Interstate Insurance Product Regulation Commission

States, Strength & Speed Aligned

JOINT MEETING OF THE MANAGEMENT COMMITTEE & INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION (IIPRC)

Friday, August 13, 2010
Seattle Sheraton
Seattle, WA
Meeting Room: Grand Ballroom C – 2nd Floor
1:00pm – 3:00pm PT

1. Roll Call

2. **Report of the Audit Committee and Consideration by the Commission to Adopt the Report of the Audit Committee**

3. **Report and Recommendation of the Finance Committee and Consideration by the Management Committee to Adopt the Report and Recommendation of the Finance Committee**

4. Report and Recommendation of the Communications Committee and Consideration by the Management Committee to Adopt the Report and Recommendation of the Communications Committee

5. **Report and Recommendation of the Product Standards Committee and Consideration by the Management Committee to Adopt the Report and Recommendation of the Product Standards Committee**

6. **Management Committee Consideration to Approve the Individual Long-Term Care Insurance Policy Uniform Standards**

7. **Commission Consideration to Adopt the Individual Long-term Care Insurance Policy Uniform Standards**

8. **Management Committee Consideration to Approve Texas' Proposed Resolution regarding Long-Term Care Insurance**

9. **Commission Consideration to Adopt Texas' Proposed Resolution regarding Long-Term Care Insurance**

10. **Report of the Associate Membership Exploratory Committee**

11. Report and Recommendation of the Rulemaking Committee and Consideration by the Management Committee to Adopt the Report and Recommendation of the Rulemaking Committee

12. Commission Consideration to Adopt the May 18, 2010 Joint Management Committee and Commission Meeting Minutes as Approved by the Management Committee on June 28, 2010

13. Operational Update

14. Any Other Matters

15. Adjourn

Minutes of the Joint Meeting of the Interstate Insurance Product Regulation Commission and Management Committee Friday, August 13, 2010

Members of the Commission in attendance:
Director Mary Jo Hudson, Chair, Ohio
Commissioner Sean Dilweg, Vice Chair, Wisconsin
Commissioner Sandy Praeger, Treasurer, Kansas
Director Linda S. Hall, Alaska
Commissioner Marcy Morrison, Colorado
Margaret Witten as a designated representative for Commissioner John W. Oxendine, Georgia
Kathleen Nakasone, Hawaii
Director William W. Deal, Idaho
Commissioner Carol Cutter, Indiana
Commissioner Susan Voss, Iowa
Commissioner Sharon P. Clark, Kentucky
Commissioner James J. Donelon, Louisiana
Tom Record as a designated representative for Superintendent Mila Kofman, Maine
Acting Commissioner Elizabeth Sammis, Maryland
Edward Charbonnier as a designated representative for Commissioner Joseph G. Murphy, Massachusetts
Joan Moiles as a designated representative for Commissioner Kenneth Ross, Michigan
Emmanuel Munson-Regala as a designated representative for Commissioner Glenn Wilson, Minnesota
Aaron Sisk as a designated representative for Commissioner Mike Chaney, Mississippi
Director John M. Huff, Missouri
Director Ann M. Frohman, Nebraska
Commissioner Roger A. Sevigny, New Hampshire
Thomas Bowling as a designated representative for Acting Superintendent Johnny Montoya, New Mexico
Ted Hamby as a designated representative for Commissioner Wayne Goodwin, North Carolina
Commissioner Kim Holland, Oklahoma
Commissioner Joel Ario, Pennsylvania
Yvette Domenech as a designated representative for Commissioner Ramon Cruz-Colon, Puerto Rico
Elizabeth Dwyer as a designated representative for Superintendent Joseph Torti III, Rhode Island
Commissioner Leslie A. Newman, Tennessee
Commissioner Mike Geeslin, Texas
Commissioner Neal T. Gooch, Utah
Herb Olson as a designated representative for Commissioner Michael Bertrand, Vermont
Don Beatty as a designated representative for Commissioner Alfred W. Gross, Virginia
Beth Berendt as a designated representative for Commissioner Mike Kreidler, Washington
Commissioner Jane L. Cline, West Virginia
Stephanie McGee as a designated representative for Commissioner Ken Vines, Wyoming

