



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

Friday, December 4, 2020

12:30 pm ET / 11:30 am CT / 10:30 am MT / 9:30 am PT / 8:30 pm AKT / 7:30 am HT

1. Roll Call
2. Annual Report of the Legislative Committee
3. Commission Consideration of Proposed Emergency Rule to Stay the Effectiveness of Potential Amendment to NAIC Model 805 *Standard Nonforfeiture Law for Individual Deferred Annuities* currently pending adoption by the NAIC
4. Presentation and Discussion of the Independent Business Assessment
5. Presentation and Discussion of the Independent Governance Review
6. Consider Adoption by Consent of the Reports of the Audit Committee, Finance, Product Standards, and Rulemaking Committees, Minutes of October 26, 2020 joint meeting of the Commission and Executive Director Operational Update except for the items noted below with (*).
7. *Joint Management Committee and Commission Consideration of Approval of the Proposed 2021 Annual Budget and Schedule of Fees
8. Commission Consideration of the Formation of Insurance Compact Management Committee and Other Committee Assignments
9. Management Committee Consideration of Appointments to the Industry Advisory Committee
10. Elections of the 2020/2021 Officers
11. Any Other Matters
12. Adjourn

Members of the Commission and Department Staff in Attendance:

Superintendent Elizabeth Kelleher Dwyer, Chair, Rhode Island
Commissioner Mark Afable, Vice Chair, Wisconsin
Director Robert Muriel, Treasurer, Illinois
Steve Ostlund as a designated representative for Commissioner Jim Ridling, Alabama
Yada Horace, Alabama
Anthony Williams, Alabama
Sarah Bailey as a designated representative for Director Lori K. Wing-Heier, Alaska
Sharon Comstock, Alaska
Mayumi Gabor, Alaska
Anna Latham, Alaska
Director Evan Daniels, Arizona
Erin Klug, Arizona
Jimmy Harris as a designated representative for Commissioner Alan McClain, Arkansas
Jason Lapham as a designated representative for Commissioner Michael Conway, Colorado.
Sydney Sloane, Colorado
Eric Unger, Colorado
Paul Lombardo as a designated representative for Commissioner Andrew N. Mais, Connecticut
Howard Liebers as a designated representative for Commissioner Karima Woods, District of Columbia
Steve Manders as a designated representative for Commissioner John King, Georgia
Marlin Sullivan, Georgia
Kathleen Nakasone as a designated representative for Commissioner Colin Hayashida, Hawaii
Martha Im, Hawaii
Director Dean Cameron, Idaho
Michelle MacKenzie, Idaho
Weston Trexler, Idaho
Eric Anderson, Illinois
Jeff Varga, Illinois
Amy Beard as a designated representative for Commissioner Stephen W. Robertson, Indiana
Matthew Cunningham, Iowa
Commissioner Vicki Schmidt, Kansas
Nicole Boyd, Kansas
Julie Holmes, Kansas
Brenda Johnson, Kansas
Shannon Lloyd, Kansas
Craig Van Aalst, Kansas
Commissioner Sharon P. Clark, Kentucky
Malinda Shepherd, Kentucky
Frank Opelka as a designated representative for Commissioner James Donelon, Louisiana
Samuel Breaux, Louisiana
Superintendent Eric A. Cioppa, Maine
Tim Schott, Maine
Robert Wake, Maine
Nour Benchaaboun as a designated representative for Commissioner Kathleen A. Birrane, Maryland
David Cooney, Maryland
Sheri Cullen as a designated representative for Commissioner Gary Anderson, Massachusetts

