Clarification Items

Clarification items are proposed edits to clarify the meaning, application, and/or intent of a provision in the Uniform Standard. Clarification items would not change the meaning or effect of the provision or the current application and interpretation of the provision or Uniform Standard but would provide further or detailed explanation, description, or specification to the language in the Uniform Standard. The clarification items are compiled not only from suggestions or issues in the Comments but also from questions, issues, and circumstances that have arisen in the application and interpretation of the Uniform Standards by the IIPRC product and actuarial reviewers.

List of Clarification Items

1. Long-term Care and Accelerated Death Benefits
2. Definition of Long-term Care
3. Rate Schedule Increase Filings
4. Premium Variances and Administrative Expenses
5. Actuarial Memorandum Content
6. Annual Rate Certification Requirements – Period Of Sales
7. Shoppers Guide to Long Term Care Insurance
8. Similar Policy Forms – Definition
10. Outline of Coverage – Use of the Term “Form”
1. LONG-TERM CARE AND ACCELERATED DEATH BENEFITS

APPLIES: Scope of the Core Standards for Individual Long-Term Care Insurance Policies

CURRENT PROVISION:

Scope: These standards apply to individual long-term care insurance. Any product advertised, marketed or offered as long-term care insurance shall be subject to these standards. Long-term care insurance shall provide benefits for one or more of the following: nursing home care, assisted living care or home health care and adult day care. Only those policies, riders, endorsements or amendments that provide all such benefits may be titled “long-term care insurance” without further clarification. Policies, riders, endorsements or amendments that provide less than all such benefits shall be titled appropriately to indicate to the owner the types of coverages available under the policy, and may be filed and approved under these standards.

COMMENTS:

Industry Comment: The IAC suggests adding a new paragraph following the first paragraph in the Scope of the Core Standards for Individual Long-Term Care Insurance Policies to clarify that for accelerated death benefits that are advertised, marketed, offered or designed as providing coverage for long-term care services, these standards apply but in addition Additional Standards for Accelerated Death Benefits will apply as applicable. They note that the Scope of the Additional Standards for Accelerated Death Benefits states that “if the payment of accelerated death benefit is contingent upon receipt of long-term care services or supports” those standards do not apply. The IAC states that it is their understanding that a combination product using an accelerated death benefit to fund long-term care insurance would have to comply with both standards as applicable. Some standards from each product may not apply but both sets of standards would be used for guidance. The IAC used rate standards not applying to such products as an example.

IIPRC Office Comment/Observation: The IIPRC Office notes that its practice is to review product filings using the specific applicable uniform standards. A long-term care accelerated death benefit rider is reviewed using the applicable long-term care uniform standards. If the payment of accelerated death benefit is not contingent upon receipt of long-term care services or supports and the product is not advertised as long-term care insurance, than the filing would be reviewed under the Additional Standards for Accelerated Death Benefits.

IIPRC Office Recommendation: The IIPRC Office recommends the following additional language be added to the Scope of the Standard for clarification. The IIPRC Office does
not recommend the additional language suggested by the IAC that says the Additional Standards for Accelerated Death Benefits may also apply as the applicability of this Uniform Standard and the individual long-term care insurance Uniform Standards are mutually exclusive and the Additional Standards for Accelerated Death Benefits is for the incidental life benefit feature.

With regard to accelerated death benefits that are advertised, marketed, offered or designed as providing coverage for long-term care services, these standards shall apply.

**IIPRC staff update following the July 5, 2016 call and final PSC recommendation:**
Pennsylvania asked if the words “or designed” could be eliminated for consistency with other Uniform Standards and the NAIC Long-term Care Model Act. The PSC agreed to the following revision to the recommendation:

With regard to accelerated death benefits that are advertised, marketed or offered or designed as providing coverage for long-term care services, these standards shall apply.
2. DEFINITION OF LONG-TERM CARE

APPLIES: Definitions in the Core Standards for Individual Long-Term Care Insurance Policies

CURRENT PROVISION:

“Long-term care insurance” is any insurance policy, rider, endorsement or amendment advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital, unless the area of the hospital or unit where the services are provided is licensed or certified as a nursing care facility and the insured is receiving long-term care services and not acute care. The term includes:

- individual annuities, disability income and life insurance policies, riders, endorsements or amendments that provide directly or supplement long-term care insurance;
- policies, riders, endorsements or amendments that provide for payment of benefits based upon cognitive impairment or the loss of functional capacity; and
- qualified long-term care insurance policies.