State Regulator Staff in attendance:
Leah Dee, Hawaii
Martha Im, Hawaii
Mark McClaflin, Kansas
Linda Shepherd, Kansas
Ron Henderson, Louisiana
Dennis Yu, Maryland
Edward Charbonnier, Massachusetts
Susan Real, Ohio
Susan Dobbins, Oklahoma
Ana Smith-Daley, Texas

Jan Graeber, Texas
Sara Waitt, Texas
Betsy Jerome, Utah
Sue Ezalarab, Wisconsin

Members of the Legislative Committee in attendance:
Representative Keith Olson, Alaska
Senator Ruth Teichman, Kansas
Representative Robert Damron, Kentucky
Representative Brian Patrick Kennedy, Rhode Island
Susan Nolan, National Conference of Insurance Legislators (NCOIL)
Michael Humphreys, NCOIL

Members of the Industry Advisory Committee in attendance:
Steve Buhr, AEGON/Transamerica Group
Bill Anderson, National Association of Insurance and Financial Advisors (NAIFA)
Amanda Matthiesen, America's Health Insurance Plans (AHIP)
Michael Lovendusky, American Council of Life Insurers (ACLI)
Nicole Allen, Council of Insurance Agents and Brokers
Tom English, New York Life Insurance Company
Maureen Adolf, Prudential Insurance Company of America
Mary Keim, State Farm Life Insurance Company

Members of the Consumer Advisory Committee in attendance:
Sonja Larkin-Thorne, NAIC Consumer Liaison Representative
T. Ryan Wilson, American Association of Retired Persons (AARP)
Brendan Bridgeland, Center for Insurance Research

Interested Legislators in Attendance:
Representative Charles Curtiss, Tennessee
Representative Jon Richards, Wisconsin

Interested Parties in attendance and addressing the Commission:
Miriam Krol, ACLI
Bonnie Burns, California Health Advocates
Joseph Muratore, New York Life Insurance Company
Linda Pena, New York Life Insurance Company
Bob Glowacki, AEGON/Transamerica Group

IIPRC Team in attendance:
Karen Schutter, Executive Director
Sara Dubsky, Operations Manager
Karyn Onyeneho, Administrative Assistant
Alice Fontaine, Actuarial Consultant
David Morris, Product Review Consultant
Maureen Perry, Product Review Consultant
Charles Rappacciuolo, Marketing & Development Consultant

NAIC Staff in attendance:
Becky McElduff, Senior Counsel
Kay Noonan, General Counsel
Amanda Yanek, Government Relations Legislative Analyst

Director Hudson called to order the joint meeting of the Interstate Insurance Product Regulation Commission ("IIPRC") and its Management Committee.

Director Hudson proceeded to the first item on the agenda, a report of the Audit Committee. Commissioner Donelon provided a report.

Commissioner Donelon stated that the Audit Committee held a meeting on August 3rd to review the IIPRC second quarter financial statements. Commissioner Donelon reported that the IIPRC actual revenue and expenses through June 30th were at 80% of budgeted revenues and expenses. Commissioner Donelon indicated that during the Committee's meeting on August 3rd discussions were held regarding the IIPRC's $50,000 deferred revenue; in which it was noted that the deferred revenue reflects registration fees from companies that have not yet filed with the IIPRC in 2010. Commissioner Donelon reported that once these companies file the deferred revenue will become earned revenue.

Commissioner Donelon further reported that the restructuring of the IIPRC line of credit with the NAIC for deferred payments has impacted the IIPRC's cash flow statement. Commissioner Donelon stated that the Audit Committee reviewed the 2011 Proposed Budget. Commissioner Donelon advised that the Audit Committee will continue to work closely with the IIPRC Office to monitor the financial affairs of the IIPRC.

