



MEMORANDUM

TO: Insurance Compact Management Committee

FROM: Product Standards Committee

DATE: July 25, 2018

SUBJECT: Product Standard Committee Response to Comments and Proposed Recommendations Regarding the Proposed Amendments to the Individual Disability Income Insurance (IDI) Uniform Standards under Phase 8 of the Five-Year Review

To assist the Management Committee in providing an explanatory statement in accordance with Section 110 of the Interstate Insurance Product Regulation Commission's ("Commission") *Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission* ("Rulemaking Rule"), the Product Standards Committee ("PSC") of the Commission offers the following information.

The PSC presented the Management Committee with its recommendations for the Five-Year Review of Uniform Standards for Individual Disability Income Insurance (Phase 8) on March 23rd, 2018. As required by the Rulemaking Rule, the PSC's recommendation to the Management Committee included a summary of recommended changes and an explanation of the change in circumstances or underlying assumptions since the rule was last adopted, amended or reviewed that lead to the PSC recommendations.

The proposed amendments were published on April 5th for a 60-day comment period and the Management Committee held a Public Hearing on June 4th. As requested by the Management Committee, the PSC has reviewed the comments received in advance of and during the Public Hearing and also exposed its recommendations for public comment.

The attached chart contains a summary of the comments received and the proposed recommendations from the PSC. Changes from the text of the amendments to the Uniform Standards contained in the notice of proposed amendments published on April 5th and the PSC recommendations are noted in the chart. As explained in greater detail in the chart, the PSC agreed to a technical revision to §3 F. Permissible Limitations for Specified Conditions, to clarify conditions that cannot be limited, and is also recommending a requirement that filers use variability to identify when the product is issued in a state that limits mental health and substance abuse related disability exclusions or limitations. The PSC is not recommending any substantive changes to the definition of *Total Disability* nor is it recommending allowing for an unlimited look back period on the disability income insurance application for certain medical conditions. The Committee discussed adding an optional return of premium provision, but the time needed to address all of the outstanding concerns about such a standard would delay adoption of the proposed amendments. As such, the PSC's preference is to consider this item at a future date as a separate additional standard.

SUMMARY OF THE PRODUCT STANDARDS COMMITTEE (PSC) RESPONSE TO COMMENTS REGARDING AMENDMENTS TO INDIVIDUAL DISABILITY INCOME INSURANCE (IDI) UNIFORM STANDARDS (PHASE 8 OF THE FIVE-YEAR REVIEW OF UNIFORM STANDARDS)

	Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1.	Coverage for own <i>Occupation</i> under the definition of Total Disability in the STANDARDS FOR INDIVIDUAL DISABILITY INCOME INSURANCE POLICIES (<i>Cross-Reference to IIPRC Office Report – Substantive Change Item # 7</i>)	The Industry Advisory Committee (IAC) expressed disappointment that the PSC was not changing the definition of Total Disability to conform to the definition found in the Group Disability Income Insurance Uniform Standards, noting that the NAIC Model is outdated and products need to provide more flexibility. They noted that all but three states allow an “any occupation” definition of disability and that allowing this option may make the product more affordable for those that do not need coverage for their own occupation.	The PSC does not recommend a change. The Committee noted that NAIC Models #170 and 171 are currently under review by the NAIC and that the IAC provided no new information beyond what had been extensively discussed on prior calls. The PSC did not wish to remove a consumer protection that for the first year of total disability, the definition of Total Disability includes inability to perform the <i>Substantial and Material</i> duties of one’s own <i>Occupation</i> , a reasonable consumer expectation of coverage. The PSC would encourage states without any specific law or regulation regarding the definition to adopt the Insurance Compact’s definition.
2.	Adding a Return of Premium Benefit provision to §3.D. Optional Provisions of the STANDARDS FOR INDIVIDUAL DISABILITY INCOME INSURANCE POLICIES (<i>Cross-Reference to IIPRC Office Report – Substantive Change Item # 9</i>)	The IAC requested that the PSC reconsider their request for an optional Return of Premium provision. The IAC had previously withdrawn this request; however one of their companies requested this matter be reopened. The IAC provided responses to the questions previously asked by the PSC as well as a suggested draft.	The PSC concluded that they were not opposed in principle to an optional Return of Premium provision, but that the responses as well as the suggested draft provision raised several significant questions. The Committee was concerned that some of these benefit provisions cost as much or more than the base policy but do not provide for any nonforfeiture values. In addition, the draft provision appeared focused on the approach of a single company, while research indicated different approaches depending on the company to allow for return of premium or a cash surrender value. The PSC is not opposed to exploring adding standards for return of premium or cash surrender, but believes that more time is needed to gather answers to these concerns. Rather than delay the adoption of the IDI amendments, the

