

**Minutes of the Joint Meeting of the Interstate Insurance  
Product Regulation Commission and its Management Committee  
Tuesday, May 18, 2010**

**Members of the Commission in attendance:**

Director Mary Jo Hudson, Chair, Ohio  
Susan Ezalarab as a designated representative for Commissioner Sean Dilweg, Vice Chair, Wisconsin  
Michael Bertrand as a designated representative for Commissioner Paulette J. Thabault, Treasurer, Vermont  
Cindy Ward as a designated representative for Commissioner Marcy Morrison, Colorado  
Thomas Carswell as a designated representative for Commissioner John W. Oxendine, Georgia  
Kathleen Nakasone, Hawaii  
Commissioner Susan Voss, Iowa  
Commissioner Sandy Praeger, Kansas  
Commissioner Sharon P. Clark, Kentucky  
Commissioner James J. Donelon, Louisiana  
Eric Cioppa as a designated representative for Superintendent Mila Kofman, Maine  
Acting Commissioner Elizabeth Sammis, Maryland  
Commissioner Joseph G. Murphy, Massachusetts  
Commissioner Kenneth Ross, Michigan  
Brian Pennington 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  
John Rink as a designated representative for Director Ann M. Frohman, Nebraska  
Commissioner Roger A. Seigny, New Hampshire  
Commissioner Kim Holland, Oklahoma  
Commissioner Joel Ario, Pennsylvania  
Elizabeth Dwyer as a designated representative for Superintendent Joseph Torti III, Rhode Island  
Commissioner Leslie A. Newman, Tennessee  
Commissioner Mike Geeslin, Texas  
Betsy Jerome as a designated representative for Acting Commissioner Neal T. Gooch, Utah  
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  
Commissioner Ken Vines, Wyoming

**State Regulator Staff in attendance:**

Rebecca Vaughan, Indiana  
Malinda Shepherd, Kentucky  
Tom Record, Maine  
Edward Charbonnier, Massachusetts  
Joan Moiles, Michigan  
Ted Hamby, North Carolina  
Bill Preston, Ohio  
Sue Real, Ohio  
Kathy Stepp, Oklahoma  
Brad Harker, Pennsylvania  
Shawn Hawk, Tennessee  
Sara Waitt, Texas  
Ana Smith-Daley, Texas  
Katrina Daniel, Texas  
Nick Hoelscher, Texas  
Sandra Christensen, Utah

Tomasz Serbinowski, Utah  
Jim Guidry, Wisconsin

**Members of the Legislative Committee in attendance:**

Representative Kurt Olson, Alaska  
Senator Delores Kelley, Maryland  
Senator Brian Patrick Kennedy, Rhode Island  
Susan Nolan, Executive Director, National Conference of Insurance Legislators (NCOIL)  
Michael Humphreys, NCOIL

**Members of the Industry Advisory Committee in attendance:**

Steve Buhr, AEGON/Transamerica Group  
Michael Lovendusky, American Council of Life Insurers (ACLI)  
Amanda Matthiesen, America's Health Insurance Plans (AHIP)  
Nicole Allen, Council of Insurance Agents and Brokers  
Mary Keim, State Farm Life Insurance Company  
Bill Anderson, National Association of Insurance and Financial Advisors (NAIFA)

**Members of the Consumer Advisory Committee in attendance:**

James R. Wenzel, Consumer Protection and Public Health Division, Office of the Attorney, Texas  
T. Ryan Wilson, American Association of Retired Persons (AARP)

**Interested Parties in attendance:**

Miriam Krol, ACLI  
John MacBain, Actuarial Resources Corporation  
Helene Landow, John Hancock Life Insurance Company  
Marie Roche, John Hancock Life Insurance Company  
Hugh Barrett, MassMutual  
Hazel Delane, Milliman, Inc.  
Angela Cox, Nationwide Insurance Company  
Linda Pena, New York Life Insurance Company  
Mollie Kenny, Northwestern Mutual  
Bob Glowacki, Transamerica Life Insurance Company

