GROUP DISABILITY INCOME INSURANCE POLICY AND CERTIFICATE UNIFORM STANDARDS ~~FOR EMPLOYER GROUPS~~

Scope: These standards are intended to apply to paper or electronic group disability income insurance policies and certificates that are issued to employer groups and non-employer groups, as described herein, provided the groups are~~an employer, or the trustees of a fund established by an employer, that are permitted~~ authorized under the laws of ~~in~~ the jurisdiction where the policy is delivered or issued for delivery. The policies provide benefits to eligible *Covered Persons*.

With respect to non-employer groups, approval of a group policy and certificate by the Commission shall not be deemed as approval to use or issue the product to a non-employer group. A non-employer group must be approved or permitted by the Compacting State as required under the applicable state laws and procedures before a product filing approved by the Commission pursuant to the applicable group Uniform Standards may be issued to a non-employer group.

Separate additional standards will apply to business overhead expense benefits, and insurance companies may provide these as part of a group disability income insurance policy and certificate, or the benefits may be provided under a separate group business overhead expense policy and certificate.

As used in these standards, "Disability Income" means group coverage that provides periodic income if a *Covered Person* becomes *Disabled.*

Combination policies for IIPRC-approved group life, group disability income and group long term care insurance may be filed with the Interstate Insurance Product Regulation Commission as soon as the standards for these products are available for filing with the Interstate Insurance Product Regulation Commission.

Mix and Match: These standards are not available to be used in combination with State Product Components as described in Section 111(b) of the Operating Procedure for the Filing and Approval of Product Filings, except that these standards are available to be used in combination with state-approved group life insurance policies and annuity contracts, provided that the disability income rider and all the components associated with the disability income rider, e.g. application and rates, are filed and approved in accordance with the applicable uniform standards.

Self-Certification: Group disability income insurance policy and certificates filed under these standards are not available to be filed using the Rule for the Self-Certification of Product Components Filed with the Interstate Insurance Product Regulation Commission.

As used in these standards the following definitions apply:

"Application" means any form used by a *Policyholder* to apply for a group disability income insurance policy. The application shall be filed for approval.

"Certificate" means the document which describes a *Covered Person's* benefits and rights under the policy, and which includes any riders, endorsements or amendments, notices or other attachments to the certificate.

Employer Group" for purposes of this Uniform Standard is defined to include the following:

a) An employer, or the trustees of a fund established by an employer, which shall be deemed to be the Policyholder to insure employees of the employer, and if applicable their dependents, for the benefit of persons other than the employer and must be authorized under the laws of the jurisdiction where the policy or certificate is delivered or issued for delivery;

"Non-Employer Group" for purposes of this Uniform Standards is defined to include group types that do not fall under the Employer Group definition provided that, in the exclusive determination of the State.

a) The eligibility and qualification for the group type is permitted under the laws of the state where the policy or certificate are delivered or issued for delivery.
b) The group shall not be formed solely for the purpose of providing or obtaining insurance.
c) The group has a substantive commonality of interests and purpose apart from, and independent of, providing or obtain insurance with the Policyholder interests aligning more closely with the Certificateholder than with the interests of the insurance company.
d) The term Non-Employer Group does not include creditor groups which are outside the scope of this Uniform Standard.

DRAFTING NOTE: The laws in the Compacting State where the policy or certificate is delivered or issued for delivery apply to whether the groups defined above are authorized to operate in the Compacting State. By categorizing these groups as "Employer Groups" for purposes of this Operating Procedure and Uniform Standards, the definitions in this Section do not create or alter statutory definitions for these groups where none existing in the laws of the Compacting State where the policy or certificate is delivered or issued. for delivery.

"Policy" means the group disability income insurance policy issued to the P*olicyholder* that includes any riders, endorsements or amendments, notices or other attachments to the policy.

"*Policyholder*" means the entity to whom the policy is issued.

"Signed or Signature" means any symbol or method executed or adopted by a person with the present intention to authenticate a record, and which is on or transmitted by paper, electronic or telephonic media, and which is consistent with applicable law.

"Written or Writing" means a record which is on or transmitted by paper, electronic or telephonic media, and which is consistent with applicable law.

Drafting Note: Other terms may be used in the policy and certificate provided that they are used consistently.

§ 1. ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

The following additional filing submission requirements shall apply:

(1) For new filings, the filing shall indicate the respective policy, *Policyholder* application, certificate, statement of insurability, as applicable, that will be used with the form(s) being filed.

(2) All forms filed for approval shall be included with the filing. Changes to a previously approved form shall be highlighted.

(3) Subsequent group disability income form filings submitted for approval shall include only those forms being submitted for approval and should specify any other forms previously approved by the IIPRC that will be used with the subsequently filed forms.

(4) The specifications page of the policy and certificate shall be completed with hypothetical data that is realistic and consistent with the other contents of the policy or certificate.

(5) If a filing is being submitted on behalf of an insurance company, include a letter or other document authorizing the firm to file on behalf of the insurance company.

(6) If the filing contains an insert page, include an explanation of when the insert page will be used.

(7) If the policy or certificate contains variable items, include the Statement of Variability. The submission shall also include a certification that any change or modification to a variable item shall be administered in accordance with the requirements in the Variability of Information section, including any requirements for prior approval of a change or modification.

(8) Include a certification signed by an insurance company officer that the policy and certificate forms each have a minimum Flesch Score of 50.

(9) Include a description of any innovative or unique features of each form.

B. VARIABILITY OF INFORMATION

(1) Any information appearing in the policy and certificate that is variable shall be bracketed or otherwise marked to denote variability. The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change.

(2) Variability shall be limited to policy and certificate definitions, periods of time, percentages, numerical values, benefits available, benefit schedules and amounts, eligibility rules and other plan parameters that are subject to the *Policyholder*'s plan design and to address differences among specific types of Employer Groups and Non-Employer Groups. Variability may 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 7 (C), (L), (M) and (O).

(3) Variability may not be used unilaterally by the insurance company to change or modify in-force group coverage if such change or modification would have the effect of increasing premiums or decreasing benefits, unless the policy reserves the right of the *Policyholder* or the insurance company to effect such change or modification under the terms of the group coverage, or unless such change or modification is required by state or federal law.

(4) The Statement of Variability shall discuss both the conditions under which each variable item may change as well as alternative content to which the item may change. The Statement of Variability shall present reasonable and realistic ranges for the item that may change. A zero entry for a range of values on the specifications page for any benefit or credit provided for in the policy or certificate is unacceptable. Any change to a range requires a re-filing for prior approval.

Drafting Note: In situations where multiple classes are included in one certificate or multiple benefits options are included in one certificate an entry such as "not applicable" or "not applied for" or "as shown in the enrollment form" is acceptable.

(5) Notwithstanding paragraph (1) above, the following items may be denoted as variable and changed without notice or prior approval:

(a) Items such as the insurance department address and telephone number, insurance company address and telephone number, officer titles, and signatures of officers located in other areas of the policy and certificate; and

(b) Items that would be considered illustrative such as name of *Policyholder* or *Certificateholder,* policy and certificate number, covered or eligible class, effective dates, the jurisdiction where the policy is delivered or issued for delivery, etc.

C. READABILITY REQUIREMENTS

(1) The policy and certificate text shall achieve a minimum score of 50 on the Flesch reading ease test or an equivalent score on any other approved comparable reading test. See Appendix A for Flesch methodology.

(2) The policy and certificate shall be presented, except for specification pages, schedules and tables, in not less than ten point type, one point leaded.

(3) The style, arrangement and overall appearance of the policy and certificate shall give no undue prominence to any portion of the text of the policy or to any riders, endorsements or amendments.

(4) The policy and certificate shall contain a table of contents or an index of their principal sections, if the policy and certificate have more than 3,000 words printed on three or fewer pages of text or if the policy and certificate have more than three pages regardless of the number of words.

§ 2. GENERAL FORM REQUIREMENTS

A. POLICY AND CERTIFICATE STRUCTURE

(1) The policy shall include the provisions applicable to the *Policyholder* and may or may not include the provisions applicable to *Covered Persons* if such provisions are included in a separate certificate. Regardless of the structure selected, the certificate shall always include the provisions applicable to *Covered Persons*. These group disability income standards assume that the policy includes the provisions applicable to the *Policyholder* and the certificate includes the provisions applicable to *Covered Persons*.

(2) A *Covered Person's* benefits and rights under the policy shall not be less than those stated in the certificate.

(3) The standards allow policies or certificates to be delivered in a paper or electronic format. If electronic format is used, the insurance company shall describe the procedures that will be used to deliver the policy or certificate. Upon request, the *Policyholder* or its plan administrator shall deliver a paper copy of the certificate to the *Covered Person*.

B. CERTIFICATES

(1) The policy shall include a provision regarding certificates. The provision shall state that the insurance company shall provide certificates for delivery to each *Covered Person.*

(2) The certificate shall describe the benefits and rights under the certificate.

(3) The certificate shall state that the insurance company certifies that the *Covered Person* is insured for the benefits described in the certificate, subject to the provisions of the certificate.

(4) The certificate may state that the policy is a contract between the insurance company and the *Policyholder* and may be changed or ended without the *Covered Person's* consent.

(5) The certificate shall include a statement in prominent print instructing the *Covered Person* to read the certificate carefully and note that insurance benefits may be subject to certain requirements, reductions, limitations and exclusions. "Prominent print" means, for

example, all capital letters, contrasting color, underlined or otherwise differentiated from the other type on the form.

(6) If the certificate is issued to replace a certificate previously issued by the insurance company, the certificate shall state that it replaces such previous certificate.

(7) The certificate may state that it is not valid unless the insurance company's certificate confirmation statement is attached to the certificate. The confirmation statement may include its date of print, insurance company name, *Covered Person's* name, address, tax identification number, date of hire, insurance benefits, amounts and effective dates.

(8) The certificate shall state that the *Covered Person* may inspect a copy of the policy.

C. COVER PAGE OR FIRST PAGE

(1) The full corporate name, including city and state of the insurance company shall appear in prominent print on the cover page or first page of the policy and the certificate.

(2) A marketing name or logo may also be used on the cover page or first page of the policy and certificate provided that the marketing name or logo does not mislead as to the identity of the insurance company.

(3) The insurance company's complete mailing address for the home office or the office that will administer the benefit provisions of the policy shall appear on the cover page or first page of the policy and the certificate. The cover page or first page of the policy and the certificate shall include a telephone number of the insurance company or, if available, some method of Internet communication.

(4) The telephone number of the insurance department of the state where the policy is delivered or issued for delivery is required on either the cover page or first specifications page of the certificate.

(5) Two signatures of insurance company officers shall appear on the cover page of the policy.

(6) A form identification number shall appear at the bottom of the form in the lower left hand corner of the policy and certificate. The form number shall be adequate to distinguish the form from all others used by the insurance company. The form number shall include a prefix of ICCxx (where xx represents the appropriate year the form was submitted for filing) to indicate it has been approved by the Interstate Insurance Product Regulation Commission.

(7) A brief description shall appear in prominent print on the cover page or first page of the policy or be visible without opening the policy. A brief description shall appear in prominent print on the cover page or first page of the certificate or be visible without opening the certificate. The brief description shall contain at least a caption of the type of

coverage provided, such as group disability income insurance. The brief description of the policy shall also indicate whether the policy is participating or nonparticipating.

(8) The policy cover page or first page, or specifications page, shall identify:

(a) The name of the *Policyholder*;

(b) The policy number;

(c) The effective date of the policy; and

(d) The jurisdiction in which the policy is issued for delivery, and the policy shall state that the laws of such jurisdiction shall govern the policy.

(9) The certificate may be issued on a named basis or no-name basis.

(a) For named basis certificates, the certificate cover page or first page, or specifications page, shall identify:

(i) The name of the *Policyholder*;

(ii) The *Policyholder*'s policy number;

(iii) The *Policyholder*'s mailing address and telephone number and, if available, some method of Internet communication;

(iv) The name of the *Covered Person*;

(v) The certificate number; and

(vi) The effective date of the *Covered Person's* insurance provided by the certificate; and

(b) For no-name basis certificates, the certificate cover page or first page, or specifications page, shall identify:

(i) The name of the *Policyholder*;

(ii) The policy number;

(iii) The *Policyholder*'s mailing address and telephone number and, if available, some method of Internet communication; and

(iv) The eligibility requirements and the rules for determining the effective date of insurance for *Covered Persons* shall be included in the certificate.

D. SPECIFICATIONS PAGE

(1) The specifications page of the policy and certificate shall include the benefits, amounts, durations, which insurance is contributory and which insurance is noncontributory, and any other benefit data applicable to each class of eligible *Covered Persons*. As an alternative to the completion of a policy specifications page only, the insurance company may attach a sample of each certificate representing each eligible class and its corresponding benefits provided under the policy or refer to the certificates.

(2) If the policy is a participating policy, the policy specifications page shall indicate that the dividends are not guaranteed. However, if the insurance company does not expect to credit dividends, then the policy specifications page shall state that dividends are not expected to be paid.

E. FAIRNESS

The policy and certificate shall not contain inconsistent, ambiguous, unfair, inequitable or misleading clauses, provisions that are against public policy as determined by the Interstate Insurance Product Regulation Commission, or contain exceptions and conditions that unreasonably affect the risk purported to be assumed in the general coverage of the policy and certificate.

§ 3. TERMS AND CONCEPTS

The policy and the certificate shall define certain terms or describe concepts that, as used, will have specific meanings. If the policy or certificate includes the terms or describes the concepts set forth below, the definitions of the terms or descriptions of the concepts shall be consistent with the standards set forth below. The actual terms or concepts may vary as long as the language used to define the actual terms or describe the concepts is consistent with the standards set forth below. The insurance company may identify defined terms or concepts by initial capitalization, italicizing, bolding or other form of highlighting. The plural use of terms defined in the singular shall share the same meaning.

(1) "***Actively at Work or Active Work"*** means that a *Covered Person* is performing all of the *Substantial and Material Duties* of the *Covered Person's Job, Occupation* or *Specialty*, as applicable, for at least the number of hours required for coverage eligibility. This may be done at the *Policyholder*'s place of business, an alternate place approved by the *Policyholder*, or a place to which the *Policyholder*'s business requires the *Covered Person* to travel. A *Covered Person* will be deemed to be *Actively at Work* on weekends or *Policyholder* approved vacations, holidays or temporary business closures if the *Covered Person was Actively at Work* on the last scheduled work day preceding such time off. As used in this definition/concept, 'temporary business closure' shall include temporary closure required for reasons such as inclement weather, power outage, public health agency orders.

(2) ***"Activities of Daily Living (ADL's)"*** means at least *Bathing, Continence, Dressing, Eating, Toileting* and *Transferring.*

(3) ***"Bathing"*** means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.

(4) "***Benefit Period***" means, subject to satisfaction of all certificate terms and conditions by a *Covered Person*, the length of time for which a *Disabled Covered Person* can be paid periodic income benefit amounts under the certificate. A certificate shall provide for at least 4 weeks of periodic income benefits for short term disability plans, and 12 months of periodic income benefits for long term disability plans.

(5) "***Certificate Anniversary***" means the specified period of time (such as one year) following the effective date of the certificate, and each subsequent period.

(6) "***Certificate Month***" The first *Certificate Month* begins on the effective date of the certificate. Subsequent C*ertificate Months* will begin on the same day of each subsequent calendar month.

(7) "***Child****"* shall include any children of a civil union, domestic partnership, marriage or other family or domestic relationship where required by laws of the state where the policy is delivered or issued for delivery. The term may include a *Covered Person's* biological/natural children, adopted children, children placed for adoption, and other children in whose lives the *Covered Person* has an insurable interest. The limiting age for a child will be specified in the appropriate benefit sections that provide benefits for a child.

(a) Any or all of the following conditions may also be included for the definition of "*Child*":

(i) That the *Child* shall be unmarried or not in a legally-sanctioned domestic partnership or civil union as recognized by applicable state law in the state where the policy is delivered or issued for delivery;

(ii) That the *Child* shall reside with the *Covered Person*;

(iii) That the *Child* shall be supported by the *Covered Person*, whether in whole or in part;

(iv) That the *Child* shall be eligible to be claimed by the *Covered Person* for federal income tax purposes;

(v) That the *Child* shall not be on full-time active duty in the armed forces of any country or subdivision thereof;

(vi) That the *Child's* legal residence shall not be outside the United States, its territories or possessions, or Canada; and/or

(vii) That the *Child* shall not be insured under the policy in any other capacity, such as an *Employee*;

(b) Beginning at age 19, the following conditions may also be included:

(i) A condition that the *Child* not be employed on a *Full-Time* basis; and/or.

(ii) A condition that the *Child* be a full-time student at a school, college or university (an accreditation requirement and/or a requirement that the school, college or university is licensed in the jurisdiction where it is located may also be included); coverage may also be extended to part-time students of such institutions and/or a *Child* in the service of a non-profit organization during the period of such service.

For purposes of this subparagraph (ii) above, the terms "full-time" and "part-time" may be defined based on credit or course load requirements; and

(c) If the policy and certificate are delivered or issued for delivery in different states, the certificate shall, if required, comply with the applicable marriage laws, including marriage case law, of the state where the certificate is delivered or issued for delivery and, if required, with the applicable domestic partnership and civil union laws of such state, with respect to coverage available for marital relationships, domestic partnerships, or civil unions.

(8) ***"Conditionally Renewable"*** means that renewal of the policy is based on certain conditions, which shall be clearly described in the policy.

