



OFFICE OF  
INSURANCE COMMISSIONER

September 13, 2021

Elizabeth Kelleher Dwyer  
Chair and Rhode Island Superintendent  
Interstate Insurance Product Regulation Commission  
444 North Capitol Street Northwest  
Hall of the States, Suite 700  
Washington, D.C. 20001-1509

RE: Comments on Lowering or Removing Threshold for Review of In-Force Long Term Care Insurance Rate Increases

Dear Superintendent Dwyer:

Thank you for the opportunity to comment on the Product Standards Committee (PSC) Memoranda and Recommendations developed in response to South Carolina's request to study lowering or removing the 15% threshold for review of in-force long-term care insurance (LTC) rate increases. I am appreciative of the work the PSC is doing to address the concerns of South Carolina.

I have been a strong supporter of the Interstate Insurance Compact since its creation 15 years ago. Washington State was one of the first to come on board upon the creation of the initial Compact standards and approvals. Over the past ten years, the Compact has created a high degree of uniformity in the LTC marketplace with 40 member states participating in standards and approvals. Consumers benefit by having the same product and initial rates, approved through the Compact, regardless of which state they live in when they buy the product or when they need to use the benefits, even if they move across state lines. I believe strong consideration should be given to continuing this same degree of uniformity to the LTC in-force rate increases, especially the smaller rate increases currently within the Compact's review and approval authority on our behalf.

Our legislatures authorized our member-driven Compact Commission to develop standards not only for the LTC product but for the rate schedules and gave the Compact the authority to review and approve on our behalf. I sense many of my colleagues are comfortable with the current process and the threshold of 15%, while also understanding South Carolina's position of wanting to participate but only in an advisory capacity for in-force rate increases. After the recent National Association of Insurance Commissioners National Meeting in Columbus, Ohio, I asked the Compact Office to explore if an option exists that would allow compacting states who want the status quo to continue without taking further action, while also allowing South Carolina to opt out of in-force rate increase filings for all Compact LTC products. I am putting forward the following option that was outlined through discussions with the Compact Office which may better align with the Compact statute and its rules and processes.

Interstate Insurance Product Regulation Commission

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This option, which would be in lieu of the current options already discussed, would split the requirements for initial rate schedules and requirements for in-force rate increases and revisions into two separate Uniform Standards, replacing the current rate filing Uniform Standards which combines both initial and in-force rate requirements.

The separation into two Uniform Standards would not change the substantive requirements for these respective types of rate schedules. A separate stand-alone Uniform Standard for in-force rate schedule changes would include within its scope that compacting states could opt out of this single standard without affecting participation in the other Uniform Standards for the individual long-term care insurance product and initial rate schedules. This approach would allow compacting states, including ones currently not participating in the individual long-term care Uniform Standards, to have flexibility if the biggest concern is keeping approval authority over all in-force rate increase requests, even on Compact-approved products and even the smaller justified requests of 15% or below.

Washington State strongly supports uniformity in all aspects of this critical product line to maintain fairness in rates and benefits to all of our consumers, and also the flexibility to allow a state to participate as fully as possible without opting out of more than is necessary. This option would allow South Carolina to exercise their right under the Compact to opt out by regulation of the Uniform Standard for in-force rate increases and would not place further obligations on fellow compacting states wishing to maintain the status quo and the 15% level of approval authority.

Thank you for your consideration of this option.

Sincerely,



Mike Kreidler  
Insurance Commissioner

cc: Karen Shutter, Executive Director Interstate Insurance Product Regulation Commission  
Molly Nollette, Deputy Insurance Commissioner, Rates, Forms, and Provider Networks

Enclosures: Standards for Filing Revisions to In-Force Rate Filing Schedules for Individual Long-Term Care Insurance  
Rate Filing Standards for Individual Long-Term Care Insurance: Issue Age Rate Schedules Only

Sent electronically to [comments@insurancecompact.org](mailto:comments@insurancecompact.org)

## STANDARDS FOR FILING REVISIONS TO IN-FORCE RATE FILING SCHEDULES FOR INDIVIDUAL LONG-TERM CARE INSURANCE

**Scope:** These standards apply to filings to make revisions (including increases) to premium rate schedules for in-force individual long-term care insurance. Long-term care insurance shall provide benefits for one or more of the following: nursing home care, assisted living care or home health care and adult day care. These standards apply to all policies, riders, endorsements and amendments subject to the *Core Standards for Individual Long-Term Care Insurance Policies* and all in-force rate schedules subject to the *Rate Filing Standards for Individual Long-Term Care Insurance* adopted by the Interstate Insurance Product Regulation Commission.

These standards shall apply to closed blocks of insurance (where sales have ceased) and to open blocks of insurance (where sales are currently being made) where the revised rate schedule will apply to in force policies. These standards shall not apply when a company files for a revised rate schedule that increases premium rates only with respect to new business issued under a policy form or for initial rate filings (for applicable requirements, see *Rate Filing Standards for Individual Long-Term Care Insurance*).

**Opt-Out:** Compacting States may opt out of the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* in accordance with the Interstate Insurance Product Regulation Compact and the relevant operating procedures without opting out of the other Uniform Standards for individual long-term care insurance. When a Compacting State has exercised its right to opt out of this standard, a filer may not include such state in a filing to the Interstate Insurance Product Regulation Commission for in-force revisions to premium rate schedules and shall instead file for in-force rate revisions directly with such state. The individual long-term care insurance product and applicable premium rate schedule approved by the Interstate Insurance Product Regulation Commission shall be governed by the applicable Uniform Standards and shall not be contested by a Compacting State that has opted out of these standards and is reviewing Interstate Insurance Product Regulation Commission unless it follows the procedures in its law enacting the Interstate Insurance Product Regulation Compact, including but not limited to Article VIII.

**Mix and Match:** Except with respect to a rate revision request for a Compacting State that has opted out of these standards, these standards are not available to be used in combination with State Product Components as described in § 111(b) of the Operating Procedure for the Filing and Approval of Product Filings.

**Self-Certification:** 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.

All terms used in these standards shall have the same meaning as defined in the *Core Standards for Individual Long-Term Care Insurance Policies*.

As used in these standards the following definitions apply:

“Dollar-for-Dollar Long-Term Care Insurance” is long-term care insurance provided under:

- (1) Life insurance policies that permit payment of all or part of the death benefit when specified activities of daily living or cognitive impairment triggers are met and the payment of benefits is

contingent upon receipt of long-term care services, and such payment does not exceed \$1.00 for each \$1.00 of reduction in death benefits (for flexible premium adjustable life products, the death benefit may be one of the death benefit options described in the Interstate Insurance Product Regulation Commission standards for such products); and

- (2) Annuity contracts that provide for the waiver of any applicable surrender or withdrawal charges upon payment of all or part of the account value when specified activities of daily living or cognitive impairment triggers are met and the payment of benefits is contingent upon receipt of long-term care services, and such payment does not exceed \$1.00 for each \$1.00 of permanent reduction in the account value.

“Exceptional rate schedule increase” means only those rate schedule increases where the Interstate Insurance Product Regulation Commission determines that the need for the rate schedule increase is justified, and may be applicable to only one or more states as determined by the Interstate Insurance Product Regulation Commission:

- (1) Due to changes in laws or regulations applicable to individual long-term care coverage; or
- (2) Due to increased and unexpected utilization that affects the majority of companies of similar products to that for which the rate schedule increase filing applies.

**Drafting Note:** As appropriate, the Interstate Insurance Product Regulation Commission may refer to the NAIC *Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation* in reviewing filings under these standards.