Director Hudson asked if there were any questions regarding the Audit Committee report. Hearing none, Director Hudson asked for a motion from Commission members to adopt the report of the Audit Committee. Commissioner Dilweg made a motion and Acting Commissioner Sammis seconded the motion. A voice vote was taken and the motion passed unanimously.

Director Hudson turned to the next item on the agenda, a report of the Finance Committee. Director Frohman provided a report.

Director Frohman recommended to the Management Committee the publishing of the 2011 Proposed Budget for public notice and comment; as well as proposed amendments to the Terms and Procedures for IIPRC Filing Fees ("Filing Fee Rule"). Director Frohman stated that the Finance Committee reviewed the IIPRC 2011 Proposed Budget with the IIPRC Office and indicated that it was sufficient and in line with the anticipated growth in revenue that is expected next year. Director Frohman stated that the growth in membership in addition to the adoption of the Individual Long-Term Care Uniform Standards will contribute to further positive growth of the IIPRC.

Director Frohman reported that IIPRC expenses are expected to grow by 8% next year with the addition of more resources in the IIPRC Office including an additional Administrative Assistant that will be based in Kansas City to support the IIPRC Executive Director. Further, Director Frohman reported that the Finance Committee discussed possibly adding additional Consultants which would be essential for the anticipated increase in the workload due to an increased number of filings as well as the uniform standards development process. Director Frohman noted that the American Council for Life Insurers (ACLI) has indicated to the IIPRC that they will not have the funding available in 2011 to prepare the initial draft uniform standards. In lieu of this, Director Frohman stated that the Finance Committee would like to ensure that the development process for the uniform standards continues hence additional funding has been included in the 2011 budget to allow the IIPRC to continue standards development.

Director Frohman stated that the Finance Committee will continue to monitor the actual performance and budgeted projections of the IIPRC throughout the remainder of the year. Director Frohman reported that as of the end of June, the IIPRC budgeted revenue was at 80% and noted that deferred revenue was at $50,000. Director Frohman reiterated that once the companies who have deferred revenue file with the IIPRC, the deferred revenue will become earned revenue. Director Frohman reported that as of June, the IIPRC's revenue from registrations and filings has already exceeded the total actual revenue for all of 2009.

Director Frohman reviewed the proposed amendments to the Filing Fee Rule noting that the proposed amendments will restructure the Compact fee-setting structure. Further, Director Frohman explained that a fee schedule will be established and published annually which indicates the actual amount of fees; and stated that the fee schedule will be updated in response to developments in the operations of the IIPRC. Director Frohman indicated that the proposed amendments also address changing the definition of a Regional Insurer, which is currently defined as a company who files in five (5) or less Compact states throughout the course of an annual registration period. Director Frohman explained that the number of Compact states that Regional Insurers file in would change from five (5) states to twelve (12) states—which is more representative of a geographic zone. Director Frohman stated that the proposed amendments would also remove the time limit of 60 days post-approval for companies to amend a filing. Director Frohman stated that the final amendment to the Filing Fee Rule will eliminate the ability for companies to carry forward their annual registration fee into the next calendar year.

Director Hudson asked if there were any questions regarding the Finance Committee report. There were none. Director Hudson then asked for a motion to adopt the report of the Finance Committee, publish the 2011 Proposed Budget for notice and comment and commence the rulemaking process for proposed amendments to the Filing Fee Rule. Director Huff made a motion and Ms. Berendt seconded the motion. Director Hudson asked if there were further discussion. Hearing none, a roll call vote was taken and the motion passed unanimously.

Director Hudson moved to the next item on the Agenda, the Report of the Product Standards Committee. Before Ms. Smith-Daley provided the Report, Director Hudson provided a brief overview of the development process for the proposed individual long-term care uniform standards that were issued on January 21, 2010; namely the:

- Core Standards for Individual Long-Term Care Insurance Policies
- Individual Long-Term Care Insurance Application Standards
- Individual Long-Term Care Insurance Standards for the Outline of Coverage
- Rate Filing Standards for Individual Long-Term Care Insurance—Issue Age Rate Schedule Only
- Rate Filing Standards for Individual Long-Term Care Insurance—Modified Rate Schedules
- Standards for Forms Required to be Used with an Individual Long-Term Care Insurance Application
- Standards for Individual Long-Term Care Insurance Advertising Material
- Standards for Individual Long-Term Care Insurance Application Change Form
- Standards for Long-Term Care Insurance Benefit Features and
- Standards for Riders, Endorsements or Amendments Used to Effect Individual Long-Term Care Insurance Policy Changes.

