



**JOINT MEETING OF THE MANAGEMENT COMMITTEE AND
INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION**

Thursday, August 12, 2021

3 pm ET / 2 pm CT / 1 pm MT / 12 pm PT / 11 am AKT / 10 am HT

AGENDA

1. **Roll Call**
2. **Public Hearing and Discussion of Options on South Carolina Request:** Consider adoption of proposed options to reduce or eliminate 15% threshold for Compact approval of in-force rate schedule increases on Compact-approved long-term care products.

EXPLANATION: This Hearing is an opportunity for all Commissioners/Directors/Superintendents and their regulators as well as other interested parties to provide comments pertaining to the proposed options to address the South Carolina Department of Insurance's request to reduce or eliminate the 15% threshold in Section 4A(2) of the Rate Filing Standards for Individual Long-Term Care Insurance such that more in-force rate increase requests on Compact-approved long-term care products are subject to advisory review by the Compact Office, rather than approval. The Management Committee and Commission will take action to consider these options at the joint meeting of the Management Committee and Commission scheduled for September 28th.

3. **Report and Recommendation of the Governance Committee:** The Management Committee will receive the report and recommendation of the Governance Committee pertaining to implied congressional consent.

EXPLANATION: The Management Committee will receive the recommendation from the Governance Committee regarding implied congressional consent which was raised as a result of the Governance Review conducted in 2020.

4. **Management Committee and Commission Consideration of Emergency Rule-3 to Address Model 805 Amendments:** Consider adoption of a third Emergency Rule.

EXPLANATION: This action item for the full Commission is to consider replacing the current emergency rule with an emergency rule applying the amendments adopted by the full Commission on June 29th until they are effective for use on October 13th.

5. **Management Committee and Commission Consideration of Life Insurance Waiver Uniform Standards:** Consider adoption of proposed new Uniform Standards for one life insurance benefit feature and proposed amendments to two life insurance benefit feature Uniform Standards, last recommended by the Product Standards Committee on March 23, 2020.

- a. *Additional Standards for Qualifying Events for Waiver of Monthly Deductions Benefits*
- b. *Additional Standards for Qualifying Events for Waiver of Premium Benefits*
- c. *Additional Standards for Waiver of Surrender Charge Benefit for Life Insurance*

EXPLANATION: The action item is to consider adoption of proposed new Uniform Standards and proposed amendments to certain existing life insurance benefit feature Uniform Standards. The purpose of the proposed amendments is to expand the type of conditions or circumstances that can trigger the benefit. The existing Uniform Standards trigger the benefit only upon proof of total disability. The new benefit feature, Additional Standards for Waiver of Surrender Charge Benefit for Life Insurance, provides the benefit on the same grounds as the proposed amendments. Please see the [Briefing Sheet](#) and [Transmittal Memo](#) for more information. A 2/3 supermajority of both the Management Committee and Commission is required for adoption

6. **Report of the Executive Director:** Commission will receive the report of the Executive Director.
7. **Consent Agenda:** Joint Action Item by the Management Committee and Commission to Adopt Noncontroversial Reports and Minutes of Committees and the Commission

EXPLANATION: The action item is to consider for adoption the written reports of the Finance, Governance, Product Standards, and Rulemaking Committees along with an update on the Strategic Plan Action Items and the minutes from the June 29, 2021 joint meeting of the Management Committee and Commission.

8. Any Other Matters
9. Adjourn

Members of the Commission and Department Staff in Attendance:

Superintendent Elizabeth Kelleher Dwyer, Chair, Rhode Island
Commissioner Mark Afable, Vice Chair, Wisconsin
Commissioner Jim Dodrill, Treasurer, West Virginia
Sarah Bailey, as a designated representative for Alaska
Commissioner Alan McClain, Arkansas
Commissioner Michael Conway, Colorado
Jason Lapham, Colorado
Paul Lombardo as a designated representative for Commissioner Andrew Mais, Connecticut
Commissioner Trinidad Navarro, Delaware
Tanisha Merced, Delaware
Steve Manders as a designated representative for Commissioner John King
Kathleen Nakasone as a designated representative for Commissioner Colin Hayashida, Hawaii
Director Dean Cameron, Idaho
Michele MacKenzie, Idaho
Shannon Whalen as a designated representative for Director Dana Popish Severinghaus, Illinois
Commissioner Amy Beard, Indiana
Commissioner Doug Ommen, Iowa
Andria Seip, Iowa
Commissioner Vicki Schmidt, Kansas
Commissioner Sharon P. Clark, Kentucky
Commissioner James Donelon, Louisiana
Tim Schott as a designated representative for Superintendent Eric A. Cioppa, Maine
Nour Benchaaboun as a designated representative for Commissioner Kathleen A. Birrane, Maryland
Karen Dennis as a designated representative for Director Anita G. Fox, Michigan
Tammy Lohmann as a designated representative for Commissioner Grace Arnold, Minnesota
Fred Anderson, Minnesota
Bob Williams as a designated representative for Commissioner Mike Chaney, Mississippi
Director Chlora Lindley-Myers, Missouri
Ashley Perez as a designated representative for Commissioner Troy Downing, Montana
Director Eric Dunning, Nebraska
Laura Arp, Nebraska
Commissioner Barbara Richardson, Nevada
Jason Dexter as a designated representative for Commissioner Chris Nicolopoulos, New Hampshire
Commissioner Marlene Caride, New Jersey
Jennifer Catechis as a designated representative for Superintendent Russell Toal, New Mexico
Ted Hamby as a designated representative for Commissioner Mike Causey, North Carolina
Director Judith French, Ohio
Commissioner Glen Mulready, Oklahoma
Director Andrew Stolfi, Oregon
Shannen Logue as designated representative for Commissioner Jessica Altman, Pennsylvania
Director Raymond Farmer, South Carolina
Brian Hoffmeister as a designated representative for Commissioner Carter Lawrence, Tennessee
Chief Deputy Commissioner Doug Slape, Texas

Commissioner Jonathan Pike, Utah
Tanji Northrup, Utah
Mary Block as a designated representative for Commissioner Michael Pieciak, Vermont
Don Beatty as a designated representative for Commissioner Scott A. White, Virginia
Commissioner Mike Kreidler, Washington
Molly Noelle, Washington
Erin Hunter, West Virginia
Commissioner Jeff Rude, Wyoming

Legislative Committee:

Representative Joe Fischer, Kentucky
Senator Laura Fine, Illinois
Representative Matthew Lehman, Indiana
Tom Considine, NCOIL

Consumer Advisory Committee:

Brendan Bridgeland, Center of Insurance Research
Yvonne Hunter
Fred Nepple
Andrew Sperling, NAMI

Industry Advisory Committee:

Andrea Davey, Athene
Amanda Herrington, AHIP
Anne Correia, Allianz
Shawn Pollock, Mutual of Omaha
Wayne Mehlman, ACLI

Insurance Compact Staff in Attendance:

Karen Schutter, Executive Director
Becky McElduff, Director of Product Operations & Chief Counsel
Sara Dubsky, Assistant Director of Administrative Operations
Mindy Bradford, Product Reviewer
Ed Charbonnier, Product Reviewer
Jeanne Daharsh, Actuary
Susan Ezalarab, Regulatory Coordinator Consultant
Naomi Kloepersmith, Actuary
Maureen Perry, Product Review Consultant
Sarah Neil, Communications and Outreach Coordinator
Hanna Steen, Administrative Assistant
Jalaire M. Kose, Administrative Assistant

Commissioner Dodrill called to order the Joint Meeting of the Management Committee and the Interstate Insurance Product Regulation Commission (Insurance Compact or Commission). Ms. Schutter took the roll call of the: Management Committee, Commission, Legislative Committee, and Industry and Consumer Advisory Committees.

Commissioner Dodrill began the meeting recognizing the recent inclusion of Delaware as a Compact member. Commissioner Dodrill noted the Delaware legislation was signed into law on July 30th making Delaware eligible for inclusion in filing submissions on Monday, August 16th. It was noted Delaware's legislation did include an opt out of long-term care.

