



MEMORANDUM

TO: IIPRC Management Committee

FROM: Product Standards Committee

DATE: March 24, 2014

SUBJECT: Amendments to Standards for Accelerated Death Benefits

The Product Standards Committee (“PSC”) of the Interstate Insurance Product Regulation Commission (“IIPRC”) is charged with developing proposed drafts of uniform standards. In carrying out its charge, the PSC has finalized a proposed draft of amendments to **Standards for Accelerated Death Benefits** for individual life insurance (“Uniform Standards”) and is recommending that the Management Committee initiate the rulemaking procedure¹ for the proposed Uniform Standards.

The amendments were developed in accordance with the Procedures for Implementing §118 of the “Rulemaking Rule” for Commission Review of Rules developed by the Rulemaking Committee and adopted by the Management Committee on March 2, 2012 (“Procedures”). Additionally, the PSC has thoroughly reviewed the proposed Uniform Standards in comparison to the corresponding Group Term Life Insurance Uniform Standards for Accelerated Death Benefits and the NAIC Accelerated Benefits Model Regulation (#620). Proposed revisions additional to those identified in the attached chart are drawn from the Group Term Life Insurance Uniform Standards for Accelerated Death Benefits, which were adopted on December 14, 2013.

The PSC added required customary language about mix-and-match and self-certification. The PSC recommends the proposed Uniform Standards be available for mix and match in accordance with §111 of the IIPRC Operating Procedure for the Filing and Approval of Product Filings. The PSC recommends product filings submitted under the proposed Uniform Standards not be subject to self-certification.

The proposed Uniform Standards were subject to public participation by written comment and teleconference meetings on August 13 and December 3, 2013, and February 2, 2014. The PSC received written comments from the Idaho Department of Insurance, the Kansas Insurance Department, Consumer Advisory Committee and Industry Advisory Committee. As required by the Procedures, this report includes in the attached chart a summary of recommended changes

¹ The rulemaking procedure is set forth in the Rule for Adoption, Amendment and Repeal of Rules for the IIPRC.

and an explanation of the change in circumstances or underlying assumptions since the rule was last adopted, amended or reviewed, as well as comments raised but not recommended by the committee with the reasons, if any, for not recommending these items.

The PSC recommends that the proposed amendments apply only to new filings received after the effective date of the amendments. It is not necessary to resubmit previously approved forms to comply with these amendments, or to suspend use of previously approved forms that do not comply with these amendments. The substantive changes being recommended are to: (1) add a uniform disclosure at the time of application for states that require a written statement or notice at the time of application, and (2) to make permissive the previously mandatory requirement to offer the option of funding all remaining premium out of the accelerated death benefit payment. The PSC could not identify consumer or regulatory harm that would result from IIPRC-approved products inconsistent with these recommendations remaining on the market. The other amendments are clarifying or technical changes, which would not generate substantive inconsistencies with previously approved forms.

The PSC is available to respond to any questions to assist the Management Committee during its rulemaking process.

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Summary of Five-Year Review Comments on Standards for Accelerated Death Benefits

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	Uniform Standards Provision	Original 5-Year Review Comment	PSC Recommendation
RECOMMENDED SUBSTANTIVE CHANGE ITEMS			
1.	Notice of Effect of Benefit Payment Section 3C, page 8	<i>IIPRC Office Comment:</i> The disclosure requirements in this provision have generated comments from Compacting States and member companies. It is desirable to strengthen the disclosure requirements to avoid state-specific filings intended to comply with the timing of state-specific disclosure provisions that may apply to IIPRC-approved forms.	<p>The Committee agrees this substantive change is warranted to address the confusion under the existing standards as to the applicability of state law regarding the statement that is provided at the time of application for an accelerated death benefits product approved by the IIPRC. The Committee proposes a new provision, Section 3C(1), for a statement to be provided to the applicant at the time of application for accelerated death benefits in states that require a written statement or notice at the time of application.</p> <p>The IIPRC will maintain a comprehensive listing of the states that require the delivery of this statement. Even though required to be delivered by state law, the content of the statement will comply with the requirements in this new provision for statements that are provided with accelerated death benefits products approved by the IIPRC.</p>
2.	Benefit Design Options, Item 9 Section 3B(9), page 7	<i>Industry Advisory Committee Comment:</i> The provision is a disincentive to file with the IIPRC; The requirement is outside the NAIC Model, and can pose an operational issue for companies that do not have a process to calculate and collect all future premiums due. The IAC suggests making the provision optional rather than a mandatory form requirement.	The Committee recognizes the difficulty in applying the existing provision as a mandatory requirement in the form, especially the option to continue to pay premiums to keep the policy in force after acceleration. The Committee further recognizes the standards contain several requirements to make the owner aware that additional premium may be required and the company may offer a waiver of premium for