Director Hudson noted that the Product Standards Committee participated in many conference calls through the development of the individual long-term care uniform standards as well as held six (6) public comment periods.

Ms. Smith-Daley reported that the Product Standards Committee thoroughly reviewed comments received regarding the individual long-term care uniform standards as directed by the Management Committee to address a few key policy issues regarding the proposed rate uniform standards – both the issue age and the modified rate schedules. Ms. Smith-Daley stated that the Product Standards Committee worked with the IIPRC Actuarial Working Group to analyze key policy issues regarding rate increases. Ms. Smith-Daley stated that the Product Standards Committee has met on a weekly basis to review all comments that have been received for the long-term care uniform standards.

Ms. Smith-Daley stated that the Product Standards Committee spent a great deal of time reviewing a survey that was distributed by the NAIC National Standards (EX) Working Group regarding several issues related to Partnership and rate stabilization for individual long-term care insurance products. Ms. Smith-Daley indicated that through this process, the Product Standards Committee recommends to the Management Committee further revisions to the original proposed long-term care uniform standards. Ms. Smith-Daley stated that with regard to the rate uniform standards, the best approach would be to review both the initial and increased rates. Ms. Smith-Daley indicated that uniformity and consistency will be offered by the IIPRC during its review of rate filings which will contribute to better rate stability; more credible national experience; and a more equitable approach to consumers nationwide. Ms. Smith-Daley stated that the Product Standards Committee recommendations are intended to address two needs: 1) to give regulators more tools to understand how initial rates are performing and 2) to give companies incentives to propose smaller rate increases if they want to continue to utilize the IIPRC. Ms. Smith-Daley stated that the proposed new provisions will require annual certification as to the continuing appropriateness of initial rates which will be supported by an actuarial memorandum filed every three (3) years. Ms. Smith-Daley indicated that the proposed revisions will also contain a threshold for rate increases in that any requested rate increase that exceeds a specific percentage would be transferred to the respective states for final action under state law together with a non-binding advisory opinion from the IIPRC. Ms. Smith-Daley stated that the Product Standards Committee explored all comments that were submitted with regard to the individual long-term care uniform standards and noted that the comments were thoroughly reviewed and vetted by the Product Standards Committee before any recommendations were made.

Director Hudson asked of there were any questions regarding the report of the Product Standards Committee. Hearing none, Director Hudson asked Ms. Schutter to provide a summary of the changes to the individual long-term care uniform standards based on the Product Standards Committee's response to comments that were received.

Ms. Schutter reviewed a chart summary, Attachment One, of the proposed changes to the individual long-term care uniform standards. The chart summary reflects revisions to the proposed uniform standards that were addressed by the Product Standards Committee based on comments received on these proposed uniform standards.

Ms. Burns asked if any of the individual long-term care uniform standards were applicable to minimum daily benefit guarantees for home healthcare services.

Ms. Krol indicated that the Core Standards for Individual Long-Term Care Insurance Policies apply to all types of long-term care insurance coverage including home healthcare services and community-based services.

Ms. Burns asked for clarification regarding the minimum daily benefit guarantees for home healthcare services as pertains to the individual long-term care uniform standards.

Ms. Schutter indicated that minimum daily benefit requirements that exist in the states will apply to long-term care insurance products approved by the IIPRC.

Ms. Krol provided comments regarding changes to the Individual Long-Term Care Insurance Application Uniform Standards in which she made the following recommendations: 1) an amendment to the uniform standards that modify drafting notes which reference state-specific requirements for minimum daily benefits; in that the drafting notes be prescribed as provisions within the uniform standards; and 2) an amendment to the definition for long-term care insurance; in that references to “hospital” be modified to include “units or areas of a hospital” for the purpose of accommodating rural hospitals that provide long-term care insurance.