**Interested Regulators in attendance:**

Mary Kosinski, Arizona  
Perry Kupferman, California  
Cindy Colonius, Illinois  
Bill McAndrew, Illinois  
Gail Keren, New York

**IIPRC Team in attendance:**

Karen Schutter, Executive Director  
Sara Dubsky, Operations Manager  
Karyn Onyeneho, Administrative Assistant  
David Morris, Product Review Consultant  
Charles Rappacciuolo, Marketing & Development Consultant  
Alice Fontaine, Actuarial Consultant

**NAIC Staff in attendance:**

Becky McElduff, Senior Counsel  
Kay Noonan, General Counsel

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

Director Hudson provided an overview of the rulemaking process for the proposed long-term care Uniform Standards issued on January 21, 2010; which were 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 a public hearing was held on March 25 to receive comments on the proposed long-term care uniform standards and stated that all comments that have been received were posted to the Commission website. Director Hudson advised that the Management Committee directed the Product Standards Committee to review comments received on the proposed standards and to report back with any possible alternatives that would address concerns regarding rate increases. Director Hudson urged Member states to present any concerns that are relevant to the development of the proposed standards during this joint meeting. Director Hudson advised that no action would be taken on the proposed standards during this joint meeting and noted that the focus would be on making substantial progress on key public policy issues; and in moving forward with the Rate Filing Standards for Individual Long-Term Care Insurance—Issue Age Rate Schedule Only and the Rate Filing Standards for Individual Long-Term Care Insurance—Modified Rate Schedules (“Rate Change Standards”).

Director Hudson proceeded to the first item on the agenda, a report of the Product Standards Committee. Ms. Waitt provided a report.

Ms. Waitt noted that a memorandum from the Product Standards Committee was distributed prior to this meeting for the purpose of aiding the members in determining the next steps for the long-term care rate filing uniform standards. Ms. Waitt provided a brief overview of the development process for the proposed long-term care uniform standards for the purposes of explaining the Committee’s thoughtful process with regard to considering the comments with full awareness of the complexity of the long-term care products and the issues states encounter in regulating them, particularly the premium rates. Ms. Waitt noted that the Product Standards Committee made a recommendation to the Management Committee to take action on the proposed uniform standards in January 2010 following a series of public meetings. Ms. Waitt explained that Ms. Smith-Daley would provide a detailed overview of the Committee’s recent work.

Ms. Smith-Daley stated that the Product Standards Committee considered the key question raised primarily by states as to whether rate increase requests should be reviewed by the Commission. Ms. Smith-Daley stated the Product Standards Committee concluded that uniformity of review for both initial and increased rates would promote rate stability and put consumers in a better position than they are today with regards to consistency from state to state. For this reason, the Committee continued to recommend that the Rate Change

Standards include rate increase provisions. However, the Committee provided alternative approaches in response to the Management Committee's request at its March meeting.

Ms. Smith-Daley noted that the Compact Statute, enacted by all compacting states, requires the long-term care uniform standards to provide the same or greater protections for consumers as provided in the Long-Term Care Insurance (LTCI) Model Law and Regulation. Ms. Smith-Daley indicated the Product Standards Committee has used the LTCI models as a baseline in the development of these standards with enhanced consumer protections where possible and appropriate.

Ms. Smith-Daley stated that the uniform standards have enhanced the LTCI model requirements with regard to rate increases which would benefit all states as initial rates generally differ very little among states or regions. Attachment Two of the memorandum outlines the characteristics of the rate increase experience seen over the years with generally few differences among states or regions in initial rates. Attachment Two shows the initial premium rates available from quote estimators on the websites of four (4) major long-term care insurers representing 57% of the nationwide long-term care premium volume.