## **§ 1. APPLICABLE AUTHORITY, REVIEW AND APPROVAL OF RATE SCHEDULE INCREASES**

- (1) When a rate schedule increase for a specified individual long-term care insurance policy form does not exceed a rate increase of fifteen percent (15%), the filing shall be subject to the review and approval or disapproval of the Interstate Insurance Product Regulation Commission **on behalf of the participating Compacting States**.
- (2) When a rate schedule increase filing request exceeds a rate increase of fifteen percent (15%), the filing shall be subject to the review and approval of each Compacting State. If a rate schedule increase filing does not request a rate increase above fifteen percent (15%), but the Interstate Insurance Product Regulation Commission determines that a rate increase exceeding fifteen percent (15%) is necessary to comply with the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* ~~Rate Filing Standards for Individual Long-Term Care Insurance~~, the filing shall be subject to the review and approval or disapproval of each Compacting State.
- (3) When a rate schedule increase filing is subject to the approval of the Interstate Insurance Product Regulation Commission, as provided in § 4A1(1), the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* ~~Rate Filing Standards for Individual Long-Term Care Insurance~~ and other applicable Rules, Uniform Standards and Operating Procedures **shall** apply. When a rate schedule increase filing is subject to the approval of each

Compacting State as provided in § 4A1(2), each Compacting State's applicable state laws and regulations **shall** apply to the entire rate schedule increase filing.

- (4) For rate schedule increase filings subject to the approval of each Compacting State as provided in § 4A1(2), the Interstate Insurance Product Regulation Commission shall review **on an advisory basis** the rate schedule increase filing, including corresponding with the filer to address objections, and provide to each applicable Compacting State an advisory finding regarding compliance with the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance*~~Rate Filing Standards for Individual Long-Term Care Insurance~~ and other applicable Uniform Standards. **A review and advisory finding by the Interstate Insurance Product Regulation Commission shall not be considered an approval of the rate schedule increase filing nor shall it be binding on the Compacting States or the filing company.**
  - (a) **[LOUISIANA REQUEST]: A Compacting State may affirmatively decline to receive an advisory finding of the Interstate Insurance Product Regulation Commission and such decline shall be published on the Commission's website in a similar manner to Compacting States opting out of Uniform Standards.**
- (5) **The original individual long-term care insurance product and premium rate schedule approved by the Interstate Insurance Product Regulation Commission and that is the subject of a rate schedule increase filing shall be governed by the applicable Uniform Standards.**
- (6) Once the Interstate Insurance Product Regulation Commission transmits the advisory finding to each applicable Compacting State, the rate schedule increase filing, including the applicable Member State Filing Fee, shall be considered a filing of each applicable Compacting State and a withdrawn filing of the Interstate Insurance Product Regulation Commission.
- (7) Any future rate schedule increase requests on rate schedule increase filings subject to the approval of each Compacting State as provided in § 4A1(2) shall be filed directly with each applicable Compacting State and subject to the review and approval or disapproval of each Compacting State under its respective state laws and regulations.

## **§ 2. CRITERIA FOR REVIEW FOR ALL RATE REVISION FILINGS**

### **A. GENERAL**

The Interstate Insurance Product Regulation Commission will review rate **revision** filings for individual long-term care insurance policies and may disapprove any rate **revision** filing **for in-force premium rate schedules (whether decrease or increase)** for one or more of the following reasons:

- (1) The premiums charged are unreasonable in relation to the benefits provided, excessive, inadequate, or unfairly discriminatory;
- (2) The provisions permit the company to vary premiums for insureds, and the variances are not based upon sound underwriting and sound actuarial principles reasonably related to actual or reasonably anticipated loss experience or expenses;

- (3) The premiums unfairly discriminate between individuals of the same actuarial risk class, or between risks of essentially the same degree of hazard;
- (4) The premiums discriminate on the basis of race, color, creed, national origin, or sexual orientation;
- (5) The premiums unfairly discriminate on the basis of marital status or civil union status in states where civil union relationships are recognized; however, this does not prohibit actuarially justified spousal, couple, partner, or civil union discounts; or
- (6) The rate filing fails to comply with the standards.

## **B. GENERAL SUBMISSION REQUIREMENTS**

- (1) If the rate ~~schedule increase~~ **revision** filing is being submitted on behalf of the company, include a letter or other document authorizing the firm to file on behalf of the company.
- (2) The request for approval of a rate ~~schedule increase~~ **revision** filing shall be submitted to the Interstate Insurance Product Regulation Commission at least thirty (30) days prior to the required ~~rate increase~~ notice period **for a change in the premium rate schedule** as provided in the policy.

## **§ 3. ADDITIONAL SUBMISSION REQUIREMENTS FOR RATE SCHEDULE INCREASE FILINGS**

### **Drafting Notes:**

- (1) These requirements do not apply when a company files for a revised rate schedule that increases premium rates only with respect to new business issued under a policy form or for initial rate filings. **See *Rate Filing Standards for Individual Long-Term Care Insurance* for applicable requirements.**
- (2) For dollar-for-dollar long-term care insurance, these requirements do not apply to changes in premium rates for benefits that occur under an existing premium rate schedule where premiums are scheduled to change during the premium-paying period according to a specified pattern due to attained age or duration since issue.
- (3) These requirements do not apply where a company has previously provided a certification, as described in *Rate Filing Standards for Individual Long-Term Care Insurance* § 5A.2(a)(ii), that the basis for any base policy rate increase does not incorporate adverse experience for the dollar-for-dollar long-term care insurance.

The following additional submission requirements apply to rate schedule increase filings (i.e. a change to an approved **in-force** ~~Issue-Age-Rate S~~ schedule that results in a new, higher ~~Issue-Age-Rate S~~ schedule) that apply to in-force policies for individual long-term care insurance:

## **A. GENERAL**

- (1) Include the Long-Term Care Insurance Potential Rate Increase Disclosure Form required by § 9, Required Disclosure of Rating Practices of the NAIC *Long-Term Care Insurance Model Regulation* (Model #641).

- (2) A rate schedule increase with the same percentage increase applicable to all policies may be filed with the Interstate Insurance Product Regulation Commission based on the experience of such policy form in all states where the Interstate Insurance Product Regulation Commission has approved the form for use. If requested by the reviewer, the company shall detail the basis for its determination not to vary the rate increase percentage.
- (3)
  - (a) Where the same percentage rate schedule increase is not to be applied to all policies in force under an Interstate Insurance Product Regulation Commission filed policy form, for other than dollar-for-dollar long-term care insurance, the overall rate schedule increase shall be consistent with the loss ratio requirements of § 4C3B(3) when applied to such policy form in all states where the Interstate Insurance Product Regulation Commission has approved the form for use.
  - (b) The company shall detail the basis for its determination to vary the rate increase (e.g., certain states as an exceptional increase, certain level of benefits, and certain ages). Such basis shall be generally consistent with the experience under the Interstate Insurance Product Regulation Commission filed policy form, but may rely on credible experience from other sources (e.g., company’s national experience, industry experience).
- (4) A rate schedule increase shall not introduce a new rating characteristic that was not included as a rating characteristic in the initial rate filing.

**Drafting Note:** At the time of drafting these standards, the Interstate Insurance Product Regulation Commission generally does not believe that sufficient data on insured experience is available to vary a rate schedule increase by state or region, but cannot be sure sufficient data cannot be produced in the future. To the extent a company desires to vary a rate schedule increase by state or region, it should recognize that any lack of sufficient data for the form in each state or region may present a significant hurdle to the approval of such a rate schedule increase request. However, it is recognized that any industry or actuarial study that indicates a clear and substantiated basis for varying the level or length of incurred claims by state or region could provide support for varying a rate schedule increase consistent with such study. If industry or actuarial study indicating a clear and substantiated basis to vary a rate schedule increase by state or region becomes available subsequent to adoption of these standards, the Interstate Insurance Product Regulation Commission will revisit the appropriateness of varying a rate schedule increase by state or region for future issues.

**Drafting Note:** The use of “policy form” is not intended to eliminate the filing of a consistently based premium rate schedule increase to multiple policy forms with similar benefits and underwriting based on the same assumptions and their total experience to date.

## **B. ACTUARIAL SUBMISSION REQUIREMENTS**

- (1) An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:
  - (a) A statement that, if the requested rate schedule increase is implemented, and the underlying assumptions, which reflect moderately adverse conditions, are realized, no future rate schedule increases are anticipated;

- (b) A statement that the rate schedule increase filing is in compliance with the requirements of these standards;
- (c) A statement that the rate schedules submitted are those to which the information in the actuarial memorandum applies; and

**Drafting Note:** The inclusion of both § 4C3B(1)(a) and § 4C3B(1)(c) above is intended to preclude the ability of the Interstate Insurance Product Regulation Commission and the company to agree, independently of the actuary's certification, to a rate schedule increase other than that to which the certification applies.

