

SUMMARY OF CHANGES TO THE INDIVIDUAL LONG-TERM CARE INSURANCE UNIFORM STANDARDS BASED ON THE PRODUCT STANDARDS COMMITTEE RESPONSE TO COMMENTS

*Prepared by IIPRC Office / PSC Staff Support
August 13, 2010*

INDIVIDUAL LONG-TERM CARE INSURANCE APPLICATION STANDARDS

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
APPLICATION Section 3.A(g)	Kentucky expressed concern that it should specify that this question relates to immune deficiency as it could be used to deny benefits to healthy individuals who might have one of these general symptoms.	The PSC suggested a change to clarify that the application question is in relation to immune deficiency. This change makes this provision consistent with the IIPRC life and annuity application Uniform Standards.
NEW PROVISION: APPLICATION Section 3.D	<p>South Carolina requested that the Uniform Standards require the offer of an optional benefit of home health care or community care with daily benefits at the same level as nursing home or residential care.</p> <p>IAC disagrees with the requirement to offer home health care at 100% of nursing home benefit as deviating from the LTC Models and noting it does not recognize the lower costs for home health care and may cause consumers to purchase more expensive coverage than needed.</p>	The PSC suggested the addition of a new provision to require an offer of home health or community care at 100% of the nursing home benefit level, with mandatory minimum coverage of no less than 50% of the nursing home benefit. NOTE: The mandatory minimum coverage requirement is consistent with the LTC policy Uniform Standards.

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CORE STANDARDS FOR INDIVIDUAL LONG-TERM CARE INSURANCE POLICIES

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1. PARTNERSHIP	Commenters expressed concern as to whether an approval of an individual long-term care product by the IIPRC would automatically qualify the product as a Partnership-approved policy in a compacting state.	The PSC suggested a more detailed Partnership explanatory provision to clarify IIPRC approval is not deemed approval by a state to use the product pursuant to any federal or state individual LTC Partnership program and the compacting state takes action on the eligibility of a product for Partnership including upon certification or request of a company.
2. DRAFTING NOTE RE: RELATIONSHIP OF UNIFORM STANDARDS AND STATE-SPECIFIC	<p>Wisconsin commented that it requires a \$60/day minimum daily benefit and 180 maximum elimination period and wanted confirmation that this would apply such that the companies would list these ranges for these amounts in the statement of variability.</p> <p>Industry is extremely concerned this opens up the door for states to impose state-specific requirements and variations on IIPRC-approved products and could create uncertainty as to which requirements apply and which are content requirements governed by the Uniform Standards. The IAC believes that the state-specific minimum and maximum requirements do not apply and the Uniform Standards allow the company, rather than state-specific law, to specify the daily minimum benefit requirements, benefit period and elimination period. The IAC has the same concern with regards to disclosure requirements (SHIP programs; not Medicare Supp policy; tax-implication disclosures).</p>	<p>In response to questions from states regarding applicability of certain state-specific disclosure requirements and daily minimum benefit/benefit period/elimination period, the PSC added a drafting note to provide guidance on the applicability of the Uniform Standards as each compacting state's law governing the content of the product and the applicability of state law requirements that do not pertain to the content of the product such as "unfair trade practices or requirements pertaining to the marketing sale and administration of IIPRC-approved products."</p> <p>PSC responded to IAC comments that LTC is a highly regulated product and state requirements about the marketing, sale and administration of the product continue to apply.</p> <p>The PSC suggested that the IIPRC maintain a comprehensive listing published on its website of state-specific requirements for both offer and/or issue of minimum daily benefits, maximum elimination periods and minimum benefit periods, based on information reported by Member States.</p>

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3. DEFINITION OF LONG-TERM CARE INSURANCE	Kentucky commented the definition of long-term care insurance may exclude acute-care hospitals that are licensed or certified to provide long-term care services.	The PSC suggested amending the definition of long-term care insurance to clarify it includes a hospital licensed or certified to provide long-term care services and the insured is receiving long-term care services and not acute care.
4. NEW PROVISION: VARIABILITY OF INFORMATION Section 1.C and Drafting note	See 2 above The IAC requested that the IIPRC maintain a list of the state-specific minimum and maximum requirements at offer and issue.	The PSC suggested adding a new provision under the Variability of Information section to clarify the variability of minimum daily benefits, when benefits begin (elimination periods), and when benefits will end (benefit periods) must comply with applicable state law. The PSC intends the form filing submitted to the IIPRC will include the ranges of minimums or maximums or specifically list the state(s) where the variabilities will occur. The PSC suggested a drafting note that the IIPRC will work with compacting states to maintain a comprehensive listing of these state-specific requirements, if any, for both offer and issue.
5. BENEFIT TRIGGERS Section 3.F	The California Health Advocates commented the benefit trigger threshold should be changed from 3 activities of daily living (“ADLs”) to 2 activities of daily living which is consistent with the federal law for tax-qualified plans and the law in Texas and California. The IAC commented that the requirement of “not more than 3 ADLs” as the benefit trigger is consistent with the LTC model. The IAC commented that most companies use 2 ADLs but allowing no more than 3 in the Uniform Standard allows companies to offer different types of affordable coverage.	The PSC suggested amending the provision to change the benefit triggers from 3 activities of daily living to 2 activities of daily living as an enhanced consumer protection and consistent with the federal law and at least one compacting state. The PSC presented this recommendation to the Management Committee at the May 18 th meeting at which time there was no objection to this amendment.