Ms. Smith-Daley explained that the Product Standards Committee reasoned if insurers today are implementing very similar rates across the nation when introducing a product, there is little evidence that rate increase would need to vary by state or region. Ms. Smith-Daley said the Committee found approved rate increases vary widely across states. Attachment One shows the complete rate increase history for all states for a particular block of business based on information submitted by an insurer to a compacting state as a part of supporting documentation with a rate increase request. States are identified only by annualized premiums to show the size of the block for each state. Ms. Smith-Daley indicated that the attachment shows cumulative rate increases to date ranging from 0% to 268% for the same product.

Ms. Smith-Daley indicated the Product Standards Committee appreciated that these increases reflected many factors, including the type of regulatory approval rate authority and the insurer's strategic decisions about when and where to seek increases. As stated in the memorandum, the Committee observed the data provides a very strong indication that the current review process is not the most equitable approach for consumers nationwide.

Ms. Smith-Daley indicated small states that may not have the authority or resources to review rate filings, and almost certainly cannot rely on credible single-state experience, can benefit from uniformly applied requirements, and large states, which may have credible experience but are wary of being compared to states with unreliable experience or no authority to review increases, can benefit from uniformly applied requirements. Ms. Smith-Daley indicated that several regulators on the Committee expressed concern that the differences in state review systems may create cross-subsidization and that the uniformity offered by the Compact can benefit all compacting states and their consumers.

Ms. Smith-Daley stated the memorandum contains several alternative approaches in addition to the Product Standards Committee's recommended approach and listed the pros and cons for each alternative. Ms. Smith-Daley indicated that the alternatives are divided into two issues: (1) options addressing the issue of mix and match and how to handle the initial rate and rate increase review by the Commission and (2) options addressing the amount and type of rate increases that would be permitted under the proposed uniform standards.

Director Hudson reviewed the alternatives outlined in the memorandum and asked for comments regarding the Product Standards Committee's recommended approach or the alternative approaches.

Commissioner Holland asked how expectations and requirements changed since rate stabilization was put into effect as it seems the concerns are more focused on how states are responding to rate increase requests and less about what insurers are filing.

Ms. Smith-Daley stated that the LTCI Model Law and Regulation establish rate stabilization requirements to require insurers to set initial rates at actuarially-appropriate levels to prevent the underpricing problems associated with closed blocks of business. Ms. Smith-Daley said that the LTCI models were adopted by the NAIC in 2000 and have been gradually enacted across states. Commissioner Holland stated that Oklahoma was one of the first states to enact rate stabilization and her understanding was that the insurer must actuarially certify the initial rates could be substantiated and would be sufficient for at least ten years.

Ms. Smith-Daley explained insurers currently certify that rates are appropriate under moderately adverse conditions; however, under the model, there is a requirement of disclosure that rates may increase and there is not a requirement that rates must be guaranteed for a period of time.

Mr. Rink stated that the rate stabilization requires insurers to certify that rates would be adequate under moderately adverse conditions. Mr. Rink indicated the LTCI models and uniform standards require that when a rate increase is filed, the insurer must demonstrate that the initial rates meet a loss ratio of 58% and the increase portion of the rate increase meet a loss ratio of 85% as well as actuarially certifying the rate increases are appropriate to withstand moderately adverse conditions. In other words, rate stabilization was intended to minimize the need for rate increases but if one was sought, the insurer would be required to show the initial and rate increase meet specific loss ratios.

Commissioner Sammis indicated the primary reasons for rate increases are changes in lapse rates and mortality rates from the original assumptions. Commissioner Sammis asked whether lapse rates are the same from state to state. Mr. Rink stated that lapse rates for rate increase requests filed in Nebraska are far lower than originally assumed even after substantial rate increases. Mr. Rink said the majority of states are relying upon national data which would mean lapse rates assumed in actuarial data would include national data.