(9) ***"Cognitive Impairment"*** means a deficiency in a *Covered Person's or Spouse's* short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(10) ***"Contagious Disease(s)"*** means a condition that the Division of Communicable Disease Control of the Centers for Disease Control and Prevention works to promptly identify, prevent and control. This includes infectious diseases that pose a threat to public health, including emerging and re-emerging infectious diseases, vaccine preventable agents, bacterial toxins, bioterrorism and pandemics. If an insurance company will not cover all such *Contagious Diseases*, the certificate shall specify which *Contagious Diseases* will be covered.

(11) ***"Continence"*** means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

(12) "***Contribution***" means the amount the *Policyholder* may require a *Covered Person* to pay towards the total *Premium* that the insurance company charges for the insurance provided under the policy.

(13) "***Contributory Insurance***" means insurance for which the *Policyholder* requires a *Covered Person* to pay any part of the *Premium*. The certificate shall specify which insurance is contributory.

(14) "***Cost of Living Index***" means an index used to measure the rate of change over time of the cost of living, such as the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor. The index shall be specified in the certificate. The certificate shall state that if any index is discontinued or if the calculation of any index is changed substantially, the insurance company may substitute a comparable index subject to approval by the Interstate Insurance Product Regulation Commission. The approval shall be contingent on the insurance company providing the Interstate Insurance Product Regulation Commission with either confirmation that the index has been discontinued or documentation of the substantial change to the index and the reasons supporting the need for the index to be discontinued. The certificate shall also state that, before a substitute index is used, the insurance company shall notify the *Covered Person* of the substitution.

If the index is temporarily delayed, the insurance company may compute the value of any benefits due during the period the index is unavailable using any method that takes into consideration the most recently available information with respect to the index. Once the index becomes available, the insurance company shall adjust any future benefits payable to reflect any benefit overpayments or underpayments made while the index was unavailable.

(15) "***Covered Person***" means each person insured under the group policy as defined by the *Policyholder*. ~~*Covered Person* shall be all of the *Employees* of the employer, or all of any class or classes thereof. The policy may define *"Employees*" to include:~~

~~a) The *Employees* of one or more subsidiary corporations;~~

~~b) The *Employees*, individual proprietors and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporations, proprietorships or partnerships is under common control;~~

~~c) The retired *Employees*, or former *Employees* of a *Policyholder*/employer;~~

~~d) The directors of a corporate *Policyholder*/employer; and~~

~~e) For a policy issued to insure the employees of a public body, elected or appointed officials.~~

~~*Covered Person* does not include third party administrators, associations, discretionary trusts and other groups where there is not a direct working relationship with the policyholder~~.

(16) ***"Critical Illness"*** means any of the following:

(a) Major trauma or disease resulting in quadriplegia or paraplegia;

(b) End-stage kidney disease requiring dialysis;

(c) Major organ transplant limited to heart, lung(s), liver, kidney, intestines, or pancreas;

(d) Heart attack defined as the death of a portion of the heart muscle as a result of blockage of one or more coronary arteries. The diagnosis is based on the criteria of history of acute chest pain concurrent with EKG changes consistent with new injury, elevation of cardiac enzymes, and in-patient admission to a hospital or acute care facility for evaluation or treatment for heart attack or complications;

(e) Stroke or brain attack defined as any acute cerebrovascular event caused by infarction of brain tissue, brain hemorrhage or embolism (clot) to the brain. Objective evidence of permanent neurological deficit must be produced. Conditions not covered by this definition include, but are not limited to transient ischemic attacks (TIAs);

(f) Cancer defined as a disease manifested by the presence of a malignancy characterized by uncontrolled growth and spread of malignant cells. The term cancer also includes leukemia, lymphoma, Hodgkin's Disease and invasive malignant melanomas but excludes:

(i) Stage 1 Hodgkin's disease;

(ii) Stage A prostate cancer;

(iii) Pre-malignant lesions, benign tumors or polyps;

(iv) Cancer-in-situ, including melanoma-in-situ; and

(v) All other skin cancers; or

(g) Any other illness or disease specified in the certificate.

(17) "***Dependent***" means a *Covered Person's Child(ren)* and/or *Spouse.*

(18) "***Disability***" or "***Disabled***" means that due to *Injury* or *Sickness*, a *Covered Person* meets *Disability* benefit triggers specified in the certificate.

(a) As stated in §4.O. of these standards, a *Disability* income certificate shall provide a benefit for at least *Total Disability*. In addition to the *Total Disability* benefit,

and at the insurance company's option, a *Disability* income certificate may or may not provide coverage for any one or more of the other *Disability* benefit triggers shown below;

(b) If *Total Disability* and an additional *Disability* benefit, such as *Partial Disability* or *Residual Disability* benefit, are included in the certificate, the certificate shall specify if such additional *Disability* benefit triggers may only apply after a specified period of *Total Disability* benefits have been paid under the certificate, or if such benefit triggers shall apply as soon as the *Covered Person* meets such benefit triggers;

(c) A certificate may specify that the *Total Disability* requirements will apply for a specified period of time, after which other benefit triggers shall apply. In this case, the certificate shall specify the period of time for which the *Total Disability* requirements shall apply and one or more of the other benefit triggers that would apply after the end of the specified period for Total *Disability*. (For example, a certificate would include a *Total Disability* benefit with the specified triggers in item (57) for the first 24 months of *Total Disability*, and specify *Activities of Daily Living* deficiency or *Cognitive Impairment Disability* benefit triggers thereafter.);

(d) The additional *Disability* benefit triggers are:

(i) *Partial Disability* or *Residual Disability*;

(ii) *Presumptive Disability*;

(iii) A *Covered Person* is terminally ill with a life expectancy of 12 months or less, as certified by a *Physician*;

(iv) A *Covered Person* is unable to perform a specified number of the following six *Activities of Daily Living: Bathing, Dressing, Toileting, Transferring, Continence* or E*ating.* The insurance company shall not require this benefit trigger to require the inability to perform more than two *Activities of Daily Living*;

(v) A *Covered Person* is C*ognitively Impaired*, suffering significant and irreversible deterioration or loss of intellectual capacity, as measured by clinical evidence and standardized tests commonly accepted for use in the medical community;

(vi) A *Covered Person* is confined as an inpatient in a Skilled Nursing Home or *Rehabilitation* Facility where a daily room and board charge is made;

(vii) A *Covered Person* is receiving Home Health Care or Hospice Care;

(viii) A *Covered Person* has an impairment rating above a specified percentage similar to the concept used by Workers' Compensation, as would be specified in the certificate;

(ix) A *Covered Person* is eligible for or receiving Social Security Disability Insurance; or

(x) A *Covered Person* is a risk for transmitting a *Contagious Disease*. A *Covered Person* may be capable, physically and mentally, of performing the *Substantial and Material Duties* described above, but the ability to perform these duties is restricted by a state licensing board or by another appropriate government authority because the risk of transmission of a *Contagious Disease* to others with whom the *Covered Person* may be in contact. In this situation, the *Covered Person* will be considered to be *Disabled* in any month in which the *Covered Person* has a *Contagious Disease* and in which the restrictions stated above prevent the *Covered Person* from earning more than a stated percentage of his monthly pay as specified in the certificate, such as 80%.

(e) If applicable, the certificate shall define the terms "Skilled Nursing Home," "*Rehabilitation* Facility," "Home Health Care" and "Hospice Care" in relation to the level of skill required, the nature of the care and the setting in which care shall be given;

(f) The benefits in triggers (iv), (v), (vi) and (vii) above shall not be advertised, marketed or sold as long-term care insurance and the certificate shall prominently disclose that benefits under the certificate will not be triggered by, or calculated with respect to, occurrence or amount of any long-term care services;

(g) There shall not be a requirement that a *Covered Person* be unable to perform "any *Occupation* or *Specialty* whatsoever," "any duty," or "each and every duty" or words of similar import; and

(h) An insurance company may require, according to standard medical practice:

(i) That a *Covered Person* be under the regular care, treatment and/or attendance by a *Physician* to effectively treat and manage the *Covered Person's Disability;*

(ii) That the regular care, treatment and/or attendance is provided by a *Physician* whose specialty or experience is appropriate for the *Disability*; and

(iii) That the regular care, treatment and/or attendance be appropriate for the Disability in conformance with standards medical practice.

(iv) If it is determined by standard medical practice that a *Covered Person's Disability* does not require frequent or regular care, treatment and/or attendance by a *Physician,* then neither will the insurance company.

(19) ***"Dressing"*** means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

(20) ***"Eating"*** means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

(21) "***Eligible Survivor***" means a *Covered Person's Spouse,* if living; if not living, a *Covered Person's Children.*

(22) "***Elimination Period***" means, subject to satisfaction of all certificate terms and conditions by a *Covered Person,* the period of time following the onset of *Disability* for which no benefits are payable under the certificate. This period of time will be specified in the certificate. The *Elimination Period* for a long term *Disability* benefits plan may be integrated with the *Benefit Period* of the short term *Disability* benefits plan. For all plans, the *Elimination Period* may be integrated with the period of paid time off, including but not limited to, salary continuation or sick leave available to the *Covered Person,* but shall not require use of accumulated vacation leave. The length of time required to satisfy the *Elimination Period* may, but need not, consist of consecutive units of time. The trigger for the start of an *Elimination Period* shall be commencement of a *Disability* for the *Covered Person* as defined in the certificate. The definition or concept may specify a separate *Elimination Period* for *Injury* and a separate *Elimination Period* for *Sickness***.**

(23) "***Employee***" means a person defined as such by the *Policyholder*. Other terminology may be used provided it is allowed under applicable law in the state where the policy or certificate is delivered or issued for delivery and the term fairly aligns the interests between the Policyholder and Certificateholder.

(24) "***Enrollment Form***" means any form used to enroll for insurance benefits under a group policy.

(25) ***"Family Member"*** means a person who can be claimed as a dependent for federal tax purposes by a *Covered Person*.

(26) "***Full-Time***" means *Active Work* on the policyholder's regular work schedule for the class of *Covered Persons* to which a *Covered Person* belongs. The work schedule must be at least a specified period of time (such as 30 hours a week).

(27) "***Guaranteed Renewable***" means that the *Policyholder* has the right to continue the policy in force by the timely payment of *Premiums* set forth in the policy. During such period, the insurance company shall not unilaterally make any change in any provision of the policy while the policy is in force, unless required by law.

(28) ***"Hands-on Assistance"*** means physical assistance (minimal, moderate or maximal) without which a *Covered Person or Spouse*, as applicable, would not be able to perform an *Activity of Daily Living*.

(29) **"*Hospital*"** means an accredited facility supervised by one or more *Physicians* and operated under state and local laws. The facility must have 24-hour nursing services by registered graduate nurses. The facility may specialize in treating alcoholism, drug addiction or chemical dependency or mental disease, but it cannot be a rest home, convalescent home, or a home for the aged, or a facility primarily affording custodial, educational or rehabilitative care.

(30) "***Injury***" means bodily injury resulting from an accident, independent of disease, and not related to any other cause. The insurance company may indicate that the *Injury* shall be sustained independent of *Sickness*. The definition or concept shall not use words such as "external, violent, visible wounds" or similar words of characterization or description. The definition or concept may state that the *Disability* shall have occurred within a specified period of time (not less than 30 days) of the *Injury*, otherwise the condition shall be considered a *Sickness*.

(31) "***Job"*** means the performance of *Substantial and Material Duties* routinely performed at a required ~~employer~~*Policyholder* location for wage or profit.

(32) "***Mental or Nervous Disorder***" shall be no more restrictive than those classified in the Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association (APA), most current version as of the start of a *Disability*. If the DSM is replaced by the APA, these disorders will be those classified in the diagnostic manual then in use by the APA as of the start of a *Disability*. At the discretion of the insurance company, the definition or concept may refer to: 1. disorders listed in the DSM, or 2. only certain disorders listed in the DSM. If the APA no longer publishes a diagnostic manual or the APA ceases to exist, the insurance company may substitute a comparable diagnostic manual subject to approval by the Interstate Insurance Product Regulation Commission before use of the comparable diagnostic manual.

Drafting Note: The insurance company shall have the ability to exclude certain DSM disorders from the definition or concept. Inclusion or exclusion of DSM disorders may expand or restrict coverage for the *Covered Person*. When inclusion or exclusion of DSM disorders restricts coverage, such restrictions shall be consistent with the Interstate Insurance Product Regulation Commission standards for the exclusions and limitations sections of the certificate.

(33) ***"Noncancellable"*** means that the renewal cannot be declined for reasons other than for fraud, material misrepresentation or failure to pay the renewal *Premium*, nor can rates be revised by the insurance company.

(34) "***Noncontributory Insurance***" means insurance for which the *Policyholder* does not require a *Covered Person* to pay any part of the *Premium*.

(35) "***Occupation***" means a group of *Jobs* or related *Jobs* in the national economy or marketplace, as appropriate, in which a common list of tasks is performed, or which are related in terms of similar objectives or methodologies and which may be related in terms of materials, products, work actions or worker characteristics.

Drafting Note: If the certificate includes the terms "any *Occupation*," or similar term, the certificate shall define this term accordingly.

(36) ***"Optionally Renewable"*** means that the renewal is at the option of the insurance company.

(37) "***Partial Disability***" ***or "Residual Disability***" means that, due to an *Injury or Sickness*, a *Covered Person:*

(a) is unable to perform the *Substantial and Material Duties* of the work-related tests prescribed in the terms/concepts of *Regular Job, Regular Occupation, Regular Specialty*, or any other *Occupation* for which the *Covered Person* is qualified by reason of education, training or experience, as applicable; and

(b) is in fact engaged in work for wage or profit.

The certificate may require the *Covered Person* to satisfy a specified earnings loss related test, based on a percentage of the *Covered Person's Pre-Disability Earnings* and/or a work hour related test. Such tests may be in addition to items (a) and (b) above, or may be alternatives to item (a) above.

The certificate may require the *Covered Person* to be *Totally Disabled* for a specified period of time before the *Covered Person* may be considered *Partially Disabled* or *Residually Disabled* under the terms of the certificate. The specified period of time may be less than, equal to or greater than the *Elimination Period.*

(38) "***Physician***" means a person legally licensed to practice medicine or psychology and acting within the scope of his or her license, or a health care practitioner who is legally licensed, and is acting within the scope of his or her license, to treat an *Injury* or *Sickness* causing *Disability*. The definition or concept may exclude a *Covered Person*, any person related to the *Covered Person* by blood or marriage, any person who shares a significant business interest with the *Covered Person*, or any person who is the *Covered Person's* partner in a legally sanctioned civil union, domestic partnership, marriage or other family or domestic relations law.

(39) "***Policy Anniversary***" means the specified period of time (such as one year) following the effective date of the policy, and each subsequent period.

(40) "***Policy Month***" The first policy month begins on the effective date of the policy. Subsequent policy months will begin on the same day of each subsequent calendar month.

(41) ***"Pre-Disability Earnings"*** means certain income earned or received by a *Covered Person* from the *Policyholder* before the onset of *Disability.* The certificate shall identify the various income sources and/or components that are to be considered *Pre-Disability Earnings*. The certificate shall also identify the date on which, or the periods of time for which, the various income sources and/or components are to be determined (such as the last day the *Covered Person* was *Actively at Work*, the end of the last full month that the *Covered Person* was *Actively at Work* before the onset of *Disability*, a *Policy Anniversary*, an average of the prior three calendar years, etc.).

Drafting Note*:* In the case of a particular policy, the specific components of *Pre-Disability Earnings* are negotiated between the *Policyholder* and the insurance company. An example of this term/concept that could work for many *Full-Time Employees* would be basic wages or salary as of the last day worked prior to the onset of a *Disability*, not including bonuses, overtime pay, or commissions, except that an average of commissions received during the prior full calendar year will be included. Where variable compensation such as bonuses, commissions, or overtime pay are included, it is common to calculate an average over a stated prior period of time for the purposes both of benefit calculation and *Premium* payment. For principals of a partnership or proprietorship, examples of sources which may be included would be (1) a monthly average of the amount reported as ordinary income on Schedule K-1 of IRS Partnership Return of Income Form 1065 for the prior full calendar year, (2) the *Covered Person's* share of the business net profit and contributions to a pension and/or profit-sharing plan made by the business on behalf of the *Covered Person*, (3) gross income on the prior year's W-2, or (4) draw or salary received during a stated period of time. Examples are limited only by the complexity of the businesses' compensation arrangements. Items often excluded might include capital gains, dividends, interest, rent, royalties, annuities, other investment income, deferred compensation plan income or other forms of income realized from sources not requiring the *Covered Person's* performance of actual services. Many of these need not be specifically mentioned, because the certificate will specify that it is concerned only with income from the *Policyholder*, for instance, and many of these items will not be earned or received from the *Policyholder*.

(42) "***Preexisting Condition***" means a condition for which symptoms existed that would cause an ordinarily prudent person to seek diagnosis, care or treatment within a specified period of time (such as 1 to 12 months, but not to exceed 24 months) preceding the effective date of the coverage of a *Covered Person*, or a condition, whether diagnosed or not, for which a *Covered Person* received medical advice, consultation, diagnostic testing or treatment, or took or was prescribed drugs or medications within a specified period of time (such as 1 to 12 months, but not to exceed 24 months) preceding the effective date of the coverage of the *Covered Person*. The term "coverage of the *Covered Person*" as used in this definition or concept refers to initial coverage amounts and it may also refer to coverage increase amounts. In the case of coverage increase amounts, the time periods in this definition or concept run anew from the effective dates of the increased coverage amounts and apply anew only to the coverage increases.