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			the rider. The Committee recommends (1) changing the “shall” to a “may” and (2) deleting the clause beginning with “or” in the third line, with the understanding that the option to continue to pay remaining premiums continues to be available.
CLARIFICATION ITEMS			
3.	Qualifying Events for Accelerated Death Benefits Section 3(I)(3), page 12	<i>Industry Advisory Committee Comment:</i> The terms “waiting period” and “elimination period” are used interchangeably for individual long-term care insurance but the terms have a significant distinction in other lines. The IAC requests these terms be specifically defined for purposes of accelerated death benefits. In accelerated death benefits, an elimination period is a period of time during which the insured meets the terms of a qualifying event, and if the insured still meets the terms after the period expires, the insured may apply for the benefit. IAC suggests adding definitions and expressly permitting an elimination period.	<p>The Committee is aware that the IIPRC Office receives numerous inquiries about waiting periods and elimination periods in individual accelerated death benefit products. The Committee believes the IAC suggestions are consistent with guidance currently being provided to filers.</p> <p>To clarify and reinforce the IIPRC Office’s current practices, the Committee recommends clarifying changes consistent with the adopted Group Term Life Insurance Uniform Standards for Accelerated Death Benefits provisions to define “waiting period” and “elimination period” and to allow for an elimination period.</p>
4.	Definition of Qualifying Event for Accelerated Death Benefits Item C, page 2	<i>Idaho Department of Insurance Comment:</i> during the drafting of the Group Term Life Insurance Uniform Standards for Accelerated Death Benefits, Idaho recommended that the number of Activities of Daily Living that the insured is unable to fulfill in order to qualify for Accelerated Death Benefits be limited to no more than two and that there should be a limitation on the number of subqualifications required. The Industry Advisory Committee	The Committee agrees with the IIPRC Office recommendation to revise this provision by adding a clarifying sentence: “The company’s definition of chronic illness shall not require the inability to perform more than two activities of daily living,” which is consistent with applicable federal requirements and also make the other noted changes to this provision in order to conform to the adopted Group Term Life Insurance Uniform Standards for

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		submitted a comment letter to Idaho's comments and agreed with the suggestion to include no more than two ADL criteria.	Accelerated Death Benefits.
5.	Definition of Chronic Illness Qualifying Event for Accelerated Death Benefits Item C(1)(e)(ii), page 3	<i>Industry Advisory Committee Comment:</i> The IAC requested the standards recognize and incorporate current Internal Revenue Code provisions regarding chronic illness definitions and per-diem limits on benefits for purposes of tax qualification, because companies must comply with Section 7702B and 101g of the Internal Revenue Code when providing tax-qualified accelerated death benefits or the policyholder could be subject to unintended tax consequences.	Based on the IIPRC Office's observation that the provision is the subject of frequent inquiries from filers and the desirability of clearly addressing tax qualification in a manner that comports with current industry standards, the Committee agrees with the Industry Advisory Committee's request and recommends conforming this provision to the language adopted in the Group Term Life Insurance Uniform Standards for Accelerated Death Benefits. Based on interim Product Standards Committee direction, the IIPRC Office permits tax qualification language and Internal Revenue Code references in this area.
6.	Expense Charges Section 3E, page 9 (Relocated provision to separate section) Actuarial Submission Requirements Section 2B(1)(b), page 4	<i>Industry Advisory Committee Comment:</i> The IAC highlighted two state law requirements limitations on expense charges, one \$250 and one \$500, and requested clarification as to whether the requirements would be pre-empted by the Uniform Standards.	Despite the IIPRC Office's observation that it has not received questions about state law limits on expense charges directly from filers, the Committee notes the adopted Group Term Life Insurance Uniform Standards for Accelerated Death Benefits contain more specific provisions that address the IAC's comments by setting a \$250 maximum expense charge threshold, above which an explanation must be provided, as well as a clarification that the expense charge may apply once per acceleration. The Committee recommends conforming a separate, relocated Expense Charges provision to the Group Term Life Insurance Uniform Standards for Accelerated Death Benefits, and adding the \$250

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			threshold to the Actuarial Submission Requirements provision to clarify and add detail to the reasonability test of the existing standards.
ITEMS RAISED BUT NOT RECOMMENDED			
7.	Exclusions/Limitations Section 3D, page 9	<p><i>Industry Advisory Committee Comment:</i> The provision is a disincentive to file with the IIPRC, as a majority of states do not limit exclusions or restrictions applicable to accelerated death benefits to those applicable to the policy because underwriting is different.</p> <p><i>Consumer Advisory Committee Comment:</i> The claim that some states allow “mixed” exclusions only highlights that others do not, demonstrating that this proposal should be subject to full consideration in the normal standards process. We question whether consumers should be subject to the confusion associated with “mixed” exclusions and restrictions for payment of benefits. There is no claim of a change in circumstances that warrants consideration of this substantive change in the five-year review process.</p>	The Committee recommends no change to the existing provision. The IIPRC Office commented that this provision has not been the subject of inquiries or objections from filers. The adopted Group Term Life Insurance Uniform Standards for Accelerated Death Benefits contain an identical provision that did not generate comment or discussion during the drafting process. The PSC also considered the examples of exclusions offered by the Industry Advisory Committee and examples in state-approved forms before determining no change is recommended.
8.	Benefit Design Options – Aggregate Limit Section 3B(6), page 7	<p><i>Industry Advisory Committee Comment:</i> The provision is a disincentive to file with the IIPRC. The IAC requests the provision be eliminated or a limit be permitted for terminal illness only benefits, as there is no additional charge paid by the insured.</p> <p><i>Consumer Advisory Committee Comment:</i> We</p>	Though mindful of the IIPRC Office observation that several companies have indicated this limitation prohibits them from filing certain benefit designs with the Compact that can be filed with the states, the Committee recommend no changes on the basis that an insured should be able to collect the maximum allowable benefits for which the insured has been

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		question whether consumers should be deprived of the benefit they paid for.(and that they were underwritten for). While some states may permit cross-company aggregate limits others do not. This suggests that any change should be subject to normal standards setting process, because consumers and consumer groups were assured when the Compact was created that the IIPRC would pursue high national standards, and not resort to the lowest common denominator.	underwritten, qualifies and has paid premiums. This recommendation is consistent with the Group Term Life Insurance Uniform Standards for Accelerated Death Benefits.