Karen Dennis as a designated representative for Director Anita G. Fox, Michigan
Tammy Lohmann as a designated representative for Temporary Commissioner Grace Arnold, Minnesota
Roger Stefani, Minnesota
Bob Williams as a designated representative for Commissioner Mike Chaney, Mississippi
Judy Newton, Mississippi
Director Chlora Lindley-Myers, Missouri
Camille Anderson-Weddle, Missouri
Leann Cox, Missouri
Michelle Vickers, Missouri
Tiffany Caverhill as a designated representative for Commissioner Matthew Rosendale, Montana
Director Bruce R. Ramge, Nebraska
Martin Swanson, Nebraska
Director Barbara Richardson, Nevada
Jack Childress, Nevada
Jason Dexter, New Hampshire
Commissioner Marlene Caride, New Jersey
Philip Gennace, New Jersey
Robert Doucette as a designated representative for Superintendent Russell Toal, New Mexico
Ted Hamby as a designated representative for Commissioner Mike Causey, North Carolina
Tracy Bielin, North Carolina
Director Tynesia Dorsey, Ohio
Lori Barron, Ohio
Carrie Haughawout, Ohio
Peter Weber, Ohio
Cuc Nguyen as a designated representative for Commissioner Glen Mulready, Oklahoma
Kurt Cagle, Oklahoma
Director Andrew Stolfi, Oregon
Andrew Bux, Oregon
Janice Hart, Oregon
TK Keen, Oregon
Tracie Gray as a designated representative for Commissioner Jessica K. Altman, Pennsylvania
Tom Kilcoyne, Pennsylvania
Shannen Logue, Pennsylvania
Matthew Gendron, Rhode Island
Sarah Neil, Rhode Island
Director Raymond Farmer, South Carolina
Kendall Buchanan, South Carolina
Joe Cregan, South Carolina
Glynda Daniels, South Carolina
Andrew Dvorine, South Carolina
M Wise, South Carolina
Commissioner Carter Lawrence, Tennessee
Brian Hoffmeister, Tennessee
Bill Huddleston, Tennessee
Chief Deputy Commissioner Doug Slape, Texas
Luke Bellsnyder, Texas

Mike Boerner, Texas
David Bolduc, Texas
Blake Davenport, Texas
Libby Elliott, Texas
Richard Gober, Texas
Richard Lunsford, Texas
Michael Markham, Texas
Jeff Myer, Texas
Michael Nored, Texas
Matt Richard, Texas
Chuck Sha, Texas
Robert Simons, Texas
Barbara Snyder, Texas
Interim Commissioner Tanji Northup, Utah
Tomasz Serbinowski, Utah
Shelley Wiseman, Utah
Kevin Gaffney as a designated representative for Commissioner Michael Pieciak, Vermont
Emily Brown, Vermont
Don Beatty as a designated representative for Commissioner Scott A. White, Virginia
Craig Chupp, Virginia
Bob Grissom, Virginia
Molly Nollette as a designated representative for Commissioner Mike Kreidler, Washington
Melanie Anderson, Washington
Mike Bryant, Washington
Cynthia Clark, Washington
Sue Hedrick, Washington
Cherrellie Pasia, Washington
Commissioner James A. Dodrill, West Virginia
Joylynn Fix, West Virginia
Tonya Gillespie, West Virginia
Erin Hunter, West Virginia
Rebecca Rebholz, Wisconsin
Richard Wicka, Wisconsin
Commissioner Jeff Rude, Wyoming
JoAnne DeBella, Wyoming
Amanda Tarr, Wyoming

Members of the Legislative Committee in Attendance:

Representative Matt Lehman, Indiana
Senator Laura Fine, Illinois
Representative Brian Patrick Kennedy, Rhode Island
Tom Considine, NCOIL
Heather Morton, National Conference of State Legislatures

Members of the Industry Advisory Committee in Attendance:

Diane Boyle, NAIFA
Anne Correia, Allianz
Amanda Herrington, AHIP
Michael Hitchcock, Pacific Life
Wayne Mehlman, American Council of Life Insurers
Charles Perin, Nationwide
Shawn Pollock, Mutual of Omaha
Liz Pujolas, Insured Retirement Institute

Members of the Consumer Advisory Committee in Attendance:

Brendan Bridgeland, Center for Insurance Research
Yvonne Hunter
Fred Nepple
Andrew Sperling, National Alliance for Mental Illness

Interested Parties:

Angela Acker-Fisher, Securian
Sonya Bassaly, Geico
Birny Birnbaum, Center for Economic Justice
Stephanie Brown, Risk Reg
Cari Christman, Texas Senate
Andrea Davey, Athene
James Eklund, Eklund Hanlon
Lynn Espeland, Woodmen of the World
Debbie Eversole, One America
Marit Florke, FG Life
Bianca Gagnon, Pacific Life
Tonya Gallatin, Voya
Stacey Grundman, Squire Patton Boggs
Chris Hadik, USAA
Pat Hatler, Squire Patton Boggs
Ann Henderson, Royal Neighbors
Josh Hisley, Allianz
Lisa Holland, State Farm
Mary Jo Hudson, Squire Patton Boggs
Barbara Jankowski, Gleaner Life
Jill Jones, BLIC
Beth Keith, FG Life
Christine Kelly, NTA Life
Seth Lamont, CNA
Curt Leonard, ACLI
Beth Lindsay, Voya
Keith Mancini, Empower Retirement
David Morris, Northwestern Mutual
Michael Mullaly, Squire Patton Boggs

Joseph Muratore, New York Life
Eric Myers, ELCO Mutual
Ashlee Pena, Thrivent
Neil Rector, Rector & Associates
Meghna Roa, Squire Patton Boggs
Sarah Schroeder, Rector & Associates
Jason Simmons, New York Life
David Sloane, Genworth
Kacey Stotler, Faegre Drinker
Seema Taneja, AIG
Earl Taylor, American National
Amanda Weaver, John Hancock

Insurance Compact Staff in Attendance:

Karen Schutter, Executive Director
Becky McElduff, Director of Product Operations & Chief Counsel
Sara Dubskey, Assistant Director of Administrative Operations
Mindy Bradford, Product Reviewer
Ed Charbonnier, Product Reviewer
Jeanne Daharsh, Actuary
Sue Ezalarab, Regulatory Coordinator Consultant
Karen Givens, Senior Product Reviewer
Naomi Kloepersmith, Actuary
Maureen Perry, Product Review Consultant
Hanna Steen, Administrative Assistant

Superintendent Dwyer 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.

Superintendent Dwyer welcomed the members of the Legislative Committee and asked the Chair, Representative Matt Lehman if the Committee had any remarks. Representative Lehman noted that the Committee, like the members of the Commission, is concerned about the Colorado Supreme Court decision and what it means for legislatures and legislators. Representative Lehman encouraged the members of the Commission to reach out to the members of the Legislative Committee as it moves forward on some of the issues being brought forward in the coming year.

Superintendent Dwyer proceeded to receive comments on the Proposed Emergency Rule to Stay the Effectiveness of Potential Amendment to NAIC Model 805 *Standard Nonforfeiture Law for Individual Deferred Annuities* currently pending adoption by the NAIC. It was noted the NAIC's Life Actuarial Task Force and Life Insurance and Annuities (A) Committee have approved an amendment to NAIC Model 805 which is the Standard Nonforfeiture Law for Individual Deferred Annuities. The amendment is specific to Section 4(B)(3) and changes the minimum nonforfeiture rate from 1.0% to 0.15%. The Uniform Standards reference Model 805 in the actuarial requirements for nonforfeiture compliance for the deferred

annuities. Superintendent Dwyer explained that as the Commission works through the Colorado Supreme Court decision, this particular amendment would present a practical example of where the current statute in the Compacting States would be different than the Uniform Standards. Superintendent Dwyer noted that the amendment to the minimum nonforfeiture rate would automatically apply in the Uniform Standards before the legislatures are able to take action on the amendments to the Model. The Compact Officers are proposing the Emergency Rule be put in place to stay the effectiveness of the amendment to Model 805. The Emergency Rule would remain in effect for 120 days, or April 3, 2021, unless extended by the Commission. This proposed Rule directs the Product Standards Committee to review this matter to provide a recommendation on if, when and how the NAIC Model 805 amendment should be incorporated into the Uniform Standards.