- (2) For other than dollar-for-dollar long-term care insurance, an actuarial memorandum prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall comply with the Actuarial Standards of Practice (in particular ASOP 18) and providing at least the following information with respect to the form as approved for use in Interstate Insurance Product Regulation Commission states:
  - (a) Lifetime projections of earned premiums and incurred claims based on the filed rate schedule increase and consistent with the requirements of § 4B3A(4) and (5) to provide complete experience; and the method and assumptions used in determining the projected values, including a reflection and disclosure of any assumptions that deviate from those used in pricing other policy forms approved by the Interstate Insurance Product Regulation Commission and currently available for sale;
    - (i) Annual values for the five (5) years preceding and the three (3) years following the projection date shall be provided separately;
    - (ii) The projections shall include the development of the lifetime loss ratio, unless the rate schedule increase is an exceptional rate schedule increase;
    - (iii) The projections shall demonstrate compliance with § 4C3B(3), below;
    - (iv) For an exceptional rate schedule increase:
      - (I) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional rate schedule increase; and
      - (II) In the event that the Interstate Insurance Product Regulation Commission determines that there are potential offsets to the higher claims costs associated with the exceptional rate schedule increase, the appropriate net projected experience shall be used; and
    - (v) The projections shall be based on the expected premium income and claims experience to which the rate increase will be applied with a separate projection for the expected premium income and claims experience to which no rate increase will be applied;



**Drafting Note:** Projected experience performed according to § 4B3A(2) may use actuarial judgment based on the experience of the company or industry using Interstate Insurance Product Regulation Commission, state or national data.

- (b) Disclosure of how reserves have been incorporated into the rate schedule increase whenever the rate schedule increase will trigger a contingent benefit on lapse;
  - (c) Disclosure of the analysis performed to determine why a rate schedule increase is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied upon by the actuary in providing the certification in § 4C(1), above. The disclosure should describe the sources and levels of margins incorporated into the premiums after the rate schedule increase that are the basis for the statement in § 4C(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Significant deviations in margins between ages, sexes, plans or states shall be clearly described. Significant deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating premium schedules;
  - (d) A statement that the policy design, underwriting and claims adjudication practices have been taken into consideration; and
  - (e) A statement that the rate schedule after the rate schedule increase is not greater than the rate schedule for new business approved for use by the Interstate Insurance Product Regulation Commission except for differences attributable to benefits, unless sufficient information to demonstrate such differences are justified is provided; and
  - (f) A demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in *the Rate Filing Standards for Individual Long-Term Care Insurance* § 2B(1)(d) is projected to be exhausted.
- (3) For other than dollar-for-dollar long-term care insurance, all rate schedule increases applicable to policies issued under policy forms filed prior to December 26, 2017 shall comply with the following requirements with respect to the portion of the business to which the rate schedule increase is to apply:
- (a) Exceptional rate schedule increases shall provide that seventy percent (70%) of the present value of projected additional premiums resulting from the exceptional increase will be returned as benefits;
  - (b) Rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, excluding active life reserves, and the present value of future projected incurred claims, excluding active life reserves, are not less than the sum of:
    - (i) The accumulated value of the initial earned premium times fifty-eight percent (58%);

- (ii) Eighty-five percent (85%) of the accumulated value of prior rate schedule increases filed with the Interstate Insurance Product Regulation Commission under this standard on an earned basis;
  - (iii) The present value of future projected initial earned premiums times fifty-eight percent (58%); and
  - (iv) Eighty-five percent (85%) of the present value of projected premiums not included in (iii), above, on an earned basis;
- (c) In the event that the rate filing incorporates an exceptional rate schedule increase and other increases, the values in § 4C3B(3)(b)(ii) and § 4C3B(3)(b)(iv) shall also include seventy percent (70%) for exceptional rate schedule increase amounts; and
- (d) All present and accumulated values used in the determination of any rate schedule increase shall use the maximum valuation interest rate for contract reserves specified in Appendix A of the NAIC *Health Insurance Reserves Model Regulation* (Model #10).
- (4) For other than dollar-for-dollar long-term care insurance, all rate schedule increases applicable to policies issued under policy forms filed on or after December 26, 2017 shall comply with the following requirements with respect to the portion of the business to which the rate schedule increase is to apply:
- (a) Exceptional rate schedule increases shall provide that seventy percent (70%) of the present value of projected additional premiums resulting from the exceptional increase will be returned as benefits;
  - (b) Rate schedule increases shall be calculated such that the sum of the lesser of (i) accumulated value of actual incurred claims, excluding active life reserves, or (ii) the accumulated value of historic expected claims, excluding active life reserves, plus the present value of future expected incurred claims, excluding active life reserves, will not be less than the sum of:
    - (i) The accumulated value of the initial earned premium times the greater of (A) fifty-eight percent (58%) and (B) the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;
    - (ii) Eighty-five percent (85%) of the accumulated value of prior rate schedule increases filed with the Interstate Insurance Product Regulation Commission under this standard on an earned basis;
    - (iii) The present value of future projected initial earned premiums times the greater of (A) fifty-eight percent (58%) and (B) the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and
    - (iv) Eighty-five percent (85%) of the present value of projected premiums not included in § 4B3A(3)(b)(iii), above, on an earned basis;

- (v) Expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Expected claims are calculated for each calendar year based on the in-force at the beginning of the calendar year. Expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing.
- (c) In the event that the rate filing incorporates an exceptional rate schedule increase and other increases, the values in § 4B3A(3)(b)(ii) and (iv) shall also include seventy percent (70%) for exceptional rate schedule increase amounts; and
- (d) All present and accumulated values used in the determination of any rate schedule increase shall use the maximum valuation interest rate for contract reserves specified in Appendix A of the NAIC *Health Insurance Reserves Model Regulation* (Model #10).
- (5) For guaranteed renewable policies, if the company has guaranteed premiums will not increase after the insured has attained a specified age, the actuary shall certify that the basis for the proposed rate increase does not include adverse experience for such insureds.

**§ 54. REQUIREMENTS SUBSEQUENT TO APPROVAL OF A RATE SCHEDULE INCREASE FILING APPROVED BY THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION FOR OTHER THAN DOLLAR-FOR-DOLLAR LONG-TERM CARE INSURANCE**

- A. For each rate schedule increase that is implemented, the company shall file with the Interstate Insurance Product Regulation Commission for review updated projections, as defined in § 4C3B(2)(a) above, annually for the next three (3) years and include a comparison of actual results to projected values. The Interstate Insurance Product Regulation Commission may extend the period to greater than three years if actual results are not consistent with projected values from prior projections.
- B. If any premium rate in an implemented rate schedule increase is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in § 4C3B(2)(a) above, shall be filed with the Interstate Insurance Product Regulation Commission for review every five (5) years following the end of the required period in § 54.A, above.
- C. If the Interstate Insurance Product Regulation Commission determines that the actual experience following a rate schedule increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed the proportions of premiums specified in § 4C3B(3) or 4C3B(4) above as applicable, the Interstate Insurance Product Regulation Commission may require the company to implement either of the following:
  - (1) Premium rate schedule adjustments; or
  - (2) Other measures to reduce the difference between the projected and actual experience.

**Drafting Note:** It is expected that actual experience will not exactly match projected. During the period when projections are monitored as indicated in Items (1) and (2) above, the Interstate Insurance Product Regulation Commission shall determine that there is not an adequate match if the differences in earned premiums and incurred claims are not in the same direction or the difference as a percentage of the projected is not of the same order.

