both are applying for long term care insurance), family (when at least a specified number of family members are already insured with the company for long term care insurance or are applying for such insurance, such as two), or sponsored group discount (as defined by the company).
- (2) If such discounts are included, the application may request the data that the company needs to administer the discount, such as the applicable names and description of relationships, the length of the relationships, the policy numbers for coverage in effect, and the name of the sponsored group.

#### **EF. PREMIUM AND BILLING**

- (1) The application shall may allow the applicant to specify a payor if other than the applicant, payment method and mode, and whether including any limited payment option is wanted. If a payor is other than the applicant, the application shall request the payor information needed by the company to administer the insurance plan, such as the payor's name, telephone number, address, email address, tax identification or social security number, and relationship to the applicant.
- (2) The application may request information concerning the source and/or method of funding the premium payments.

**FG. BENEFICIARY**

- (1) The application may allow the applicant to designate the beneficiary and shall require the beneficiary information that the company determines it needs to confirm insurable interest and administer the insurance plan, such as the beneficiary's name, telephone number, address, email address, tax identification or social security number, and relationship to the applicant.

**GH. OTHER INSURANCE IN FORCE AND REPLACEMENT OF INSURANCE**

- (1) The application shall include the questions specified below, which are designed to elicit other insurance and replacement information ~~as to whether, as of the date of application, the applicant has another long term care insurance policy or certificate in force, or whether a long term care insurance policy or certificate is intended to replace any other accident or sickness or long term care policy or certificate presently in force. A company may include these questions in the application or a supplementary application or other form may be used but these shall be signed by the applicant, and agent as applicable. The questions included shall be subject to the requirements of Section 14A, Requirements for Application Forms and Replacement Coverage, of the Model Regulation.~~

(a) Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(b) Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months?

(c) If so, with which company?

(d) If that policy lapsed, when did it lapse?

(e) Are you covered by Medicaid?

(f) Do you intend to replace any of your medical or health insurance coverage with this policy?

**HI. PROTECTION AGAINST UNINTENDED LAPSE**

- (1) The application shall allow the applicant to designate at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy for nonpayment of premium, or to elect not to make such designation. ~~This section of the application shall be subject to the requirements of Section 7A, Unintentional Lapse, of the Model Regulation.~~

(a) The designation shall include each person's full name and home address.

(b) In the case of an applicant who elects not to designate an additional person, the waiver shall state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice."

**I.J. HOME OFFICE CHANGES**

- (1) The application may include a section for home office changes, such as amendments, corrections, or additions, for use by the company. Any change in plan of insurance, amount, age at issue, gender, class or benefits shall require the written consent of the applicant(s).

**J.K. AGREEMENTS**

- (1) The application shall include the following statements agreed to by the applicant(s):

- (a) That the applicant has received the following items, as applicable:
- (i) Outline of Coverage; ~~[not "required" to be acknowledged] [not "required" to be acknowledged]~~
  - (ii) Long Term Care Insurance Personal Worksheet;
  - (iii) Things You Should Know Before You Buy Long Term Care Insurance;
  - (iv) Potential Rate Increase Disclosure Form; and
  - (v) ~~Shopper's Guide to Long Term Care Insurance; [not "required" to be acknowledged] [companies are required to make available and provide, but acknowledgement of receipt not required]~~
- (b) That ~~they have~~ the applicant has read the application and all statements and answers as they pertain to ~~them~~ the applicant, and that these statements and answers are true and complete to the best of ~~their~~ the applicant's knowledge and belief;
- (c) That the statements and answers in the application are the basis for any policy issued by the company, and that no information about ~~them~~ the applicant will be considered to have been given to the company unless it is stated in the application; and
- (d) ~~A-The following "Caution" statement as required by Section 11C(1), Prohibition Against Post Claims Underwriting, of the Model Regulation, shall be set out conspicuously and in close conjunction with the applicant's signature block:~~

Caution: If your answers on this application are incorrect or untrue, [company] may ~~has the right to deny benefits or rescind your policy.~~

**Comment [BMCELDUF3]:** The IAC questioned why it is proposed to change the "right" language in the caution statement. The PSC made this change to account for the incontestability period. "May" covers the timeframe both during and after the contestability period.