Mr. Mehlman, on behalf of the ACLI, noted that there are some concerns with the Emergency Rule, but understand the importance for the Rule surrounding the Colorado Supreme Court decision. He asked what the Commission intended to do after the 120-day mark. Superintendent Dwyer replied that it was not yet determined, but that the deliberation process would be open and all would be included.

Mr. Birnbaum asked if among the options available, is a permanent rule similar to the Emergency Rule a possibility. Superintendent Dwyer responded that this particular rule is to address the amendments to Model 805 Section 4(B)(3). Mr. Birnbaum also inquired if the Colorado Supreme Court decision would affect any other rules or policies, such as the Public Access Rule. Superintendent Dwyer noted that the Supreme Court decision was a narrow decision, and the Commission is going to be reviewing what to do next based on recommendations from the independent assessments.

Ms. Pujols reiterated what was stated by the ACLI and asked if there was an ability to extend the stay.

Superintendent Dwyer asked for a motion to stay the effectiveness of the amendment to NAIC Model 805 Section 4(B)(3) for the applicable Uniform Standards for 120 days and have the issue sent to the Product Standards Committee for review and recommendation. Director Muriela made the motion and Commissioner Caride seconded the motion. Interim Director Dorsey noted that the 120-day period may be too long, but understands the time is required to address this issue. There was no further discussion, and a roll call vote was conducted. The vote was unanimous.

Superintendent Dwyer moved to the next item on the Agenda and asked Ms. Schroeder with Rector and Associates to provide a presentation on their findings as a result of the independent business assessment. Ms. Schroeder began with reviewing what Rector and Associates was tasked with doing. She noted that the business assessment was to conduct a review of the Insurance Compact's financials, budget, fee and operational structure, processes, and practices. Rector and Associates were asked to make recommendations for improvements that will enhance the Insurance Compact's financial effectiveness and sustainability over the next five to 10 years; and comply with financial and business best practices for comparable organizations. Ms. Schroeder noted that an extensive document review and analysis and interviews were conducted to complete their research.

Ms. Schroeder provided a summary on their findings for the Compact's financial model and sustainability. It was noted that the current financial model does allow for positive financial results. The appropriate financial systems, controls and procedures are in place. The biggest risk to the financial sustainability is the effect of the *Amica v. Wertz* decision. Ms. Schroeder provided a summary on their findings for the

Compact's operational and business model. It was explained that the current business model does allow the Compact to accomplish the key goal of serving as a speed to market vehicle for uniform product reviews. The company filers who utilize the Compact platform appreciate the Compact staff. It was noted that there is room for improvement for relationships with various constituents.

Ms. Schroeder moved to reviewing the 14 key findings and recommendations. The first finding reported was that the Compact should increase the focus on proactively identifying financial and operational threats to the future and create solutions. The second finding was to clarify the demarcation between the NAIC and the Compact. The third finding was an improvement in communication between the Commissioners and the Compact staff, especially regarding consumer protections. The fourth finding was to collaborate more on the development of the Uniform Standards. Another finding pertained to the five-year review process and review the current process for enhancements. A process for permitting innovative product features should be developed. The seventh finding reported was to continue the use of the designees for the Commission members. The eighth recommendation was to improve the coordination of Compact and NAIC meetings and distribution of materials. The development of a cross training program for the Compact product reviewers was recommended. It was recommended that the Compact evaluate the use of independent contractors under the appropriate federal and state guidelines. The eleventh finding pertains to the operations and it was recommended that the expedited review program be adopted as a permanent filing option. The first finding pertaining to the financial model was to improve the budget process for future expenses. The Compact Office should consider and reach consensus on the approach to expense budgeting before the presentation of the Compact budget. The third finding pertaining to the financial model would be for the Insurance Compact to consider an increase in the annual registration and product filing fees. The fourth and final recommendation is to review and assess the NAIC license and Services Agreement so it more accurately reflects the services provided.