Ms. Burns asked whether IIPRC-approved products that require must be amended as a result of state laws that change or affect minimum daily benefit requirements.

Ms. Smith-Daley indicated that the Statement of Variability section prescribed in the long-term care uniform standards requires the range of minimum daily benefit amounts that would be offered and this range would include amounts comply with applicable state laws in the state where the policy is delivered or issued for delivery.

Ms. Schutter advised that a filing that contains specific state law requirements in the Statement of Intent does not oblige a company to amend a product subsequent to its approval by the IIPRC. Ms. Schutter indicated that a chart of state-specific requirements of both offer and/or issue of minimum daily benefits (maximum elimination periods and minimum benefit periods) will be maintained by the IIPRC in a comprehensive list based on information reported by Member states. Ms. Schutter stated that this information is provided in the long-term care uniform standards as a drafting note. Ms. Schutter advised that the IIPRC will work with its Members to ensure that the list is updated as necessary.

Director Hudson stated that variations of minimum daily benefits on a state by state basis that remain part of state law do not constitute an amendment to an IIPRC-approved product noting that it serves as an overlay to a filing and hence would not require an insurer to amend an IIPRC-approved product.

Ms. Burns asked about the self-certification of products filed with the IIPRC in terms of the implications, if any, which may arise as a result of products that are non-compliant with the uniform standards.

Ms. Schutter stated that the Rule for the Self-Certification of Product Components filed with the Interstate Insurance Product Regulation Commission (“Self Certification Rule) authorizes the IIPRC to provide a minimum of fifteen (15) days notice which allows an insurer to address areas of non-compliance with a self-certified product before withdrawing or modifying its Self-Certification Notice.

Comments were provided from Oklahoma, Kansas and Kentucky with regard to initial rate and modified rate stabilization. Members recommended the establishment of a threshold level, at 15%, for rate increases reviewed by the Commission and a stipulation in that any rate increases above this level will be reviewed by the Compacting states.

Members of the Legislative Committee agreed with establishing a 15% threshold limit for rates reviewed by the Commission; and any rates reviewed in excess of this threshold would be further reviewed and approved by the individual states.

Ms. Burns addressed concerns regarding pricing issues associated with long-term care insurance products and asked about how state regulators would enforce rate stabilization for IIPRC-approved products.

Director Hudson advised that each member state has the authority to enforce rate stabilization for long-term care insurance products and noted that the proposed long-term care uniform standards are based upon rate stabilization provisions of the Long-Term Care Insurance (LTCI) Model Law and Regulation and will govern products filed and approved through IIPRC.

Ms. Smith-Daley indicated that the IIPRC long-term care uniform standards exceed what is currently in the LTCI Model Law and Regulation—in that there is no provision in the Model that requires companies to report back to the IIPRC to complete a review and annual certification for compliancy with rates.

Director Hudson asked for a motion from members of the Management Committee to adopt the proposed long-term care uniform standards as amended by the Product Standards Committee; and with the implementation of a 15% threshold for rate increases reviewed by the Commission. Commissioner Geeslin made a motion and Acting Commissioner Sammis seconded the motion. Director Hudson asked if there were further discussion.

Ms. Krol recommended that the Commission have jurisdiction over exceptional rate increases.

Ms. Schutter indicated that the Product Standards Committee did not distinguish between exceptional and non-exceptional rate increases in their summary of proposed amendments to the long-term care uniform standards; and stated that for this reason the rate threshold applies to exceptional rate increases reviewed by the Commission.

Ms. Berendt stated that the rate reviews should remain with the Commission but then stated that compromise and collaboration between the states is imperative in implementing the long-term care uniform standards.