- (2) The application shall include the following statements agreed to by the applicant(s), if applicable:

- (a) That the company will have no liability until:
- (i) A policy is issued on this application and delivered to and accepted by the owner; and
  - (ii) The first premium due is paid in full while each applicant is alive;
- (b) That a sales representative or medical examiner does not have the company's authorization to accept risk, pass on insurability, or make, void, waive or change any questions, conditions or provisions of the application, policy or receipt, as applicable.

- (c) That the company may require an attending physician statement, medical records, an underwriting assessment, a medical exam, a Department of Motor Vehicle report or other questionnaire, test or a prescription drug or medication report.

~~(3) The application may include such other statements as agreed to by the applicant, as needed.~~

#### **KL**. AUTHORIZATIONS FOR ELECTRONIC INSTRUCTIONS

- (1) Applications that provide an authorization for the company to act on electronic and/or telephonic instructions from parties specified in the application shall also provide the means for such an authorization to be rejected by the applicant, and in the absence of a positive authorization, there shall be a rejection of the authorization. The authorization may state that proper identification must be provided and that the company will be held harmless for any claim, liability, loss or cost, when it has used reasonable procedures to confirm these transactions are authorized and genuine and these procedures have been followed.
- (2) Applications that provide an authorization for the electronic delivery of statements, prospectuses and other documents shall also provide a means for an electronic authorization to be rejected by the applicant and, in the absence of a positive authorization, there shall be a rejection of the authorization. Such authorization will include a statement that the applicant has access to the Internet for the purposes of accepting electronic delivery of the documents and a means by which the applicant can provide a current Internet email address.

#### **LM**. FRAUD NOTICE/WARNING

- (1) The application shall include ~~a the following~~ fraud notice/warning. ~~The notice/warning shall include language similar to the following:-~~ “Any person who knowingly presents a false statement in an application for insurance may be guilty of a criminal offense and subject to penalties under state law.”

#### **MN**. SIGNATURE REQUIREMENTS

- (1) The application shall include a signature section which may include items such as: city and state where signed; date of signature; signature of each applicant of the age of majority required by the state where the policy is issued for delivery, or the applicant’s legal residence; printed name and signature of a witness (the company may require that the sales representative sign as witness).

### **§ 4. ADDITIONAL STANDARDS FOR UNDERWRITING QUESTIONS**

#### **A. APPLICANT PROFILE**

- (1) The application may include certain questions for each applicant, such as:
  - (a) If the applicant works more than 20 hours a week outside their home. For a “yes” response, details may be requested such as: occupation, location of work, duties;
  - (b) If the applicant performs volunteer work. For a “yes” response, details may be requested such as: type of work, location of work, number of hours worked per week;
  - (c) If the applicant engages in any hobbies or sports, or participates in any outside activities on a regular basis. For a “yes” response, details may be requested such as: type of hobby, sport or activity, number of times performed within a specified period of time, member of any activity-specific association, group or sanctioning body, whether activities take place outside the U.S., whether activities are part of professional competition;

- (d) If the applicant drives an automobile. For a “yes” response, details may be requested such as annual mileage; and
- (e) If the applicant lives in some form of a residential retirement community. For a “yes” response, details may be requested such as a list of services received.

**B. TOBACCO USE**

- (1) The application may include questions for each applicant regarding tobacco use, such as: smoking cigarettes, pipes or cigars; using snuff, chewing tobacco or a nicotine delivery device such as a patch or gum.