Ms. Berendt indicated Washington relies upon national data as data at the state level is simply not credible. Ms. Berendt stated the information in the Product Standards Committee memorandum shows the difference in ways the states are handling rate increases. Ms. Berendt stated that Washington approves actuarially justified rate increases and is frustrated when other states approve rates below the actuarially-justified request whether because they are required under law or other political authority. Ms. Berendt said they saw no underlying significance in data across states.

Ms. Berendt indicated the Commission will only approve products, rates and rate increases going forward and will benefit from everything that has been learned over the past 25 years and incorporated into the rate stability requirements of the LTCI models and uniform standards, and these products will be appropriately rated under the most stringent of standards and not playing catch up.

Senator Kelley asked whether we should be focused on the portability of the product as consumers of these products move from state to state and may use the product in a state different than the one where the original product and rates were approved. Senator Kelley stated the discussion should keep in mind the portable nature of this product which may be more conducive to uniformity of review and standards. Director Hudson stated that portability issues are significant and noted that such issues collectively link states and consumers together.

Director Hudson identified the alternatives outlined by the Product Standards Committee with regard to the amount and type of rate increases that would be allowed by the Commission, which were described as follows:

- Alternative 1: Impose an annual cap on rate increases, with full actuarially justified increases spread over multiple years;
- Alternative 2: Establish a Commission member input process during the review of rate increase product filings and require the Commission to issue a detailed summary of its disposition;

- Alternative 3: Require rate increase product filings to be made directly with Member states in the event that a rate increase exceeds a specific threshold such as 20% or 25% with the Commission performing an advisory review on rate increase requests exceeding the threshold; and
- Alternative 4: Amend the proposed long-term care uniform standards to provide more specificity with regard to justifications for rate increases such as:
  - Setting a minimum threshold for “moderately adverse” rate increases;
  - Indicating that rate increase justifications cannot recoup past losses; and
  - Limiting the risks which can be transferred to the policyholder such as not allowing rate increases for adverse experience in specific assumptions, such as interest or unexpected lapse rates.

Commissioner Ross asked if an annual cap is in place, would an insurer need an even greater increase in later years because the rate increase would be below the actuarially-justified increase and the assumption of compounding interest would not be fully realized. Mr. Rink indicated if the rates are limited significantly, it would have a significant impact on the level of future rate increases.

Mr. Wenzel raised concerns regarding the processes involved with the approval of products submitted under the Rate Change Standards in terms of collaborative efforts and accountability practices of the Commission.

Director Hudson advised that each member state has the authority to establish rates for life and annuity products which subsequently gives the Commission authority to approve a product or rate which can then become enforceable. Director Hudson noted that the Commission Product Review Team would handle the review and approval of products filed under the proposed long-term care standards.

Commissioner Holland stated that even with rate stabilization being in place for some states for at least ten years, these states are seeing rate increase requests on products approved under rate stabilization ranging from 25% to well above 50%. Commissioner Holland asked why some states are seeing these type of rate increases for post-rate stabilization products and what are the underlying reasons.

Ms. Berendt indicated that in the early years of this product, the lapse rates were modeled after Medicare supplement experience and did not account for the fact that buyers of long-term care insurance were risk adverse and planned to hold on to this product until utilization. Ms. Berendt explained that the interest rate assumptions also were far different than what actually happened in the 1990s. Ms. Berendt indicated early, closed blocks of business are grossly underpriced but the NAIC models with rate stabilization now apply to products being filed in our states and these rates are higher because long-term care insurance is an inherently expensive product. Commissioner Holland indicated states are still seeing a large fluctuation in rate increases even post-stabilization. Director Hudson indicated the bulk of the large rate increase requests are in pre-stabilization blocks of business which are not going to be handled by the Commission under the proposed uniform standards.

Mr. Serbinowski suggested one of the complications is blocks of business that may be considered as post-rate stabilization were actually priced under pre-rate stabilization conditions and requirements and issued after the effective date of rate stability.