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6. DEFINITIONS AND CONCEPTS Section 3.I	Kansas and Kentucky commented they wanted to ensure that the Uniform Standards did not interfere with state law in terms of the definitions of nursing facility, adult day care facility, etc.	<p>The PSC suggested adding definitions for "assisted living care" and "nursing home care" as these terms were also included in the Scope but not defined for purposes of the Uniform Standards.</p> <p>The PSC clarified that Section 3.I.(1)(f) and 3.I(2) set forth that all provider types as well as the skill level and nature of all care services will be defined consistent with state-specific requirements in the state where the policy was issued or delivered and the Uniform Standards do not interfere with these state definitional requirements.</p>
7. ELIGIBILITY FOR BENEFITS' Section 3.K	Kentucky commented that the phrase "retain the right" in the provision regarding plan of care may be construed as a discretionary clause.	The PSC suggested removing the "retain the right to" and pointed out the company may still verify the plan of care is appropriate.
8. ENTIRE CONTRACT Section 3.L(1)	<p>Kansas commented this provision did not specifically identify the components of the entire contract.</p> <p>The IAC agreed this provision should be more specific and proposed language.</p>	The PSC suggested amending this provision to specifically list that the policy, application and any rider, endorsements or amendments to the policy shall constitute the entire contract.
9. ENTIRE CONTRACT Section 3.L(2)	<p>Kansas commented that it requires a provision in the policy state that no agent has authority to change the policy or to waive any of its provisions.</p> <p>The IAC requested this addition not be included in the policy standards as it is already a requirement in the application standards and would be duplicative and "after the fact" to have this provision in the policy.</p>	The PSC suggested amending this provision to add that the entire contract provision in the policy state that no agent has authority to change the policy or waive of any of its provisions.

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<p>10. LIMITATIONS AND EXCLUSIONS Section 3.R(1)(f)</p>	<p>Kansas commented that this exclusion should be removed on the basis that, as an individual product, there is no coordination of benefits between policies since premium paid are intended to be based on the benefits provided.</p> <p>The IAC requested that this exclusion not be taken out of the Uniform Standards as it comes directly from the LTC Model. The IAC indicated this exclusion is intended to avoid duplication of coverage where an insured collects more than 100% of expenses incurred.</p>	<p>The PSC suggested removing the exclusion excerpted below as it is coordination of benefits is generally not applicable to individual long-term care benefits: (f) Expenses for services or items available or paid under another long-term care insurance or health insurance policy.</p> <p>The PSC pointed out that the applications standards have mandatory questions to elicit information about other insurance in force and replacement and that the application and underwriting process provides an avenue for addressing concerns about overinsurance and fraud.</p>
<p>11. PAYMENT OF CLAIMS AND REVIEW OF BENEFIT DETERMINATION Section 3.W(2) (No Change Recommended)</p>	<p>The IAC requested that the Uniform Standards not reference state law with regard to describing the process for internal and external review. The IAC requested the Uniform Standards use the NAIC model external benefit review provisions rather than state law.</p>	<p>The PSC does not suggest any changes to this provision as the internal and external review process is outside the jurisdiction of the IIPRC and is governed by state law.</p> <p>The PSC considered including a provision that for states where there is no applicable law, the description of the process for internal and external review should be consistent with the NAIC model. The IAC requested that this language not be added.</p>
<p>12. RIGHT TO EXAMINE Section 3.AA(2) (No Change Recommended)</p>	<p>Kansas requested that the period in which the company shall refund premium under this provision be changed from 30 days to 10 business days.</p>	<p>The PSC does not suggest any changes to this provision as 30 days is consistent with the Uniform Standards for other lines of business and with the provision in a majority of states (and the industry standard).</p>
<p>13. NEW PROVISION: TERMINATION Section 3.DD</p>	<p>Kansas commented that the Uniform Standards should require a policy provision to address when an owner terminates the policy during a premium-paying period. Kansas commented that the pro rata refund be as of the requested termination date.</p>	<p>The PSC suggested adding a new provision to address refund of premium in the event of termination during a premium-payment period. The PSC understands the policy coverage does not terminate until the end of the month of the termination notice and does not think pro-rata refund as of the termination date should be required.</p>