Director Hudson asked if there were further discussion. Hearing none, a roll call vote was taken of the Management Committee. The motion was approved unanimously. Director Hudson asked if there was a motion to adopt the individual long-term care uniform standards from the Commission. Commissioner Geeslin made the motion; Commissioner Sammis seconded the motion. The motion was adopted with New Mexico and Virginia voting "no" and Indiana abstaining.

Director Hudson moved to the next item on the agenda, the consideration of the approval of Texas' Proposed Resolution regarding long-term care insurance products. Commissioner Geeslin provided a report.

Commissioner Geeslin noted that closed blocks of business that do not have post-rate stabilized rates dramatically affect policyholders in terms of pricing and the need for future rate increases; and indicated that the Texas Resolution, Attachment Two, proposes that the Commission develop and adopt a national program that protects all long-term care policyholders, including individuals who own existing, pre-rate stabilized long-term care insurance products. Commissioner Geeslin stated that the resolution is intended to provide a solution to policyholders which would allow them access to affordable products over a long period of time by moving them from closed blocks of business into long-term care products that are priced in accordance with rate stabilization.

Commissioner Geeslin stated that it is necessary to know more about these closed blocks of business and to build an analysis along these lines while determining the consumer buy-in. Commissioner Geeslin made a proposal to members of the Management Committee that the NAIC Life and Health Actuarial Task Force make necessary recommendations to accommodate a national program that would address these issues.

Director Hudson asked for a motion from members of the Management Committee to approve Texas' Proposed Resolution. Commissioner Geeslin made a motion and Commissioner Ario seconded the motion. Director Hudson asked if there were any questions. Hearing none, a voice vote was taken and the motion passed unanimously.

Director Hudson then asked for a motion from Commission members to approve Texas' Proposed Resolution. Commissioner Dilweg made a motion and Commissioner Morrison seconded the motion. Director Hudson asked if there were any questions. Hearing none, a voice vote was taken and the motion passed unanimously.

Director Hudson turned to the next item on the agenda, a report of the Associate Membership Exploratory Committee. Commissioner Dilweg provided a report.

Commissioner Dilweg indicated that the Associate Membership Exploratory Committee was established in December 2009 for the purpose of reviewing the legal, operational and public policy aspects of creating an Association Membership for states who are supportive of joining the Compact and haven taken steps to accept the uniform standards. Commissioner Dilweg stated that the Committee has been able to carry out its initiatives and has completed its role as a Committee for the past several months. Commissioner Dilweg then made a recommendation to suspend any further Committee assembling until further notice.

Director Hudson asked if there were any questions regarding the report of the Associate Membership Exploratory Committee. Hearing none, Director Hudson asked for a motion to approve the recommendations made by the Associate Membership Exploratory Committee. Commissioner Dilweg made a motion and Mr. Henderson seconded the motion. Director Hudson asked if there were further discussion. Hearing none, a voice vote was taken and the motion passed unanimously.

The meeting was adjourned.

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	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. 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.	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.

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	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. 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).	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." 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. 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.
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	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-

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
	provide long-term care services.	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 18th meeting at which time there was no objection to this amendment.
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.	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. 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

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
		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.
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)	Kansas commented this provision did not specifically identify the components of the entire contract. The IAC agreed this provision should be more specific and proposed language.	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)	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. 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.	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.
10. LIMITATIONS AND EXCLUSIONS Section 3.R(1)(f)	Kansas commented that this exclusion should be removed on the basis that, as an individual product, there is no coordination of benefits between polices since premium paid are intended to be based on the benefits provided. The IAC requested that this exclusion not be taken out of the Uniform Standards as it comes directly from the LTC Model. The	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. 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

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
	IAC indicated this exclusion is intended to avoid duplication of coverage where an insured collects more than 100% of expenses incurred.	process provides an avenue for addressing concerns about overinsurance and fraud.
11. PAYMENT OF CLAIMS AND REVIEW OF BENEFIT DETERMINATION Section 3.W(2) (No Change Recommended)	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.	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. 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.
12. RIGHT TO EXAMINE Section 3.AA(2) (No Change Recommended)	Kansas requested that the period in which the company shall refund premium under this provision be changed from 30 days to 10 business days.	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).
13. NEW PROVISION: TERMINATION Section 3.DD	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. 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.	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.