- D. If the majority of policies to which the rate schedule increase filing is applicable are eligible for the contingent benefit on lapse, as defined in the policy, the company shall file:
- (1) A plan, subject to Interstate Insurance Product Regulation Commission approval, for improved administration or claims processing procedures, or both, designed to eliminate the potential for a further deterioration of experience that would require future rate schedule increases (or demonstrate that appropriate administrative and claims processing procedures have been implemented); otherwise the Interstate Insurance Product Regulation Commission may impose the condition in § 54-E below; and
  - (2) The original anticipated lifetime loss ratio, and the rate schedule increase that would have been calculated according to § 4€3B(3), above, had the greater of the original anticipated lifetime loss ratio or fifty-eight percent (58%) been used in the calculation in § 4€3B(3)(b)(i) and (iii), above.
- E. For a rate schedule increase filing that meets the following criteria, the Interstate Insurance Product Regulation Commission shall review, for all policies subject to the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each rate schedule increase to determine if significant adverse lapsation has occurred or is anticipated:
- (1) The rate schedule increase is not the first rate schedule increase requested for the subject policy form(s);
  - (2) The rate schedule increase is not an exceptional rate schedule increase; and
  - (3) The majority of the policies to which the rate schedule increase is applicable are eligible for the contingent benefit on lapse, as defined in the policy.
- F. In the event that significant adverse lapse experience has occurred, is anticipated in the rate schedule increase filing, or is evidenced in the actual results as presented in the updated projections provided by the company following the requested rate schedule increase, the Interstate Insurance Product Regulation Commission may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Interstate Insurance Product Regulation Commission may require the company to offer, without underwriting, to all in force insureds subject to the rate schedule increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the company or its affiliates.
- (1) The offer shall:
    - (a) Be subject to the approval of the Interstate Insurance Product Regulation Commission;

- (b) Be based on sound actuarial principles and be based on an issue age rate schedule; and
  - (c) Provide that the maximum benefits payable under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and
- (2) The company shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate schedule increase on the policy form, the rate schedule increase shall be limited to the lesser of:
- (a) The maximum rate schedule increase determined based on the combined experience; and
  - (b) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%).

**§ 65. ADDITIONAL STANDARDS FOR DOLLAR-FOR DOLLAR LONG-TERM CARE INSURANCE**

**Drafting Note:** As used in these standards, “premium rate schedule” or “premium rate” or “rate schedule” shall include but not be limited to the following:

- (1) The separately identifiable premium charged for the dollar-for-dollar long-term care insurance, or
- (2) Charges that are expressed as an amount per \$1,000 of insurance (charges that are expressed as a per \$1,000 net amount of insurance or as a percentage rate applied to the policy cost of insurance rates are included in this category), or
- (3) Charges that are expressed as a percentage of the life policy or annuity contract account.

The following additional filing submission requirements shall apply:

**A. ACTUARIAL SUBMISSION REQUIREMENTS FOR RATE SCHEDULE INCREASE FILINGS**

- (1) In addition to the requirements of the actuarial certification of § ~~4C~~**3B**(1) include:
  - (a) A statement that the dollar-for-dollar long-term care insurance design and coverage provided have been reviewed and taken into consideration;
  - (b) A statement that the underwriting and claims adjudication processes applicable to dollar-for-dollar long-term care insurance have been reviewed and taken into consideration; and

- (c) If the rate premium schedule increase submitted applies to a premium rate schedules where premiums are initially based on issue age and where premiums are scheduled to change during the premium-paying period according to a specified pattern due to attained age or duration since issue, a statement that the premium rate schedule following the rate increase continues to comply with the requirements for a rate schedule as set forth in § 65A(1)(b).
- (2) An actuarial memorandum prepared, dated and signed by a member of the Academy of Actuaries who provided the information shall be provided and shall comply with the Actuarial Standards of Practice (in particular ASOP No. 18) and providing at least the following information with respect to the form as approved for use in Interstate Insurance Product Regulation Commission states:
- (a) Disclosure of the analysis performed to determine why a premium rate schedule increase is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied upon by the actuary in providing the certification in § 65B(1), above. The disclosure should describe the sources and levels of margins incorporated into the premiums after the rate schedule increase that are the basis for the statement in § 65B(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans or states must be clearly described. Deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating premium schedules; and
  - (b) A statement that the rate schedule after the premium rate schedule increase is not greater than the premium rate schedule for new business approved for use by the Interstate Insurance Product Regulation Commission except for differences attributable to benefits and premium paying pattern, unless sufficient information to demonstrate such differences are justified is provided.

**Drafting Note:** The requirements of § 65B(1) do not contain a loss ratio demonstration to support the reasonableness of premiums in relation to the premiums for dollar-for-dollar long-term care insurance benefits.

## RATE FILING STANDARDS FOR INDIVIDUAL LONG-TERM CARE INSURANCE

### ISSUE AGE RATE SCHEDULES ONLY

~~**Drafting Note:** The initial rate filing and rate increase filing standards are combined so that applicable standards for initial rate and rate increase filings are located in one place and rate increase filings are handled consistently with initial rate filings across Interstate Insurance Product Regulation Commission member states.~~

**Scope:** These standards apply to initial rates and subsequent filings to increase premium rate schedules for individual long-term care insurance. Any product advertised, marketed or offered as long-term care insurance shall be subject to these standards when only issue age rate schedules are available. All dollar-for-dollar long-term care insurance rates are considered to be, for purposes of this standard, Issue Age Rate Schedules. Long-term care insurance shall provide benefits for one or more of the following: nursing home care, assisted living care or home health care and adult day care. These standards apply to all policies, riders, endorsements and amendments subject to the *Core Standards for Individual Long-Term Care Insurance Policies* adopted by the Interstate Insurance Product Regulation Commission.

**Mix and Match:** Except with respect to a rate revision request for a Compacting State that has opted out of these standards, these standards are not available to be used in combination with State Product Components as described in § 111(b) of the Operating Procedure for the Filing and Approval of Product Filings. For a Compacting State that has opted out of the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* or for rate revision filings subject to approval by participating Compacting States pursuant to §1(2) of the *Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* (i.e., advisory reviews), rate revision filings can be filed in and approved by the Compacting State for premium rate schedules approved by the Interstate Insurance Product Regulation Commission.

**Self-Certification:** 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.

All terms used in these standards shall have the same meaning as defined in the *Core Standards for Individual Long-Term Care Insurance Policies*.

As used in these standards the following definitions apply:

“Dollar-for-Dollar Long-Term Care Insurance” is long-term care insurance provided under:

- (1) Life insurance policies that permit payment of all or part of the death benefit when specified activities of daily living or cognitive impairment triggers are met and the payment of benefits is contingent upon receipt of long-term care services, and such payment does not exceed \$1.00 for each \$1.00 of reduction in death benefits (for flexible premium adjustable life products, the death benefit may be one of the death benefit options described in the Interstate Insurance Product Regulation Commission standards for such products); and
- (2) Annuity contracts that provide for the waiver of any applicable surrender or withdrawal charges upon payment of all or part of the account value when specified activities of daily living or

cognitive impairment triggers are met and the payment of benefits is contingent upon receipt of long-term care services, and such payment does not exceed \$1.00 for each \$1.00 of permanent reduction in the account value.

“Issue age rate schedules” are rate schedules where premiums are based on issue age and where premiums are not expected to change during the premium-paying period due to attained age or duration since issue. Single premium and limited pay plans (e.g., 20-pay policy) are allowed under this definition. The addition of increases in the benefit level that require additional premium, based on the issue age rate schedule applied at an insured’s current age at the time of each increase in the benefit level, are allowed under this definition.

“Exceptional rate schedule increase” means only those rate schedule increases where the Interstate Insurance Product Regulation Commission determines that the need for the rate schedule increase is justified, and may be applicable to only one or more states as determined by the Interstate Insurance Product Regulation Commission:

- (1) Due to changes in laws or regulations applicable to individual long-term care coverage; or
- (2) Due to increased and unexpected utilization that affects the majority of companies of similar products to that for which the rate schedule increase filing applies.

**Drafting Note:** As appropriate, the Interstate Insurance Product Regulation Commission may refer to the NAIC *Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation* in reviewing filings under these standards.

## **§ 1. CRITERIA FOR REVIEW FOR ALL RATE FILINGS**

### **A. GENERAL**

The Interstate Insurance Product Regulation Commission will review rate filings for individual long-term care insurance policies and may disapprove any rate filing for one or more of the following reasons:

- (1) The premiums charged are unreasonable in relation to the benefits provided, excessive, inadequate, or unfairly discriminatory;
- (2) The provisions permit the company to vary premiums for insureds, and the variances are not based upon sound underwriting and sound actuarial principles reasonably related to actual or reasonably anticipated loss experience or expenses;
- (3) The premiums unfairly discriminate between individuals of the same actuarial risk class, or between risks of essentially the same degree of hazard;
- (4) The premiums discriminate on the basis of race, color, creed, national origin, or sexual orientation;
- (5) The premiums unfairly discriminate on the basis of marital status or civil union status in states where civil union relationships are recognized; however, this does not prohibit actuarially justified spousal, couple, partner, or civil union discounts; or



- (6) The rate filing fails to comply with the standards.