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	<p>The IAC indicated that companies will terminate the policy at the end of the month in which the termination notice is received and refund the premium for the modal period beyond the end of the calendar month. Industry indicated prorating by days is not the standard way of administering terminations.</p>	

STANDARDS FOR FORMS REQUIRED TO BE USED WITH AN INDIVIDUAL LONG-TERM CARE INSURANCE APPLICATION

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
<p>1. SELF-CERTIFICATION</p>	<p>The IAC commented that the Potential Rate Increase Disclosure Form should be eligible for self-certification under the IIPRC Self-Certification Rule as the IIPRC will not have rate filing history and prior review would not be productive. The IAC noted the Self-Cert Rule allows the IIPRC to review any filing submitted under self-cert and take appropriate action if the filing(s) is not in compliance.</p>	<p>The PSC suggested these forms be eligible for self-certification provided they are in compliance with the Commission's Rule for the Self-Certification of Product Components filed with the Interstate Insurance Product Regulation Commission.</p> <p>The PSC noted the IIPRC would not have information to validate the information in the forms and the IIPRC and states would rely upon the self-certification of the company in taking appropriate action if the company does not comply with the Uniform Standard.</p>
<p>2. NEW PROVISION: SIGNATURE BLOCK FOR APPLICANT TO ACKNOWLEDGE RECEIPT OF EACH REQUIRED FORM (No Change Recommended)</p>	<p>Kentucky commented that it requires the applicant acknowledgement on required forms with the application as a safeguard to ensure the forms are delivered to the consumer.</p> <p>The IAC commented that the NAIC Model does not have a signature requirement for required forms and this additional administrative requirement may have marginal value as the Application and Personal Worksheet require a signature.</p>	<p>CORRECTION to chart distributed on August 10th: The PSC does not suggest any changes to add an acknowledgment to all required forms as there is an acknowledgment required in the Personal Worksheet as well as a mandatory acknowledgment in the application that the required forms.</p>

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INDIVIDUAL LONG-TERM CARE INSURANCE STANDARDS FOR THE OUTLINE OF COVERAGE

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1. SCOPE (No Change Recommended)	The IAC commented that the use of the terms “group policy” and “certificate” could be confusing since these are individual LTC standards.	The PSC recommends no change and to retain these references to group policies and certificate as it is consistent with the LTC model and will simplify the process for group policies in the future. The language of the Scope clarifies companies are required to only comply with the requirements as they are applicable to individual long-term care forms.
2. GENERAL REQUIREMENTS (No Change Recommended)	<p>Kansas commented that they require, pursuant to a regulation, the outline of coverage to contain the name and signature of the agent or if no agent, the responsible employee of the insurer.</p> <p>The IAC commented that the Outline of Coverage requirements in the Uniform Standards are consistent with the LTC Model Regulation and adding an agent signature requirement would be administratively burdensome and not add value to the transaction. The IAC noted the agent and insurer are subject to suitability requirements.</p>	The PSC recommends no change in order to be consistent with the outline of coverage requirements in the LTC model and the vast majority of states.

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RATE FILING STANDARDS FOR INDIVIDUAL LONG-TERM CARE INSURANCE
ISSUE AGE RATE SCHEDULES ONLY