Commissioner Dodrill recognized the members of the Legislative Committee.

Commissioner Dodrill proceeded to the third Agenda item and asked Commissioner Afable to provide a report of the Governance Committee. Commissioner Afable reported the Committee continues to work on a proposed course of action in response to the recommendation from the Squire Patton Boggs governance report with respect to the next steps in addressing the Colorado Supreme Court opinion. The Committee is reviewing the issue of congressional consent, including implied consent and the implications for the Compact. Commissioner Afable noted the Committee has sought the legal analysis from an outside constitutional law scholar as it considers the recommendation to the Commission membership. The Committee is looking at the recommended course of action involving the same level of outreach and engagement that was had with the stakeholders when the Compact was being developed and implemented. Commissioner Afable noted the Committee was also discussing the recommended approaches for addressing conflicts between the Uniform Standards and state statutes which could meaningfully affect the substantive rights of an insured. The committee has made a referral to the Product Standards Committee to address two known conflicts in Colorado. The PSC is addressing the two conflicts in Colorado due to the binding state Supreme Court opinion while further exploring the implications of implied congressional consent. The first conflict is the one-year suicide exclusion versus the two-year suicide exclusion under the Uniform Standards. The second conflict is Colorado only permits gender neutral rates for individual long-term care insurance products and the Uniform Standards permit gender neutral and gender distinct. Lastly, the Committee is working on amendments to the Bylaws per the recommendation from Squire Patton Boggs. Commissioner Afable noted the Officers and the Compact Office have a few additional amendments to improve certain processes.. Commissioner Afable concluded the report of the Governance Committee. There were no questions regarding the report.

Commissioner Dodrill turned to the second item on the Agenda, the public hearing and discussion of options on the South Carolina request. Commissioner Dodrill reviewed the initial request made by Director Farmer in December 2020. The issue raised is that, under the current rate standards, states cannot separately consider a rate increase less than 15%. Commissioner Dodrill asked Director Farmer to make his remarks. Director Farmer related the experience of a consumer call and the question of who approved the rate increase. Director Farmer noted that the South Carolina government and legislature, and more importantly the consumers, expect him to approve the rate increase. Director Farmer explained he would like to be able to use the Compact review as an advisory finding and an additional tool to assist him with making the decision to approve the rate increases.

Superintendent Dwyer remarked that Director Farmer stated a very good case. Superintendent Dwyer further noted that the Department usually goes along with the advisory opinion and believe that these amendments will bring other states who have opted out of individual long-term care (iLTC) standards to reconsider their opt out.

Commissioner Clark noted Kentucky was supportive of flexibility while providing the best customer service possible and asked Director Farmer if South Carolina has considered opting out of the Compact.

Director Farmer replied he made the request to avoid opting out of the Compact. It was noted South Carolina is appreciative of the services the Compact does provide.

Commissioner Dodrill asked Ms. Schutter to provide an overview of the current iLTC Standards and rate review process. Ms. Schutter explained the Compact Statute requires the iLTC Standards to provide the same or greater protections based on the NAIC LTC Model Law and Regulation. The Statute provides the Compact the authority to develop the Uniform Standards and approve LTC rate and advertising filings. Ms. Schutter further explained the company must file the whole iLTC package, including rates and advertising. It was noted the forms required by the NAIC Model to be used with the iLTC application can be filed via self-certification. Only the states can approve a Compact-approved iLTC policy for Partnership. Ms. Schutter reported the Compact has approval authority if the requested increase does not exceed 15%. If the rate increase is greater than 15%, the Compact will provide an advisory review for the States and the States have the final authority. Ms. Schutter noted the Compact's review of the product is for compliance with the Uniform Standards regardless of the rate increase. There are two credentialed actuaries who perform the review. The Multi-State Actuaries have been utilized as a peer review resource as well.

Ms. Schutter noted the company makes a single SERFF submission with the rate exhibits and actuarial documentation on the Rate/Rule Schedule. New rates for either new business or a rate increase for an in-force policy are submitted in a separate filing. Ms. Schutter reported the Compact Office has approved 44 standalone iLTC products with rate schedules; 31 extension of iLTC benefit riders for use with life insurance or annuity products; 87 dollar-for-dollar iLTC benefit riders to be used with life insurance or annuity products; and 93 total rate schedules (inclusive of 18 new business rate schedules).