**C. DRIVING RECORD QUESTION**

- (1) The application may include a question regarding whether the applicant’s driver’s license has ever been suspended or revoked, whether the applicant has ever plead guilty to or been convicted of driving while impaired, intoxicated or under the influence of any drug; and/or whether during a specified period of time (not to exceed the last 5 years) the applicant has plead guilty to or been convicted of any moving violation or been involved in any accident in which they were found to be at fault. For a “yes” response, details may be requested such as: a description of the Department of Motor Vehicles’ action, plea, conviction or accident; the number of times the various issues had taken place, the date and state of occurrence.

**D. PERSONAL PHYSICIAN OR MEDICAL FACILITY**

- (1) The application may require the identity of the applicant’s personal physician or medical facility that they consulted within a specified period of time, such as the last 18 months. If a physician or facility is identified, details may be requested such as: patient identification number, full name of physician or facility and their telephone number, address, and date and reason last consulted.

**E. PRESCRIBED AND NON-PRESCRIBED MEDICATION AND PRESCRIBED DIET**

- (1) The application may include a question regarding the applicant’s use of prescribed and non-prescribed medications or being on a prescribed diet. For a “yes” response, details may be requested such as: a description of the medication or diet, date prescribed, reason why medications or diet was prescribed, length of time the applicant has been taking medications or been on a diet, and name and address of prescriber.

**F. MEDICAL QUESTIONS**

- (1) The application may include the following questions to be answered by the applicant:
  - (a) **Height/Weight.** The current height and weight, and any weight change within a specified period of time (such as in the past year);
  - (b) **Family Medical History.** Whether an applicant has a parent or sibling diagnosed or treated by a member of the medical profession for certain conditions, such as heart or vascular disease, cancer, diabetes, high blood pressure, kidney disease, attempted suicide or mental illness. For a “yes” response, details may be requested such as: parent’s or sibling’s diagnosis, age of diagnosis and date last treated; parent’s or sibling’s age if alive and if not alive, age, date and cause of death;
  - (c) **Drug and Alcohol Use.** Whether an applicant has ever:

- (i) Used narcotics, barbiturates, amphetamines, hallucinogens, heroin, cocaine, or other habit forming drugs, except as prescribed by a physician;
- (ii) Received medical treatment or counseling for, or been advised by a physician to discontinue, the use of alcohol or prescribed or non-prescribed drugs; or
- (iii) Been a member of any self-help group such as Alcoholics Anonymous or Narcotics Anonymous.

For a “yes” response, details may be requested such as: type of drug or alcohol used, contact information for the medical professional or facility providing treatment, advice or counseling, type and dates of treatment or counseling, and self-help membership periods.

As an alternative to requesting details in the application, the application may require the completion of a Drug and Alcohol Use supplement which shall request details such as those described above;

- (d) **Benefits, Pension or Compensation.** Whether an applicant has, within a specified period of time (not to exceed in the past 5 years) made a claim for or received benefits, compensation or pension for any injury, sickness, disability or impaired condition. For a “yes” response, details may be requested such as: date claim filed, type of benefits claimed, amounts and dates of payments received, contact information for the payor of the benefits, type of injury, sickness, disability or impaired condition, duration of these, and contact information for the treating physician;
- (e) **Insurance Declined, Postponed, Modified or Rated.** Whether an applicant has ever had an application for life, accident, medical or health, disability or long term care insurance declined, postponed, modified or rated. For a “yes” response, details may be requested such as: date action taken, type of insurance involved, insurance company involved, reason(s) given for the action taken;
- (f) **Disorders and Diseases.** Whether an applicant has ever been diagnosed, treated, tested positive for, or been given medical advice by a member of the medical profession for a disease or disorder such as:
  - (i) Any disorder or disease of the brain or nervous system;
  - (ii) Any disorder or disease of the heart, blood vessels or circulatory system;
  - (iii) Any disorder or disease of the respiratory system;
  - (iv) Any disorder or disease of the stomach, liver, intestines, rectum, pancreas or abdominal organs;
  - (v) Any disorder or disease of the genito-urinary organs;
  - (vi) Any disorder or disease of the skeletal system;
  - (vii) Any disorder or disease of eyes, ears, nose or throat;
  - (viii) Any disorder or disease of the blood, skin, thyroid, lymph or other glands;
  - (ix) Any psychiatric or mental health disorder or disease;

- (x) Any gynecological disorders or diseases;
- (xi) Any cancer, tumor, cyst or nodule;
- (xii) Any sexually transmitted disorders or diseases; or
- (xiii) Any disorders or diseases of the immune system except those related to the Human Immunodeficiency Virus (AIDS virus).