The term shall not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to disability income, this term does not include disability income policies, riders, endorsements or amendments having indemnity benefits that are triggered by activities of daily living unless (1) the benefits are dependent upon or vary in amount based on the receipt of long-term care services; (2) the policy or rider, endorsement or amendment is advertised, marketed offered or designed as coverage for long-term care services; or (3) benefits under the policy, rider, endorsement or amendment may commence after the insured has reached Social Security’s normal retirement age, unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

With regard to life insurance, this term shall not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment.
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for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

With regard to annuities, this term shall not include annuity contracts that include a waiver of surrender charges for an annuitant who needs long-term care services, provided that the waiver is unrelated to the amount of charges incurred for the long-term care services, there is no separate premium for the waiver, and the annuity contract or waiver of surrender charges benefit is not advertised, marketed offered or designed as coverage for long-term care services.

COMMENTS:

Industry Comment: The IAC suggests that based on revisions made to the Additional Standards for Accelerated Death Benefits, the definition of individual long-term care insurance should be further refined to state that it does not include life insurance policies that accelerate the death benefit for chronic illness, with specific definitions of chronic illness taken from the accelerated death benefit uniform standard. They further suggest that the definition specify that for annuities the term does not include guaranteed living benefits with guaranteed withdrawal increase for certain qualifying events to reflect revisions to the Additional Standards for Guaranteed Living Benefits. The IAC has suggested the following changes:

With regard to life insurance, this term shall not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness; or medical conditions requiring extraordinary medical intervention; or permanent institutional confinement; chronic illness defined as permanent inability to perform a specified number of activities of daily living, or permanent severe cognitive impairment and similar forms of dementia; chronic illness as prescribed in the requirements of IRC Section 7702B and IRC Section 101(g); and that provide the option of a lump-sum payment for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

With regard to annuities, this term shall not include annuity contracts that include: (a) a waiver of surrender charges for an annuitant who needs long-term care services, provided that the waiver is unrelated to the amount of charges incurred for the long-term care services, there is no separate premium for the waiver, and the annuity contract or waiver of surrender charges benefit is not advertised, marketed offered or designed as coverage for long-term care services; and (b) a guaranteed living benefit (GLB) with a guaranteed withdrawal increase for specifically one or more qualifying events of medical condition that is reasonably expected to result in a drastically limited life span; receipt of care in a health care facility; inability to perform a specified number of activities of daily living; cognitive impairment; and
where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

**IIPRC Office Comments/Observations:** The IIPRC Office notes that during Phase One of the five-year review process, amendments were adopted for the Additional Standards for Accelerated Death Benefits on August 15, 2014 that incorporated current Internal Revenue Code provisions regarding chronic illness definitions for federally tax-qualified products. Chronic illness was included as a qualifying event at the time of original adoption of the Uniform Standard; however this type of chronic illness qualifying event was not listed in the exceptions to the definition of long-term care insurance. The amendments to the Additional Standards for Guaranteed Living Benefits as proposed December 9, 2015 include the qualifying events referenced in the IAC’s request.

**IIPRC Office Recommendation:** The IIPRC Office recommends the following revisions to the definition of long-term care insurance to provide clarity regarding which products are subject to the long-term care insurance uniform standards and which products are treated as incidental life and/or annuity benefit features. Since the other qualifying event triggers for accelerated death benefits were not defined within the exception, the IIPRC Office does not believe detailed definitions are required for chronic illness.