Commissioner Sammis stated that there is a recognition that there may be a need for rate increases but her concern is that insurers will not act quickly to remedy incorrect assumptions or seek a rate increase when it becomes readily apparent of the need for one. Commissioner Sammis said she is concerned that if rate increases are reviewed by the Commission, that there will not be an impetus on the part of insurers to review their rates on a regular basis before seeking a large actuarially-justified rate increase is needed. Commissioner Sammis suggested a need for engaging the industry in a regular way to ensure the initial rates approved continue to be adequate to support the product.

Director Hudson commented that these uniform standards have been developed by very experienced regulators including actuaries through a long, deliberative process and benefit from our collective learning experiences combining all our best solutions and practices. Director Hudson asked the Product Standards Committee to discuss the questions raised about rate increases to provide more fuller responses to the Management Committee as it conducts its due diligence.

Commissioner Ross asked how long does a product need to be in the market in order to ascertain whether the underlying lapse assumptions were correct. Ms. Krol indicated the LTCI model requires insurers look at their experience on a regular basis and to take action to address any aberrations. Commissioner Ross asked why states are seeing dramatic increases if insurers are regularly doing this review. Ms. Krol indicated that rate increase requests that are now being filed on products that were approved ten years ago were likely priced before rate stability. Ms. Krol indicated it is incumbent upon insurers to regularly monitor how rates are performing and look at many factors in making management decisions with regards to rate increases.

Ms. Berendt stated that insurers face a very laborious, time-consuming process of submitting a unique rate increase filing to each state and one of the advantages for a single point of filing for long-term care is that insurers can devote resources towards preparing a comprehensive filing that must meet stringent requirements and review. Ms. Berendt indicated member states are the Commission and each state will be able to access the filing when it is made to the Commission. Ms. Berendt stated all members will be well served by the staff of the Commission and these uniform standards in reviewing long-term care insurance products and rates.

Director Hudson noted it is important to remember that all member states have full authority to address when an insurer is acting in a financially hazardous manner and prevent them from doing business or writing business in their respective state. Director Hudson stated this is not a stagnant process and we will have the ability at the Commission to be responsive through changing the Uniform Standards rather than making statutory or regulatory changes state-by-state.

Commissioner Sevigny stated that protecting consumers and ensuring that insurers remain solvent are both imperative and should be considered before any action is taken on the proposed long-term care uniform standards.

Commissioner Sammis indicated her concern is that insurers would not act quickly or timely to request rate increases from the Commission and would suggest requiring insurers to report regularly on the performance of their initial rates.

Mr. Record provided comments in support of Alternative 3—specifically with reference to the effect of variances in the initial rates among the individual states.

Senator Kelley remarked that Alternative 2 seems to present an extended review process which would affect the Commission's speed-to-market initiatives.

Director Hudson advised that Alternative 3 may be a more feasible approach with regard to the amount and type of rate increase that would be reviewed and approved by the Commission. Director Hudson noted that based on this discussion, this approach would be the one worth more detailed analysis. Director Hudson asked whether member states would be agreeable to asking the Product Standards Committee to provide additional details behind the approach of possibly establishing a threshold level for rate increases reviewed by the Commission and a process where rate increases above that level would be reviewed by the compacting states. There were no objections to this suggestion. Director Hudson asked member states to provide additional comments to the Product Standards Committee during its supplementary review of Alternative 3—specifically with regard to how this option should effectively operate.

Director Hudson asked if there were any additional comments. There were none.

Director Hudson addressed another key public policy issue outlined in the memorandum with regard to Partnership policies. Director Hudson indicated that the proposed long-term care uniform standards prescribe that a Commission-approved policy may qualify as a Partnership plan provided that an insurer has met all state Partnership requirements.

Ms. Krol advised that the Compact Statute was not intended to allow the Commission to determine if a policy can be used for Partnership purposes. Ms. Krol stated that a long-term care policy approved by the Commission may qualify as a Partnership plan in any state that has an operational Partnership program—subject to compliance with Partnership certification requirements of that state.