Ms. Schutter reviewed the process the Compact Office follows when an iLTC rate increase has been submitted. The Compact Office will provide notice to all states the rate increase has been submitted. Throughout the review, the state regulators are notified of any substantive correspondence between the Compact and the filing company. As disposition approaches, the Compact Office will advise the state regulators. Ms. Schutter explained that there have been instances when the Compact Office has provided webinars for the state regulators to address the key points for the rate increases and product. Ms. Schutter noted the materials related to the review are included in the filing submission and available to all regulators included in the filing submission.

Ms. Schutter concluded her report by reviewing the four options the Product Standards Committee has developed for the members of the Commission to take into consideration.

Director Richardson expressed concern about starting to chip away at the standards and uniformity as it would take away from the purpose of the Compact and the LTC Task Force is focused on uniformity. Director Richardson stated she understands Director Farmer's request and is not sure

that this will drive an increase in volume.

Chief Deputy Commissioner Slape expressed similar comments as Director Richardson. He noted he would prefer status quo and noted the work at the NAIC for a more uniform and consistent approach across the country. Chief Deputy Commissioner Slape noted Option 2(a) could be one Texas support as this would allow the states to focus on the legacy blocks that require significantly more time and attention. Utilizing the Compact Team has proven to be effective.

Director Cameron noted the Compact Team is doing a good job and this issue is not a reflection on the job being done by the Compact. He stressed the decision to approve a rate increase rests with the elected or appointed director. Director Cameron explained that they do not have the authority to acquiesce the decision to the Compact. He noted in order to make the decision, he needs the most up-to-date information and the Compact Office will assist in this manner. He further noted he supports the South Carolina proposal.

Commissioner Mulready noted he prefers to stay as is, but if has to choose another option it is Option 2(a).

Mr. Manders reiterated this was not a reflection on the Compact and supports Director Farmer.

Mr. Anderson noted they are in a similar position with South Carolina regarding the calls from the consumers. He noted the rate increase requests come in fast and furious with multiple requests queued up. Mr. Anderson noted the rates are deemed approved by a certain point in time. He reported that about 92% of the filings include a rate increase greater than 15%. Mr. Anderson stated he prefers the status quo and would prefer the Compact to approve rate increases 15% or less.

Commissioner Kreidler noted he has protection in Compact filings by collective effort. The challenge is developing uniformity and making everything advisory would be moving away from uniformity. Commissioner Kreidler noted he would need to hire additional staff, especially with regard to hiring actuaries. He noted more uniformity is needed and reminded all that was the motivating factor in the formation of the Compact.

Mr. Williams noted Mississippi agrees with Commissioner Farmer and will want to have the advisory opinion. He stated the final approval of the rates needs to be at the state level. Mr. Williams concluded by stating the Compact is doing a great job.

Ms. Seip remarked Iowa supports the status quo option. However, the Compact needs to have as many states involved and Option 2(a) provides for this.

Representative Lehman noted from the legislative perspective, uniformity is great along with flexibility.

Mr. Mehlman noted the ACLI has strong support for the Compact and will provide written comments by the September 13th deadline.

Ms. Herrington reiterated the support for the Compact and noted the appreciation for the robust rate review which provides predictable, significant value for the Compact States and consumers. AHIP will provide written comments by the September 13th deadline as well.

Ms. Burns noted this discussion reiterates the discussion from 2010 when the iLTC Standards were established. She states the rates on these policies are getting very thorough and detailed review. The concern lies with the rate increases being harmful in that the consumers do not have the opportunity to exercise options because they have reduced their benefits already.

Director Farmer thanked all who have made comments and provided discussion on this difficult topic.

Hearing no other comments, Commissioner Dodrill stated the Compact Office and the Product Standards Committee will review the options. The Commission will consider final action on this item during the next joint meeting of the Management Committee and Commission.