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
<p>1. NEW PROVISION: ANNUAL SUBMISSION REQUIREMENTS SUBSEQUENT TO INITIAL RATE FILINGS AND PRIOR TO APPROVAL OF RATE SCHEDULE INCREASES Section 3</p>	<p>At the May 18th in-person meeting, Commission members discussed concerns that states do not generally require companies to report on performance of original assumption underlying approved rate schedules until a rate increase request is filed.</p>	<p>The PSC suggested the addition of a new § 3 to promote active monitoring and communication on rate adequacy. Taken with the threshold on IIPRC approval of rate increases described below, this provision is intended to provide incentive for companies that need rate schedule increases to keep increases more manageable for consumers.</p> <p>The PSC, with input from the IIPRC Actuarial Working Group, suggested an actuarial certification be submitted annually starting in the first full year following approval of the initial rate schedule. The annual actuarial certification includes a detailed statement of the sufficiency of the premium rate schedule and a description of the review performed.</p> <p>The PSC, with input from the Actuarial Working Group, further suggested a detailed actuarial memorandum be submitted every three years including a complete description of experience assumption and their relationship to initial pricing assumptions as well as a description of the credibility of the data.</p>
<p>2. NEW PROVISION: APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES Section 4.A</p>	<p>Maine, Maryland and Oklahoma commented about their concern with rate increases being included within the Uniform Standards expressing concern about compliance with and performance of rate stability requirements in today's market and the possibility of substantial rate increases. Maryland also has a statutory rate increase</p>	<p>At the May 18th in-person meeting, the Commission had a detailed discussion regarding the PSC recommendation that all components of the individual long-term care product including the initial rate and rate increase be filed with the IIPRC. The Commission also discussed the other alternatives laid out by the PSC and asked the PSC to draft language that would allow a rate increase threshold above a certain percentage to be submitted to each compacting state for disposition.</p>

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	<p>limit of no more than 15% annually.</p> <p>Several states including Texas, Washington and Utah as well as the PSC commented that there is tremendous benefit in having both initial rate and the rate increase for a product reviewed under a uniform set of standards that require rate stabilization as the approved rate will be consistent for the particular product regardless of where the product is initially sold or where the benefits are ultimately used.</p>	<p>The PSC, with input from the IIPRC Actuarial Working Group, developed a survey that was administered by the NAIC National Standards Working Group to all NAIC members. The survey asked several questions regarding rate increases under post-rate stabilization. Based on the survey results, the Working Group observed that it might still be too early to know with certainty whether rate stabilization is having the intended effect of limiting significant rate increases. However, the Actuarial Working Group made the general observation that proportionate to the number of form and initial rates designed and/or approved post-rate stabilization, few rate increases have been sought for initial rates designed or approved under rate stabilization. For the states who have seen rate increases in the post-rate stabilization era, the rate increase has generally exceeded 15%.</p> <p>The PSC continues to support its initial recommendation but has suggested language in response to the May 18th request to provide that rate increases over a certain threshold percent would be subject to the review and approval or disapproval of each compacting state. This would include filings that included a rate increase about the percentage as well as filings where the request is below the percentage but the IIPRC review determines upon application of the Uniform Standards that the rate increase should exceed the threshold percent.</p> <p>The PSC did not specify a particular percentage leaving it to the decision of the Commission members to set the appropriate percentage.</p> <p>When a rate schedule increase does not exceed the threshold percentage, the filing would be subject to the review and approval</p>

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		<p>or disapproval of the IIPRC.</p> <p>The IIPRC would also perform an advisory review of rate increase filings and make it available to the compacting states.</p> <p>After a rate increase is submitted to the compacting states, future rate increases for the particular filing will be submitted to the state. A compacting state that has used the initial advisory review of the IIPRC may ask the IIPRC to perform an advisory review of future rate increase filings.</p>
<p>3. ACTUARIAL SUBMISSION REQUIREMENTS. (No change recommended)</p>	<p>Hawaii and Maine expressed concern that the rate filing standards do not support different rate schedules by state or region</p>	<p>Extensive discussion both at the NAIC National Standards Working Group and the PSC was devoted to the issue of whether initial rates and rate increases on individual long-term care products vary by state or region. During the drafting discussion and consideration process, evidence was not presented to justify geographic or state-specific differences of initial rates or rate increases for the same or similar long-term care policy coverage or benefits. The PSC found , long-term care rates, especially rate increases, tend to vary due to the level of authority or discretion exercised by states in terms of either permitting the actuarially-justified rate or reducing the actuarially-justified rate based on statutory caps, phase-in approach or other discretionary authority to reduce below rates based on documented, actuarial justification. The PSC finds the Uniform Standards will promote and enforce compliance with the rate stabilization provisions of the LTC Models.</p> <p>The PSC recommended no change because the Uniform Standards provide the option to revisit the issue if credible data supporting variation by state or region becomes available. The PSC and NAIC drafting group initially determined sufficient data has not been presented to establish that rating characteristics for the same policy and benefits should vary by state or region.</p>

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RATE FILING STANDARDS FOR INDIVIDUAL LONG-TERM CARE INSURANCE
MODIFIED RATE SCHEDULES

