

**DATE:** January 7, 2013  
**TO:** IIPRC Management Committee  
**FROM:** Industry Advisory Committee  
**SUBJECT:** 5 Year Review of Individual Life Insurance Standards  
(Update Sent 1/1/13 for comments originally submitted 11/6/12  
and 12/12/12)

*Re: 2001 CSO Tables*

While the standards so say “or any other mortality tables approved for use by the NAIC..”, the PSC may want to take this opportunity to update the references to 2001 CSO.

*Re: Individual Term Life Insurance Policy*

**Page 1, Item 3.**

Change “premium” to “premiums”.

**Page 3, B. ACTUARIAL MEMORANDUM REQUIREMENT, Item (1)(a)**

*This comment affects other life standards.*

Change first sentence to say: “A demonstration that the *nonforfeiture* values of the policy....”.

**Page 4, C. VARIABILITY OF INFORMATION, Item (4)**

*This comment affects other life standards.*

Change first sentence to say: “affect the derivation and compliance of policy *nonforfeiture* values ...”.

**Page 5, D. READABILITY REQUIREMENTS, Item (2)**

*This comment affects other life standards.*

Change to say “specifications pages”.

**Page 6, A. COVER PAGE, Item(8)**

*This comment affects other life standards.*

Change to say “specifications page”.

**Page 6, B. SPECIFICATIONS PAGE, Item (2)**

*This comment affects other life standards.*

The second sentence is not clear as to the intent not to credit dividends – is it “in any policy year”? is it “in certain policy years”? The sentence could be fixed by adding “in any policy year” after “does not intend to credit dividends”.

We suggest that the second sentence be deleted since it does not add anything to what is already stated in the first sentence.

**Page 8, CONFORMITY WITH IIPRC STANDARDS**

*This comment affects all other IIPRC standards.*

The intent of this should be that if ***any provision on its effective date is in conflict with an IIPRC standard in effect on such effective date***, that such provision as of its effective date will be deemed to be in conformity with such standard.

The current language does not tie down the IIPRC standard(s) to that in effect on the effective date of the provision, so some have read this as a perpetual requirement – that is, if a current standard is later changed, or a new one adopted, that provisions already in effect would have to be modified accordingly.

This was never the intent, so we suggest that the current language be clarified.

**Page 9, F. CONVERSION, Item (3)**

For more clarity, change to say: “The policy may provide that a discount is applied to the ***total premium of the converted policy*** in the year of conversion.”

**Page 9, G. DEATH BENEFIT PROCEEDS, Item (2)**

*This comment affects other life standards.*

Some companies are hesitant to file with the IIPRC because they perceive that a court of law may not agree that these standards would pre-empt some states' laws. For example, in the following three states, the interest penalty is included in the "unfair trade practices" sections of their codes:

***IIPRC Standards:***

Claims need to be paid from **date of death**, at rate of funds left on deposit rate or 2-year T; additional 10% applies if claim is not paid within 31 day of due proof, but only if company is "unable" to pay beyond its control.

***Kentucky Chapter 304, Subtitle 12.s.304.12-235 [Trade Practices and Frauds]***

Claims need to be paid within 30 days from date of **due proof**; after 30 days from receipt of due proof, pay interest at 12% per annum. If delayed further "without reasonable foundation", pay for attorney fees.

***Michigan Chapter 500.2006 [Unfair and Prohibited Trade Practices, Frauds]***

Claims need to be paid within 60 days from date of "entire" **due proof**; after 60 days after receipt of due proof, interest at 12% per annum.

***Wisconsin Chapter 628.46 [Insurance Marketing]***

Claims need to be paid within 30 days from date of **due proof**; after 30 days from receipt of due proof, pay interest at 12% per year; has exceptions similar to IIPRC.

These three states may have deemed the IIPRC "from date of death" to be a better standard and consequently acceptable. However, companies are requesting confirmation that these states will support the IIPRC standards, and if these states are in support, would it be possible to provide a legal position from these states to that effect?