(43) "***Premium"*** means the amount the *Policyholder* or *Covered Person* shall pay to the insurance company for the insurance provided under the policy as applicable with respect to *Contributory* and *Noncontributory Insurance* requirements under the policy. For direct

billing situations under the policy, a *Covered Person* shall pay the required *Premium* to the insurance company. In all other situations, the *Policyholder* shall pay to the insurance company the amount the policyholder is required to pay and the amounts the *Covered Persons* are required to pay which are collected through payroll deduction.

(44) "***Presumptive Disability***" means that, due to an *Injury* or *Sickness*, a *Covered Person* suffers a total and permanent loss of one or more of the following body functions:

(a) Speech;
(b) Hearing;
(c) Sight; or
(d) Use of a limb.

Total and permanent loss of any one of these body functions shall be sufficient to trigger any benefits based upon *Presumptive Disability*.

Although the above benefit triggers are the predominant ones in the marketplace today, some insurance companies may provide *Presumptive Disability* benefits on the basis of other triggers, such as situations where the *Covered Person* is a risk for transmitting a contagious disease. A *Covered Person* may be capable, physically and mentally, of performing the material duties of his or her own *Occupation,* but the ability to perform these duties is restricted by a state licensing board or by another appropriate government authority because the risk of transmission of a contagious disease to others with whom the *Covered Person* may be in contact. In this situation, the *Covered Person* will be considered to have a *Presumptive Disability* in any month in which the *Covered Person* has a contagious disease and in which the restrictions stated above prevent the *Covered Person* from earning more than a stated percentage of his monthly pay as specified in the certificate, such as 80%.

As used in this section, "contagious disease" means asymptomatic but communicable conditions, Hepatitis B that is surface antigen positive, Human Immunodeficiency Virus (HIV), the multi-drug resistant Tuberculosis, and other such conditions as defined by the Centers for Disease Control and Prevention.

The satisfaction of the *Presumptive Disability* tests pre-empts any other *Disability* tests specified in the certificate. This is usually the case for a specified period of time depending on the type of loss for which the *Presumptive Disability* benefits are payable under the certificate.

(45) ***"Progressive Disease(s) or Disorder(s)"*** means a non-infectious disease or disorder of indefinite duration that causes a *Covered Person* to gradually become *Disabled* as the disease or disorder becomes more severe or the symptoms of the disease or disorder become more frequent and impair the *Covered Person's* ability to perform *Substantial and Material Duties* applicable to the *Disability* benefit for which the *Covered Person* would be eligible under the certificate. If an insurance company will not cover all types of

Progressive Diseases or Disorders, the certificate shall specify which *Progressive Diseases or Disorders* will be covered.

(46) "***Proof of Loss***" means written evidence satisfactory to the insurance company that a *Covered Person* has satisfied the conditions and requirements for any benefit described in the certificate. The *Proof of Loss* shall establish:

(a) The nature and extent of the loss or condition;

(b) The insurance company's obligation to pay the claim; and

(c) The claimant's right to receive payment.

(47) "***Recurrent Disability***" means a *Disability* that occurs within a specified period of time immediately following a prior period of *Disability* and which is due to the same or related cause applicable to the prior period of *Disability*. For example, the specified period of time to be shown in the certificate for short term disability plans may be for a period up to 60 days, and for long-term disability plans for a period up to 12 months.

(48) ***"Regular Job"*** means the job that a *Covered Person* was performing on the day before *Disability* begins.

(49) ***"Regular Occupation"*** means the *Occupation* that a *Covered Person* was routinely performing on the day before *Disability* begins.

(50) ***"Regular Specialty"*** means the *Specialty* that a *Covered Person* was performing on the day before *Disability* begins.

(51) "***Rehabilitation***" means a plan that is geared toward aiding a *Covered Person* to better perform his or her *Occupation* or any *Occupation* for which he or she is fitted by reason of education, training or experience.

(52) "***Sickness***" means illness, disease, or complications of pregnancy. If *Disabilities* caused by pregnancy are to be covered under the policy, then *Disability* benefits for a pregnancy will be paid on the same basis as for a *Sickness.*

(53) ***"Specialty"*** means a general specialty or sub-specialty recognized by the American Board of Medical Specialties, the American Bar Association, the state where a *Covered Person's* certificate is issued for delivery, or any other state, as applicable/appropriate.

(54) "***Spouse***" means a *Covered Person's* lawful *Spouse* and any other person required to be covered as the *Covered Person's Spouse* under the civil union, domestic partnership, marriage or other family or domestic relations laws, including the case law, of the state where the policy is delivered or issued for delivery.

If the policy and certificate are delivered or issued for delivery in different states, the certificate shall, if required, comply with the applicable marriage laws, including marriage case law, of the state where the certificate is delivered or issued for delivery and, if required, with the applicable domestic partnership and civil union laws of such state, with respect to coverage available for marital relationships, domestic partnerships, or civil unions.

(a) The term *"Spouse"* may be modified as required by applicable federal law;

(b) The term *"Spouse"* may also be modified to include any person who is in a domestic partnership, civil union or similar relationship whether or not such relationship is legally recognized provided that an insurable interest exists;

(c) Nothing in this definition shall be construed as requiring any insurance company to provide coverage or benefits to any person who is in a domestic partnership, civil union, or similar relationship, or marriage or to their families in a state where such relationships are not legally recognized or the providing of such coverage is not required;

(d) For purposes of determining who may become a *Covered Person*, the term *"Spouse"* may exclude any person who:

(i) Is on full-time active duty in the armed forces of any country or subdivision of any country;

(ii) Legally resides outside the United States, its territories or possessions, or Canada; or

(iii) Is insured under the policy as an *Employee*; and

(e) If the certificate contains exclusions (i) or (ii) above, the certificate shall include a provision notifying the *Covered Person* of their right to end *Spouse* coverage during the period that the *Spouse* is on full-time active duty in the armed forces of any country or subdivision of any country, or the period that the *Spouse* legally resides outside the United States, its territories or possessions, or Canada. The provision shall also include:

(i) The procedure for requesting an end of coverage;

(ii) An explanation of when such coverage will end;

(iii) A statement that *Premiums* for the *Spouse* coverage will not be required once coverage is ended and that any collected, unearned *Premiums* will be refunded; and

(iv) An explanation of the procedure required to reenroll the *Spouse* once full-time active military duty ends, or once the *Spouse* resumes residence in the United States, its territories or possessions, or Canada. The procedure shall not be less favorable than the following:

(A) If re-enrollment for *Spouse* coverage is made within 31 days of the date full-time active military duty ends, or the date the *Spouse* resumes residence in the United States, its territories or possessions, or Canada, the amount of *Spouse* coverage applied for shall be equal to the lesser of the amount that was in effect on the day before coverage ended and the then current maximum amount of *Spouse* coverage available under the plan. Such coverage will take effect as of the date of application, provided that on that date the *Spouse* is not hospitalized, confined at home under a *Physician's* care, or receiving or applying to receive disability benefits from any source. If the *Spouse* is hospitalized, confined to home under a P*hysician's* care, or is receiving or applying to receive disability benefits from any source on such date, such *Spouse* coverage will take effect on the date the *Spouse* is no longer hospitalized, confined or receiving or applying for disability benefits; or

(B) If re-enrollment for *Spouse* coverage is made more than 31 days after the date that full-time active military duty ends, or the date the *Spouse* resumes residence in the United States, its territories or possessions, or Canada, the *Spouse* will be required to submit evidence of insurability satisfactory to the insurance company, and the *Spouse* coverage approved by the insurance company will take effect on the date specified by the insurance company.

(55) "***Substantial and Material Duties***" means the important tasks, functions and operations generally required by the *Policyholder*, or in the national economy or marketplace, as applicable, from those engaged in a *Job, Occupation* or *Specialty* that cannot be reasonably omitted or modified. This term may include a *Covered Person's* ability to work on a regular work schedule for a specified number of hours.

(56) ***"Substantial Assistance"*** means *Hands-on Assistance* or stand-by help required to perform *Activities of Daily Living.*

(57) ***"Substantial Supervision"*** means help from a person who directs and watches over a *Covered Person* who has a *Cognitive Impairment*.

(58) ***"Toileting"*** means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

(59) "***Total Disability***" means that, due to an *Injury* or *Sickness*, a *Covered Person*:

(a) is unable to perform the *Substantial and Material Duties* of the work-related tests prescribed in the terms /concepts of *Regular Job, Regular Occupation, Regular Specialty* or any gainful *Occupation* for which the *Covered Person* is qualified by reason of education, training or experience, as applicable; and

(b) is not in fact engaged in any *Job* for wage or profit.

(60) ***"Transferring"*** means moving into or out of a bed, chair or wheelchair.

§ 4. REQUIRED PROVISIONS

Each policy or certificate, as applicable, shall contain all of the provisions as set forth below. The insurance company may, at its option, substitute for one or more of the provisions below corresponding provisions of different wording approved by the Interstate Insurance Product Regulation Commission as not less favorable in any respect to the *Policyholder* and/or *Covered Person*.

A. CLAIM PROVISIONS

The policy may or may not include the Claim provisions described below, but the certificate shall include the Claim provisions described below.

(1) ***Payment of Benefits***. A provision that the insurance company shall pay benefits at the end of each month, bi-weekly, each week or for a shorter period, as applicable, for which it is liable, after it receives the required *Proof of Loss*. If any amount for which the insurance company is liable is unpaid when *Disability* ends, the insurance company shall pay such amount when it receives the required *Proof of Loss*. The provision shall state that if a claim is paid more than 30 days after an insurance company receives the required *Proof of Loss*, the delayed payment shall be subject to simple interest at the rate of 10% per year beginning with the 31st day after receipt of satisfactory *Proof of Loss*, and ending on the day the claim is paid.

(2) ***To Whom Payable***. A provision that unless otherwise specified in the certificate, the insurance company shall pay all benefits to a *Covered Person*. The provision shall state that if any amount for which the insurance company is liable remains unpaid when the *Covered Person* dies, the insurance company shall pay such amount in accordance with the payment determination rule(s) specified in the certificate. If there are legal impediments to payment of *Disability* benefits under the certificate that depend on the actions of parties other than the insurance company, the insurance company may hold further benefits due until such impediments are resolved and sufficient evidence of the same is provided to the insurance company. Legal impediments to payment may include, but are not limited to, the establishment of guardianships and conservatorships, or the appointment and qualification of trustees, executors and administrators, as applicable. Payment shall be made within 30 days of when the insurance company receives sufficient evidence that the legal impediments are resolved. Delayed payment shall be subject to simple interest at the rate of 10% per year

beginning with the 31st day after receipt of such evidence and ending on the day the claim is paid.

(3) ***Filing a Claim.***

(a) A provision that if a *Covered Person* wants to file a claim, the *Covered Person* must send the insurance company notice of the claim. The provision shall state that the insurance company must have written notice of any insured loss within 30 days after it occurs, or as soon thereafter as reasonably possible. The *Covered Person* can send the notice to the insurance company's home office, to one of its regional group claims offices, or to one of its agents. The insurance company needs enough information to identify the claimant as a *Covered Person.*

(b) A provision that within 15 days after the date of a *Covered Person's* notice, the insurance company will send the *Covered Person* certain claim forms. The forms must be completed and sent to the insurance company's home office or to one of its regional group claims offices. The provision shall state that if the forms are not furnished by the insurance company within 15 days after the giving of such notice, the *Covered Person* shall be deemed to have complied with the requirements as to *Proof of Loss* when the *Covered Person* submits written proof covering the occurrence, character and extent of the loss for which claim is made.

(4) ***Proof of Loss.***

(a) A provision that *Proof of Loss* must be given within 90 days after the end of a *Covered Person's Elimination Period* unless it can be shown that it was not reasonably possible to provide such proof within such time frame and *Proof of Loss* is given as soon as reasonably possible. The provision shall state that failure to furnish *Proof of Loss* within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity of the *Covered Person*, later than one year from the time *Proof of Loss* is otherwise required. If a claim reduction is applicable, such reduction shall be specified in the certificate and shall not exceed 30% of the benefit amount otherwise payable**.**

(b) A provision that continuing *Proof of Loss* must be given as often as the insurance company may reasonably require. The provision may state that continuing *Proof of Loss* must be given within a time period not less than 60 days from the insurance company's request. The insurance company shall not reduce any continuing claim for failure to furnish *Proof of Loss* within the time period required; however, benefit payments may be delayed until the required proof is received by the insurance company.

(c) A provision that a *Covered Person* must provide the insurance company with all of the information it specifies as necessary to determine *Proof of Loss* and decide its

liability. This may include but is not limited to medical records, hospital records, pharmacy records, test results, therapy and office notes, mental health progress notes, medical exams and consultations, tax returns, business records, Workers' Compensation records, payroll and attendance records, job descriptions, Social Security award and denial notices, and Social Security earnings records.

(d) A provision that a *Covered Person* must also provide the insurance company with a written authorization allowing the sources of medical, vocational, occupational, financial, and governmental information to release documents to the insurance company which enables it to decide its liability. The provision may state that if the *Covered Person* does not provide the insurance company with continuing proof of *Disability* and the items and authorization necessary to allow it to determine its liability, the insurance company will not pay the *Disability* benefits specified in the certificate.

(5) ***Right to Examine, Test or Interview***. A provision that the insurance company may ask a *Covered Person* to be examined or tested as often as it requires at any time it chooses. The insurance company may require a *Covered Person* to be interviewed by its authorized representative. The provision shall state that the insurance company will pay third party charges for any exam, test or interview which it requires. The provision may state that if a *Covered Person* fails to attend or fully participate, the insurance company will not pay the *Disability* benefits specified in the certificate.

(6) ***Limit on Legal Action*.** A provision that no action at law or in equity may be brought to recover under the policy until at least 60 days after a *Covered Person* files *Proof of Loss*. The provision shall state that no action can be brought after the applicable statute of limitations has expired, but, in any case, not after 3 years from the date of loss.

(7) ***Unpaid Premium.*** A provision that upon the payment of a claim under a certificate, any *Premium* then due from a *Covered Person* and unpaid may be deducted from the *Covered Person'*s claim payment.

B. CONFORMITY WITH INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION STANDARDS

(1) The policy and certificate shall state that each was approved under the authority of the Interstate Insurance Product Regulation Commission and issued under the Commission standards. The policy and certificate shall also state that any provision of the policy and certificate that on the provision's effective date is in conflict with the applicable Interstate Insurance Product Regulation Commission standards for this product type in effect as of the provision's effective date of Commission policy and certificate approval is hereby amended to conform to the Interstate Insurance Product Regulation Commission standards in effect as of the provision's effective date of Commission policy and certificate approval.

C. CONTINUATION OF GROUP DISABILITY INCOME INSURANCE PROVISIONS APPLICABLE WHEN SUCH INSURANCE IS TRANSFERRED FROM ONE DISABILITY INCOME INSURANCE COMPANY TO ANOTHER

As used in this section, the following definitions apply:

"***Prior Plan***" means the *Policyholder*'s *Disability* income insurance plan under which a person may have been insured on the day before the effective date of the policy.

"***Prior Plan Benefits***" means the *Disability* benefits that would have been paid to a person under the *Prior Plan* had that plan remained in effect and had the person continued to be insured under that plan. An insurance company may also define the term to include the *Policyholder* sponsored individual disability income insurance policies under which a person may have been insured on the day before the effective date of the policy.

(1) The policy may but the certificate shall include the following provisions:

(a) Continuity of Coverage

i) If a person was covered under the *Prior Plan* on the day before the effective date of the policy, that person will be a *Covered Person* under the policy provided that on the policy's effective date such person is *Actively at Work* in an eligible class and meets any other eligibility requirements of the policy.

ii) If a person was covered under the *Prior Plan* on the day before the effective date of the policy, but on the policy's effective date is not *Actively at Work* due to *Disability,* such person will not be eligible to be insured under the policy. However, such person will be covered under the policy for *Prior Plan Benefits* until the earlier of:

A. The date the person returns to *Active Work*; or

B. The end of any continuation or extension period under the *Prior Plan*.

iii) If a person was covered under the *Prior plan* on the day before the effective date of the policy, but on the policy's effective date is not *Actively at Work* due to reasons other than *Disability,* and would otherwise be eligible to become insured under the policy*,* such person will be covered under the policy for *Prior Plan Benefits* until the earliest of:

A. The date the person returns to *Active Work*;

B. The end of any continuation or extension period under the *Prior Plan*; or

C. The date coverage ends under the provisions of the policy.

iv) Any benefits payable under the conditions described above will be:

A. Paid by the insurance company as if the *Prior Plan* had remained in effect; and

B. Will be reduced by any benefits paid or payable by the *Prior Plan*.

(2) The policy or certificate may include the following provisions:

(a) Credit for *Preexisting Conditions* Limitations

The benefits payable under the policy for *Disability* due to a *Preexisting Condition* are limited or excluded unless a *Covered Person* transferring from a *Prior Plan* meets certain requirements. For any *Disability* which would be limited or excluded during the time period to which a *Preexisting Condition* limitation or exclusion applies, the insurance company will credit the *Covered Person* for time periods which were met under the *Prior Plan* by providing the lesser of:

i) The policy's benefits without the *Preexisting Conditions* provision; or

ii) The *Prior Plan's Benefits* (applying the *Prior Plan's Preexisting Conditions* provision, if any) just as if the *Prior Plan* had remained in effect.

If the *Covered Person* is not eligible for *Prior Plan Benefits* or the policy's benefits, no benefit will be paid.

This credit will not apply to persons who were insured under individual *Disability* income insurance policies under the *Prior Plan*, unless such persons provide proof that the individual insurance policy was terminated.