Ms. Schroeder proceeded to review the findings of their assessment of the actuals to budgeted revenue, expenses, and projected changes in net revenue/deficit. She noted that while the revenue was below the projected revenue for 13 years of operations, the past two years have seen a positive revenue. Ms. Schroeder reviewed the actual expenses to budgeted expenses and note the actuals have been below budget by 10.8% for the 13 years of operations, with the variance decreasing over time. Ms. Schroeder noted the Compact has had a positive net revenue for the past two years and the net deficit is improving. The Compact has consistently had a better result in net results than projected.

Ms. Schroeder concluded the report and noted the Compact has very well-defined financial procedures in place. It was noted that the single biggest risk for the Compact's operations is the effect of the *Amica v. Wertz* decision.

Superintendent Dwyer asked if there were any questions. Mr. Mehlman remarked that the report was very thorough and ACLI will hold off on any comments regarding increases in filing fees. Mr. Birnbaum asked if there were any findings to report consumer protection performance as well as the success and operations of the advisory committees. Mr. Keepers asked what the driver was behind the suggestion for an increase in filing fees. Ms. Schroeder replied that it was based on the comments provided by the company filers regarding the value add the Compact provides to the filing process. Mr. Bridgeland expressed his gratitude for having the members of the Consumer Advisory Committee involved in the process.

Superintendent Dwyer proceeded to the next item on the Agenda and asked Ms. Hudson with Squire Patton Boggs to present their findings of the independent governance review. Ms. Hudson remarked that the governance review recommendations address many of the key changes in governance compliance requirements as they apply to the Insurance Compact. It was stated the Insurance Compact was created as a public entity with the Commissioners as the representative for the state in a role akin to a board member. Ms. Hudson noted *Amica V. Wertz* brings the issue of federal consent forward and the report addresses consent and potential strategies to address this issue. She noted the governance review recommendations also provide a strategy for the Insurance Compact to follow to address the tax exemption status.

Ms. Hatler with Squire Patton Boggs presented information on the recommendations to build on the key governance principles to foster member engagement resulting in effective governance oversight including clear roles and responsibilities; clear communication and transparency; and iterative, regular governance review for improvement and to address new circumstances. She further noted that the recommendations include specific examples for document templates, process changes, and bylaw amendments. The recommendations include an annual governance calendar and effectiveness review; written committee charters; flexibility in officer elections, and participation and role of designees. Ms. Hatler noted that these recommendations were based on the concerns raised during the interview process and were ways to foster more effective Commissioner, or their designees, participation in discussions and decision making.

Mr. Eklund reviewed the issues pertaining to compact law and explained some of the core principles of compact law. Mr. Eklund reported on the approach taken by the Colorado Supreme Court in *Amica v. Wertz* and remarked that the decision has the potential to erode the certainty and uniformity of Compact-filed products. Mr. Eklund commented the court's ruling raised the importance of congressional consent for certain compacts. He explained that while it was not raised in *Amica v. Wertz*, the governance review finds the Insurance Compact received implied congressional consent through the enactment of Public Law 109-356, allowing the District of Columbia to join the Insurance Compact. Mr. Eklund provided an overview of the implications of implied congressional consent for purposes of achieving the shared goals of the Insurance Compact. Mr. Eklund indicated the governance review analyzes the options for the Commission to consider and recommends a course of action to recognize implied congressional consent. The three tools for recognition of implied congressional counsel would be to issue a clarifying Advisory Opinion then publicize; incorporate into future member training; and amend the Uniform Standards to require notice of litigation involving the validity of Uniform Standards and then consider intervention in appropriate cases.

Superintendent Dwyer asked Squire Patton Boggs for an alternate time to complete their presentation. There was no objection to this request.

Superintendent Dwyer asked for a member of the Commission for a motion to adopt by consent the reports of the Committees, the Operational Update of the Executive Director, and the meeting minutes from the October 26th joint meeting of the Management Committee and Commission. Commissioner Caride made the motion and Commissioner Afable seconded the motion. The motion passed unanimously via voice vote.