“Long-term care insurance” is any insurance policy, rider, endorsement or amendment advertised, marketed, offered or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis; for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital, unless the area of the hospital or unit where the services are provided is licensed or certified as a nursing care facility and the insured is receiving long-term care services and not acute care. The term includes:

- individual annuities, disability income and life insurance policies, riders, endorsements or amendments that provide directly or supplement long-term care insurance;
- policies, riders, endorsements or amendments that provide for payment of benefits based upon cognitive impairment or the loss of functional capacity; and
- qualified long-term care insurance policies.

The term shall not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection
coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to disability income, this term does not include disability income policies, riders, endorsements or amendments having indemnity benefits that are triggered by activities of daily living unless (1) the benefits are dependent upon or vary in amount based on the receipt of long-term care services; (2) the policy or rider, endorsement or amendment is advertised, marketed offered or designed as coverage for long-term care services; or (3) benefits under the policy, rider, endorsement or amendment may commence after the insured has reached Social Security’s normal retirement age, unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services.

With regard to life insurance, this term shall not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, chronic illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

With regard to annuities, this term shall not include (a) annuity contracts that include a waiver of surrender charges for an annuitant who needs long-term care services, provided that the waiver is unrelated to the amount of charges incurred for the long-term care services, there is no separate premium for the waiver, and the annuity contract or waiver of surrender charges benefit is not advertised, marketed offered or designed as coverage for long-term care services; and (b) a guaranteed living benefit (GLB) with a guaranteed withdrawal increase for qualifying events of medical condition that is reasonably expected to result in a drastically limited life span; inability to perform two or more activities of daily living; cognitive impairment; and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care services.

IIPRC Staff Update following the July 5 PSC member call: PA suggests the revision below, which they believe would be more in line with the recently revised GLB scope language:

With regard to annuities, this term shall not include (a) annuity contracts that include a waiver of surrender charges for an annuitant who needs long-term care services, provided that the waiver is unrelated to the amount of charges incurred for the long-term care services, there is no separate premium for the waiver, and the annuity contract or waiver of surrender charges benefit is not advertised, marketed offered or designed as coverage for long-term care services; and (b) a guaranteed living benefit (GLB) with a guaranteed withdrawal increase for qualifying events permitted under the applicable IIPRC annuity standard. of medical condition that is reasonably
expected to result in a drastically limited life span; inability to perform two or more activities of daily living; cognitive impairment; and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care services.

**IIPRC staff update following the July 19, 2016 call and final PSC recommendation:** The PSC agreed to the following modified language:

**With regard to life insurance**, this term shall not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, chronic illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

**With regard to annuities**, this term shall not include (a) annuity contracts that include a waiver of surrender charges for an annuitant who needs long-term care services, provided that the waiver is unrelated to the amount of charges incurred for the long-term care services, there is no separate premium for the waiver, and the annuity contract or waiver of surrender charges benefit is not advertised, marketed offered or designed as coverage for long-term care services; and (b) a guaranteed living benefit (GLB) with a guaranteed withdrawal increase for qualifying events permitted under the applicable IIPRC annuity standard.
3. RATE SCHEDULE INCREASE FILINGS

**APPLIES:** Preface to §4 Additional Submission Requirements for Rate Schedule Increase Filings of the Rate Filing Standards for Individual Long-Term Care Insurance - Issue Age Rate Schedules Only and Rate Filing Standards for Individual Long-Term Care Insurance - Modified Rate Schedules

**CURRENT PROVISION:**

The following additional submission requirements apply to rate schedule increase filings that apply to in-force policies for individual long-term care insurance:

**COMMENTS:**

*Industry Comments:* The IAC suggests adding a parenthetical to this provision clarifying what a rate schedule increase filing is.

*IIPRC Office Comments/Observations:* The IIPRC Office is not aware of any questions or filer comments regarding this provision.