## **§ 2. ADDITIONAL SUBMISSION REQUIREMENTS FOR INITIAL RATE FILINGS**

The following additional submission requirements apply to initial rate filings for individual long-term care insurance policies:

### **A. GENERAL**

- (1) If the initial rate filing is being submitted on behalf of the company, include a letter of authorization from the insurance company submitted by the party authorized to submit the filing.
- (2) A filing of a premium rate schedule for an existing policy form that increases one or more premium rates and does not decrease any premium rate and is to be applicable only to policies issued after a defined issue date is not considered an increase to a premium rate schedule but is considered a new initial rate schedule.
- (3) For guaranteed renewable policies, if the company has guaranteed premiums that will not increase after the insured has attained a specified age, the company shall certify that the basis for future rate increases will not include adverse experience for such insureds. However, this certification does not preclude the company from utilizing the actual experience of the insureds beyond the specified age in projecting the experience of any other segments of the insured population for which rate increases are permitted.

### **B. ACTUARIAL SUBMISSION REQUIREMENTS**

- (1) An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:
  - (a) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated;
  - (b) A statement that the policy design and coverage provided have been reviewed and taken into consideration;
  - (c) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration;
  - (d) For other than dollar-for-dollar long-term care insurance, a statement that the premiums contain at least the minimum margin for moderately adverse experience defined in (i) or the specification and justification for a lower margin as required by (ii):
    - (i) A composite margin shall not be less than ten percent (10%) of lifetime claims.

- (ii) A composite margin that is less than ten percent (10%) may be justified in uncommon circumstances. The proposed amount, full justification of the proposed amount and methods to monitor developing experience that would be the basis for withdrawal of approval for such lower margins must be submitted.
- (iii) A composite margin lower than otherwise considered appropriate for the stand-alone long-term care policy may be justified for long-term care benefits provided through a life policy or an annuity contract. Such lower composite margin, if utilized, shall be justified by appropriate actuarial demonstration addressing margins and volatility when considering the entirety of the product.

**Drafting Note:** For the justification required in (iii) above, examples of such considerations, if applicable to the product and company, might be found in Society of Actuaries research studies entitled “Quantification of the Natural Hedge Characteristics of Combination Life or Annuity Products Linked to Long-Term Care Insurance” (2012) and “Understanding the Volatility of Experience and Pricing Assumptions in Long-Term Care Insurance Programs” (2014).

- (iv) A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.

**Drafting Note:** Actual margins may be included in several actuarial assumptions (e.g. mortality, lapse, underwriting selection wear-off, etc.) in addition to some of the margin in the morbidity assumption. The composite margin is the total of such margins over best-estimate assumptions.

- (e) For other than dollar-for-dollar long-term care insurance, a statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms with issue age rate schedules and comparable premium-paying periods also available from the company except for reasonable differences attributable to benefits; or, if there are situations where one or some rates in a premium rate schedule are less than those in the premium rate schedule for existing products having similar benefits, a statement to that effect. In either case, details of the differences and the comparison work performed should be provided as part of § 2B(3)(f).
  - (f) A statement that reserve requirements have been reviewed and considered. Support for this statement shall include:
    - (i) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and
    - (ii) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.
- (2) The document containing the premium rate schedules shall contain a statement that the premium rate schedules are those to which the information in the actuarial memorandum applies.

- (3) An actuarial memorandum prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall address and support each specific item required as part of the actuarial certification, comply with Actuarial Standard of Practice (ASOP) 18 and provide at least the following information:
- (a) An explanation of the review performed by the actuary prior to making the statements in § 2B(1)(b) and § 2B(1)(c);
  - (b) A complete description of pricing assumptions;

**Drafting Note:** ASOP No. 18, the NAIC *Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation* and the Academy of Actuaries Practice Note “Long-Term Care Insurance, Compliance with the NAIC Long-Term Care Insurance Model Regulation Relating to Rate Stability” all provide details concerning the key pricing assumptions, underlying actuarial judgments and the manner in which premium rates are to be tested.

- (c) Sources and levels of margins, incorporated into the gross premiums determined in § 2B(1)(d) above that are the basis for the statement in § 2B(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans or states shall be clearly described. Deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales;
- (d) For other than dollar-for-dollar long-term care insurance, a demonstration that the gross premiums include the minimum composite margin specified in § 2B(1)(d);
- (e)
  - (i) For other than dollar-for-dollar long-term care insurance, a complete description of those situations, if any, where the difference between the gross premium and the net valuation premium for renewal years is not sufficient to cover expected renewal expenses; and
  - (ii) For other than dollar-for-dollar long-term care insurance, a table of sample ages and coverages (including inflation and non-inflation) demonstrating the extent and the results of this review;
- (f) A complete description of any morbidity improvement assumption used in pricing or reserves for the product together with the rationale for the assumption and its effect on premium and reserve levels; and

**Drafting Note:** At the time of drafting these standards, the Interstate Insurance Product Regulation Commission generally does not believe that sufficient credible data on insured experience is available to justify the use of morbidity improvements in pricing or reserve assumptions but cannot be sure that it cannot be produced in the future. As noted in the NAIC *Health Insurance Minimum Reserve Model Regulation* (Model #10), “Morbidity improvement is a change, in the combined effect of claim frequency and the present value of future expected claim payments given that a claim has occurred, from the current morbidity tables or experience that will result in a reduction in [premiums or] reserves. It is not the intent of this provision to restrict the ability of the actuary to reflect the morbidity impact for a specific known event that has occurred, and that is able to be evaluated and quantified. This last

sentence is intended to provide allowances for a known event, such as a new drug release, but at the time of this writing, there are no specific examples that could be pointed to in the recent past that would have met this standard. **This is intended to be an extremely rare event.**” [emphasis supplied]

- (g) For other than dollar-for-dollar long-term care insurance, a comparison of the premium rates with issue age rate schedule rates, at a reasonable selection of ages, for similar policy forms and comparable premium-paying periods also available from the company. The actuary should describe the situations where the premium rate schedules are less than those for existing products and detail the differences and testing done by the actuary to determine that the filed premiums are not inadequate.
  - (h) Descriptions supporting the certification prepared, dated and signed by a member of the American Academy of Actuaries, required under § 1B.(2) of the *Core Standards for Individual Long-term Care Insurance Policies*, that the nonforfeiture and contingent nonforfeiture benefits offered or provided under the policy are in compliance with the requirements of § 8, Nonforfeiture Benefits, of the Model Act and with § 28D and E, Nonforfeiture Benefit Requirement, of the Model Regulation or § 28K thereof. This requirement shall not apply to life insurance policies that provide long-term care benefits only in the form of an acceleration of the death benefit.
  - (i) Descriptions supporting the certification prepared, dated and signed by a member of the American Academy of Actuaries or a company officer required under § 1B(3) of the *Core Standards for Individual Long-term Care Insurance Policies*, that an inflation protection benefit offered or provided under the policy is in compliance with the requirements of § 13A and F, Requirement to Offer Inflation Protection, of the Model Regulation. This requirement does not apply to life insurance policies that provide long-term care benefits only in the form of an acceleration of the death benefit.
- (4) After reviewing the initial rate filing, the Interstate Insurance Product Regulation Commission may request an actuarial demonstration that benefits are reasonable in relation to the premiums charged. The actuarial demonstration shall include either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other sources, or both.
- (5) For other than dollar-for-dollar long-term care insurance:
- (a) Rate guarantee periods applicable to initial, new or additional long-term care coverage in excess of five years from the effective date of such coverage shall not be permitted. This provision does not preclude a noncancellable policy or a guaranteed renewable policy that guarantees premiums will not increase after an insured has attained a specified age as defined in the policy;
  - (b) A separate additional premium for rate guarantee periods applicable to initial, new or additional long-term care coverage shall not be permitted.