**Pages 12-13, K. GRACE PERIOD, Item (5)**

*This comment affects other life standards.*

When the term life standards were first developed, New Jersey insisted on adding the first and last sentence. To our best knowledge, this is not now, or has ever been, in any other state law.

When mail arrives at a company, it may include premium payments, beneficiary designations, changes in owner notifications, etc. Some companies provide envelopes for premium payments, but insureds/owners sometimes use their own. With regard to premium payments, not all of these would involve a grace period premium. So in order to comply with the spirit of the last sentence, ***the company would have to have a process in place to keep all envelopes received with premium checks***, so that, if there was a grace period premium payment, the company would have a record of the postmarked envelope. No company has such a process in place today, and if a company did, it would be a costly one.

While the standard says that a company cannot require that a premium be received within the grace period, the reality is that if a company does not receive a premium by the end of the grace period, the policy lapses for nonpayment of premium. After a grace period expires, it is not realistic to expect a company to wait indefinitely before considering the policy “lapsed”.

Consequently, item (5) is misleading since it does not include the consequences of lapse, and the fact that reinstatement may be subject to evidence of insurability and interest may be required for an overdue premium. The item is also inconsistent with the Reinstatement standard, which states that a policy will lapse if the grace period has elapsed for nonpayment of premium. One may decide to pay the premium on the 31<sup>st</sup> day of a grace period, but such a decision bears consequences.

It is not clear to us if item (5) is required to be included in a policy, or if it is instructional as to the process that must be complied with. If item (5) is required to be included, we believe that it does more harm than good, by implying that there are no consequences if a premium is not received by a company by the end of a grace period. If the first sentence of item (5) means that the company may not require that the premium be received by the end of the grace period, does this eliminate the company’s right to lapse the policy? We believe the Reinstatement standards make it quite clear that this is not the case.

We strongly suggest that the PSC re-examine the intent of the entire item. We believe that it is imperative that the company have the right to receive the premium by the end of the grace period, and that this is consistent with the Reinstatement standards.

***Page 16, P. NONFORFEITURE VALUES – POLICY PROVISIONS, Item (1)(g)***

***This comment affects other life standards.***

For consistency, change to say: “A detailed statement of the method of computation of the ***cash*** values and ***paid-up nonforfeiture*** benefits ....”.

***Page 16, P. NONFORFEITURE VALUES – POLICY PROVISIONS, Item (2)***

***This comment affects other life standards.***

Change to say “shall not be less than the *cash surrender value available on the preceding policy anniversary.*”

***Re: Individual Whole Life Policy***

***Page 14, O. NONFORFEITURE VALUES – POLICY PROVISIONS, Item (1)(a)***

***This comment affects other cash value life standards.***

The standard is reflecting language in the Nonforfeiture Law, but if a premium default occurs when the cash value is zero, the nonforfeiture value is also zero and no value will be provided.

The PSC may want to consider changing the introduction to say: “A provision that in the event of default *when the cash value is other than zero*, the company will provide...”.

***Page 17, U. SETTLEMENT OPTIONS, Item (1)***

***This comment affects other cash value life standards.***

There are two issues here.

The first issue is that some companies do not provide a variety of settlement options other than leaving the proceeds with the company. The current item (1) could be read to accommodate this practice, but the use of “each” may set up an expectation of more than one option. We suggest that a solution may be to substitute “the” for “each”.

The second issue is that if settlement options are provided, some companies are including these in the claim forms, and have been doing this for over 10 years. The item states that in lieu of disclosure, the tables may be included in the policy. We suggest that a solution may be to say: “may be included in the policy or claim materials provided to the beneficiary.”