*IIPRC Office Recommendation:* The IIPRC Office is not opposed to the following parenthetical for clarity:

For Rate Filing Standards for Individual Long-Term Care Insurance Issue Age Rate Schedules Only:

The following additional submission requirements apply to rate schedule increase filings (i.e. a change to an approved Issue Age Rate Schedule that results in a new, higher Issue Age Rate Schedule) that apply to in-force policies for individual long-term care insurance:

For Rate Filing Standards for Individual Long-Term Care Insurance Modified Rate Schedules:

The following additional submission requirements apply to rate schedule increase filings (i.e. a change to an approved Modified Rate Schedule that results in a new, higher Modified Rate Schedule) that apply to in-force policies for individual long-term care insurance:

**IIPRC staff update following the July 19, 2016 call and final PSC recommendation:**

The PSC agreed to the recommendation.
4. PREMIUM VARIANCES AND ADMINISTRATIVE EXPENSES

APPLIES: §1A.(2) of the Rate Filing Standards for Individual Long-Term Care Insurance - Issue Age Rate Schedules Only, and Rate Filing Standards for Individual Long-Term Care Insurance - Modified Rate Schedules

CURRENT PROVISION:
A. GENERAL

The Interstate Insurance Product Regulation Commission will review rate filings for individual long-term care insurance policies and may disapprove any rate filing for one or more of the following reasons:

(1) The premiums charged are unreasonable in relation to the benefits provided, excessive, inadequate, or unfairly discriminatory;

(2) The provisions permit the company to vary premiums for insureds, and the variances are not based upon sound underwriting and sound actuarial principles reasonably related to actual or reasonably anticipated loss experience;

COMMENTS:

IIPRC Office Comments/Observations: The IIPRC Office notes that generally, rates are not unfairly discriminatory if the rate differentials reflect differences in expected losses or expenses. The IIPRC Office has permitted discounts based on administrative savings and adding this to the general criteria for rate review would provide further clarity. The IIPRC Office notes that this clarification was added to the recently adopted Group Disability Income Insurance Rate Uniform Standards.

IIPRC Office Recommendation: The IIPRC Office recommends that the PSC consider adding “or expenses” to the end of §1A.(2) to clarify variances in premiums are based on sound underwriting and sound actuarial principles that are reasonably related to actual or reasonably anticipated loss experience and also to expenses.

(2) The provisions permit the company to vary premiums for insureds, and the variances are not based upon sound underwriting and sound actuarial principles reasonably related to actual or reasonably anticipated loss experience or expenses;

IIPRC staff update following the July 19, 2016 call and final PSC recommendation: The PSC agreed to the recommendation.
5. ACTUARIAL MEMORANDUM CONTENT

APPLIES: §2.B.(3) of the Rate Filing Standards for Individual Long-Term Care Insurance - Issue Age Rate Schedules Only

CURRENT PROVISION:

B. ACTUARIAL SUBMISSION REQUIREMENTS

(3) An actuarial memorandum prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall address and support each specific item required as part of the actuarial certification, comply with Actuarial Standard of Practice (ASOP) 18 and provide at least the following information:

(a) An explanation of the review performed by the actuary prior to making the statements in § 2B(1)(b) and § 2B(1)(c);

(b) A complete description of pricing assumptions;

Drafting Note: ASOP No. 18, the NAIC Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation and the Academy of Actuaries Practice Note “Long-Term Care Insurance, Compliance with the NAIC Long-Term Care Insurance Model Regulation Relating to Rate Stability” all provide details concerning the key pricing assumptions, underlying actuarial judgments and the manner in which premium rates are to be tested.

(c) Sources and levels of margins, incorporated into the gross premiums determined in § 2B(3)(b) above that are the basis for the statement in § 2B(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Significant deviations in margins between ages, sexes, plans or states shall be clearly described. Significant deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales;

(d) (i) A complete description of those situations, if any, where the difference between the gross premium and the net valuation premium for renewal years is not sufficient to cover expected renewal expenses; and

(ii) A table of sample ages and coverages (including inflation and non-inflation) demonstrating the extent and the results of this review;
(e) A complete description of any morbidity improvement assumption used in pricing or reserves for the product together with the rationale for the assumption and its effect on premium and reserve levels; and