Ms. Krol advised that the drafting note contained within the Core Standards for Individual Long-Term Care Insurance Policies should contain language that clearly indicates that an insurer cannot use a Commission-approved form as a Partnership policy until the insurer has complied with Partnership certification requirements of a Partnership state.

Director Hudson noted that the Commission does not want to interfere with the individual states' processes with regard to Partnership policies and asked the Product Standards Committee to provide further recommended language to clarify the relationship between the Uniform Standards and state-specific Partnership requirements.

Director Hudson addressed the next key public policy issued outlined in the Product Standards Committee memorandum with regard to benefit triggers. Ms. Smith-Daley provided background on this.

Ms. Smith-Daley stated that comments were submitted from the California Health Advocates (CHA) regarding benefit triggers—specifically with reference to the Core Standards for Individual Long-Term Care Insurance Policies. Ms. Smith-Daley indicated that the CHA proposes that the Activities of Daily Living (ADLs) should be changed from requiring three (3) to requiring two (2) ADLs triggers for benefits, which is consistent with California and Texas state laws. Ms. Smith-Daley stated that the Product Standards Committee agreed with this approach and recommended this change to the Management Committee. Smith-Daley stated that this change would serve as an enhanced consumer protection in all Member states.

Director Hudson asked if there were any comments or questions regarding the recommendation made by the Product Standards Committee. There were none.

Director Hudson addressed the last key public policy issue outlined in the memorandum regarding state-specific disclosures contained within the proposed long-term care uniform standards. Director Hudson stated that any comments which are relevant to this issue should be sent directly to Ms. Schutter and that the Product Standards Committee would further develop a recommendation.

Commissioner Geeslin stated it is imperative the Commission takes action on the proposed long-term care uniform standards and pursue an approach along the lines of Alternative 3 with features of Alternative 2 outlined in the memorandum. Commissioner Geeslin indicated he would be bringing forth a resolution for the Commission's consideration that would encourage the Commission and the NAIC to work together to analyze how to move policyholders in closed blocks of business to long-term care insurance products that are priced in accordance with rate stabilization.

Director Hudson moved to the next item on the agenda, a recommendation from members of the Commission to adopt the March 25, 2010 Joint Management Committee and Commission Meeting Minutes. Director Hudson noted that edits were received from Mr. Beatty and incorporated into the minutes and asked if there were any additional edits. There were no additional edits.



Director Hudson asked for a motion from members of the Commission to adopt the March 25, 2010 Joint Management Committee and Commission Meeting Minutes. Commissioner Ross made a motion and Commissioner Donelon seconded the motion. Director Hudson asked if there were further discussion. Hearing none, a voice vote was taken and the motion passed unanimously.

Director Hudson turned to the next item on the agenda, an operational update of the Commission. Ms. Schutter provided a brief report.

Ms. Schutter reported that the Commission has received a total of 86 company registrations and more than 100 product filings year to date and stated that these figures are expected to double by the end of the year. Ms. Schutter noted that the Additional Standards for Guaranteed Living Benefits for Individual Deferred Variable Annuities; the Additional Standards for Guaranteed Living Benefits for Individual Deferred Non-Variable Annuities; and the Additional Standards for Guaranteed Minimum Death Benefits for Individual Deferred Variable Annuities were available on the Commission website and noted the effective date for these Uniform Standards as June 3. Ms. Schutter noted that Illinois has passed the Compact Legislation and the Governor has the bill and upon signature Illinois will become the 37<sup>th</sup> member to join the Commission. Ms. Schutter noted that upon the Governor's actions additional information will be posted to the Commission website as well as distributed to all interested parties. Ms. Schutter advised that the Compact legislation is currently pending in New Jersey and New York.

Director Hudson asked if there were any questions regarding the Commission operational update. There were none.

Director Hudson asked if there were any other matters to be discussed. Hearing none, the joint meeting of the Commission and its Management Committee was adjourned.