DATE: July 12, 2016

TO: IIPRC Product Standards Committee ("PSC")

FROM: Sonja Larkin-Thorne, Brendan Bridgeland, Angela Lello, and Fred Nepple, IIPRC Consumer Representatives and Bonnie Burns, California Health Advocates

SUBJECT: June 21st hearing, Response to Industry Advisory Committee ("IAC") proposals.

<u>Non-duplication</u>

We urge you to refer this proposal to the NAIC Senior Issues Taskforce. The IAC submission does not resolve the questions that must be answered for serious consideration of this proposal.   The NAIC Senior Issues Taskforce is in a position to develop a well-studied standard on this topic.

In response to the IAC submission:

- The IAC submission fails to make a convincing case that a material number of insureds inappropriately submit duplicate long term care claims. The IAC reports that only 6% of insureds have multiple long term care policies. It acknowledges that the sale of multiple policies to this 6% is subject to over insurance restrictions and suitability supervision that should prevent sale of excessive coverage and should limit the opportunity for inappropriate duplicative claims.   It acknowledges that an insured runs the risk of exhausting benefits if he or she submits duplicative claims at a time when the need for future benefits is apparent. The IAC also suggests that the insured is penalized by a tax liability if he or she choses to prematurely exhaust benefits.   No data is offered regarding the extent that the 6% actually purchase suitable, not excessive additional long term care coverage and irrationally chose to exhaust those benefits when they are likely in continuing need of services and may incur a tax liability.

- The IAC provides only simplified hypothetical examples of how a non-duplication clause is administered. Most important each example assumes "two policies that are the same." Samples from claim adjudication files of actual disputes regarding the application of a non-duplication clause would help determine whether a standard can be developed which does not place the consumer in a no-win dispute between two companies. No such samples were offered.

- The IAC submission incudes assurances of good behavior with respect to several issues you raised. We suggest that the IAC should propose standards, rather than offer past good behavior by some companies.

- The IAC submission now offers an intra-affiliate only non-duplication clause. The IAC revised proposal remains troubling. We note that affiliation does not necessarily translate to fair and coordinated. In fact affiliated on date of issue does not necessarily mean affiliated on date of claim. Moreover the proposal continues to cap the total maximum coverage between the affiliated companies but fails to address how that cap is allocated between potentially two different benefit and non-duplication schemes of two companies.

- The IAC has not addressed rating practices for consumers sold additional long-term care coverage with a non-duplication clause. PSC members appropriately asked whether an insured purchasing a policy as additional coverage with a non-duplication clause should pay the same premium as an insured buying the same policy without other coverage. This is a fundamental issue of rate discrimination. It should be addressed.

Misstatement of Age Termination

- The IAC proposal to permit termination for misstatement of age should be rejected. The insured should not bear the cost of a company miss-entering data or agent error or clean sheeting.   In each case the law does not allow a rescission since the correct information was known to the company/agent. The company has the responsibility to maintain reliable systems and agent supervision functions. The insured should not pay the price of the company's failure.

- The insured is not held harmless by return of premium. Return of premium does not enable the insured to buy replacement coverage when he or she is already on claim. If the insured's application had been correctly processed and timely rejected he or she might have obtained coverage from a company with a different maximum issue age.