SUMMARY OF THE PRODUCT STANDARDS COMMITTEE (PSC) RESPONSE TO COMMENTS REGARDING AMENDMENTS TO INDIVIDUAL DISABILITY INCOME INSURANCE (IDI) UNIFORM STANDARDS (PHASE 8 OF THE FIVE-YEAR REVIEW OF UNIFORM STANDARDS)

			Committee suggests a recommendation to consider developing a separate, new Additional Standards for Return of Premium or Cash Value Benefit, and to seek input from the Actuarial Working Group if this new standard is drafted.
3.	The Use of Variability for State Specific Requirements for Exclusions and Limitations for Mental Health And Substance Abuse Related Disabilities in §1.C.(1) of the STANDARDS FOR INDIVIDUAL DISABILITY INCOME INSURANCE POLICIES (Cross-Reference to IIPRC Office Report – Substantive Change Item #12)	The Texas Department of Insurance requested that if the amendment to certain limitations and exclusions related to mental health and substance abuse in Section 3(F) is adopted to follow state law, then the Insurance Compact Office require that filers show compliance through variability and ensure it follows the state-reported information on the chart that will be maintained by the Compact.	<p>The PSC agreed with the Insurance Compact Office suggestion to provide filing guidance directing companies to demonstrate compliance with this provision through the use of variability and also recommends the following highlighted changes to Section 1(C)(1) of the Standards for Individual Disability Income Insurance Policies.</p> <p style="text-align: center;">C. VARIABILITY OF INFORMATION</p> <p>(1) The company may identify items that will be considered variable. The items shall be bracketed or otherwise marked to denote variability. Variability shall be limited to benefit data applicable to the owner or insured, <i>Disability</i> benefits, amounts, durations, and premium information. <u>Variability may shall also include the limitations and exclusions that are required to comply with applicable law in the state where the policy is delivered or issued for delivery under Section 3.F. (3), (11) and (12).</u> The filing shall include a Statement of Variability that will discuss the conditions under which each variable item may change <u>as well as the alternative content to which the item may change.</u></p>
4.	Look Back Period for Underwriting Questions in §4. Additional Standards	The IAC expressed disappointment that the PSC was not changing the look	The PSC does not recommend a change. The Committee noted that the IAC provided no new information beyond

SUMMARY OF THE PRODUCT STANDARDS COMMITTEE (PSC) RESPONSE TO COMMENTS REGARDING AMENDMENTS TO INDIVIDUAL DISABILITY INCOME INSURANCE (IDI) UNIFORM STANDARDS (PHASE 8 OF THE FIVE-YEAR REVIEW OF UNIFORM STANDARDS)

<p>for Underwriting Questions of the INDIVIDUAL DISABILITY INCOME INSURANCE APPLICATION STANDARDS <i>(Cross-Reference to IIPRC Office Report – Substantive Change Item # 15)</i></p>	<p>back period restrictions in the IDI application standards for certain conditions that the companies believe raise morbidity concerns. They note all but ten states do not limit the look-back years for health questions on the application. They expressed concern that companies would file direct with states due to the more restrictive IIPRC standards. They indicated that they did not have time to provide specific data regarding underwriting manuals provided by reinsurers that support their position.</p>	<p>what had been extensively discussed on prior calls during this review as well as during the development of the Group Disability Income Insurance Uniform Standards. During the review, the PSC requested documented evidence that people who experienced the health conditions identified in the IAC list who did not need treatment for a period of more than ten years prior to application are more of a risk than those without such conditions, but the IAC was unable to provide such data. The request was made in January.</p> <p>The PSC has again concluded that a change to the existing standards would result in taking away what could be considered an existing consumer protection. While the Committee acknowledges that it is the minority of states that have a look back period of 10 years or less, they recommend that to avoid an unlevel playing field, states without a specific law or regulation on look back period should adopt the Compact’s standard.</p>
<p>5. Appendix A – Conforming Provisions §3 F. PERMISSIBLE LIMITATIONS OR EXCLUSIONS (18) Specified Conditions in the STANDARDS FOR INDIVIDUAL DISABILITY INCOME INSURANCE POLICIES</p>	<p>An Industry representative asked for clarification of §3F.(18)(b), noting that sometimes the conditions listed in (b) may be ones for which the company may decline coverage during underwriting or specifically exclude if it was a preexisting condition.</p>	<p>The PSC notes that the intent of the Specified Conditions limitation is to identify specific conditions for which the insurer could limit coverage to 12 months or the maximum Benefit Period, whichever is less. The conditions listed in (b) are ones that cannot be limited. This is an optional policy provision and does not limit underwriting prior to issuance of the policy.</p> <p>The PSC suggests revising the beginning of (b) for clarity as follows:</p> <p style="text-align: center;">The limitation shall not apply to the following conditions <u>specified conditions shall not include any of the following.</u></p>