(b) Credit for an *Elimination Period*

For transferred persons who become *Covered Persons* on the effective date of the policy, any time used to satisfy an *Elimination Period* under the *Prior plan* will be credited toward the satisfaction of an *Elimination Period* under the policy, if any. This credit will not apply to persons who were insured under individual *Disability* income insurance policies under the *Prior Plan.*

(c) Credit for *Recurrent Disabilities*

If a *Covered Person* received *Disability* benefits under the *Prior Plan*, and becomes *Disabled* again while insured under the policy, the definition of *Recurrent Disabilities* will be applied just as though the policy had been in effect since the date the *Covered Person* first became *Disabled*. This credit will not apply to persons who were insured under individual *Disability* income insurance policies under the *Prior Plan*.

(d) Credit for the Certificate Incontestability Period

With respect to the amount of coverage under this policy equal to the amount that was in force under a *Prior Plan*, the time insured under the *Prior Plan* for such coverage will be credited toward the incontestability period applicable to such coverage, as specified in the Certificate Incontestability Provision of the certificate.

(e) Late Enrollment

If a person was eligible for coverage under the *Prior Plan* for more than a specified number of days, such as 31 days, but did not enroll for coverage under such *Prior Plan*, and such person wants to be covered under the policy, the person must submit a written application along with the required evidence of insurability satisfactory to the insurance company within 31 days of the effective date of the policy. The person will become a *Covered Person* under the policy on the later of date the persons satisfies all applicable eligibility requirements or the date the insurance company approves the evidence of insurability required for coverage.

D. *CONTRIBUTIONS*

(1) The policy shall include a provision stating that, with regard to *Contributory Insurance,* the maximum amount that a *Covered Person* may be required to contribute to the cost of such insurance shall not exceed the *Premium* charged for the amounts of such insurance.

E. DATA NEEDED

(1) The policy shall include a provision requiring the *Policyholder* to provide the insurance company with all the data needed to compute *Premiums* and administer the terms of the policy.

(2) The provision shall give the insurance company the right to examine the *Policyholder* insurance data at any time.

(3) The provision shall state that if the insurance company or the *Policyholder* makes a clerical error in keeping the data, the *Premiums* and/or benefits will be adjusted according to the correct data. An error will not end insurance validly in effect, nor will it continue insurance validly ended.

F. ELIGIBILITY PROVISIONS

The policy may or may not include the Eligibility provisions described below; if the policy does not, the certificate shall include the applicable Eligibility provisions. If a certificate is issued on a named basis, the certificate shall include the date a *Covered Person's* insurance will end. If a certificate will be issued on a no-name basis, the certificate shall include the Eligibility provisions described below.

(1) The policy or certificate, as applicable, shall contain eligibility provisions describing the eligibility requirements applicable to *Covered Persons* under the policy, including, but not limited to:

(a) ***Eligible Classes***. The provision shall describe the eligible classes for *Covered Persons*;

(b) ***Date Persons Are Eligible for Insurance***. The provision shall describe how this date is determined and specify any waiting period requirements. The waiting period may be defined as a period of continuous membership in an eligible class that a person must wait before the person becomes eligible for insurance (such as 30 days). The period begins on the date the person enters an eligible class and ends on the date the person completes the waiting period. The provision may describe requirements for situations where the person was previously employed with the *Policyholder*;

(c) ***Enrollment Process.*** The provision shall specify the process required for enrolling for *Contributory Insurance* if such insurance is included under the policy. Eligible persons may be required to complete an *Enrollment Form.* Previous *Enrollment Forms* obtained by the *Policyholder* may be accepted by the insurance company. The provision shall also specify if evidence of insurability satisfactory to the insurance company is required and these requirements will be described in the evidence of insurability provision. The provision may also state that the person will be required to authorize payroll deductions for such insurance;

(d) ***Date A Person's Insurance Takes Effect***. The provision shall describe the rules for the date a *Covered Person's Noncontributory* and/ or *Contributory* insurance takes effect, as applicable. The cover page or first page, or specifications page, of the policy or certificate shall specify which insurance benefits are *Contributory* and which are *Noncontributory.* The provision may state that:

(i) If the *Covered Person* is not *Actively at Work* on the date insurance would otherwise take effect, insurance will take effect on the day he resumes *Active Work*. If so stated, the provision shall also state that if the day insurance would normally take effect is not a regular scheduled work day for the *Covered Person,* insurance will take effect on that day if the *Covered Person* is able to do his or her *Regular Job* on that day; or

(ii) If evidence of insurability satisfactory to the insurance company was required for a *Covered Person's* insurance amount, such amount shall take effect on the later of the date the *Covered Person* satisfies all applicable eligibility requirements or the date the insurance company approves the evidence of insurability required for such amount; and

(e) ***Date A Covered Person's Insurance Ends***. The provision shall describe how and when insurance may end for a *Covered Person*. The provisions shall also state that

if the policy ends, this shall not affect a claim otherwise payable under the certificate.

G. ENTIRE CONTRACT

(1) ***Policy Entire Contract Provision.*** The provision shall state that the policy, the *Policyholder*'s application, the certificates, and any riders, endorsements or amendments to the policy and to the certificates shall constitute the entire contract. No document may be included by reference.

(2) ***Certificate Entire Contract Provision***. The provision shall state that the insurance for *Covered Persons* is provided under a contract of group insurance with the *Policyholder*, and that the entire contract with the *Policyholder* includes the policy, the *Policyholder*'s application, the certificates, statement of insurability, and any riders, amendments or endorsements to the policy and to the certificates. No document may be included by reference.

H. EFFECTIVE DATE OF THE POLICY

(1) The policy shall include a provision stating when the policy will take effect.

(2) If the policy is issued as a replacement of a policy previously issued by the insurance company to the *Policyholder*, the provision shall state the fact of the replacement, as well as the policy number and effective date of such previously issued policy.

I. EVIDENCE OF INSURABILITY

(1) The certificate shall include a provision describing the evidence of insurability requirements, if any. If evidence of insurability will be required, the provision shall identify the applicable evidence requirements, such as those:

(a) Specified in the respective eligibility provisions;

(b) For amounts for a *Covered Person* exceeding a specified amount (such as $5,000 of monthly income for *Employees*);

(c) For increases in amounts that exceed a specified amount; and

(d) For *Contributory* amounts if a *Covered Person* was hospitalized within a specified period (such as 90 days) preceding the date the person enrolled for coverage or applied for an increase in coverage.

(2) The cost of providing such evidence shall be borne by the insurance company.

J. GRACE PERIOD

(1) The policy shall include a grace period provision and describe the conditions of the provision.

(a) The provision shall state that each *Premium* due after the effective date of the policy may be paid up to a specified period not less than 31 days after its *Premium* due date (the "grace period");

(b) The provision shall state that the insurance provided under the policy shall stay in effect during the grace period, unless the *Policyholder* has given the insurance company advance written notice of intent to end insurance under the policy in accordance with the terms of the policy;

(c) The provision shall state that if the *Premium* is not paid by the due date, the insurance company shall give written notification to the *Policyholder* that if the *Premium* is not paid by the end of the grace period, the policy will end on the last day of the grace period. If the insurance company fails to give such written notice, the insurance provided under the policy will continue in effect until the date such notice is given;

(d) The provision shall state that the *Policyholder* shall be liable to the insurance company for the payment of a pro rata *Premium* for the time the policy was in force during such grace period;

(e) The provision shall state that if the *Policyholder* replaces the policy with another group policy but does not give the insurance company written notice of intent to end the policy, the grace period provisions of the policy and certificate will apply;

(f) The policy shall state that *Premiums* shall be paid for any grace period, any extension of such period, and any period for which insurance under this policy was in effect and *Premium* was not paid; and

(g) If the *Covered Person* is paying *Premiums* directly to the insurance company, the grace period provision shall be included in the certificate.

(2) The provision may allow that at the request of the *Policyholder*, the insurance company may extend the grace period by giving written notice of such intent to the *Policyholder*. Such notice shall specify the date the policy will end if the *Premium* remains unpaid.

K. INCONTESTABILITY

(1) The policy shall include an incontestability provision for statements made by the *Policyholder* and the certificate shall include an incontestability provision for statements made by *Covered Persons.*

(a) ***Policy Incontestability Provision.*** The provision shall state that:

(i) Any statement made by the *Policyholder* shall be considered a representation and not a warranty;

(ii) The insurance company shall not use such statements to avoid insurance, reduce benefits or defend a claim unless it is included in a written application which has been made a part of the policy;

(iii) The insurance company shall not use such statement to contest disability income insurance after it has been in force for two years from its effective date, or date of last reinstatement, if applicable. However, fraud in the procurement of the policy may be contestable when permitted by applicable law in the state where the policy is delivered or issued for delivery; and

(iv) The statement on which the contest is based shall be material to the risk accepted or the hazard assumed by the insurance company; and

(b) ***Certificate Incontestability Provision.*** The provision shall state that:

(i) Any statement made by a *Covered Person* shall be considered a representation and not a warranty;

(ii) The insurance company shall not use such statements to avoid insurance, reduce benefits or defend a claim unless it is included in a written statement of insurability which has been signed by the *Covered Person* and a copy of such statement of insurability has been given to the *Covered Person* or to the *Covered Person's Eligible Survivor* or personal representative, as applicable;

(iii) The insurance company shall not use a *Covered Person's* statement which relates to insurability to contest disability income insurance, after it has been in force for two years during the *Covered Person's* life. In addition, the insurance company will not use such statement to contest an increase or benefit addition to such insurance, or reinstatement of insurance, if applicable, after the increase, benefit or reinstatement, as applicable, has been in force for two years during the *Covered Person's* life. However, fraud in the procurement of coverage under the policy may be contestable when permitted by applicable law in the state where the certificate is delivered or issued for delivery; and

(iv) The statement on which the contest is based shall be material to the risk accepted or the hazard assumed by the insurance company.

L. MISSTATEMENT OF A COVERED PERSON'S AGE

(1) The certificate shall include a provision for misstatement of a *Covered Person's* age stating that the correct age shall be used to determine if insurance is in effect and, as appropriate, adjust the *Premium* and/or benefits. The insurance company may terminate coverage and refund *Premiums* if the correct age at the time of issue is outside the issue age ranges for the plan in question.

M. PARTICIPATING POLICY

(1) The policy shall include a provision stating whether the policy is participating or non-participating. If the policy is participating in the divisible surplus of the insurance company, then the following shall apply:

(a) The conditions of the participation shall be included in the policy;

(b) The policy shall provide that the insurance company shall annually ascertain and apportion any divisible surplus, beginning not later than the third year;

(c) The policy shall provide that the *Policyholder* may receive any dividend payment in cash or as a reduction in *Premium* payments. Other dividend options may be provided in the policy;

(d) Any dividend or cash payments shall be based on the actual experience of the *Policyholder*, or of a class of *Policyholder*s, or a combination of such experience. Such amounts shall also be based upon an objective formula which is set forth explicitly in writing, is actuarially sound, is uniformly applied and is approved by the insurance company's board of directors.

(e) Any dividend or cash payments may be applied to reduce the *Policyholder*'s part of the cost of the policy, except that the excess, if any, of the *Covered Person's* aggregate *Contributions* for coverage under the policy over the net cost of coverage shall be applied by the *Policyholder* for the sole benefit of the *Covered Persons*.

(f) The policy shall provide for an automatic dividend option if more than one dividend option is provided. If the policy provides for more than one dividend option, the policy shall identify the automatic option;

(g) Any additional supplemental benefits attached to a participating policy, whether or not considered in determining surplus earnings, may not be specially labeled or described as non-participating; and

(h) The policy shall state that any dividend accumulations and the cash value of any paid up dividend additions shall be paid to the *Policyholder* when the policy ends.

N. PAYMENT OF *PREMIUM*

(1) The policy shall contain provisions specifying the requirements for payment of *Premium*, including:

(a) A provision stating that the policy is issued in return for the payment by the *Policyholder* of required *Premiums* in United States dollars;

(b) A provision specifying where *Premium* payments are to be sent, such as to the home office of the insurance company or to a designated administrative office or address;

(c) A provision stating that the first *Premium* is due on and shall be paid by the policy's effective date, or by the end of a specified policy period;

(d) A provision specifying the *Premium* mode and due dates for later *Premiums*, such as monthly, quarterly, semi-annually or annually in advance, or in arrears, as applicable;

(e) A provision stating that the *Premium* due on any *Premium* due date is determined by the total amount of insurance provided by the policy on such date, multiplied by the appropriate *Premium* rate(s) which are in effect subject to any *Premium* adjustment, if applicable;

(f) A provision stating that the insurance company may use any reasonable method to compute *Premiums* due under the policy;

(g) A provision stating how *Premium* will be computed for changes in insurance. For example, for a monthly *Premium* due date, if insurance takes effect after the first of the month, *Premium* may be charged from the first day of the next month;

(h) A provision specifying the insurance company's right to change *Premium* rates for changes which materially affect the risk assumed for the insurance provided under the policy, such as:

(i) When the policy is changed by a rider, endorsement or amendment;

(ii) When a class of eligible persons is added to or deleted from the policy for any reason, including corporate restructuring, acquisitions, spin-off or similar situations;

(iii) When a *Policyholder*'s subsidiary, affiliate, division, branch or other similar entity is added to or deleted from the policy for any reason, including corporate restructuring, acquisitions, spin-off or similar situations;

(iv) There is a significant change in the geographic distribution of *Covered Persons;*

(v) When applicable law or Interstate Insurance Product Regulation Commission standard requires a change in:

(A) The insurance provided by the policy; and/or

(B) The class of persons eligible under the policy; or

(vi) When a *Premium* due date coincides with or next follows:

(A) A change greater than a specified percentage in the number of *Covered Persons* , such as 20%, since the later of the policy effective date and the last date *Premium* rates were changed; or

(B) A change greater than a specified percentage (such as 20%) in the amount of insurance provided under the policy since the later of the policy effective date and the last date *Premium* rates were changed; and

(i) The policy may include any other payment of *Premium* provisions approved by the Interstate Insurance Product Regulation Commission.

(2) The provision may also allow the insurance company to change *Premium* rates:

(a) On any date on or after the first *Policy Anniversary*, unless there is a specified rate guarantee included in the policy. If the provision allows the insurance company to change *Premium* rates on any date on or after the first *Policy Anniversary*, the provision shall provide that if the insurance company changes *Premium* rates, the insurance company shall give written notice to the *Policyholder* of at least 31 days in advance of such change; and

(b) On any other date agreed to by the insurance company and the *Policyholder*.

(3) The provision shall state that new *Premium* rates will apply only to *Premiums* due on or after the rate change takes effect.

(4) If no *Premium* is due for a *Covered Person* who is entitled to receive group *Disability* income benefits under the certificate, the provision shall so state.

O. REQUIRED *TOTAL DISABILITY* BENEFIT

(1) A *Disability* income policy or certificate shall provide a benefit for at least *Total Disability*. *Disability* income certificates providing benefits only for *Partial, Residual* or *Presumptive Disabilities* or any disabilities less than *Total Disability* shall not be approved by the Interstate Insurance Product Regulation Commission. At the insurance company's option,

a *Disability* income policy or certificate may or may not provide coverage for *Disabilities* in addition to a required benefit for *Total Disability*.

P. SUSPENSION OF COVERAGE WHILE IN MILITARY SERVICE

(1) If the certificate does not provide for continuation of insurance when a *Covered Person* enters military service, the certificate shall state that if a *Covered Person* enters military service, the *Covered Person* shall be entitled to have their coverage suspended and reinstated in accordance with the requirements of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, as amended.

Q. TERMINATION OF INSURANCE UNDER THE POLICY

(1) The policy shall include a provision stating how and when insurance may end under the policy.

(a) The provision may state that the *Policyholder* may end the policy by giving a specified period of at least 31 days of advance written notice to the insurance company. In this case, the policy shall end on the later of:

(i) The date stated in the written notice; or

(ii) The date the insurance company receives the notice;

(b) The provision may state that the insurance company may end the policy for specified reasons, including:

(i) On the date *Premium* is not paid when due, subject to the grace period provisions of the policy;

(ii) On any *Premium* due date, by giving the *Policyholder* a specified period of at least 31 days advance written notice if less than:

(A) A specified percentage (such as 75%) of persons eligible under the policy are insured for *Contributory Insurance*;

(B) 100% of persons eligible under the policy are insured for *Noncontributory Insurance*; or

(C) A specified number of *Covered Persons* (such as 100) are insured under the policy;

(iii) Upon a determination that there is a significant change in the group size, or the occupations or ages of the eligible *Covered Persons* as a result of a corporate transaction such as a merger, divestiture, acquisition, sale or reorganization of the *Policyholder* and/or its *Employees*;

(iv) On any *Premium* due date, by giving the *Policyholder* a specified period (such as 31 days) of advance written notice if the *Policyholder* fails to provide information on a timely basis or perform any obligations required by this policy and applicable law; and

(v) On any *Policy Anniversary*, except during any rate guarantee period, by giving the *Policyholder* a specified period (such as 31 days) of advance written notice; and

(2) The provision shall state that if the policy ends, written notice of this shall be given to all *Covered Persons* as soon as reasonably possible. This provision shall specify whether the insurance company or *Policyholder* is responsible for giving notice.

(3) The provision shall state that if the policy ends, all *Premiums* due shall be paid.

(4) The provision shall state that if the insurance company accepts *Premium* after the date the policy ends, such acceptance shall not act to reinstate the policy. The insurance company shall refund any unearned *Premium* as soon as reasonably possible, but in no event later than 30 days following receipt of the unearned *Premium.* Delayed refund of any unearned *Premium* shall be subject to simple interest at the rate of 10% per year beginning with the 31st day after receipt of the unearned *Premium* and ending on the day the *Premium* refund is issued.