For any category of disorder or disease included, the application shall include specific disorders and diseases that the company determines it needs for underwriting purposes;

For any “yes” answer, details may be requested such as: name, address and telephone number of the medical professional or facility providing treatment, diagnosis, dates of diagnoses, consultations, tests and treatments;

- (f) **Treatment by a Member of the Medical Profession.** Whether the applicant, within a specified period of time (not to exceed 105 years), has been:

- (i) Treated, examined or advised by a member of the medical profession; or
- (ii) Been advised by a member of the medical profession to get specified medical care which was not completed, such as any hospitalization, surgery or diagnostic test, except those tests related to the Human Immunodeficiency Virus (AIDS virus).

**Comment [BMCELDUF4]:** The PSC changed the look-back period for treatment by a member of the medical profession from 10 to 5 years to be consistent with the other look-back periods in these standards.

For any “yes” answer, details may be requested such as: name, address and telephone number of the medical professional or facility providing treatment, examination or advice, diagnosis, date of diagnosis, dates of treatment;

- (i) **Inpatient and Outpatient Treatment.** Whether the applicant within a specified period of time (not to exceed 5 years), has been an inpatient or outpatient in a hospital, clinic or medical facility, or any similar entity. For any “yes” answer, details may be requested such as: name, address and telephone number of the place where treatment was provided, diagnosis, date of diagnosis, dates of treatment; or
  - (j) **Diagnostic Tests.** Whether the applicant, within a specified period of time (not to exceed 5 years), has had diagnostic tests such as: an electrocardiogram (EKG) or X-ray, except those related to the Human Immunodeficiency Virus (AIDS virus). For any “yes” answer, details may be requested such as: name, address and telephone number of the place where the tests were performed, name, address and telephone number of medical professional or facility prescribing the tests, dates of the tests.
- (2) The application may state that, in responding to any of the questions, the applicant need not include colds, minor viruses or minor injuries which prevented normal activities for a period less than a specified period of days (such as 5 days).
- (3) The application may include an additional details section where the applicant provides the details to “yes” answers. The details shall include information such as: name of applicant; question number; name, addresses and telephone numbers of all medical providers; diagnosis; date of onset; dates of consultations, tests and treatment; date of surgery; medications prescribed; date of recovery.

~~§ 5. ADDITIONAL STANDARDS FOR FORMS REQUIRED TO BE USED WITH THE APPLICATION~~

~~—[Since prior approval is required, we have submitted a stand alone set of standards]~~

~~A. — SUITABILITY FORMS~~

~~(1) — *Long Term Care Insurance Personal Worksheet.* The standards for the Personal Worksheet will be those prescribed in Section 24, Suitability, and Appendix B, Personal Worksheet, of the Model Regulation.~~

~~— If the Personal Worksheet is substantially similar to the requirements of Section 24, Suitability, and Appendix B, Personal Worksheet, of the Model Regulation, the Personal Worksheet may be *filed on a self certification basis* with the Interstate Insurance Product Regulation Commission.~~

~~— If the Personal Worksheet includes material changes from the requirements of Section 24, Suitability, and Appendix B, Personal Worksheet, of the Model Regulation, the Personal Worksheet shall be *filed for approval* with the Interstate Insurance Product Regulation Commission. The filing shall highlight the changes made and explain the need for the changes.~~

~~(2) — *Things You Should Know Before You Buy Long Term Care Insurance.* The standards for this disclosure will be those prescribed in Section 24, Suitability, and Appendix C, Disclosure Form, of the Model Regulation.~~