***Re: Individual Flexible Premium Adjustable Life Policy***

***Page 14, J. EXCLUSIONS, Item (2)***

***This comment affects other life standards, as applicable.***

“Policy reserve” is not defined in the standards, and companies have questioned the intent: statutory reserves? with or without deficiency reserve? CRVM? XXX? AXXX (AG38)? GAAP? Can account value be a proxy for policy reserve? Can a return of premium (adjusted for loans, partial withdrawals, etc.) be adequate?

Companies advise that this is especially an issue for secondary guarantees that may have AG 38 reserves that are significantly higher than the account value. It does not seem appropriate that companies should have to pay out the AG 38 reserve on a death claim for an excluded act.

We suggest that this be discussed and that “policy reserve” be defined.

***Page 21, R. NONFORFEITURE VALUES – POLICY PROVISIONS, Item (10)***

We suggest that consideration be given to end the item with the first sentence ending with “at any time.”

We believe that item D. of the Nonforfeiture Law was intended for a scheduled premium plan and is not specifically applicable for a flexible premium policy.

In defining a minimum surrender value as is done in this item, singling out the first month after an anniversary for a universal life policy seems inconsistent with how universal life policies are actually administered. A universal life policy can generally be described as a policy which functions on a monthly basis. Regardless of the premium frequency, charges and credits typically occur on “monthiversary” dates. Requiring minimum surrender values based on anniversaries is more consistent with a traditional whole life policy that has annual cash surrender value calculations. In addition, the current language does not provide for reductions to surrender values for partial withdrawals or loans that have occurred since the anniversary.

***Re: Individual Modified Single Premium Adjustable Life Insurance Policy***

***Page 4, B. ACTUARIAL MEMORANDUM REQUIREMENTS, Item (1)(d)***

Add a period after the end of the first sentence.

***Re: Individual Modified Single Premium Adjustable Life Insurance Policy  
Individual Modified Single premium Variable Adjustable Life Insurance Policy***

***Pages 23, V. PAYMENT OF PREMIUM, Items (3)(a) and (b)***

For both items, change the plural “Policies” to “The policy”. In (b), in the last sentence, change “form” to say “policy”.

The lead-in for (a), (b) and (c) is for required subsequent premium payments, and we believe that (a) does not belong in this listing - maybe it should be considered as a separate numerical item under V, such as new (4). Additionally, companies have questioned the use of “arbitrarily” as nebulous and subjective – can regulators clarify?

***Re: Individual Flexible Premium Variable Adjustable Life Insurance Policy***

Page 35, Appendix C

The reference to “Section 6A of the NAIC Universal Life Insurance Regulation, Model #585” should be changed to say “Section 6A of the NAIC Variable Life Insurance Regulation, Model #270 using Actuarial Guideline XXIV”.

***Re: Tax Qualified Plan Provisions for Individual Life Insurance Policies***

***Page 3, B. VARAIBILITY OF INFORMATION***

***[A note should be made that this comment affects the annuity version of these standards.]***

The section has 3 requirements, each of which should be assigned a numerical prefix, such as (1), (2) and (3).

We believe that the intent of the first provision was to say:

***“The company shall file tax qualified plan provisions on a specific basis, **when the provision is specific to a specified tax code section**, and **when** each filing accommodates only **such** specified tax code section. **When qualified plan provisions are applicable to more than one specific tax code section, the company shall identify the applicable tax code sections in the Statement of Variability.**”***

There are several tax code sections that share the same requirements, such as unisex rating, and it should not be necessary to file different policies or riders, amendments or endorsements to accommodate each tax code section. For example, the following tax code sections could be accommodated with “one filing”:

TSA/403B  
Simple IRA  
SEP  
Roth IRA  
Profit Sharing  
Pension  
Non-Qualified Section 457  
Money Purchase  
Keough  
Inherited Roth IRA  
Inherited IRA  
IRA  
Defined Benefit  
412(i) Transfer  
412(i)  
412(e)(3) Transfer  
412 (e)(3)  
401(k) Profit Sharing  
401(k) Money Purchase  
401(k)  
401(a)

***Page 4, A. REQUIREMENTS FOR TAX QUALIFIED PLAN PROVISIONS, Item (3)***

***[A note should be made this comment affects the annuity version of these standards.]***

The comments provided above are the same for this item. We suggest the following changes:

“(3) ***If the form is only applicable to a specified tax code section***, the form shall specify the tax code ***section*** requiring the tax qualified plan provisions.”