§ 5. *REHABILITATION* PROVISIONS

A. TYPES OF *REHABILITATION*

(1) A certificate may include a *Rehabilitation* provision. If included, the provision may include vocational *Rehabilitation*, medical *Rehabilitation*, or both. Services offered by or through the insurance company may include, but are not limited to:

(a) Assistance in designing a viable *Rehabilitation* plan;

(b) Coordination of physical and medical *Rehabilitation* services;

(c) Financial and business planning assistance;

(d) Vocational evaluation and transferable skills analyses;

(e) Career counseling and retraining;

(f) Labor market surveys and job placement services; and /or

(g) Evaluation of necessary worksite modifications and adaptive or durable medical equipment.

B. *REHABILITATION* PROVISIONS IN THE CERTIFICATE

(1) If the certificate includes a *Rehabilitation* provision, the following *Rehabilitation* provisions apply:

(a) The certificate shall specify which *Rehabilitation* services are offered by or through the insurance company;

(b) The certificate may state the extent to which the insurance company is paying the expenses associated with a *Rehabilitation* plan in which a *Covered Person* is participating. If the insurance company requires the *Covered Person* to pay expenses associated with a *Rehabilitation* plan other than ancillary, de minimis expenses such as mileage, internet access or meals, the *Covered Person's* participation in the *Rehabilitation* plan shall be voluntary;

(c) The certificate may state that the insurance company may also provide additional inducements to encourage participation in a plan. For example, it may increase the basic benefit payment for the duration during which a *Covered Person* is participating in a *Rehabilitation* plan, or it may agree to continue payments for a time even after a *Covered Person* has recovered if the *Covered Person* has not yet found work;

(d) The certificate shall state that nonparticipation in a *Rehabilitation* plan shall not affect the insurance company's determination of whether a *Covered Person* is *Disabled.* However, unless the insurance company requires the *Covered Person* to pay expenses associated with a *Rehabilitation* as described in (b) above, an insurance company may include a provision indicating that failure to participate in a *Rehabilitation* plan, without good cause, may result in the reduction or cessation of the *Covered Person's* right to *Disability* benefits, in a manner specified in the certificate. In the determination of "good cause," the certificate shall state that the insurance company shall consider the opinion of the *Covered Person's* treating *Physician* but reserves the right to make the determination based on the medical opinion of a *Physician* retained by the insurance company. In the case of conflicting opinions, adverse determinations are subject to §6H Procedures for Review of a Denial of a Claim; and

(e) The certificate may also include a provision stating that vocational services may be offered to *Spouses* of *Disabled Covered Persons*. If included, the provision shall describe the services offered and the terms and conditions for receiving benefits for such services under the certificate. Subject to the policy terms and conditions, vocational services provided to *Spouses* of *Disabled Covered Persons* will not impact the *Disability* benefits provided to the *Covered Person*.

§ 6. OPTIONAL PROVISIONS

The Interstate Insurance Product Regulation Commission may approve the following optional provisions if the provisions meet the standards as set forth below. The insurance company may, at its option, use a provision of different wording approved by the Interstate Insurance Product Regulation Commission that is not less favorable in any respect to the *Covered Person.* The insurance company may include in the certificate one or more of these optional provisions.

A. ARBITRATION

(1) An arbitration provision may be included in the policy or certificate. If included, the provision shall permit only voluntary post-dispute binding arbitration. With respect to such a provision, the following guidelines apply:

(a) Arbitration shall be conducted in accordance with the rules of the American Arbitration Association ("AAA"), before a panel of 3 neutral arbitrators who are knowledgeable in the field of disability income insurance and appointed from a panel list provided by AAA;

(b) Arbitration shall be held in the city or county where the *Policyholder* is located or where the Covered Person lives;

(c) The cost of arbitration shall be paid by the insurance company, to include any deposits or administrative fee required to commence a dispute in arbitration, as well as any other fee including an arbitrator's fee; and

(d) Where there is an inconsistency between these guidelines and AAA rules, these guidelines control.

B. ASSIGNMENT OF BENEFITS

(1) The certificate may include a provision allowing the *Covered Person* whose claim for benefits has been approved to assign the benefits payable under the certificate.

C. AUTHORITY

(1) The policy and certificate may state that the *Policyholder* has delegated to the insurance company and understands that the insurance company reserves the right to make determinations regarding the eligibility for participation or benefits and to interpret the terms of the policy and certificate for the purpose of administering the terms of the policy and certificate.

D. CONTINUATION OF GROUP *DISABILITY* INCOME INSURANCE

(1) The policy may allow for continuation of insurance if group *Disability* income insurance would otherwise end, at the option of the insurance company. If continuation is provided, the continuation shall be provided on a uniform basis precluding individual selection. The provisions describing the continuation may be included in the policy but shall be included in the certificate. The provisions may also be added to the policy or the certificate by rider, endorsement or amendment. The provisions shall also specify the *Premium* requirements for continuation.

(2) Continuation of insurance may be provided for situations specified in the certificate. The situations may include, but are not limited to, the following:

(a) While a *Covered Person* is *Disabled*, up to the maximum *Benefit Period* specified in the certificate;

(b) While a *Covered Person* is on a family and medical leave as permitted by the federal Family and Medical Leave Act of 1993 (FMLA) or any similar state law*;* or

(c) For *Covered Persons* who cease *Active Work* in an eligible class, continuation of insurance will be provided for the situations specified in the certificate. The situations may include, but are not limited to, the following:

(i) Due to *Injury* or *Sickness* covered under the certificate, up to the period specified in the certificate (such as 12 months);

(ii) Due to *Injury* or *Sickness* not covered under the certificate, up to the period specified in the certificate (such as the end of the calendar month following the cessation of *Active Work)*;

(iii) Due to part-time work, temporary layoff or strike, up to the period specified in the certificate (such as 12 months);

(iv) Due to a *Policyholder* approved leave of absence, up to the period specified in the certificate (such as 12 months); or

(v) Due to military service, up to the period specified in the certificate (such as for the period of service not to exceed 5 years).

(3) The provisions shall state that at the end of a continuation period, if the *Covered Person* resumes *Active Work* in an eligible class, the *Covered Person's* insurance will continue under the policy. If the *Covered Person* does not resume *Active Work* in an eligible class, insurance will end in accordance with the *Date a Covered Person's Insurance Ends* provision.

E. CONVERSION OF GROUP *DISABILITY* INCOME INSURANCE

(1) The policy may allow for conversion of group *Disability* income insurance that ends under the policy, at the option of the insurance company. If conversion is provided, conversion shall be provided on a uniform basis precluding individual selection. The provisions describing such conversion may be included in the policy but shall be included in the certificate. The provisions may also be added to the policy or the certificate by rider, endorsement or amendment. At the option of the insurance company, the provisions give *Covered Persons* who are eligible either the right to buy an individual policy of *Disability* income insurance from the insurance company, or become covered under another group policy that has been issued by the insurance company specifically for, and limited to, providing *Disability* conversion coverage ("conversion coverage").

(a) The provisions shall specify if conversion coverage will be provided under an individual policy of *Disability* income insurance issued by the insurance company, or if coverage will be provided under another group policy that has been issued by the insurance company specifically for, and limited to, providing *Disability* conversion coverage;

(b) The provisions may state that, for maximum benefit amounts less than a specified amount stated in the certificate (such as $4,000), evidence of insurability satisfactory to the insurance company is not required if a *Covered Person* applies for the conversion coverage and pays the required *Premium* and the insurance company receives such application and *Premium* during the specified conversion period of at least 31 calendar days after the date on which group *Disability* income insurance ends. For a maximum benefit amount equal to or in excess of a specified amount in the certificate (such as $4,000), evidence of insurability satisfactory to the insurance company may be required;

(c) The provisions shall describe the situations which may entitle a *Covered Person* to convert if the *Covered Person's* group *Disability* income insurance ends and the *Covered Person* had been insured under the group *Disability* policy for a period of time specified in the certificate (such as 12 months). The situations may include, but are not limited to, the following:

(i) The *Covered Person's* employment ends;

(ii) The *Covered Person's* continuation of insurance, if any, ends; or
(iii) The *Covered Person's* portability coverage, if any, ends;

(d) The provisions shall describe situations which would not entitle a *Covered Person* to convert. The situations may include, but are not limited to, the following:

(i) The policy ends;

(ii) The policy is changed to end *Disability* income insurance for the eligible class to which the *Covered Person* belongs;

(iii) The *Covered Person* is *Disabled*;

(iv) The *Covered Person's* group *Disability* income insurance ended due to nonpayment of *Premium;*

(v) The *Covered Person* applies for the conversion coverage after the expiration of the conversion period;

(vi) The *Covered Person* retires;

(vii) The *Covered Person* becomes insured under another group *Disability* insurance policy within 31 days after insurance ends under this group *Disability* insurance policy; or

(viii) The *Covered Person* has attained an age specified in the certificate (such as age 70 or older) on the date group *Disability* income insurance ends; and

(e) The following conversion provisions shall apply:

(i) The provisions shall state that, if evidence of insurability satisfactory to the insurance company is not required, the insurance company must receive the completed application and required *Premium* within a specified period of at least 31 days after insurance ends (the "conversion period"). If evidence of insurability satisfactory to the insurance company is required, the insurance company must receive a completed application and the required evidence of insurability within the conversion period;

(ii) If conversion is offered to an individual *Disability* income insurance policy, the provisions shall state that:

(A) The conversion policy may be any form then customarily offered by the insurance company;

(B) The *Premiums* for the conversion policy shall be based on the insurance company's rates then in use for the form, the amount of insurance to which the *Covered Person* becomes eligible to convert, and the *Covered Person's* class of risk and attained age when insurance ended;

(C) The conversion policy may be issued without any additional benefits, whether or not such benefits were in effect on the date insurance ended; and

(D) The conversion policy will take effect on the first say after the day that coverage ended; and

(iii) If conversion is offered under another group policy, the provisions shall state that:

(A) A new certificate will be issued under the group policy;

(B) The new certificate will describe the benefits provided;

(C) The *Premiums* for the new certificate shall be based on the insurance company's rates then in use for the group conversion policy, the amount of insurance to which the *Covered Person* becomes eligible to convert, and the *Covered Person's* amount of insurance and attained age when insurance ended;

(D) The new certificate may be issued without any additional benefits, whether or not such benefits were in effect on the date insurance ended;

(E) The application for conversion may include a schedule of *Premiums* and payment instructions, or such schedule and instructions will be included in the application kit; and

(F) For converted amounts of insurance that were not subject to evidence of insurability satisfactory to the insurance company, the new certificate shall take effect on first day after the day that coverage ended under the certificate. For converted amounts of insurance that were subject to evidence of insurability satisfactory to the insurance company, the new certificate shall take effect on the later of (i) the date the insurance company approved the evidence of insurability, or (ii) the first day after the day that coverage ended under the certificate.

F. POLICY AND CERTIFICATE CHANGES

(1) The policy may include a provision which states that the terms and provisions of the policy and certificate may be changed, at any time, without the consent of the *Covered Persons* or anyone else with a beneficial interest in it. If the policy contains such a provision, the provision shall also be included in the certificate.

(a) This provision shall state that the insurance company may issue riders, endorsements or amendments to effect such changes, and these forms are subject to prior approval by the Interstate Insurance Product Regulation Commission;

(b) This provision shall state that the insurance company shall only make changes that are consistent with Interstate Insurance Product Regulation Commission standards;

(c) This provision shall state that a rider, endorsement or amendment shall not affect the insurance provided under certificates until the effective date of the change, unless retroactivity is required by the Interstate Insurance Product Regulation Commission;

(d) This provision shall state that a change or waiver of the terms and provisions of the policy and certificate shall be evidenced by a rider, endorsement or amendment signed by an officer of the insurance company;

(e) This provision may further state that a sales representative, or other employee of the insurance company, who is not an officer of the insurance company does not have the insurance company's authority to approve such changes or waivers; and

(f) This provision shall state that a copy of the rider, endorsement or amendment shall be provided to the *Policyholder* for attachment to the policy, and shall also be provided to the *Certificateholder* for attachment to the certificate if the change affects the certificate.

(2) Any rider, endorsement or amendment added to the policy after the date of issue that diminishes rights, benefits or coverage in the policy shall require signed acceptance by the *Policyholder*.

G. PORTABILITY OF GROUP *DISABILITY* INCOME INSURANCE

(1) The policy may allow for portability of group *Disability* income insurance that ends under the policy, at the option of the insurance company (portability). If portability coverage is provided, portability shall be provided on a uniform basis precluding individual selection. The provisions describing such coverage may be included in the policy but shall be included in the certificate. The provisions may also be added to such policy or certificate by rider, endorsement or amendment.

(a) The provisions shall specify if portability coverage will be provided under the same group policy in a separate class or if coverage will be provided under another group policy that has been issued by the insurance company specifically for, and limited to, providing portability coverage for *Covered Persons* whose coverage ends under ~~a~~*a*~~n employer's~~ *Policyholder's* plan;

(b) The provisions shall state that the portability coverage is available if the certificate is in effect at the time of the event giving rise to a *Covered Person's* eligibility to port coverage, and that portability coverage shall only be available for amounts of group *Disability* income insurance for which no application to convert is pending or has been approved;

(c) The provisions shall specify the maximum amount of group *Disability* income insurance that may be available under the portability option, and the amount ported shall not exceed the *Disability* income insurance amount that was provided under the certificate before the coverage ended or the maximum amount specified in the certificate:

(d) The provisions may state that, for maximum benefit amounts less than a specified amount stated in the certificate (such as $4,000), evidence of insurability satisfactory to the insurance company is not required if a *Covered Person* applies for the portability coverage and pays the required *Premium* and the insurance company receives such application and *Premium* during the specified portability period of at least 31 calendar days after the date on which group *Disability* income insurance ends. For maximum benefit amount equal to or in excess of a specified amount in the certificate (such as $4,000), evidence of insurability satisfactory to the insurance company may be required;

(e) The provisions shall describe the situations which may entitle a *Covered Person* to port if the *Covered Person's* group *Disability* income insurance ends and the *Covered Person* had been insured under the group *Disability* policy for a period of time specified in the certificate (such as 12 months). The situations may include, but are not limited to, the following:

(i) The *Covered Person's* employment ends; or

(ii) The *Covered Person's* continuation of insurance, if any, ends;

(f) The provisions shall describe situations which would not entitle a *Covered Person* to port. The situations may include, but are not limited to, the following:

(i) The policy ends;

(ii) The policy is changed to end *Disability* income insurance for the eligible class to which the *Covered Person* belongs;

(iii) The *Covered Person* is *Disabled*;

(iv) The *Covered Person's* group *Disability* income insurance ended due to nonpayment of *Premium;*

(v) The *Covered Person* applies for the portability coverage after the expiration of the portability period;

(vi) The *Covered Person* retires;

(vii) The *Covered Person* becomes insured under another group *Disability* insurance policy within 31 days after insurance ends under this group *Disability* insurance policy; or

(viii) The *Covered Person* has attained an age specified in the certificate (such as age 70 or older) on the date group *Disability* income insurance ends;

(g) The provisions shall specify the *Premium* payment requirements, such as who has the responsibility to pay the *Premium*, the frequency for such payment, etc.;

(h) If portability coverage is to be provided under another group policy, the provisions shall state that:

(i) A new certificate will be issued under that group policy;

(ii) The new certificate will describe the benefits provided; and

(iii) The new certificate may include a conversion provision that provides for the *Covered Person's* right to convert if portability coverage ends at any time;

(i) If portability coverage is to be provided under the same group policy in a separate class, the certificate may include a conversion provision that provides for the *Covered Person's* right to convert if portability coverage ends at any time; and

(j) The application for portability coverage may include a schedule of *Premiums* and payment instructions, or such schedule and instructions will be included in the application kit; and.

(k) For ported amounts of insurance not subject to evidence of insurability satisfactory to the insurance company, the new certificate shall take effect on first day after the day that coverage ended under the certificate. For ported amounts of insurance subject to evidence of insurability satisfactory to the insurance company, the new certificate shall take effect on the later of (i) the date the insurance company approved the evidence of insurability, or (ii) the first day after the day that coverage ended under the certificate.

H. PROCEDURES FOR REVIEW OF A DENIAL OF A CLAIM

(1) The policy may include a provision for review of denial of a claim. If a *Covered Person* wants a review of a denial of claim, the certificate shall include a provision that the *Covered Person* must request, in writing, a review of the denial of claim within a specified number of days after the *Covered Person* receives notice of the denial. The number of days shall be specified in the certificate.

(2) The certificate shall include a provision that a *Covered Person* has the right to review, upon request and free of charge, copies of all documents, records, and other information relevant to the *Covered Person's* claim for benefits, and the *Covered Person* may submit written comments, documents, records and other information relating to the claim for benefits.

(2) The certificate shall include a provision that the insurance company will review a *Covered Person's* claim after receiving the *Covered Person's* request and send the *Covered Person* a notice of its decision within a specified number of days after the insurance company receives the request, or within another specified period of days if special circumstances require an extension. The number of days shall be specified in the certificate. The insurance company will state the reasons for its decision and refer the-*Covered Person* to the relevant provisions of the policy. The insurance company will also advise the *Covered Person* of the *Covered Person's* further appeal rights, if any.

Drafting Note: IIPRC approval does not imply compliance with ERISA requirements. Determination of ERISA compliance is outside the scope of the IIPRC review.

I. REINSTATEMENT

(1) The policy may include a provision regarding reinstatement of the policy in the event the grace period has elapsed for nonpayment of *Premiums.* If included, the provision shall describe the conditions of the reinstatement of the policy.