Commissioner Dodrill moved to the next item on the Agenda, consideration of Emergency Rule 3 to address Model 805 Amendments. Commissioner Dodrill explained this item is procedural and an additional Emergency Rule is required to address a gap between the expiration of Emergency Rule 2 and when the amendments to the annuity Uniform Standards become effective on October 13th. This new Emergency Rule 3 will expire on the same day the amendments to the annuity Uniform Standards become effective which is October 13th. Hearing no questions or comments, Commissioner Dodrill asked if there was a motion to adopt Emergency Rule-3. Mr. Beatty made the motion and Commissioner Slape seconded the motion. A vote was conducted and the Emergency Rule 3 was adopted.

Commissioner Dodrill proceeded to the next item on the Agenda, consideration of the waiver standards. Commissioner Dodrill noted these were three Uniform Standards for life benefit features which were recommended by the Product Standards Committee to the Management Committee in December 2019. He further noted two standards are being amended and one is new. Due to Covid and other priorities, the Management Committee exposed the Uniform Standards for an additional 60-day public comment period. During this comment period, ACLI submitted two additional comments and one that the Product Standards Committee suggests be taken into consideration before the Uniform Standards are adopted. Commissioner Dodrill reported the Product Standards Committee suggest the Management Committee remove §3A(2)(d) which added a qualifying event for disability which caused questions and confusion as to whether it conflicted with the definition of total disability which is already included in the Waiver of Premium and Waiver of Monthly Deduction standards. Hearing no questions, Commissioner Dodrill asked for a motion from a member of the Management Committee to adopt the Uniform Standards without §3A(2)(d). Ms. Logue made the motion and Mr. Hamby seconded the motion. A roll call vote was conducted and the Uniform Standards were adopted with the proposed amendment to remove §3A(2)(d).

Commissioner Dodrill called on Ms. Schutter to provide the report of the Executive Director. Ms. Schutter reported the Compact Office was preparing for Delaware to become effective for filing on August 16th. New member orientations have been conducted for 7 new Commissioners and

their senior staff. Ms. Schutter stated the Compact Office will be conducting the State of Compact calls for each Commissioner and their senior staff. These calls will start in September and conclude before the Annual Meeting. The purpose of these call is to provide an update on current activities as well as address questions or concerns about the Compact with the statutory member of the Compact. Ms. Schutter reported there are other opportunities for members to be kept updated on Compact activities. The first item is with a member coordinator approach. Each member of the Compact Office executive has been assigned specific states to work with in providing updates. Another approach is with the develop and future launch of the Compact's Collaboration Space. This is an opportunity for members and their regulators to view regulatory information on Compact activities including filing activities as well as to facilitate bulletin boards to discuss common questions and issues among members. A webinar series will be conducted on this space in addition to other webinars starting in September.

Ms. Schutter reported on the operations and noted strong filing volume, especially in the individual life product lines. As a result, the revenues are at about \$2.5 million which is a little over \$200,000 ahead of budgeted revenues. The revenue and filing volume comparable to 2019 levels which was the highest for both in Compact's history as companies in 2019 were refiling their life products to update for the 2017 CSO Mortality Tables. The expenses are just over \$1.4 million which is more than \$220,000 under budget through July. Savings in expenses is related to the timing of open positions. Ms. Schutter concluded her report and there were no questions.

Commissioner Dodrill proceeded to the Consent Agenda and asked for a motion to adopt the Consent Agenda items. Commissioner Schmidt made the motion and Mr. Manders seconded.

Commissioner Dodrill noted there was another item to be considered during the meeting. He noted there was a vacancy of Vice Chair for the Product Standards Committee. Commissioner Ommen has agreed to serve as the Vice Chair, more specifically Andria Seip. Commissioner Dodrill asked for a motion to appoint Commissioner Dodrill to the Product Standards Committee. Mr. Beatty made the motion and Mr. Slape seconded the motion.

Hearing no other matters, Commissioner Dodrill asked if there was a motion to adjourn. Mr. Beatty made a motion to adjourn which was seconded by Chief Deputy Commissioner Slape.