**§ 3. ANNUAL SUBMISSION REQUIREMENTS SUBSEQUENT TO INITIAL RATE FILINGS AND PRIOR TO APPROVAL OF RATE SCHEDULE INCREASES FOR OTHER THAN DOLLAR-FOR-DOLLAR LONG-TERM CARE INSURANCE**

The following annual submission requirements apply subsequent to initial rate filings for individual long-term care insurance policies. These requirements do not apply after the approval of rate schedule increase filings, at which time the requirements of § 4—*Standards for Filing Revisions to Rate Filing Schedules for Individual Long-Term Care Insurance* apply.

**Drafting Note:** In accordance with § 2A(2), these submission requirements apply to rate schedules initially filed with the Interstate Insurance Product Regulation Commission, including revised rate schedules that increase premium rates only with respect to new business issued under a policy form.

**A. GENERAL**

- (1) If the items are being submitted on behalf of the company, include a letter of authorization from the insurance company.

**B. ACTUARIAL SUBMISSION REQUIREMENTS**

- (1) An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:
  - (a) A statement of the sufficiency of the premium rate schedule approved by the Interstate Insurance Product Regulation Commission including the policy form to which the statement applies, including the start and, if applicable, end date of issue, and:
    - (i) For the rate schedules currently marketed,
      - a. The premium rate schedule continues to be sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; or
      - b. If the above statement cannot be made, a statement that margins for moderately adverse experience may no longer be sufficient. In this situation, the company shall provide to the Interstate Insurance Product Regulation Commission, within sixty (60) days of the date the actuarial certification is submitted to the Interstate Insurance Product Regulation Commission, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience. Failure to submit a plan of action to the Interstate Insurance Product Regulation Commission within sixty (60) days or to comply with the time frame stated in the plan of action constitutes grounds for the Interstate Insurance Product Regulation Commission to withdraw or modify its approval of the Product Filing pursuant to § 108 of the Operating Procedure for the Filing and Approval of Product Filings.

**Drafting Note:** When a company files a statement that margins for moderately adverse experience may no longer be sufficient, the Interstate Insurance Product Regulation Commission will immediately notify each Compacting State where the premium rate schedule applies.

- (ii) For the rate schedules that are no longer marketed,
  - a. That the premium rate schedule continues to be sufficient to cover anticipated costs under best estimate assumptions; or
  - b. That the premium rate schedule may no longer be sufficient. In this situation, the company shall provide to the Interstate Insurance Product Regulation Commission, within sixty (60) days of the date the actuarial certification is submitted to the Interstate Insurance Product Regulation Commission, a plan of action, including a time frame, for the re-establishment of adequate margins for moderately adverse experience.

**Drafting Note:** When a company files a statement that the premium rate schedule may no longer be sufficient, the Interstate Insurance Product Regulation Commission will immediately notify each Compacting State where the premium rate schedule applies.

- (b) A description of the review performed that led to the statement and disclosure of any planned management action relating to this statement.
- (2) An actuarial memorandum dated and signed by a member of the American Academy of Actuaries who prepares the information shall be prepared to support the actuarial certification and shall comply with ASOP 18 and provide at least the following information:
- (a) A detailed explanation of the data sources and review performed by the actuary prior to making the statement in § 3B(1)(a).
  - (b) A complete description of experience assumptions and their relationship to the initial pricing assumptions.

**Drafting Note:** ASOP No. 18, the NAIC *Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation* and the Academy of Actuaries Practice Note “Long-Term Care Insurance, Compliance with the NAIC Long-Term Care Insurance Model Regulation Relating to Rate Stability” all provide details concerning the key pricing assumptions, underlying actuarial judgments and the manner in which experience should be monitored.

- (c) A description of the credibility of the experience data.
  - (d) An explanation of the analysis and testing performed in determining the current presence of margins.
- (3) The actuarial certification required pursuant to § 3B(1) must be based on calendar year data and submitted annually no later than May 1st of each year starting in the year after the first full year in which the initial rate schedule was approved by the Interstate Insurance Product Regulation Commission. The actuarial memorandum required pursuant to § 3B(2) must be submitted every three years no later than May 1st of the reporting year starting in the third year after the first full year in which the initial rate schedule was approved by the Interstate Insurance Product Regulation Commission.

**Drafting Note:** The Product Standards Committee is comfortable with requiring the filing of the actuarial memorandum on a triennial basis only with the company performing analysis and monitoring experience annually. The company must be able to provide the actuarial memorandum supporting the actuarial certification upon request by any member state included in the filing.

#### **§ 4. ADDITIONAL SUBMISSION REQUIREMENTS FOR RATE SCHEDULE INCREASE FILINGS**

##### **Drafting Notes:**

- ~~(1) These requirements do not apply when a company files for a revised rate schedule that increases premium rates only with respect to new business issued under a policy form or for initial rate filings.~~
- ~~(2) For dollar for dollar long term care insurance, these requirements do not apply to changes in premium rates for benefits that occur under an existing premium rate schedule where premiums are scheduled to change during the premium paying period according to a specified pattern due to attained age or duration since issue.~~
- ~~(3) These requirements do not apply where a company has previously provided a certification, as described in § 6A.2(a)(ii), that the basis for any base policy rate increase does not incorporate adverse experience for the dollar for dollar long term care insurance.~~

The following additional submission requirements apply to rate schedule increase filings (i.e. a change to an approved Issue Age Rate Schedule that results in a new, higher Issue Age Rate Schedule) that apply to in force policies for individual long term care insurance:

##### **B. GENERAL**

- ~~(1) If the rate schedule increase filing is being submitted on behalf of the company, include a letter or other document authorizing the firm to file on behalf of the company.~~
- ~~(2) The request for approval of a rate schedule increase filing shall be submitted to the Interstate Insurance Product Regulation Commission at least thirty (30) days prior to the required rate increase notice period as provided in the policy.~~
- ~~(3) Include the Long Term Care Insurance Potential Rate Increase Disclosure Form required by § 9, Required Disclosure of Rating Practices of the NAIC Long Term Care Insurance Model Regulation (Model #641).~~
- ~~(4) A rate schedule increase with the same percentage increase applicable to all policies may be filed with the Interstate Insurance Product Regulation Commission based on the experience of such policy form in all states where the Interstate Insurance Product Regulation Commission has approved the form for use. If requested by the reviewer, the company shall detail the basis for its determination not to vary the rate increase percentage.~~
- ~~(5) (a) Where the same percentage rate schedule increase is not to be applied to all policies in force under an Interstate Insurance Product Regulation Commission filed policy form, for other than dollar for dollar long term care insurance, the overall rate schedule increase~~

~~shall be consistent with the loss ratio requirements of § 4C(3) when applied to such policy form in all states where the Interstate Insurance Product Regulation Commission has approved the form for use.~~

~~(b) — The company shall detail the basis for its determination to vary the rate increase (e.g., certain states as an exceptional increase, certain level of benefits, and certain ages). Such basis shall be generally consistent with the experience under the Interstate Insurance Product Regulation Commission filed policy form, but may rely on credible experience from other sources (e.g., company’s national experience, industry experience).~~

~~(6) — A rate schedule increase shall not introduce a new rating characteristic that was not included as a rating characteristic in the initial rate filing.~~

~~**Drafting Note:** At the time of drafting these standards, the Interstate Insurance Product Regulation Commission generally does not believe that sufficient data on insured experience is available to vary a rate schedule increase by state or region, but cannot be sure sufficient data cannot be produced in the future. To the extent a company desires to vary a rate schedule increase by state or region, it should recognize that any lack of sufficient data for the form in each state or region may present a significant hurdle to the approval of such a rate schedule increase request. However, it is recognized that any industry or actuarial study that indicates a clear and substantiated basis for varying the level or length of incurred claims by state or region could provide support for varying a rate schedule increase consistent with such study. If industry or actuarial study indicating a clear and substantiated basis to vary a rate schedule increase by state or region becomes available subsequent to adoption of these standards, the Interstate Insurance Product Regulation Commission will revisit the appropriateness of varying a rate schedule increase by state or region for future issues.~~