J. SUBROGATION RIGHTS

(1) The policy may include a provision that if the insurance company has paid or will pay group *Disability* income benefits under the certificate in connection with a *Disability* which a *Covered Person* suffered because of an act or omission of a third party, the insurance company reserves any and all rights of recovery available to the insurance company under applicable law in the state where the policy is delivered or issued for delivery that the *Covered Person* has against the third party to the extent necessary to protect the insurance company's interest. The insurance company has the right to bring legal action against the third party on the *Covered Person's* behalf to recover ~~its~~ payments made by the insurance company. The *Covered Person* must agree to furnish all information and documents that are necessary to secure those rights to the insurance company. The insurance company will pay for any expenses connected with its pursuit of subrogation or recovery.

(2) Subject to limitations under applicable law in the state where the policy is delivered or issued for delivery, if a *Covered Person* makes any recovery of amounts from the third party, the amount of the *Covered Person's* recovery which is subject to the insurance company's subrogation interest must be paid to the insurance company.

(3) If a certificate includes both this subrogation right and the right to reduce benefits or income on account of amounts received, minus legal fees incurred, for disability income from third party settlements, the certificate shall state that, with regard to any specific claim, if the insurance company elects subrogation, the insurance company will not be permitted to reduce a *Disability* benefit on account of other benefit or income by any amount received from any third party settlement for that same claim.

§ 7. PERMISSIBLE LIMITATIONS OR EXCLUSIONS

The Interstate Insurance Product Regulation Commission may approve the following limitations or exclusions if they meet the standards set forth below. The insurance company may include in the certificate one or more of these limitations or exclusions.

A. AVIATION

(1) *Disability* that results from travel in or descent from an aircraft other than as a fare-paying passenger on a scheduled or charter flight operated by a scheduled airline may be limited or excluded. "Aviation" may also include travel in an aircraft or device used for testing or experimental purposes, used by or for any military authority, or used for travel beyond the earth's atmosphere.

B. AERONAUTICS

(1) *Disability* that results from hang-gliding, skydiving, parachuting, ultralight, soaring, ballooning and parasailing may be limited or excluded.

C. CHEMICAL DEPENDENCY

(1) Subject to the applicable law in the state where the policy is delivered or issued for delivery, *Disability* that results from alcoholism or drug addiction may be limited or excluded. If coverage is to be limited, coverage shall be provided for a period specified in the certificate, not less than 12 months or the maximum *Benefit Period,* whichever is less.

D. COSMETIC SURGERY

(1) *Disability* that results from cosmetic surgery may be limited or excluded. However, cosmetic surgery shall not include reconstructive surgery when the surgery is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part and reconstructive surgery because of congenital disease or anomaly resulting in a functional defect.

E. DISABILITY NOT VERIFIABLE BY OBJECTIVE MEDICAL MEANS

(1) *Disability* that results from an *Injury* or *Sickness* not verifiable by *Objective Medical Means* may be limited to a period specified in the certificate, not less than 12 months or the maximum *Benefit Period*, whichever is less. The policy shall not exclude coverage for such *Disabilities*. An *Injury* or *Sickness* is considered not verifiable by objective medical means if it cannot be confirmed by medically acceptable clinical or laboratory diagnostic techniques. As used in this item, "*Objective Medical Means*" means medical evidence consisting of signs, symptoms, and laboratory findings. A diagnosis based solely on a *Covered Person's* statement of symptoms will not be considered *Objective Medical Means* of verifying an *Injury* or *Sickness*.

F. SPECIFIED CONDITIONS

(1) *Disability* that results from specified conditions may be limited to a period specified in the certificate of not less than 12 months or the maximum *Benefit Period*, whichever is less. The policy shall not exclude coverage for such *Disabilities*. The specified conditions may include any one or more of the following: fibromyalgia; chronic fatigue syndrome; myofacial pain syndrome, environmental allergic illness, including but not limited to sick building syndrome and multiple chemical sensitivity; carpal tunnel syndrome not requiring surgery; musculoskeletal and connective tissue disorders of the neck, shoulder and back, including any disease or disorder of the cervical, thoracic and lumbosacral back and its surrounding soft tissue, including sprains and strains of joints and adjacent muscles.

The limitation shall not apply to the following conditions: scoliosis, spinal fractures, osteopathies, traumatic spinal cord necrosis, radiculopathies documented by an electromyogram, spondylolisthesis grade II or higher, myelopathies and myelitis, demyelinating diseases, and spinal tumors, malignancies or vascular malformations.

G. DISABLED *COVERED PERSON* RESIDING OUTSIDE THE UNITED STATES, TERRITORIES OR POSSESSIONS OF THE UNITED STATES OR CANADA, AS APPLICABLE (the "Specified Area")

(1) If a *Disabled Covered Person* is determined to be residing outside the Specified Area, benefits for such *Disability* may be limited, suspended or excluded. If this benefit limitation, suspension or exclusion is included in a certificate, the limitation, suspension or exclusion shall apply whether or not the *Covered Person* is employed by the *Policyholder*, and whether or not the *Disability* began while residing outside the specified area. For a suspension, the certificate shall state that upon return to the specified area, a *Disabled Covered Person* may re-apply for benefits under the certificate.

H. COURSE AND SCOPE OF EMPLOYMENT

(1) *Disability* that results from a *Covered Person's* course and scope of employment may be limited or excluded.

I. FELONY

(1) *Disability* that results from the *Covered Person's* commission of or attempt to commit a felony may be limited or excluded.

J. ILLEGAL OCCUPATION OR ACTIVITY

(1) *Disability* that results from the *Covered Person's* being engaged in an illegal occupation or activity may be limited or excluded.

K. INCARCERATION

(1) *Disability* benefits may be limited, suspended or excluded during a period of legal incarceration in a penal or correctional institution.

L. INTOXICANTS

(1) Subject to the applicable law in the state where the policy is delivered or issued for delivery, *Disability* that results from the *Covered Person's* legal intoxication defined by state law where the *Disability* occurs may be limited or excluded.

M. VOLUNTARY INTAKE OF NARCOTICS OR OTHER CONTROLLED SUBSTANCES

(1) Subject to the applicable law in the state where the policy is delivered or issued for delivery, *Disability* that results from the voluntary intake of narcotics or other controlled substances, unless administered on the advice of a *Physician*, may be limited or excluded.

N. VOLUNTARY INTAKE OF POISON, GAS OR FUMES

(1) *Disability* that results from voluntary intake of poison, drugs or fumes, unless a direct result of an occupational accident, may be limited or excluded.

O. *MENTAL OR NERVOUS DISORDERS*

(1) Subject to the applicable law in the state where the policy is delivered or issued for delivery, *Disability* that results from *Mental or Nervous Disorders* may be limited or excluded. If coverage is to be limited, coverage shall be provided for a period specified in the certificate, not less than 12 months.

P. NORMAL PREGNANCY OR CHILDBIRTH

(1) *Disability* that results from normal pregnancy or childbirth may be excluded. Such limitation or exclusion shall not apply to complications of pregnancy as diagnosed by a *Physician*.

Q. *PREEXISTING CONDITIONS*

(1) Any provision included in a certificate limiting or excluding coverage for *Disabilities* arising from *Preexisting Condition*s shall clearly define the limitation or exclusion and disclose such limitation or exclusion in the certificate.

R. RECREATIONAL ACTIVITY (AVOCATION, HOBBY, SPORT)

(1) *Disability* that results from one or more of the following recreational activities may be limited or excluded: motor sports events, racing, speed or endurance contest (auto, truck, cycle, boat), rock or mountain climbing, skin or scuba diving or bungee jumping. The certificate may also limit or exclude *Disability* that results from a *Covered Person's* participation in any sport for wage, compensation or profit.

S. SUICIDE

(1) *Disability* that results from attempted suicide or intentionally self-inflicted injury may be limited or excluded.

T. WAR, RIOT, INSURRECTION OR TERRORIST ACTIVITY

(1) *Disability* that that results from one or more of the following may be limited or excluded as follows:

(a) Declared or undeclared war or act of war;

Drafting Note: Insurance companies may consider additional language and in that case the Interstate Insurance Product Regulation Commission shall use the following guidelines: Declared or undeclared war or act of war is understood to be military activity by one or more national governments and does not include terrorist acts, other random acts of violence not perpetrated by the *Covered Person*, or civil war or community faction. Civil activity as a whole cannot be excluded, except for direct participation or instigation by the *Covered Person*.

(b) Participation in a riot, insurrection or terrorist activity; or

Drafting Note: Insurance companies may consider additional language and in that case the Interstate Insurance Product Regulation Commission shall use the following guidelines: exclusion for riot, insurrection or terrorist activity is limited to instigators and those pursuing participation and does not include civil commotion, disorder, injury as an innocent bystander, or injury for self-defense.

(c) Active duty in the armed forces of any nation or international governmental authority or units auxiliary thereto or the National Guard or similar government organizations (except that this limitation or exclusion shall not be construed to deny a *Covered Person* any statutory or regulatory rights to continue or suspend

coverage, as provided in the certificate, while they are serving in the armed forces of any nation or international governmental authority or units auxiliary thereto or the National Guard or similar government organizations. The Continuation of Group Disability Income Insurance and Suspension of Coverage While In Military Service standard of the certificate describes how continuation or suspension of coverage works, as applicable.)

U. WORKERS COMPENSATION

(1) *Disability* benefits may be limited or excluded to the extent that such benefits are covered by workers' compensation.

Drafting Note: The Interstate Insurance Product Regulation Commission will maintain a comprehensive listing of state-specific requirements for those limitations and exclusions listed above that indicate "subject to applicable law in the state where the policy is delivered or issued for delivery," based on information reported by Member States.

§ 8. PROHIBITED LIMITATIONS AND EXCLUSIONS

The following limitations and exclusions are prohibited:

A. COMPLICATIONS OF PREGNANCY

(1) *Disabilities* due to complications of pregnancy as diagnosed by a *Physician* shall not be the subject of a Permissible Limitation or Exclusion.

B. DISCRETIONARY CLAUSES

(1) No policy or certificate may contain a provision:

(a) Purporting to reserve sole discretion to the insurance company to interpret the terms of a policy or certificate; or

(b) Specifying a standard of review upon which a court may review denial of a claim or any other decision made by an insurance company with respect to a Certificateholder.

§ 9. BENEFIT PROVISIONS

A. COST OF LIVING ADJUSTMENT (COLA).

(1) *Disability* income benefits may be adjusted by a COLA factor. If the certificate will include the adjustment, the certificate shall specify to which *Disability* benefits the adjustment will apply. The certificate shall also specify when the COLA period begins and when it ends. The certificate shall also specify the COLA factor that will apply and specify if the factor is based on the *Cost of Living Index* or if it will be a flat percentage. The certificate shall

state that the *Disability* benefits payable to a *Covered Person* when adjusted for a COLA may exceed the *Disability* benefits otherwise payable under the certificate. The certificate shall also specify other certificate benefits or provisions to which the COLA is not applicable.

B. DISABILITY BENEFITS REDUCED ON ACCOUNT OF OTHER BENEFITS OR INCOME

(1) The *Disability* benefits payable under the certificate may be reduced by the following other benefits or income sources from:

(a) Federal Social Security, Canada Pension Plan and the Quebec Pension Plan disability and retirement benefits, the Railroad Retirement Act, including benefits that a spouse or child receives as a result of the *Covered Person's Disability*; if *Disability* begins after the start of a retirement benefit, benefits may or may not be reduced on account of such retirement benefit;

(b) Any benefits under a Workers' Compensation Act (except for medical or death benefits), any federal or state occupational disease or injury law, and income received under the Admiralty and Maritime Law (the Maritime Doctrine of Maintenance, Wages and Cure, the Doctrine of Unseaworthiness and the Jones Act);

Drafting Note: Seamen injured aboard ship have three possible sources of compensation: the Doctrine of Maintenance and Cure, the Doctrine of Unseaworthiness and the Jones Act.

(c) Disability benefits under state disability plans, such as California, Hawaii, New Jersey, New York, Puerto Rico and Rhode Island;

(d) Disability and retirement benefits under a government plan, including but not limited to, state and municipal public employee plans and state teachers plans (PERS/STRS);

(e) Disability and retirement benefits under plans provided by the *Covered Person's Policyholder*, employer or collective bargaining unit, as applicable; this reduction may be limited to employer contributions and some type of retirement plans, such as 401(k), may be excluded;

(f) Another group disability income policy or plan to the extent that such policy or plan covers the same pre-disability income;

(g) Lost income benefits through no-fault vehicle insurance;

(h) Employer salary continuation plan, sick pay, accumulated sick leave, vacation pay, severance, or other similar paid time off plans;

(i) Secondary employment; however, if *Disability* begins after an increase in secondary employment income, the *Disability* benefit may or may not be reduced on account of such increase;

(j) Unemployment compensation;

(k) Individual insurance *Disability* plans to the extent that cumulative benefits payable would exceed *Pre-Disability Earnings*;

(l) Earnings from any work performed; the reduction may be calculated differently for the specified months of a return to work period, such as 12 months, to encourage return to work;

(m) Amounts received, by a *Covered Person* from a third party, minus legal fees, in connection with lost income due to a Disability which the *Covered Person* suffers because of an act of omission of the third party.

i. If the amount received from the third party does not specify the lost income amount, the Company shall estimate the amount using a percentage of the settlement amount based on the *Covered Person's Pre-Disability Earnings*, prorated to cover the period for which the settlement or judgment was made.

ii. If the certificate includes both this right to reduce benefits or income on account of a third party settlement and a subrogation right, the certificate shall state that, with regard to any specific claim, if the insurance company elects to reduce a *Disability* benefit on account of other benefits or incomes for amounts received minus legal fees, for lost income due to a Disability because of an act of omission of the third party, the insurance company will not be permitted to elect subrogation for that same claim;

Drafting Note: If revisions are made to the NAIC Accident and Sickness Insurance Minimum Standards Model Act (#170) or the Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171) or a new Model or Guidance is developed for group disability income products that impacts offset provisions, the Interstate Insurance Product Regulation Commission will revisit Section 9.B(1)(m) of this Uniform Standard.

(n) Amounts received from compromises as a result of a claim for any one of the sources referenced above.

(2) **Basis for Reduction**. The certificate shall specify which reductions will be dollar for dollar and which will be based on a formula specified in the certificate.

(3) **Estimate of Benefits or Income**. The certificate may state that if a *Covered Person* is eligible for other benefits or income, the insurance company reserves the right to reduce the *Disability* benefit available under the certificate as if the *Covered Person* is receiving

such benefits or income. The benefits or income specified in §9.B.(1) reduction shall not be permissible if the *Covered Person* provides evidence of application for benefits and agrees in writing to repay any overpayment. Benefits or income from a retirement plan and lost income benefits from no-fault vehicle insurance or third party settlements shall not be subject to estimation.

(4) **Benefit Adjustment**. The certificate shall state that if the insurance company finds that it should have paid a benefit amount different from the amount actually paid, the insurance company will adjust the benefit accordingly. If the insurance company paid more benefits than it should have, the *Covered Person* shall reimburse the insurance company accordingly. Any future benefits that are determined to be due, including any applicable minimum benefit, will be applied to the overpayment until the insurance company is reimbursed in full.

(5) **Lump Sum Payments**. The certificate shall state that if a *Covered Person* receives benefits or income in a lump sum, the insurance company will pro-rate the benefits or income over the time in which it accrued, based on the information received from the source of the lump sum payment. If the insurance company does not receive such information, the insurance company shall pro-rate the lump sum payment according to its nature and purpose.

(6) ***Disability* Benefit Freeze**. The certificate shall state that the insurance company shall not reduce a *Covered Person's Disability* benefit further if the benefit or income, from any source, other than this certificate, changes because of a cost of living increase that occurs automatically or by law after the *Covered Person* satisfies the *Elimination Period*.

(7) **Minimum *Disability* Benefit after Reduction**. The certificate may state that reductions specified above will not result in a *Disability* benefit payment under this certificate for less than a specified amount, such as 10% of the *Disability* benefit otherwise payable or $25 for short term plans, or 10% of the *Disability* benefit otherwise payable or $100 for long term plans.

C. RIGHT TO PURCHASE ADDITIONAL *DISABILITY* BENEFITS

(1) A certificate may include the right to purchase additional *Disability* benefits. If the certificate includes this right, the certificate shall specify when such right may be exercised, such as specified life events (marriage, divorce, birth of a child, death of a *Family Member*), purchase of a home, etc. The certificate shall also specify the amounts that are available for such exercise, and whether or not additional underwriting will be required, such as medical, financial, occupational, etc. If financial or occupational underwriting is required, or if a *Preexisting Condition* limitation will apply, the certificate shall also state this. The insurance company may issue a new certificate for the additional *Disability* benefit, or the existing certificate may be amended to reflect the additional *Disability* benefit.