Superintendent Dwyer moved to the adoption of the 2021 Annual Budget. It was explained that there were no changes to the Schedule of Fees for 2021 and the Finance Committee has recommended the Expedited Review Program be made a permanent filing option. It was noted there were no comments received

regarding the 2021 Annual Budget. Superintendent Dwyer asked for a member of the Management Committee to make a motion to adopt the 2021 Annual Budget and Schedule of Fees. Commissioner Caride made the motion and Commissioner Dodrill seconded the motion. The motion passed unanimously via voice vote.

Superintendent Dwyer moved to the Commissions consideration of the formation of the Insurance Compact's Management Committee and Other Committee assignments. Superintendent Dwyer reviewed which states would be on the Management Committee. It was noted that the Management Committee in 2021 will comprise of: Georgia, Illinois, Kansas, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, Wisconsin, and Wyoming. Superintendent Dwyer explained that Director Chlora Lindley-Myers asked for Missouri to be deferred. Wisconsin Commissioner Afable volunteered to continue to serve on the Management Committee in the open seat. Superintendent Dwyer reported the states in this specific category of the Management Committee membership voted in favor of Wisconsin filling the vacant seat. Superintendent Dwyer asked for a motion from the Commission to adopt the recommended formation of the Insurance Compact Management Committee and Other Committee Assignments. Commissioner Clark made the motion and Commissioner Dodrill seconded the motion. The motion passed unanimously via voice vote.

Superintendent Dwyer continued to the Commission's consideration of appointments to the Industry Advisory Committee. It was noted that four seats were open for appointment. Three of these seats were for company representatives and one was reserved for an industry trade organization representative. Superintendent Dwyer reported the Officers recommend filling the vacant seats with Liz Pujols of the Insured Retirement Institute be appointed to the industry trade organization seat. Four applications were received for the three open company representative seats. It was further explained that one company has agreed to roll its application to next year for consideration. Superintendent Dwyer noted the Officers would recommend Anne Correia, Allianz Life Insurance Company, Andrea Davey, Athene Annuity and Life Company, and Joseph Muratore, New York Life Insurance Company, to fill the three vacant company representative seats. Superintendent Dwyer asked for a motion from a member of the Management Committee to adopt the recommendations for appointments to the Industry Advisory Committee. Commissioner Schmidt made the motion and Commissioner Caride seconded the motion. The motion passed unanimously via voice vote.

Superintendent Dwyer proceeded to the next item on the Agenda, and asked Director Muriel to conduct the election of the Commission Officers. Director Muriel stated that under the Bylaws, the Officers are elected by the entire Commission, but must be from the membership of the Management Committee. Director Muriel opened the floor for nominations for the offices of Chair, Vice Chair, and Treasurer of the Commission. Commissioner Caride nominated a slate which consisted of Superintendent Dwyer for the office of Chair, Commissioner Afable for the office of Vice Chair, and Commissioner Dodrill for the office of Treasurer of the Commission. There were no additional nominations. Commissioner Schmidt seconded the slate. Commissioner Caride moved to close the nominations and elect the nominated Officers by acclamation. Commissioner Schmidt seconded. The motion carried via voice vote with none opposed.

Superintendent Dwyer noted there was one other matter to be brought before the Commission. Superintendent Dwyer explained the Compact Office received a request from the South Carolina Director Farmer asking the Commission to study whether to lower or remove the 15% threshold for the review of in-force rate increases on Compact-approved individual long-term care insurance products. The adopted

Uniform Standards have a threshold of 15% where the Commission would have authority to approve in-force rate increases which were actuarially justified at 15% or below. Superintendent Dwyer explained the Compact received its first in-force rate increase under 15%, in fact there were two submitted in 2020. Superintendent Dwyer noted that Officers would ask the Product Standards Committee to study whether circumstances have changed since the threshold was established in 2010 when the Standards were adopted and make a recommendation whether to keep, lower, or remove the 15%. Director Farmer thanked Superintendent Dwyer for the ability to review this matter with the Product Standards Committee. Director Farmer noted that since long-term care is a volatile issue, he wants to be able to approve and be held responsible for the approvals of any long-term care rate increases for South Carolina consumers.

As there were no other matters, the joint meeting of the Management Committee and Commission adjourned.