~~— If the disclosure is materially identical to the requirements of Section 24, Suitability, and Appendix C, Disclosure Form, of the Model Regulation, the disclosure may be *filed on a self certification basis* with the Interstate Insurance Product Regulation Commission.~~

~~— If the disclosure includes material changes from the requirements of Section 24, Suitability, and Appendix C, Disclosure Form, of the Model Regulation, the disclosure shall be *filed for approval* with the Interstate Insurance Product Regulation Commission. The filing shall highlight the changes made and explain the need for the changes.~~

~~B. — POTENTIAL RATE INCREASE DISCLOSURE FORM~~

~~(1) — The standards for this disclosure will be those prescribed in Section 9, Required Disclosure of Rating Practices to Consumer and Appendix F, Potential Rate Increase Disclosure Form, of the Model Regulation.~~

~~— If the disclosure is substantially similar to the requirements of Section 9, Required Disclosure of Rating Practices to Consumer and Appendix F, Potential Rate Increase Disclosure Form, of the Model Regulation, the disclosure may be *filed on a self certification basis* with the Interstate Insurance Product Regulation Commission.~~

~~— If the disclosure includes material changes from the requirements of Section 9, Required Disclosure of Rating Practices to Consumer and Appendix F, Potential Rate Increase Disclosure Form, of the Model Regulation, the disclosure shall be *filed for approval* with the Interstate Insurance Product Regulation Commission. The filing shall highlight the changes made and explain the need for the changes.~~

~~C. — NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG TERM CARE INSURANCE~~

~~(1) — The standards for this notice will be those prescribed in Section 14, Requirement for Application Forms and Replacement Coverage, of the Model Regulation.~~

Date: 12/29/09

As recommended by the Product Standards Committee

Highlighting reflects disposition of public comments received 11/3 and 12/17

~~If the notice is substantially similar to the requirements of Section 14, Requirement for Application Forms and Replacement Coverage, of the Model Regulation, the notice may be **filed on a self-certification basis** with the Interstate Insurance Product Regulation Commission.~~

~~If the notice includes material changes from the requirements of Section 14, Requirement for Application Forms and Replacement Coverage, of the Model Regulation, the notice shall be **filed for approval** with the Interstate Insurance Product Regulation Commission. The filing shall highlight the changes made and explain the need for the changes.~~

~~**D. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT of 1996 (HIPAA)  
MEDICAL AUTHORIZATION**~~

~~(1) The standards for the authorization shall be those prescribed in the Act and as later prescribed in the HIPAA Privacy Rule 45 C.F.R. 164.500, et al.~~

~~If the authorization is substantially similar to the requirements of the Act and Rule, the authorization may be **filed on a self-certification basis** with the Interstate Insurance Product Regulation Commission.~~

~~If the authorization includes material changes from the requirements of Act and Rule, the authorization shall be **filed for approval** with the Interstate Insurance Product Regulation Commission. The filing shall highlight the changes made and explain the need for the changes.~~

Date: 12/29/09

As recommended by the Product Standards Committee

Highlighting reflects disposition of public comments received 11/3 and 12/17

#### Appendix A—Flesch Methodology

The following measuring method shall be used in determining the Flesch score:

- (1) For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two, 200-word samples per page may be analyzed instead of the entire form. The sample shall be separated by at least 20 printed lines.
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.
- (4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the policy form.
- (5) For purposes of (2), (3), and (4), the following procedures shall be used:
  - (a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;
  - (b) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
  - (c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.
- (6) The term “text” as used in this section shall include all printed matter except the following:
  - (a) The name and address of the company; the name, number or title of the policy; the table of contents or index; captions and sub-captions; specifications pages, schedules or tables; and;
  - (b) Any policy language which is drafted to conform to the requirements of any federal law or regulation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, however, the company identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.
- (7) At the option of the company, riders, endorsements, amendments, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.