D. SUSPENSION, SURRENDER OR REVOCATION OF A PROFESSIONAL LICENSE OR CERTIFICATE

(1) The group insurance certificate may state that suspension, surrender or revocation of a professional license or certificate shall not alone constitute *Disability.*

E. WAIVER OF *PREMIUM*

(1) The certificate may include a provision stating that if a *Covered Person* has been *Disabled* for (i) a period specified in the certificate or (ii) the *Elimination Period*, the insurance company shall waive the *Premium* otherwise due for the certificate and any attached riders, amendments or endorsements. If such a waiver of *Premium* benefit is included, the certificate shall state that:

(a) The waiver of *Premium* period shall be for as long as the *Covered Person* continues to be *Disabled*, but not beyond the *Benefit Period* or maximum lifetime benefit shown in the certificate;

(b) If the insurance company requires proof of *Disability* for premiums to be waived, the certificate shall state that:

(i) Satisfactory proof of *Disability* shall be provided to the insurance company for *Premiums* to be waived. Such proof may consist of both a statement from an employer and a statement of a *Physician* certifying that the *Covered Person* is unable to perform the *Covered Person's* customary duties or activities. Each month thereafter, the insurance company may require a *Physician's* statement that the *Covered Person's* inability to perform those duties and activities continues. The insurance company also reserves the right to use an independent consultant to determine the *Covered Person's Disability* during the duration of the waiver of *Premium* benefit;

(ii) All required *Premiums* must be paid to keep the certificate and any riders, amendments or endorsements, as applicable, in force until the insurance company approves the claim for the waiver of *Premium* benefit;

(iii) In the event of the death of the *Covered Person*, any *Premium* refunds due to the *Covered Person* from the insurance company may, at the option of the insurance company, be paid to any *Beneficiary* designated for loss of life or to the estate of the *Covered Person;* and

(iv) The waiver of *Premium* benefit will end if a *Covered Person* fails to provide satisfactory proof of *Disability* when requested; and

(c) If *Disability* ends, the waiver of *Premium* benefit will end.

(2) If waiver of *Premium* is included, the certificate shall also state that there is no limit to the number of times that a *Covered Person* may be eligible for the waiver of *Premium* benefit.

F. DATE *DISABILITY* BENEFITS END

(1) The certificate shall state that *Disability* benefits shall end at the earliest of:

(a) The date a *Covered Person* ceases to be *Disabled;*

(b) The date a *Covered Person* dies;

(c) The end of any specified *Benefit Periods* shown in the certificate;

(d) The end of any maximum period of payment specified in the certificate. "Maximum period of payment" means the longest period of time that an insurance company will make payments to a *Covered Person* for any one period of *Disability;*

(e) For any condition specified in the certificate with limited benefits, the end of any lifetime maximum *Benefit Period* specified in the certificate for that condition. "Lifetime maximum *Benefit Period*" means the aggregate number of months of benefits which will be paid to a *Covered Person* during his/her lifetime for any combination of *Disabilities* caused or contributed to by the specified condition, even if the *Disabilities* are not continuous; and

(f) The date a *Covered Person* fails to submit satisfactory proof of *Disability* as required in the certificate.

(2) The certificate may also include these additional dates that *Disability* benefits may end:

(a) The date a *Covered Person* fails to participate in a *Rehabilitation* plan, without good cause, as stated in section §5. *REHABILITATION* PROVISIONS of the certificate;

(b) The date a *Covered Person* elects not to return to limited work while *Disabled* when the *Covered Person* is functionally capable of performing such work; and

(c) The date a *Covered Person* retires.

§ 10. INCIDENTAL BENEFIT PROVISIONS

The certificate may include the following benefits which shall satisfy the requirements included in the respective Interstate Insurance Product Regulation Commission standards below, as well as satisfy the requirements for a benefit to be deemed incidental, as specified below. With the exception of the benefits described in items (D), (I) and (L) of this section, incidental benefits shall be in addition to any other *Disability* benefits paid under the certificate. The certificate shall specify whether or not incidental benefits may be converted or ported, as applicable.

There are benefit triggers for *Disability* in §3. Terms and Concepts that are also included as Incidental Benefit triggers in this Section and some of them may be included as Catastrophic *Disability* benefit triggers in this Section. Regardless of where these benefit triggers are included

in these uniform standards, they will only be included once as benefit triggers in a certificate for a *Covered Person* who is an *Employee.* For example, if the ADL deficiency trigger is included in the certificate as a benefit trigger for *Total Disability,* this trigger will not be included as an Incidental Benefit for a *Covered Person,* nor will it be included in the Catastrophic Disability benefit for the *Employee.* However, if the *ADL* deficiency or *Cognitive Impairment* benefit trigger is included in the certificate for *Partial or Residual Disability, Presumptive Disability* or *Total Disability* for the *Employee,* an ADL deficiency or *Cognitive Impairment* trigger may be included as an Incidental Benefit for the *Spouse* of the *Employee*.

A. ACCIDENTAL DEATH BENEFIT

(1) Benefit to be paid to *Eligible Survivors* due to the death of a *Covered Person* if the death is caused by an *Injury* and occurs while the *Covered Person* is insured for Disability benefits under the certificate. The Standards for Group Accidental Death Benefits as adopted by the Interstate Insurance Product Regulation Commission shall apply for this benefit. The certificate shall specify the amount payable, and such amount shall be a lump sum not to exceed the equivalent of 12 monthly *Disability* benefits payable under the certificate.

B. ACCIDENTAL DISMEMBERMENT BENEFIT

(1) Benefit to be paid to a *Covered Person* due to loss resulting from an *Injury* of the *Covered Person* if the loss occurs while the *Covered Person* is insured for *Disability* benefits under the certificate. The Standards for Group Accidental Death and Dismemberment Benefits as adopted by the Interstate Insurance Product Regulation Commission shall apply to this benefit. The certificate shall specify the amount payable, and such amount shall be a lump sum not to exceed the equivalent of 12 monthly *Disability* benefits payable under the certificate.

C. *ACTIVITIES OF DAILY LIVING (ADL)* DEFICIENCY OR *COGNITIVE IMPAIRMENT* BENEFIT FOR *COVERED PERSONS*

(1) Benefits to be paid if a *Covered Person*, after becoming insured under the certificate, becomes *Disabled* and receives monthly benefits for such *Disability* under the certificate and is also determined:

(a) To be unable to perform, without *Substantial Assistance*, a specified number of *Activities of Daily Living* for a specified period of time, such as 30 days, without interruption (the *Elimination Period*). The insurance company shall not require this benefit trigger to require the inability to perform more than two *Activities of Daily Living*; or

(b) To have a severe *Cognitive Impairment*, that requires *Substantial Supervision* to protect the *Covered Person* from threats to health and safety for a specified period of time, such as 30 days, without interruption (the *Elimination Period*).

(2) "***Elimination Period***" as used in this item (C) means, subject to satisfaction of all certificate terms and conditions by a *Covered Person*, the period of time following the onset of *ADL* deficiency or *Cognitive Impairment* for which no benefits are payable for such deficiency or impairment under this section. This period of time will be specified in the certificate. The trigger for the start of an *Elimination Period* shall be commencement of a *Covered Person's s ADL* deficiency or *Cognitive Impairment.*

(3) The certificate shall state that this benefit shall not be subject to reduction on account of other benefits or income sources.

(4) The certificate shall specify the amount of monthly benefits that would be payable, such as up to 20% of *Pre-Disability Earnings*, subject to specified maximums in the certificate, if any. The certificate shall also specify a maximum *Benefit Period*, such as 6 months. The certificate may also state that this benefit plus the *Disability* benefit payable under the certificate shall not exceed a specified monthly maximum amount, such as $2,000.

(5) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date a *Covered Person* fails to submit satisfactory proof that the *Covered Person* continues to be *ADL* deficient or cognitively impaired;

(b) The date a *Covered Person* is no longer *Disabled*; or

(c) The date a *Covered Person* is no longer receiving a monthly benefit for the *Disability* under the certificate.

(6) This benefit shall not be advertised, marketed or sold as long-term care insurance and the certificate shall prominently disclose that this benefit shall not be triggered by, or calculated with respect to, occurrence or amount of any long-term care services.

(7) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

D. *ACTIVITIES OF DAILY LIVING* (ADL) DEFICIENCY OR *COGNITIVE IMPAIRMENT* BENEFIT FOR *SPOUSES* OF *COVERED PERSONS*

(1) Benefit to be paid in the event that a *Covered Person* is insured for *Disability* benefits under the certificate and the *Covered Person's Spouse* is determined:

(a) To be unable to perform, without *Substantial Assistance*, a specified number of *Activities of Daily Living* for a specified period of time, such as 30 days, without

interruption (the *Elimination Period*). The insurance company shall not require this benefit trigger to require the inability to perform more than two *Activities of Daily Living*; or

(b) To have a severe *Cognitive Impairment*, that requires *Substantial Supervision* to protect the *Spouse* from threats to health and safety, for a specified period of time, such as 30 days, without interruption (the *Elimination Period*).

(2) "***Elimination Period***" as used in this item (D) means, subject to satisfaction of all certificate terms and conditions by a *Spouse*, the period of time following the onset of *ADL* deficiency or *Cognitive Impairment* for which no benefits are payable under this section. This period of time will be specified in the certificate. The trigger for the start of an *Elimination Period* shall be commencement of a *Spouse's ADL* deficiency or *Cognitive Impairment*.

(3) The certificate shall state that a *Spouse* is only eligible for this benefit if:

(a) The *ADL* deficiency or *Cognitive Impairment* begins after the date that the *Covered Person* becomes insured under the certificate;

(b) The *Spouse* is not working at any job for pay or profit; and

(c) The *Spouse* is under the regular care of a *Physician.* This means that the *Spouse* regularly visits a *Physician* as frequently as is medically required, and receives the most appropriate treatment and care according to generally accepted medical standards, to effectively manage and treat the *Spouse's* condition(s). The *Physician's* specialty and experience shall also be such that is most appropriate for the *Spouse's* condition, according to generally accepted medical standards.

(4) The certificate shall specify what information is needed as proof of claim for this benefit. Proof of claim, at the expense of the *Covered Person,* must appropriately document:

(a) That the *Spouse* satisfied the definition of *Spouse* as specified in the certificate;

(b) The *Covered Person's* monthly earnings;

(c) The date that the *Spouse's* ADL deficiency or *Cognitive Impairment* began;

(d) That the *Spouse* is under the regular care of a *Physician,* including each *Physician's* name and address;

(e) That the Spouse is not working at any job for pay or profit during the *Elimination Period;*

(f) The extent of the *Spouse's* condition, including restrictions and limitations preventing the *Spouse* from safely performing any *ADLs; and*

(g) The name and address of any accredited facility where the *Spouse* is receiving care or treatment for *ADL* deficiency or *Cognitive Impairment*, including the names and addresses of all attending *Physicians.*

(5) The certificate shall state that a *Covered Person* must also provide the insurance company with the *Spouse's* written authorization allowing the sources of medical, vocational, occupational, financial, and governmental information to release documents to the insurance company which enables it to decide its liability. The *Covered Person* shall provide the insurance company with continuing proof of the *Spouse's ADL* deficiency or *Cognitive Impairment,* and the items and authorization necessary to allow it to determine its liability.

(6) The certificate shall state that the insurance company may require the *Spouse* to be examined, tested, or interviewed by *Physicians* or authorized insurance company representatives. The insurance company may ask a *Spouse* to be examined tested or interviewed as often as it requires at any time it chooses. The insurance company will pay third party charges for any exam, test or interview which it requires. If a *Spouse* fails to attend or fully participate, this benefit will end.

(7) The certificate shall specify the amount of monthly benefit payable, such as $1,000, and the maximum *Benefit Period*, such as 2 years.

(8) The certificate shall state that this benefit will not be subject to reduction on account of other benefits or income sources.

(9) This benefit may be subject to any of the Permissible Limitations and Exclusions of the certificate as they would apply to the *Spouse*.

(10) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date that the *Spouse* no longer satisfies the definition of *Spouse* in the certificate;

(b) The date satisfactory proof that the *Spouse* continues to be *ADL* deficient or *Cognitively Impaired* is not submitted as required;

(c) The date the *Covered Person* is no longer insured for *Disability* benefits under the certificate;

(d) The end of this benefit's maximum *Benefit Period*;

(e) The date the *Spouse* returns to work at any job for pay or profit;

(f) The date the *Covered Person* dies; or

(g) The date the *Spouse* dies.

(11) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

(12) This benefit shall not be advertised, marketed or sold as long-term care insurance and the certificate shall prominently disclose that this benefit shall not be triggered by, or calculated with respect to, occurrence or amount of any long-term care services.

E. CATASTROPHIC DISABILITY BENEFIT

(1) Benefits to be paid if, due to *Injury* or *Sickness,* a *Covered Person* who is receiving *Disability* benefits under the certificate satisfies the benefit trigger(s) specified in this section.

(2) The benefit triggers may be limited to those shown in items (B), (C), (I), and (J) in this section, or they may include the benefit triggers included in §3 subparagraphs (c)-(j) of the definition of *Disability*.

(3) Benefit triggers for *ADL* deficiency, *Cognitive Impairment*, Skilled Nursing Home or *Rehabilitation* Facility, Home Health Care or Hospice Care shall not be advertised, marketed or sold as long-term care insurance and the certificate shall prominently disclose that benefits under the certificate will not be triggered by, or calculated with respect to, occurrence or amount of any long-term care services.

(4) The certificate shall specify the amount of benefits that would be payable for each trigger, such as 20% of the *Covered Person's Pre-Disability Earnings*, and the maximum duration for which benefits would be paid, such as 6 months, if any. The certificate shall also state that for confinement or care of less than a month benefits will be paid on a pro-rata basis.

(5) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* dies;

(b) The date the *Covered Person* is no longer receiving *Disability* benefits under the certificate; or

(c) The date the *Covered Person* ceases to meet the benefit triggers, as applicable.

(6) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

F. *CHILD(REN)* CARE BENEFIT.

(1) Benefits will be paid for the care of a *Covered Person's Child(ren)* under a specified age to enable the *Covered Person* to participate in *Rehabilitation* program and receive *Rehabilitation* benefits under the certificate. The benefit requires proof satisfactory to the insurance company of current enrollment in *Child* care or enrollment in *Child* care within a specified period of time after the *Covered Person* begins participating in a *Rehabilitation* program and is receiving *Rehabilitation* benefits under the certificate. This benefit pays an additional monthly benefit for care provided by a licensed *Child* care provider who is not related to the *Covered Person*, and *Child* care expenses shall be documented by a caregiver receipt which includes his or her taxpayer identification information.

(2) The certificate shall specify the amount of *Child* care benefits that would be payable, such as an amount equal to the actual expenses incurred not to exceed a specified dollar maximum per month, such as $300 per *Child,* and may include an overall monthly maximum for all *Children*, such as $1,000. The certificate may also specify the maximum *Benefit Period*, such as 6 months.

(3) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the child no longer satisfies the child requirements of this benefit;

(b) The date the *Covered Person* is no longer incurring child care expenses;

(c) The date the *Covered Person* is no longer receiving *Rehabilitation* benefits under the certificate;

(d) The date the maximum *Benefit Period* ends; or

(e) The date any other *Disability* payments end under the certificate.

If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

G. *CHILD(REN)* EDUCATION BENEFIT

(1) Benefits to be paid to a *Disabled* C*overed Person* who is receiving monthly benefits for such *Disability* under the certificate and who has *Child(ren)* under a specified age or level of education. The benefit requires satisfactory proof to the insurance company of current enrollment in an educational institution or enrollment in an educational institution within a specified period of time after the *Covered Person* becomes *Disabled* and begins to receive *Disability* benefits under the certificate. This benefit pays an additional monthly benefit for tuition expenses incurred for the *Child* beyond high school, usually at an accredited college, university or vocational school. The certificate shall specify the monthly amount of *Child* education benefits that may be payable per *Child*, such as $200. The certificate shall also

specify the maximum *Benefit Period* for each *Child*, such as 48 months, and overall minimums and maximums may also apply.

(2) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Child* no longer satisfies the *Child* requirements of this benefit;

(b) The date the *Child* is no longer enrolled in the educational institution; or

(c) The date any other *Disability* benefits for the *Covered Person* end under the certificate.

(3) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

H. CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA) INSURANCE *PREMIUM* BENEFIT

(1) In the event that a *Covered Person* is receiving *Disability* benefits under the certificate, and the *Covered Person* who was insured under the *Policyholder*'s medical insurance plan elects COBRA continuation for his or her medical insurance and that of his or her *Dependents*, as applicable, and proof satisfactory to the insurance company is provided for such COBRA continuation, this benefit will pay to the *Covered Person* the lesser of the COBRA *Premium* paid or a specified dollar amount, such as $100. The certificate shall specify that this benefit will be paid for the lesser of a specified period of time, such as 6 months, or the period for which the *Covered Person* is covered under the COBRA continuation.

(2) This benefit will not be subject to a reduction on account of other benefits or income, and will not be used in the calculation of any other benefit under the certificate.

(3) The payment of COBRA continuation *Premiums* shall be the responsibility of the *Covered Person* who shall pay the *Premiums* due in a timely manner regardless of when payments under this benefit are processed by the insurance company. The insurance company shall not be liable for non-payment of COBRA continuation *Premiums*.

(4) The policy may include a notice explaining that under the COBRA federal law, the *Policyholder* is responsible for providing to *Covered Persons* the required notice ~~of~~ detailing the availability of COBRA continuation for medical insurance that is terminating under the *Policyholder*'s insurance plan. The inclusion of this COBRA Insurance *Premium* Benefit in the certificate is not intended to provide the required *Policyholder* notice or to eliminate the *Policyholder*'s role in providing the required notice. The certificate may also include this notice.

(5) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* is no longer *Disabled*;

(b) The date the *Covered Person* is no longer receiving *Disability* benefits under the certificate;

(c) The end of the grace period for COBRA *Premiums* if the *Covered Person* fails to pay the *Premiums* due;

(d) The date the *Covered Person* is no longer covered under COBRA;

(e) The date the *Covered Person* does not submit proof satisfactory to the insurance company of COBRA continuation;

(f) The date that the COBRA continuation benefit has been exhausted;

(g) The date the *Covered Person* becomes eligible under any medical insurance plan; or

(h) The date the *Covered Person* enrolls for Medicare.