~~**Drafting Note:** The use of “policy form” is not intended to eliminate the filing of a consistently based premium rate schedule increase to multiple policy forms with similar benefits and underwriting based on the same assumptions and their total experience to date.~~

### ~~C. — ACTUARIAL SUBMISSION REQUIREMENTS~~

~~(1) — An actuarial certification prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall provide at least the following information:~~

~~(a) — A statement that, if the requested rate schedule increase is implemented, and the underlying assumptions, which reflect moderately adverse conditions, are realized, no future rate schedule increases are anticipated;~~

~~(b) — A statement that the rate schedule increase filing is in compliance with the requirements of these standards;~~

~~(c) — A statement that the rate schedules submitted are those to which the information in the actuarial memorandum applies; and~~

~~**Drafting Note:** The inclusion of both § 4C(1)(a) and § 4C(1)(c) above is intended to preclude the ability of the Interstate Insurance Product Regulation Commission and the company to agree, independently of the actuary’s certification, to a rate schedule increase other than that to which the certification applies.~~



~~(2) For other than dollar for dollar long term care insurance, an actuarial memorandum prepared, dated and signed by a member of the American Academy of Actuaries who provides the information shall be included and shall comply with the Actuarial Standards of Practice (in particular ASOP 18) and providing at least the following information with respect to the form as approved for use in Interstate Insurance Product Regulation Commission states:~~

~~(a) Lifetime projections of earned premiums and incurred claims based on the filed rate schedule increase and consistent with the requirements of § 4B(4) and (5) to provide complete experience; and the method and assumptions used in determining the projected values, including a reflection and disclosure of any assumptions that deviate from those used in pricing other policy forms approved by the Interstate Insurance Product Regulation Commission and currently available for sale;~~

~~(i) Annual values for the five (5) years preceding and the three (3) years following the projection date shall be provided separately;~~

~~(ii) The projections shall include the development of the lifetime loss ratio, unless the rate schedule increase is an exceptional rate schedule increase;~~

~~(iii) The projections shall demonstrate compliance with § 4C(3), below;~~

~~(iv) For an exceptional rate schedule increase:~~

~~(I) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional rate schedule increase; and~~

~~(II) In the event that the Interstate Insurance Product Regulation Commission determines that there are potential offsets to the higher claims costs associated with the exceptional rate schedule increase, the appropriate net projected experience shall be used; and~~

~~(v) The projections shall be based on the expected premium income and claims experience to which the rate increase will be applied with a separate projection for the expected premium income and claims experience to which no rate increase will be applied;~~

**Drafting Note:** ~~Projected experience performed according to § 4B(2) may use actuarial judgment based on the experience of the company or industry using Interstate Insurance Product Regulation Commission, state or national data.~~

~~(b) Disclosure of how reserves have been incorporated into the rate schedule increase whenever the rate schedule increase will trigger a contingent benefit on lapse;~~

~~(c) Disclosure of the analysis performed to determine why a rate schedule increase is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied upon by the actuary in providing the certification in § 4C(1), above. The disclosure should describe the sources and levels of margins~~

~~incorporated into the premiums after the rate schedule increase that are the basis for the statement in § 4C(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Significant deviations in margins between ages, sexes, plans or states shall be clearly described. Significant deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating premium schedules;~~

- ~~(d) — A statement that the policy design, underwriting and claims adjudication practices have been taken into consideration; and~~
  - ~~(e) — A statement that the rate schedule after the rate schedule increase is not greater than the rate schedule for new business approved for use by the Interstate Insurance Product Regulation Commission except for differences attributable to benefits, unless sufficient information to demonstrate such differences are justified is provided; and~~
  - ~~(f) — A demonstration that actual and projected costs exceed costs anticipated at the time of initial pricing under moderately adverse experience and that the composite margin specified in § 2B(1)(d) is projected to be exhausted.~~
- ~~(3) — For other than dollar for dollar long term care insurance, all rate schedule increases applicable to policies issued under policy forms filed prior to December 26, 2017 shall comply with the following requirements with respect to the portion of the business to which the rate schedule increase is to apply:~~
- ~~(a) — Exceptional rate schedule increases shall provide that seventy percent (70%) of the present value of projected additional premiums resulting from the exceptional increase will be returned as benefits;~~
  - ~~(b) — Rate schedule increases shall be calculated such that the sum of the accumulated value of incurred claims, excluding active life reserves, and the present value of future projected incurred claims, excluding active life reserves, are not less than the sum of:
    - ~~(i) — The accumulated value of the initial earned premium times fifty eight percent (58%);~~
    - ~~(ii) — Eighty five percent (85%) of the accumulated value of prior rate schedule increases filed with the Interstate Insurance Product Regulation Commission under this standard on an earned basis;~~
    - ~~(iii) — The present value of future projected initial earned premiums times fifty eight percent (58%); and~~
    - ~~(iv) — Eighty five percent (85%) of the present value of projected premiums not included in (iii), above, on an earned basis;~~~~
  - ~~(c) — In the event that the rate filing incorporates an exceptional rate schedule increase and other increases, the values in § 4C(3)(b)(ii) and § 4C(3)(b)(iv) shall also include seventy percent (70%) for exceptional rate schedule increase amounts; and~~

- ~~(d) — All present and accumulated values used in the determination of any rate schedule increase shall use the maximum valuation interest rate for contract reserves specified in Appendix A of the NAIC *Health Insurance Reserves Model Regulation* (Model #10).~~
- ~~(4) — For other than dollar for dollar long term care insurance, all rate schedule increases applicable to policies issued under policy forms filed on or after December 26, 2017 shall comply with the following requirements with respect to the portion of the business to which the rate schedule increase is to apply:~~
- ~~(a) — Exceptional rate schedule increases shall provide that seventy percent (70%) of the present value of projected additional premiums resulting from the exceptional increase will be returned as benefits;~~
- ~~(b) — Rate schedule increases shall be calculated such that the sum of the lesser of (i) accumulated value of actual incurred claims, excluding active life reserves, or (ii) the accumulated value of historic expected claims, excluding active life reserves, plus the present value of future expected incurred claims, excluding active life reserves, will not be less than the sum of:~~
- ~~(i) — The accumulated value of the initial earned premium times the greater of (A) fifty eight percent (58%) and (B) the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience;~~
- ~~(ii) — Eighty five percent (85%) of the accumulated value of prior rate schedule increases filed with the Interstate Insurance Product Regulation Commission under this standard on an earned basis;~~
- ~~(iii) — The present value of future projected initial earned premiums times the greater of (A) fifty eight percent (58%) and (B) the lifetime loss ratio consistent with the original filing including margins for moderately adverse experience; and~~
- ~~(iv) — Eighty five percent (85%) of the present value of projected premiums not included in § 4B(3)(b)(iii), above, on an earned basis;~~
- ~~(v) — Expected claims shall be calculated based on the original filing assumptions assumed until new assumptions are filed as part of a rate increase. New assumptions shall be used for all periods beyond each requested effective date of a rate increase. Expected claims are calculated for each calendar year based on the in force at the beginning of the calendar year. Expected claims shall include margins for moderately adverse experience; either amounts included in the claims that were used to determine the lifetime loss ratio consistent with the original filing or as modified in any rate increase filing.~~
- ~~(c) — In the event that the rate filing incorporates an exceptional rate schedule increase and other increases, the values in § 4B(3)(b)(ii) and (iv) shall also include seventy percent (70%) for exceptional rate schedule increase amounts; and~~

(d) ~~All present and accumulated values used in the determination of any rate schedule increase shall use the maximum valuation interest rate for contract reserves specified in Appendix A of the NAIC *Health Insurance Reserves Model Regulation* (Model #10).~~

(5) ~~For guaranteed renewable policies, if the company has guaranteed premiums will not increase after the insured has attained a specified age, the actuary shall certify that the basis for the proposed rate increase does not include adverse experience for such insureds.~~

**§ 5. REQUIREMENTS SUBSEQUENT TO APPROVAL OF A RATE SCHEDULE INCREASE FILING APPROVED BY THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION FOR OTHER THAN DOLLAR-FOR-DOLLAR LONG-TERM CARE INSURANCE**