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1. NEW LANGUAGE: SCOPE	Maryland commented about whether it should state specifically in this Uniform Standards that compacting states must affirmatively notify the IIPRC whether they will or will not accept modified rate schedules to be approved for use in their state.	The PSC suggested adding language in the Scope section of the Modified Rate Schedule Uniform Standards specifically stating that the Uniform Standard will not apply to compacting states who have affirmatively notified the IIPRC that they will not accept modified rate schedules to be approved for use in their state.
2. ACTUARIAL SUBMISSION REQUIREMENTS Added Drafting Note	<p>The PSC suggested adding a drafting note to clarify that the actuarial submission requirements also must take into consideration the variability of minimum and maximum daily benefit requirements.</p> <p>The IAC requested that the IIPRC maintain a list of the state-specific minimum and maximum requirements at offer and issue.</p>	The PSC suggested adding a drafting note to the actuarial submission requirements that the variability of benefit maximums and minimums must comply with applicable state law requirements.
3. NEW PROVISION: ANNUAL SUBMISSION REQUIREMENTS SUBSEQUENT TO INITIAL RATE FILINGS AND PRIOR TO APPROVAL OF RATE SCHEDULE	At the May 18 th in-person meeting, Commission members discussed concerns that states do not generally require companies to report on performance of original assumption underlying approved rate schedules until the a rate increase request is filed.	<p>The PSC suggested the addition of a new § 3 to promote active monitoring and communication on rate adequacy. Taken with the threshold on IIPRC approval of rate increases described below, this provision is intended to provide incentive for companies that need rate schedule increases to keep increases more manageable for consumers.</p> <p>The PSC, with input from the IIPRC Actuarial Working Group, suggested an actuarial certification be submitted annually starting in</p>

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<p>INCREASES Section 3</p>		<p>the first full year following approval of the initial rate schedule. The annual actuarial certification includes a detailed statement of the sufficiency of the premium rate schedule and a description of the review performed.</p> <p>The PSC, with input from the Actuarial Working Group, further suggested a detailed actuarial memorandum be submitted every three years including a complete description of experience assumption and their relationship to initial pricing assumptions as well as a description of the credibility of the data.</p>
<p>4. NEW PROVISION: APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES Section 4.A</p>	<p>Maine, Maryland and Oklahoma commented about their concern with rate increases being included within the Uniform Standards expressing concern about compliance with and performance of rate stability requirements in today's market and the possibility of substantial rate increases. Maryland also has a statutory rate increase limit of no more than 15% annually.</p> <p>Several states including Texas, Washington and Utah as well as the PSC commented that there is tremendous benefit in having both initial rate and the rate increase for a product reviewed under a uniform set of standards that require rate stabilization as the approved rate will be consistent for the particular product regardless of where the product is initially sold or where the benefits are ultimately used.</p>	<p>At the May 18th in-person meeting, the Commission had a detailed discussion regarding the PSC recommendation that all components of the individual long-term care product including the initial rate and rate increase be filed with the IIPRC. The Commission also discussed the other alternatives laid out by the PSC and asked the PSC to draft language that would allow a rate increase threshold above a certain percentage to be submitted to each compacting state for disposition.</p> <p>The PSC, with input from the IIPRC Actuarial Working Group, developed a survey that was administered by the NAIC National Standards Working Group to all NAIC members. The survey asked several questions regarding rate increases under post-rate stabilization. Based on the survey results, the Working Group observed that it might still be too early to know with certainty whether rate stabilization is having the intended effect of limiting significant rate increases. However, the Actuarial Working Group made the general observation that proportionate to the number of form and initial rates designed and/or approved post-rate stabilization, few rate increases have been sought for initial rates designed or approved under rate stabilization. For the states who have seen rate increases in the post-rate stabilization era, the rate</p>

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		<p>increase has generally exceeded 15%.</p> <p>The PSC continues to support its initial recommendation but has suggested language in response to the May 18th request to provide that rate increases over a certain threshold percent would be subject to the review and approval or disapproval of each compacting state. This would include filings that included a rate increase about the percentage as well as filings where the request is below the percentage but the IIPRC review determines upon application of the Uniform Standards that the rate increase should exceed the threshold percent.</p> <p>The PSC did not specify a particular percentage leaving it to the decision of the Commission members to set the appropriate percentage.</p> <p>When a rate schedule increase does not exceed the threshold percentage, the filing would be subject to the review and approval or disapproval of the IIPRC.</p> <p>The IIPRC would also perform an advisory review of rate increase filings and make it available to the compacting states.</p> <p>After a rate increase is submitted to the compacting states, future rate increases for the particular filing will be submitted to the state. A compacting state that has used the initial advisory review of the IIPRC may ask the IIPRC to perform an advisory review of future rate increase filings.</p>