Drafting Note: At the time of drafting these standards, the Interstate Insurance Product Regulation Commission generally does not believe that sufficient credible data on insured experience is available to justify the use of morbidity improvements in pricing or reserve assumptions but cannot be sure that it cannot be produced in the future. As noted in the NAIC Health Insurance Minimum Reserve Model Regulation (Model #10), “Morbidity improvement is a change, in the combined effect of claim frequency and the present value of future expected claim payments given that a claim has occurred, from the current morbidity tables or experience that will result in a reduction in [premiums or] reserves. It is not the intent of this provision to restrict the ability of the actuary to reflect the morbidity impact for a specific known event that has occurred, and that is able to be evaluated and quantified. This last sentence is intended to provide allowances for a known event, such as a new drug release, but at the time of this writing, there are no specific examples that could be pointed to in the recent past that would have met this standard. This is intended to be an extremely rare event.” [emphasis supplied]

(f) A comparison of the premium rates with issue age rate schedule rates, at a reasonable selection of ages, for similar policy forms and comparable premium-paying periods also available from the company. The actuary should describe the situations where the premium rate schedules are less than those for existing products and detail the differences and testing done by the actuary to determine that the filed premiums are not inadequate.

COMMENTS:

IIPRC Office Comments/Observations: The IIPRC Office notes that new filers frequently overlook the certifications that are required under the Core Standards for Individual Long-term Care Insurance Policies related to nonforfeiture and inflation protection requirements and this can delay the review process. These certifications, when received, are normally from the company actuary. It would clarify the requirements and speed review if the actuarial memorandum requirements include information related to these certifications.

IIPRC Office Recommendation: The IIPRC Office recommends that the PSC consider adding the following provisions to the actuarial memorandum requirements in § 2.B.(3):

(g) Descriptions supporting the certification prepared, dated and signed by a member of the American Academy of Actuaries, required under §1B.(2) of the Core Standards for Individual Long-term Care Insurance Policies, that the nonforfeiture and contingent nonforfeiture benefits offered or provided under the policy are in compliance with the requirements of § 8, Nonforfeiture Benefits, of the Model Act and with § 28D and E, Nonforfeiture Benefit Requirement, of the Model Regulation or § 28K.
thereof. This requirement shall not apply to life insurance policies that provide long-term care benefits only in the form of an acceleration of the death benefit.

(h) Descriptions supporting the certification prepared, dated and signed by a member of the American Academy of Actuaries or a company officer required under §1.B.(3) of the Core Standards for Individual Long-term Care Insurance Policies, that an inflation protection benefit offered or provided under the policy is in compliance with the requirements of § 13A and F, Requirement to Offer Inflation Protection, of the Model Regulation. This requirement does not apply to life insurance policies that provide long-term care benefits only in the form of an acceleration of the death benefit.

IIPRC staff update following the July 19, 2016 call and final PSC recommendation:
The PSC agreed to the recommendation.
6. ANNUAL SUBMISSION REQUIREMENTS – PERIOD OF SALES

APPLIES: § 2B. of the Rate Filing Standards for Individual Long-Term Care Insurance - Issue Age Rate Schedules Only, and Rate Filing Standards for Individual Long-Term Care Insurance - Modified Rate Schedules

CURRENT PROVISION:

B. ACTUARIAL SUBMISSION REQUIREMENTS

(1) An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:

(a) A statement of the sufficiency of the premium rate schedule approved by the Interstate Insurance Product Regulation Commission including:

(i) For the rate schedules currently marketed,

a. The premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or

b. If the above statement cannot be made, a statement that margins for moderately adverse experience may no longer be sufficient. In this situation, the company shall provide to the IIPRC, within 60 days of the date the actuarial certification is submitted to the IIPRC, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience. Failure to submit a plan of action to the IIPRC within 60 days or to comply with the time frame stated in the plan of action constitutes grounds for the IIPRC to withdraw or modify its approval of the Product Filing pursuant to Section 108 of the Operating Procedure for the Filing and Approval of Product Filings.

Drafting Note: When a company files a statement that margins for moderately adverse experience may no longer be sufficient, the IIPRC will immediately notify each Compacting State where the premium rate schedule applies.