***Re: Accelerated Death Benefits***

***Page 7, EXCLUSIONS/RESTRICTIONS, Item (1)***

Companies advise that the majority of the states have approved and are approving such exclusions/restrictions, so it is a disincentive to file with the IIPRC.

The underwriting of a life insurance policy is based on mortality, while the underwriting for an accelerated death benefit is based on morbidity. Accordingly, you can have situations where an applicant is insurable for life insurance but not accelerated death benefit. However, if the company were allowed to exclude triggers caused or contributed to by alcoholism or drug addiction, for example, the applicant could be issued the

accelerated death benefit with the exclusion/restriction. In our opinion, some coverage would be better than none.

We suggest that the PSC reconsider this item.

***Page 8, QUALIFYING EVENTS, Item (3)***

In the LTC product, the terms “waiting period” and “elimination period” are used interchangeably, but in other lines, there is a significant distinction:

The term “waiting period” as used on page 8 is intended to refer to a period of time after the benefit is issued during which the insured is not eligible for the benefit. Such a period is not allowed.

The term “elimination period” means a specified period of time during which the insured meets the terms of the qualifying event (is receiving extraordinary medical intervention; is confined; has a medical condition that, in the absence of extensive or extraordinary medical treatment, would result in a drastically limited life span; is chronically ill, etc.) and at the expiration of such period, if the insured still meets the terms of the qualifying event, the insured may apply for the accelerated death benefit. This type of period is allowed by the IIPRC but there is no standards specifying so.

We suggest that Item (3) be changed as follows:

“(3) The form shall not include a waiting period requirement. “Waiting period” means a period of time following the date of issue of the accelerated death benefit during which the benefit is not in effect. A requirement that..... prohibited.”

We suggest adding a new item (4):

“(4) The form may include an elimination period for the qualifying events described in items 2, 3, 4 and 5 of the ‘Qualifying event’ definition in these standards. The term “elimination period” means a specified period of time, such as 30-180 days, during which the insured meets the terms of the qualifying event. The elimination period begins on the first day that the insured meets the terms of the qualifying event and ends at the end of the specified period. During the elimination period, the insured is required to continuously meet the terms of the qualifying event without interruption. If at the end of the elimination period the insured continues to meet the terms of the qualifying event, the owner may apply for the accelerated death benefit.”

***Page 6, BENEFIT DESIGN OPTIONS, Item (8)***

This prohibition of an aggregate limit is preventing some companies from filing this with the IIPRC. The regulators have argued that if someone is paying a premium for a benefit, and they are permitted to buy more than one benefit, they should be entitled to collect the maximum allowable under each benefit.

For a terminal illness trigger only benefit, there is no charge, so the argument is not applicable, and an aggregate limit should be permitted.

***Page 6, BENEFIT DESIGN OPTIONS, Item (11)***

The requirement to include an option at the time of acceleration to pay future premiums due is preventing some companies from filing this with the IIPRC. NAIC Model #620 did not include this requirement, and companies have advised that since they never offered to collect all future premiums due, they do not have a process in place for the calculations and that it is a resource issue to set up a process.

We suggest that the standards be changed to say “may” instead of “shall”.