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
1. SELF-CERTIFICATION	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.	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. 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.
2. NEW PROVISION: SIGNATURE BLOCK FOR APPLICANT TO ACKNOWLEDGE RECEIPT OF EACH REQUIRED FORM (No Change Recommended)	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. 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.	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 acknowledgement required in the Personal Worksheet as well as a mandatory acknowledgement in the application that the required forms.

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	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. 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.	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.

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

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1. NEW PROVISION: ANNUAL SUBMISSION REQUIREMENTS SUBSEQUENT TO INTIAL RATE FILINGS AND PRIOR TO APPROVAL OF RATE SCHEDULE INCREASES Section 3	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.	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. 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. 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.
2. NEW PROVISION: APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES Section 4.A	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. Several states including Texas, Washington	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. The PSC, with input from the IIPRC Actuarial Working Group, developed a survey that was administered by the NAIC National

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
	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.	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%. 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. The PSC did not specify a particular percentage leaving it to the decision of the Commission members to set the appropriate percentage. 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. The IIPRC would also perform an advisory review of rate increase filings and make it available to the compacting states. After a rate increase is submitted to the compacting states, future rate

Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
		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.
3. ACTUARIAL SUBMISSION REQUIREMENTS. (No change recommended)	Hawaii and Maine expressed concern that the rate filing standards do not support different rate schedules by state or region	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. 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.

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	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. 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 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 INTIAL RATE FILINGS AND PRIOR TO APPROVAL OF RATE SCHEDULE INCREASES Section 3	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 the a rate increase request is filed.	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. 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.

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		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.
4. NEW PROVISION: APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES Section 4.A	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. 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.	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. 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%. 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

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		percentage but the IIPRC review determines upon application of the Uniform Standards that the rate increase should exceed the threshold percent. The PSC did not specify a particular percentage leaving it to the decision of the Commission members to set the appropriate percentage. 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. The IIPRC would also perform an advisory review of rate increase filings and make it available to the compacting states. 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.

Interstate Insurance Product Regulation Commission

Resolution to Address

National Long-Term Care Insurance Rating Problems

WHEREAS:

- The Interstate Insurance Product Regulation Commission (IIPRC) is currently considering standards for rates for the issuance of long-term care (LTC) products to be filed for its review and action;
- Consumers in existing pre-rate stabilized blocks of LTC insurance products are subject to significant rate increases;
- The LTC standards under consideration will only impact new consumers;
- The IIPRC seeks to encourage the NAIC to take action to begin the process of protecting <u>all</u> consumers including those consumers who own existing, pre-rate stabilized LTC insurance products; and
- The development of LTC rate review standard, with features that encourage carriers to provide pre-rate stabilized LTC consumers the option to obtain a rate-stabilized policy, is beneficial to the consumer and could provide carriers greater flexibility for rate changes.

IT IS RESOLVED THAT:

The IIPRC formally recommends that the NAIC National Standards Working Group and the Long-Term Care Task Force (EX) develop and adopt a national program that protects <u>all</u> LTC consumers, including consumers who own existing, pre-rate stabilized LTC insurance products. The national program will be created using existing regulatory authority or a model law, whichever is most inclusive and expeditious.

IT IS FURTHER RESOLVED THAT:

The IIPRC formally recommends that such national program:

- Address rating practices, combining pre-rate stabilized and rate stabilized rate increases;
- Give companies that combine rating practices under the national program greater flexibility in rate increases;
- Provide gradual implementation to ensure stability in the market;
- Offer products that differ from in-force policies that consumers would voluntarily exchange in return for added protection of rate stabilized policies; and
- Preserve states' authority.

IT IS FURTHER RESOLVED THAT:

The NAIC Life and Health Actuarial Task Force will make necessary recommendations to accommodate the national program.

IT IS FURTHER RESOLVED THAT:

The IIPRC will develop standards for policies offered pursuant to the national program which will replace pre-rate stabilization policies.