A. ~~For each rate schedule increase that is implemented, the company shall file with the Interstate Insurance Product Regulation Commission for review updated projections, as defined in § 4C(2)(a) above, annually for the next three (3) years and include a comparison of actual results to projected values. The Interstate Insurance Product Regulation Commission may extend the period to greater than three years if actual results are not consistent with projected values from prior projections.~~

B. ~~If any premium rate in an implemented rate schedule increase is greater than 200% of the comparable rate in the initial premium schedule, lifetime projections, as defined in § 4C(2)(a) above, shall be filed with the Interstate Insurance Product Regulation Commission for review every five (5) years following the end of the required period in § 5.A, above.~~

C. ~~If the Interstate Insurance Product Regulation Commission determines that the actual experience following a rate schedule increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed the proportions of premiums specified in § 4C(3) or 4C(4) above as applicable, the Interstate Insurance Product Regulation Commission may require the company to implement either of the following:~~

(1) ~~Premium rate schedule adjustments; or~~

(2) ~~Other measures to reduce the difference between the projected and actual experience.~~

**Drafting Note:** ~~It is expected that actual experience will not exactly match projected. During the period when projections are monitored as indicated in Items (1) and (2) above, the Interstate Insurance Product Regulation Commission shall determine that there is not an adequate match if the differences in earned premiums and incurred claims are not in the same direction or the difference as a percentage of the projected is not of the same order.~~

D. ~~If the majority of policies to which the rate schedule increase filing is applicable are eligible for the contingent benefit on lapse, as defined in the policy, the company shall file:~~

(1) ~~A plan, subject to Interstate Insurance Product Regulation Commission approval, for improved administration or claims processing procedures, or both, designed to eliminate the potential for a further deterioration of experience that would require future rate schedule increases (or demonstrate that appropriate administrative and claims processing~~

~~procedures have been implemented); otherwise the Interstate Insurance Product Regulation Commission may impose the condition in § 5E below; and~~

- ~~(2) The original anticipated lifetime loss ratio, and the rate schedule increase that would have been calculated according to § 4C(3), above, had the greater of the original anticipated lifetime loss ratio or fifty eight percent (58%) been used in the calculation in § 4C(3)(b)(i) and (iii), above.~~

~~E. For a rate schedule increase filing that meets the following criteria, the Interstate Insurance Product Regulation Commission shall review, for all policies subject to the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each rate schedule increase to determine if significant adverse lapsation has occurred or is anticipated:~~

- ~~(1) The rate schedule increase is not the first rate schedule increase requested for the subject policy form(s);~~
- ~~(2) The rate schedule increase is not an exceptional rate schedule increase; and~~
- ~~(3) The majority of the policies to which the rate schedule increase is applicable are eligible for the contingent benefit on lapse, as defined in the policy.~~

~~F. In the event that significant adverse lapse experience has occurred, is anticipated in the rate schedule increase filing, or is evidenced in the actual results as presented in the updated projections provided by the company following the requested rate schedule increase, the Interstate Insurance Product Regulation Commission may determine that a rate spiral exists. Following the determination that a rate spiral exists, the Interstate Insurance Product Regulation Commission may require the company to offer, without underwriting, to all in force insureds subject to the rate schedule increase, the option to replace existing coverage with one or more reasonably comparable products being offered by the company or its affiliates.~~

- ~~(1) The offer shall:~~
- ~~(a) Be subject to the approval of the Interstate Insurance Product Regulation Commission;~~
- ~~(b) Be based on sound actuarial principles and be based on an issue age rate schedule; and~~
- ~~(c) Provide that the maximum benefits payable under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy; and~~
- ~~(2) The company shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate schedule increase on the policy form, the rate schedule increase shall be limited to the lesser of:~~
- ~~(a) The maximum rate schedule increase determined based on the combined experience; and~~

~~(b) The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%).~~

#### **§ 4. ADDITIONAL STANDARDS FOR DOLLAR-FOR DOLLAR LONG-TERM CARE INSURANCE**

**Drafting Note:** As used in these standards, “premium rate schedule” or premium rate” or “rate schedule” shall include but not be limited to the following:

- (1) The separately identifiable premium charged for the dollar-for-dollar long-term care insurance, or
- (2) Charges that are expressed as an amount per \$1,000 of insurance (charges that are expressed as a per \$1,000 net amount of insurance or as a percentage rate applied to the policy cost of insurance rates are included in this category), or
- (3) Charges that are expressed as a percentage of the life policy or annuity contract account.

The following additional filing submission requirements shall apply:

##### **A. INITIAL RATE FILINGS**

###### **~~(1)~~—GENERAL**

- ~~(a)~~ **(1)** If a filing of a rate schedule for an existing policy form includes a decrease in any premium rate only on policies issued after a defined issue date, then sufficient information is required to justify not applying the decrease to earlier issues.
- ~~(b)~~ **(2)** For premium rate schedules where premiums are initially based on issue age and where premiums are scheduled to change during the premium-paying period according to a specified pattern due to attained age or duration since issue, the company shall certify that scheduled premium changes do not occur more than five (5) years from the most recent prior change, or issue date of the policy if no prior change has occurred and provide the following:
  - ~~(i)~~ **(a)** A sample description of the manner in which scheduled premium rates will be explained to the applicant which need not show every scheduled premium rate; and
  - ~~(ii)~~ **(b)** A sample of the manner in which the policy will show each premium rate change in the schedule and the period for which the resulting premium is applicable.

**Drafting Note:** These requirements apply where premiums are determined by applying a percentage rate to the base policy cost of insurance rates and where either the base policy cost of insurance rates or the percentages applied change with attained age or duration since issue.

##### **B. ~~(2)~~ ACTUARIAL SUBMISSION REQUIREMENTS**

- (a1) In addition to the requirements of the actuarial certification of § 2B(1), for noncancellable and guaranteed renewable Dollar-For-Dollar Long-Term Care Insurance coverages, the company may certify that the basis for future rate increases on the base policy will not include adverse experience for dollar-for-dollar long-term care insurance. This certification would then exempt the company from future filings under § 4 Additional Submission Requirements for Premium Rate Schedule Increase Filings, whenever rates are increased on the base policy.

**~~B. ACTUARIAL SUBMISSION REQUIREMENTS FOR RATE SCHEDULE INCREASE FILINGS~~**

- (1) ~~In addition to the requirements of the actuarial certification of § 4C(1) include:~~
  - (a) ~~A statement that the dollar for dollar long term care insurance design and coverage provided have been reviewed and taken into consideration;~~
  - (b) ~~A statement that the underwriting and claims adjudication processes applicable to dollar for dollar long term care insurance have been reviewed and taken into consideration; and~~
  - (c) ~~If the rate premium schedule increase submitted applies to a premium rate schedules where premiums are initially based on issue age and where premiums are scheduled to change during the premium paying period according to a specified pattern due to attained age or duration since issue, a statement that the premium rate schedule following the rate increase continues to comply with the requirements for a rate schedule as set forth in § 6A(1)(b).~~
- (2) ~~An actuarial memorandum prepared, dated and signed by a member of the Academy of Actuaries who provided the information shall be provided and shall comply with the Actuarial Standards of Practice (in particular ASOP No. 18) and providing at least the following information with respect to the form as approved for use in Interstate Insurance Product Regulation Commission states:~~
  - (a) ~~Disclosure of the analysis performed to determine why a premium rate schedule increase is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied upon by the actuary in providing the certification in § 6B(1), above. The disclosure should describe the sources and levels of margins incorporated into the premiums after the rate schedule increase that are the basis for the statement in § 6B(1)(a) of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans or states must be clearly described. Deviations in margins are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating premium schedules; and~~
  - (b) ~~A statement that the rate schedule after the premium rate schedule increase is not greater than the premium rate schedule for new business approved for use by the~~

~~Interstate Insurance Product Regulation Commission except for differences attributable to benefits and premium paying pattern, unless sufficient information to demonstrate such differences are justified is provided.~~

**Drafting Note:** ~~The requirements of § 6B(1) do not contain a loss ratio demonstration to support the reasonableness of premiums in relation to the premiums for dollar for dollar long term care insurance benefits.~~