(ii) For the rate schedules that are no longer marketed,
a. That the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions; or

b. That the premium rate schedule may no longer be sufficient. In this situation, the company shall provide to the IIPRC, within 60 days of the date the actuarial certification is submitted to the IIPRC, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience.

(b) A description of the review performed that led to the statement and disclosure of any planned management action relating to this statement.

COMMENTS:

IIPRC Office Comments/Observations: The IIPRC Office notes that it is difficult to identify and review the annual rate certification and statement of sufficiency of the premium rate schedule if the policy form to which the statement applies and the start and where applicable, end issue dates are not identified. The period of sales is particularly important when rates have been refreshed since the initial filing, since separate certifications are required for currently marketed and previously marketed products.

IIPRC Office Recommendation: The IIPRC Office recommends that the PSC consider adding the following provisions to the actuarial certification requirements in § 2.B.(3):

B. ACTUARIAL SUBMISSION REQUIREMENTS

(1) An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:

(a) A statement of the sufficiency of the premium rate schedule approved by the Interstate Insurance Product Regulation Commission including: the policy form to which the statement applies, including the start and if applicable, end date of issue, and:

IIPRC staff update following the July 19, 2016 call and final PSC recommendation: The PSC agreed to the recommendation.
CLARIFICATION ITEMS
5-Year Review, Phase 6 (Long-term Care Insurance Uniform Standards)

7. SHOPPER’S GUIDE TO LONG-TERM CARE INSURANCE

APPLIES: § 3.L.(1)(a)(v) of the Individual Long-Term Care Insurance Application Standards and Appendix A (15) of the Individual Long-Term Care Insurance Standards for the Outline Of Coverage

CURRENT PROVISION:

L. AGREEMENTS

(1) The application shall include the following statements agreed to by the applicant(s):

   (a) That the applicant has received the following items, as applicable:

      (i) Outline of Coverage;

      (ii) Long-Term Care Insurance Personal Worksheet;

      (iii) Things You Should Know Before You Buy Long-Term Care Insurance;

      (iv) Potential Rate Increase Disclosure Form; and

      (v) Shopper’s Guide to Long-Term Care Insurance;

APPENDIX A

15. CONTACT THE STATE AGENCY LISTED IN A SHOPPER’S GUIDE TO LONG-TERM CARE INSURANCE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE

COMMENTS:

Industry Comments: The IAC suggests that “NAIC” be added to the beginning of item (1)(a)(v) in the Individual Long-Term Care Insurance Application Standards and to Appendix A of the Outline of Coverage Standards for consistency with other IIPRC standards, such as Appendix B of the Standards for Forms Required To Be Used With The Application. They note that both HIPAA and the Deficit Reduction Act (DRA) point to the NAIC Long-Term Care Model Regulation #641 APPENDIX C where “NAIC” is included when referring to the Shopper’s Guide, and the standards are intended to be based on the Model.
Additionally, the APPENDIX B of the Standards for Forms Required to Be Used with the Application which refers to “NAIC” may be filed on a self-certification basis. When the Long-term care standards were first adopted, there was no discussion or contemplation of state variations for the Shopper’s Guide, and state variation requirements would put a wrinkle to the self-certification process for the Appendix, as well as opening up the other forms required to be used with the application to similar state variations, thus nullifying the self-certification process for these forms. The IAC does not believe that this is what was contemplated and urges clarification.

**IIPRC Office Comments/Observations:** The IIPRC Office agrees that the addition would provide clarification and promote uniformity and consistency. By adding the term NAIC, it would clarify that the uniform NAIC Shopper’s Guide to Long-Term Care Insurance would be delivered with the Compact-approved product which is based on Uniform Standards that reflect the requirements in the NAIC Long-Term Care Model Regulation.

**IIPRC Office Recommendation:** The IIPRC Office suggests that the PSC consider specifying that the referenced shopper’s guide is the NAIC Shopper’s Guide to Long-Term Care Insurance.

