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Interstate Insurance Product Regulation Commission (IIIPRC)  
Product Standards Committee (PSC)  
444 North Capitol Street, NW  
Hall of the States, Suite 700  
Washington, DC 20001-1509  
comments@insurancecompact.org

RE: PSC’s Draft Amendments to Address Conflicts with Colorado Statutory Law

Members of the Product Standards Committee:

The American Council of Life Insurers (“ACLI”) appreciates this opportunity to comment on the PSC’s draft amendments to its Uniform Standards to address possible conflicts with Colorado’s one-year suicide exclusion and its prohibition of gender as a rating characteristic for initial rate filings for long-term care insurance (LTCl) policies.

The ACLI has strongly supported the Interstate Compact since its inception and will continue to do so. The Compact promotes uniformity among the states through its Uniform Standards that are embedded with strong consumer protections. It also gives consumers faster access to competitive insurance products and provides a central point of filing for insurers.

We are, however, very concerned with the draft amendments and the negative consequences that they would inflict on the Compact, regulators, insurers and consumers, as well as the dangerous precedent that they would set.

The draft amendments to the Compact’s two-year suicide exclusion provisions would add the following language: “or any shorter period as may be required by applicable law in the state where the policy is delivered or issued for delivery”.

Similarly, the draft amendment to its LTCI standards to address gender as a rating characteristic would add the following provision: The company shall certify that the use of its rating characteristics (such as gender or smoking status) for premium schedules follow what is permitted by applicable law in the state where the policy is delivered or issued for delivery. More than one rate schedule or demonstration may be provided to accommodate differences in state law.
The Compact already has several provisions within its Uniform Standards that identify state laws as the applicable requirements, including those relating to the fraud exception to the incontestability clause, the right to examine period for replacement policies, certain underwriting exclusions, accelerated death benefit written statements, dependent coverage and legal action. Most recently, the Compact amended the definition of “nonforfeiture rate” in its individual deferred annuity standards to require that its minimum nonforfeiture rate be consistent with those of the states where products are issued or delivered.

While most of these provisions were included in the Uniform Standards at the time of their original adoption, we are concerned that the continued allowance of state laws as the applicable requirements through additional amendments will not only dilute the effectiveness of its own product standards, but also reduce the uniformity of product form provisions across the country, increase compliance costs, and jeopardize the overall use of the Compact.

We are also troubled that the adoption of the draft amendments could lead to a slippery slope of the adoption of similar amendments, as well as some states deciding to opt-out of a particular set (or sets) of standards, which will undercut the entire purpose of the Compact and the reason why so many insurers elect to file their products through it.

It is also unclear how the draft amendments would be implemented. Would they only apply to new products? Would existing products that have already been approved and filed through the Compact be “grandfathered”, or would companies have to file another set of forms in Colorado and other states where their laws conflict with the Uniform Standards?

In addition, how does the Compact’s conformity standard, as well as insurers’ conformity provisions within their contracts, coordinate with how the draft amendments would be implemented? What other changes to the standard would need to be made so it doesn’t conflict with the proposed amendments? We request that a formal response to these questions accompany the proposed amendments in order to reduce ambiguity and allow for a more thorough analysis and feedback.

We also believe that these and any other similar amendments would undermine the effectiveness of the Compact’s potential recognition and assertion of its “implied Congressional consent”, should the Governance Committee decide to make such a recommendation and the Commission ultimately agrees to adopt it.

Thanks again for this opportunity to provide comments. If you have any questions, feel free to contact me at waynemehlman@acl.com or 202-624-2135.

Sincerely,

Wayne A. Mehlm

Wayne Mehlmehn
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