***Chronic Illness Benefits In Compliance With IRC Section 7702B and IRC Section 101(g)***

As we understand it, the IIPRC is approving these type of plans even though the specifics required for these plans are not clearly spelled out in the standards so that consumers are not burdened with tax consequences. We suggest that consideration be given to the following changes to address these plans:

***Page 1, Item 5***

At the end of the item, add the following:

“For the purposes of complying with the requirements of IRC Section 7702B and IRC Section 101(g) (“federal requirements”), chronic illness may also be defined as prescribed in these federal requirements, such as:

- (i) for activities of daily living, requiring the inability to perform such activities to be for a period of at least 90 days;
- (ii) for periodic payments, requiring a re-certification at the end of the end of each benefit period; and
- (iii) for cognitive impairment, requiring substantial supervision.

***Page 7, PAYMENT OPTIONS, Item (1)***

At the end of the item, add:

“For the purposes of complying with the requirements of IRC Section 7702B and IRC Section 101(g) (“federal requirements”), the periodic benefit may be subject to the per diem specifications of the federal requirements to avoid tax consequences. If the application of the federal cap requirement results in a reduced accelerated death benefit from that requested, the remaining death benefit which can be accelerated will be available for acceleration in future months.

For example, if the maximum monthly benefit is capped at \$9,000 because of the per diem limit and there is a \$100,000 death benefit that may be accelerated, \$9,000 will be paid monthly for 1 year. The remaining \$91,000 after the first monthly payment will be available for acceleration in future months.

***Pre-Emption Issues/Concerns***

We have identified three state requirements (there may be others) that present some questions as to whether or not the IIPRC standards pre-empt them. None of these requirements were brought up during the discussion of the individual or group standards, so hard to determine whether the states would agree that these requirements are pre-empted.

***50 IL ADC 1407.50*** requires the insurer to disclose to the policy owner any administrative expense charge, and goes on to state "However, in no event shall the administrative expense charge exceed \$250." This is in the section titled "Required Disclosure Provisions." We note that section 1407.30, titled "Form Requirements," does not include this limitation on the amount of the administrative expense charge.

***WAC 284-23-720***, a section titled "Administrative Expenses," provides that "All charges or fees for administration or processing requests for any payments of accelerated benefits shall be disclosed and fully described in the policy, rider, and disclosure statement. Any such charge or fee shall be reasonable; shall be assessed no more than once; and may not exceed five hundred dollars."

**211 MA ADC 55.05 (7)(b)** provides that "in cases that the individual qualified for benefits because of Chronic Illness only, the benefit amount shall be payable only for expenses incurred for Qualified Long-Term Care Services." Section 55:05 is titled "Minimum Standards," but does not have the usual language to the effect that all policies issued in the state must include the following provisions. This is directly related to product design, as our contract does not require the person to demonstrate expenses, just the fact of Chronic Illness (but does limit the total to the IRS "per diem" limits).

It is critical that these requirements be considered pre-empted since the purpose of the standards was to establish a national standard and presumably the compacting states have had the opportunity to review and submit comments if they believed that their requirements needed to be accommodated.

We request that the PSC confirm the pre-emption issue.

***Re: Waiver of Premiums / Waiver of Monthly Deductions Benefits***

***Pages 4, EXCLUSIONS, Item (1)(g)***

Some companies advise that as of 2007 all states have approved language allowing the exclusion to apply to total disabilities occurring after the benefit anniversary on which the insured attains age 60, and yet the IIPRC standards only allow "after age 65".

Because the IIPRC only allows an "after age 65" exclusion, companies with age 60 approvals have no incentive to file with the IIPRC. Accordingly, we suggest a reconsideration of the "after age 65" standard.

***Re: Additional Term Life Insurance Benefits***

***Waiver of Premium Benefit for Child Insurance In the Event of Payor's Total Disability or Death***

***Page 4 of Additional Term Rider, BENEFIT PROVISIONS/BENEFIT, Item (5) (d)***  
***Page 5 of Waiver of Premium Benefit, NONFORFEITURE, Item (1)***

Companies believe there is a contradiction between these two standards regarding the requirement for cash value of the paid-up term life insurance. Section 9(G) of the Standard Nonforfeiture Law appears to provide an exception for such requirement.

We suggest that the PSC reconsider the items.

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