(v) **NAIC** Shopper’s Guide to Long-Term Care Insurance;

15. **CONTACT THE STATE AGENCY LISTED IN THE NAIC’S A SHOPPER’S GUIDE TO LONG-TERM CARE INSURANCE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE**

**IIPRC staff update following the July 19, 2016 call and final PSC recommendation:** The PSC agreed to the recommendation.
8. SIMILAR POLICY FORMS - DEFINITION

APPLIES: Definitions in Standards for Forms Required To Be Used With an Individual Long-Term Care Insurance Application

CURRENT PROVISION:

“Similar policy forms” means all of the long-term care insurance policies and certificates issued by the company in the same long-term care benefit classification as the policy being considered. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, non-institutional long-term care benefits only, or comprehensive long-term care benefits.

COMMENTS:

Industry Comments: The IAC suggests that the reference to certificates is not appropriate for long-term care insurance. They also note that the long-term care benefit may be included as a rider attached to a life insurance policy or annuity, and such riders are subject to the long-term care standards, so referencing amendments, riders or endorsements would be more appropriate.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any questions from filers regarding this provision, but agrees that the addition suggested would add clarity.

IIPRC Office Recommendation: The IIPRC Office suggests that the PSC consider the following revision to the definition of “Similar policy forms”:

“Similar policy forms” means all of the long-term care insurance policies and amendments, riders or endorsements certificates issued by the company in the same long-term care benefit classification as the policy being considered. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: institutional long-term care benefits only, non-institutional long-term care benefits only, or comprehensive long-term care benefits.

IIPRC staff update following the July 19, 2016 call and final PSC recommendation: The PSC agreed to the recommendation.
9. OUTLINE OF COVERAGE – DEFINITION OF POLICY AND RIDER

APPLIES: Definitions in Individual Long-Term Care Insurance Standards for the Outline of Coverage

CURRENT PROVISION:

There are currently no definitions of “Policy” and “Rider” in the Individual Long-Term Care Insurance Standards for the Outline of Coverage

COMMENTS:

Industry Comments: The IAC suggests adding definitions of “Policy” and “Rider” to the Individual Long-Term Care Insurance Standards for the Outline of Coverage so that it is clear that the requirements apply to a standalone long-term care policy as well as a long-term care rider issued with a life policy or an annuity. The IAC suggests the following definitions:

“Policy” means a long-term care insurance policy or rider providing long-term care insurance.

“Rider” means an endorsement, rider or amendment which provides long-term care insurance.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any questions from filers regarding this provision, but agrees that the addition suggested could add clarity.

IIPRC Office Recommendation: The IIPRC Office suggests that the PSC consider adding the following definitions of “Policy” and “Rider” to the Individual Long-Term Care Insurance Standards for the Outline of Coverage for clarity:

“Policy” means a long-term care insurance policy or contract providing long-term care insurance.

“Rider” means an endorsement, rider or amendment to a life insurance or annuity policy or contract which provides long-term care insurance.

IIPRC staff update following the July 19, 2016 call and final PSC recommendation: The PSC agreed to the recommended language proposed by the IIPRC office.
10. OUTLINE OF COVERAGE – USE OF THE TERM FORM

APPLIES: Appendix A of the Individual Long-Term Care Insurance Standards for the Outline of Coverage

CURRENT PROVISION:

Appendix A – Standard Format Outline of Coverage

[COMPANY NAME]

[ADDRESS - CITY & STATE]

[TELEPHONE NUMBER]

LONG-TERM CARE INSURANCE

OUTLINE OF COVERAGE

[Form Number or Policy Number or Group Master Policy and Certificate Number]

Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied][will be attached to any issued policy][will be enclosed with any issued policy]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance][a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).

2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company.
Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!

3. FEDERAL TAX CONSEQUENCES.

This [POLICY] [CERTIFICATE] is intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986, as amended.

OR

Federal Tax Implications of this [POLICY] [CERTIFICATE]. This [POLICY] [CERTIFICATE] is not intended to be a federally tax-qualified long-term care insurance contract under Section 7702B(b) of the Internal Revenue Code of 1986 as amended. Benefits received under the [POLICY] [CERTIFICATE] may be taxable as income.

4. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE CONTINUED IN FORCE OR DISCONTINUED.