If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

I. *CONTAGIOUS DISEASE* BENEFIT

(1) Benefits to be paid to a *Covered Person* in the event the *Covered Person,* after becoming insured under the certificate, becomes a risk for transmitting a *Contagious Disease*. The *Covered Person* may be capable, physically and mentally, of performing *Substantial and Material Duties,* but the ability to perform these duties is restricted by a state licensing board or by another appropriate government authority because of the risk of transmission of a *Contagious Disease* to others with whom the *Covered Person* may be in contact. The *Covered Person* has to satisfy the *Elimination Period* while so restricted by a *Contagious Disease* and prevented from earning more than a stated percentage of his monthly pay specified in the certificate, such as 80%. This benefit pays a specified benefit in any month after the expiration of the *Elimination Period* in which the *Covered Person* continues to be restricted by a *Contagious Disease* and is prevented from earning more than a stated percentage of his monthly pay specified in the certificate. The certificate may also specify a maximum *Benefit Period* or a maximum benefit amount.

(2) "***Elimination Period***" as used in this item (I) means, subject to satisfaction of all certificate terms and conditions by the *Covered Person*, the period of time following the date that that a *Covered Person* first becomes restricted by a *Contagious Disease* resulting in loss of earnings, during which period no benefits are payable under this section. This period of

time will be specified in the certificate. The trigger for the start of an *Elimination Period* shall be commencement of a *Covered Person's* restriction and loss of earnings due to a *Contagious Disease* as defined in this section.

(3) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* is no longer restricted by a *Contagious Disease*;

(b) The date the *Covered Person* is no longer prevented from earning more than the stated percentage of his monthly pay;

(c) The date the benefit is no longer payable under the certificate because of a maximum *Benefit Period* or a maximum benefit have been exhausted;

(d) The date the Covered Person is considered to reside outside the United States or Canada after having been outside the United States or Canada for a specified period of time while this benefit was being paid, such as a total period of 12 months; or

(e) The date the *Covered Person* dies.

(4) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

(5) When this benefit ends for reasons specified in (a), (b) or (c) above, the *Covered Person* may become eligible for a *Disability* benefit under the certificate without having to satisfy another *Elimination Period*. Additionally, the benefits received under this benefit will not be used in the calculation of the benefits available for any *Disability* benefits under the certificate.

J. *CRITICAL ILLNESS* BENEFIT

(1) Benefit to be paid if a *Covered Person* becomes *Disabled* and receives monthly benefits for such *Disability* under the certificate and the *Covered Person* is diagnosed by a *Physician* to have a *Critical Illness*. The certificate shall specify the amount of the benefit, such as $3,000, and if such benefit shall be a paid on a one time basis in one lump sum to the *Covered Person* while living, or if such benefit may be paid on a periodic basis to the *Covered Person* while living. The certificate shall also specify if the benefit will only be paid for one *Critical Illness*, or if benefits may be paid for more than one *Critical Illness*.

(2) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* no longer has a *Critical Illness*;

(b) The date the benefit is no longer payable under the certificate because the maximum benefit has been exhausted;

(c) The date any other *Disability* benefit ends under the certificate; or

(d) The date the *Covered Person* dies.

K. *ELIGIBLE SURVIVOR* BENEFIT

(1) Benefit to be paid to an *Eligible Survivor* in the event that a *Covered Person* dies. This benefit may require that prior to death the *Covered Person* had been *Disabled* for a continuous specified period of time, such as 6 months, and was receiving, or was entitled to receive, *Disability* benefits under the certificate. This benefit will pay to the *Eligible Survivor* a specified lump sum payment, usually equal to 3 most recent months of the *Covered Person's Disability* benefit under the certificate. If there is no *Eligible Survivor,* the payment will be made to the *Covered Person's* estate

(2) The insurance company may apply any benefit payable under this benefit section to any overpayment made for the *Covered Person's Disability* benefits.

(3) The *Covered Person's* other benefits or income sources will not be considered in calculating this benefit.

(4) If a Terminal Illness Benefit is paid under this Incidental Benefit section, no Eligible Survivor Benefit will be paid at the death of a *Covered Person.*

L. *FAMILY MEMBER* CARE BENEFIT

(1) Benefits will be paid for care of a *Covered Person's Family Members*, as defined in this section, who need personal care assistance to enable the *Covered Person* to participate in a *Rehabilitation* program and receive *Rehabilitation* benefits under the certificate. The benefit requires proof satisfactory to the insurance company of current enrollment in family care or enrollment in family care within a specified period of time after the *Covered Person* begins participating in a *Rehabilitation* program and is receiving *Rehabilitation* benefits under the certificate. This benefit pays an additional monthly benefit for care provided by a licensed family care provider who is not related to the *Covered Person*, and family care expenses shall be documented by a caregiver receipt which includes his or her taxpayer identification information. The certificate shall specify the amount of family care benefits that would be payable, such as an amount equal to the actual expenses incurred not to exceed a specified dollar maximum per month, such as $300 per *Family Member*, and may include an overall monthly maximum for all *Family Members*, such as $1,000. The certificate may also specify the maximum *Benefit Period*, such as 6 months.

(2) The certificate shall specify when the benefit will end. The reasons benefit may end on the date any of the following events occur:

(a) The date the *Family Member* no longer satisfies the *Family Member* requirements of this benefit;

(b) The date the *Covered Person* is no longer incurring *Family Member* care expenses;

(c) The date the *Covered Person* is no longer receiving *Rehabilitation* benefits under the certificate;

(d) The date the maximum *Benefit Period* ends; or

(e) The date any other *Disability* payments end under the certificate.

(3) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

M. MEDICAL INSURANCE *PREMIUM* BENEFIT

(1) In the event that the *Covered Person* is receiving *Disability* benefits under the certificate and is unable to perform the *Substantial and Material Duties* applicable to the *Disability* benefit for which the *Covered Person* is eligible under the certificate, this benefit will pay the group medical insurance *Premium* due for the *Covered Person* under the *Policyholder*'s group medical insurance plan. The certificate shall specify if the benefit is to be paid to the *Policyholder*, the ~~employee~~ *Covered Person*, or to both based on the *Premium* paid by each. The certificate shall also specify if the benefit is for the *Premium* due for ~~employee~~ *Covered Person* coverage only, or the *Premium* due for ~~employee~~ *Covered Person* and dependent coverage under the *Policyholder*'s group medical insurance plan. The certificate shall also state that the benefit shall not exceed the actual *Premium* due on a *Premium* due date, or a specified dollar amount, such as $100.

(2) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date *Disability* benefits have been paid for a specified period under the certificate, such as 36 months;

(b) The date the *Covered Person* is no longer receiving *Disability* benefits under the certificate;

(c) The date the *Covered Person* is no longer *Disabled*;

(d) The date the *Covered Person* becomes covered under a group medical insurance plan;

(e) The date the *Covered Person* is no longer covered under the *Policyholder*'s group medical insurance plan; or

(f) the date the *Covered Person* is covered by Medicare.

(3) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

N. *PREEXISTING CONDITION* BENEFIT

(1) Benefit to be paid if a *Covered Person* would have received *Total Disability* benefits under the certificate for a *Total Disability* that began during a specified period after coverage became effective, such as 12 months, but the *Total Disability* was caused by a *Preexisting Condition.* The certificate shall specify the benefits that will be paid, such as an amount equal to 30% of the *Covered Person's Pre- Disability Earnings*, not to exceed a specified amount, such as $3,000 per month of *Total Disability*. The certificate shall also specify whether the benefits that will be paid will be reduced by other benefits or income sources. The certificate may also specify a maximum *Benefit Period*, such as 6 months, and may also specify that only one benefit will be paid for any one *Covered Person* for any one period of *Total Disability.*

(2) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* is no longer receiving *Disability* benefits under the certificate;

(b) The date the *Preexisting Condition* Benefit is exhausted;

(c) The date the maximum *Benefit Period* expires; or

(d) The date the Covered Person dies.

O. *PROGRESSIVE DISEASE OR DISORDER* BENEFIT

(1) In the event that a *Covered Person,* after becoming insured under the certificate, is diagnosed with a *Progressive Disease or Disorder* as certified by a *Physician,* this benefit establishes the *Covered Person's Pre-Disability Earnings* as of the date of diagnosis of a *Progressive Disease or Disorder*. If the *Covered Person* later becomes *Disabled*, the *Disability* benefits shall be based on the greater of the *Pre-Disability Earnings* determined at the time of diagnosis for the *Progressive Disease or Disorder*, or the *Pre-Disability Earnings* determined at the time *Disability* begins. After the *Covered Person* has received a specified period of *Disability* benefits, such as 12 months, the *Covered Person's Pre-Disability Earnings* will be adjusted annually by a specified percentage, such as 5%. On each subsequent anniversary of the first adjustment, another adjustment will occur, compounded

on the first day of each month following the annual adjustment. *Pre-Disability* benefit adjustments may only increase, not decrease.

(2) The certificate shall specify when the benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* no longer has a *Progressive Disease or Disorder*;

(b) The date any other *Disability* benefit ends under the certificate; or

(c) The date the *Covered Person* dies.

(3) If more than one date is specified, the certificate shall state that the benefit shall end on the earlier or latest of the dates specified, as applicable.

P. RETIREMENT BENEFIT

(1) Benefits to be paid in the event a *Covered Person* is receiving *Disability* benefits under the certificate and was participating in the *Policyholder*'s 401(k) plan for a specified period of time, such as 3 months before the Disability began. This benefit pays an additional periodic benefit, such as monthly or annual, to continue contributions into the 401(k) plan on behalf of the *Covered Person.* The contributions that are continued may be the *Policyholder*'s, the *Covered Person's*, or both, as specified in the certificate.

(2) If such contributions are not possible*,* the additional benefit may be deposited into a tax deferred account that is established and maintained by the *Covered Person,* such as a flexible premium deferred annuity. The certificate shall specify the amount of the additional benefit.

(3) If the *Covered Person* is not engaged in work for pay or profit, the benefit may be based on one or more of the following amounts:

(a) The amount that the *Policyholder* and the *Covered Person* were contributing, as applicable;

(b) A stated percentage of the *Covered Person's Pre-Disability Earnings*, such as 5%;

(c) A specified dollar amount, such as $2,000; or

(d) The maximum contribution amount permitted by law for the *Policyholder* and the *Covered Person,* as applicable.

(4) If more than one amount is specified, the certificate shall state that the benefit will be based on the lesser or least of the specified amounts, as applicable.

(5) If the *Covered Person* is engaged in work for pay or profit, the benefit may be based on the amount of wage or profit that the *Covered Person* is losing because of the *Disability.*

(6) As an alternative to the 401(k) benefit or in addition to it, this benefit may pay an additional periodic benefit, such as monthly or annual, in the event a *Covered Person* is receiving *Disability* benefits under the certificate and was participating in the *Policyholder's* qualified pension, 403(b) or 457 plan for a specified period of time, such as 3 months, before the *Disability* began. This benefit pays the additional benefit to continue the contributions into such plans on behalf of the *Covered Person.* The contributions that are continued may be the *Policyholder*'s, the *Covered Person's*, or both, as specified in the certificate If, such contributions are not possible*,* the additional benefit will be deposited into a tax deferred account that is established and maintained by the *Covered Person*. The certificate shall specify the amount of the additional benefit.

Drafting Note: Some *Policyholder* 401(k), qualified pension plan, 403(b) or 457 plan may only allow contributions to be made if a *Covered Person is* Actively *at Work.* For this reason, the benefit allows the alternative of the tax deferred account.

(7) If the *Covered Person* is not engaged in work for pay or profit, the benefit may be based on one or more of the following amounts:

(a) The amount that the *Policyholder* and the *Covered Person* were contributing, as applicable;

(b) A stated percentage of the *Covered Person's Pre-Disability Earnings*, such as 5%;

(c) A specified dollar amount, such as $2,000; or

(d) The maximum contribution amount permitted by law for the *Policyholder* and the *Covered Person,* as applicable.

(8) If more than one amount is specified, the certificate shall state that the benefit will be based on the lesser or least of the specified amounts, as applicable.

(9) If the *Covered Person* is engaged in work for pay or profit, the benefit may be based on the amount of wage or profit that the *Covered Person* is losing because of the *Disability* subject to the maximum contribution amount permitted by law.

(10) The certificate shall specify when the retirement benefit will end. The benefit may end on the date any of the following events occur:

(a) The date the *Covered Person* withdraws funds from the *Policyholder*'s 401(k), pension plan, 403(b) or 457 plan, as applicable, or withdraws funds from the tax deferred account;

(b) The date any *Disability* benefit ends under the certificate;

(c) The date the *Covered Person* dies;

(d) The date the *Policyholder*'s 401(k), pension plan, or 403(b) or 457 plan is discontinued;

(e) The date the *Covered Person* begins to participate in another employer's 401(k), pension plan, 403(b) or 457 plan; or

(f) The date the *Covered Person* returns to *Active Work.*

(11) If more than one amount is specified, the certificate shall state that the benefit will be based on the lesser or least of the specified amounts, as applicable.

Q. REVENUE PROTECTION BENEFIT FOR THE POLICYHOLDER

(1) In the event a *Covered Person* is receiving *Disability* benefits under a certificate, this benefit pays a monthly benefit to the *Policyholder* for a specified period of time, such as 6 months. This benefit shall only be available for *Noncontributory Insurance* plans and may not be available for *Disabilities* subject to a *Preexisting Conditions* limitation of the certificate. This benefit may only be available to specified classes of *Covered Persons*, such as partners, proprietors, members of a limited liability company if the *Policyholder* is a limited benefit company, members of the Board of Directors who are *Actively at Work* as defined for these classes.

(2) If such *Covered Persons* are not engaged in work for pay or profit, the benefit may be based on the lesser of a stated percentage of the *Covered Person's Pre-Disability Earnings*, such as 5%, and a specified dollar amount, such as $2,000.

(3) If such *Covered Persons are* engaged in work for pay or profit and the *Covered Person's* wage or profit is a specified percentage of the *Covered Person's Pre-Disability Earnings*, the benefit may be based on the amount of wage or profit that the *Covered Person* is losing because of the *Disability*. The *Covered Person's* other benefit or income sources will not be considered in calculating this benefit.

R. RIGHT TO PURCHASE INDIVIDUAL LIFE INSURANCE BENEFIT WITHOUT EVIDENCE OF MEDICAL INSURABILITY

(1) A certificate may include a *Covered Person's* right to purchase an individual life insurance policy without requiring evidence of medical insurability. The certificate shall specify:

(a) When such right would be available;

(b) Any requirements necessary to qualify for such insurance;

(c) What type of insurance would be available; and

(d) What amount of insurance would be available.

S. TERMINAL ILLNESS BENEFIT

(1) Benefit to be paid to a *Covered Person* who is certified by a *Physician* as terminally ill with a life expectancy of 12 months or less. This benefit may require that prior to the terminal illness certification that the *Covered Person* had been *Disabled* and was receiving *Disability* benefits under the certificate. If the *Covered Person* elects to receive this benefit, this benefit will pay to the *Covered Person* a specified lump sum payment, usually equal to the 3 most recent months of the *Covered Person's Disability* benefit under the certificate.

(2) The death benefit or the terminal illness benefit will only be payable once.

(3) The *Covered Person's* other benefits or income sources will not be considered in calculating this benefit.

(4) The insurance company may apply any benefit payable under this section to any overpayment made for the *Covered Person's Disability* benefits.

(5) If a Terminal Illness Benefit is paid, no Eligible Survivor Benefit will be payable at the death of a *Covered Person.*

T. WORKSITE MODIFICATION BENEFIT FOR THE POLICYHOLDER

(1) Benefit to be paid in the event that a worksite modification is needed to allow a *Covered Person* to perform the *Substantial and Material Duties* of the work-related tests applicable to the *Disability* benefit under the certificate to which the *Covered Person* may be eligible. The insurance company will assist the *Policyholder*, *Covered Person* and the *Covered Person's Physician* in identifying the appropriate modification that will enable the *Covered Person* to continue to work or return to work. The modification plan shall be in writing and shall specify the purpose of the proposed modification, the related costs and timeline for completing the modification, and shall be signed by the insurance company, the *Policyholder* and the *Covered Person,* and shall be subject to the approval of all these parties. Upon receipt of proof satisfactory to the insurance company that the modification has been made as approved, this benefit will reimburse the *Policyholder* for the actual cost of the modification, up to a specified amount, such as the greater of a dollar amount, such as $1,000, and the equivalent of a specified number of the *Covered Person's* monthly *Disability* benefits, such as two. This benefit shall only be available for *Noncontributory Insurance* plans.

Appendix A
Flesch Methodology

The following measuring method shall be used in determining the Flesch score:

(1) For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two, 200-word samples per page may be analyzed instead of the entire form. The sample shall be separated by at least 20 printed lines.

(2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

(3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

(4) The sum of the figures computed under (2) and (3) subtracted from 206.835 equals the Flesch reading ease score for the policy form.

(5) For purposes of (2), (3), and (4), the following procedures shall be used:

(a) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

(b) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

(c) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(6) The term “text” as used in this section shall include all printed matter except the following:

(a) The name and address of the insurance company; the name, number or title of the form; the table of contents or index; captions and sub-captions; specifications pages, schedules or tables; and;

(b) Any language which is drafted to conform to the requirements of any federal law or regulation; any language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy or certificate; and any language required by law or regulation; provided, however, the insurance company identifies the language or terminology excepted by the paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.

(7) At the option of the insurance company, the statement of insurability may be scored as separate form or as part of the certificate with which the statement of insurability may be used.