(a) [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

   (1) Policies and certificates that are guaranteed renewable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy, [certificate] to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

   (2) [Policies and certificates that are noncancellable shall contain the following statement:] RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELLABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

(b) [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

(c) [Describe waiver of premium provisions or state that there are not such provisions.]
5. TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

[In bold type larger than the maximum type required to be used for the other provisions of the outline of coverage, state whether or not the company has a right to change the premium, and if a right exists, describe clearly and concisely each circumstance under which the premium may change.]

6. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

(a) [Provide a brief description of the right to return—“free look” provision of the policy.]

(b) [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]

7. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the insurance company.

(a) [For agents] Neither [insert company name] nor its agents represent Medicare, the federal government or any state government.

(b) [For direct response] [insert company name] is not representing Medicare, the federal government or any state government.

8. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

9. BENEFITS PROVIDED BY THIS POLICY.

(a) [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]

(b) [Institutional benefits, by skill level.]

(c) [Non-institutional benefits, by skill level.]
(d) Eligibility for Payment of Benefits

[Activities of daily living and cognitive impairment shall be used to measure an insured’s need for long-term care and must be defined and described as part of the outline of coverage.]

[Any additional benefit triggers must also be explained. If these triggers differ for different benefits, explanation of the triggers should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified.]

10. LIMITATIONS AND EXCLUSIONS.

[Describe:

(a) Preexisting conditions;

(b) Non-eligible facilities and provider;

(c) Non-eligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);

(d) Exclusions and exceptions;

(e) Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in Number 9 above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

11. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

(a) That the benefit level will not increase over time;

(b) Any automatic benefit adjustment provisions;

(c) Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;]
(d) If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations;

(e) And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

12. ALZHEIMER’S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer’s disease or related degenerative and dementing illnesses. Specifically describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

13. PREMIUM.

[(a) Provide the premium rate schedule for the policy;

(b) If the premium varies with an applicant’s choice among benefit options, indicate separately the annual premium that corresponds to each benefit option.]

14. ADDITIONAL FEATURES.

[(a) Indicate if medical underwriting is used;

(b) Describe other important features.]

15. CONTACT THE STATE AGENCY LISTED IN A SHOPPER’S GUIDE TO LONG-TERM CARE INSURANCE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE.

COMMENTS:

Industry Comments: The IAC notes that in Appendix A, there are numerous errors in the references to group master policy and certificate. While these show up as options, this is not done consistently. The IAC suggests that the generic term “form” be used so that the Appendix is clearly applicable to standalone long-term care policies, group long-term care policies and certificates, and long-term care riders issued with life policies and annuity contracts.

IIPRC Office Comments/Observations: The IIPRC Office is not aware of any questions from filers regarding this provision. The Outline of Coverage in Appendix A follows the
format prescribed in Section 33 of the NAIC Long-Term Care Insurance Model Regulation #641.

IIPRC Office Recommendation: The IIPRC Office has no specific recommendation, but suggests that the PSC discuss whether they wish to define the term “form” as suggested by the IAC for the Outline of Coverage in Appendix A and use the term in lieu of references to policy or certificate, or maintain the format prescribed by the NAIC Model. The following is the definition suggested by the IAC:

As used in this Outline, “form” means an individual long-term care insurance policy, a rider which provides individual long-term care insurance and which is issued with an individual life insurance policy or an annuity contract, or a group long-term care insurance policy or certificate.

Wherever “[form]” appears below, the company shall substitute the appropriate type of form for which the Outline is provided. For group insurance, the Outline is only provided for a certificate.

Form Number:
Policyholder or Certificateholder Number:

IIPRC staff update following the July 19, 2016 call and final PSC recommendation:
The PSC noted that the language in the Appendix comes directly from format prescribed in Section 33 of the NAIC Long-term Care Insurance Model Regulation #641. The references are variable items, just as the reference to group and contracts are included because the Model provisions apply to more than the uniform standards. Noting that the use of the Model language has not resulted in any confusion by filers, and observing that the addition of a new definition just to this Appendix could cause confusion, the PSC is not recommending any changes as a result of this request.