

Agenda Item 4. Discuss draft language as requested by the Management Committee for Management of Benefits for the Individual Long-Term Care Insurance Uniform Standards.

Mary Mealer, Chair of the Product Standards Committee (PSC) stated that at the request of one of the members, the PSC would discuss Agenda items 4 and 5 first. She reminded the members that the Management Committee has asked the PSC to consider whether the comments and additional materials about management of benefits would change the PSC recommendation that no change be made to the standard, and second, regardless of whether PSC changes its recommendation, to provide draft language for a management of benefits provision for the Management Committee's consideration. She noted that on the February 7th member call, it did not appear that members had reached consensus on whether to recommend a change or not. Ms. Mealer stated that the Insurance Compact staff was asked to prepare draft language for consideration.

Karen Schutter, IIPRC, provided an overview of the draft. She stated that the Standards for Individual Disability Income Insurance Policies contain a provision for *Other Insurance with This Company* and staff thought that including a provision with this title rather than listing a limitation or exclusion for nonduplication of benefits would be more appropriate. She noted that the draft provision contained eight points to address the concerns expressed by regulators, legislators and consumer representatives. The provision only applies to the company or its affiliates when all policies include such a provision and provide reimbursement for incurred expenses, not indemnity. The method for calculation of benefit payments must be stated in the policy and the insured must have the option to choose the order of payment of benefits. She noted that the draft also requires that the policy state that the insured is not required to use benefits from a life insurance policy or rider or an annuity contract or rider that contain long-term care benefits only in the form of an acceleration of the death benefit or cash value, and also that the insured cannot be required to use benefits from a long-term care insurance policy that is not tax qualified before or in lieu of using the benefits available under a tax qualified policy. The provision also requires that the maximum total amount of benefits payable for the duration of the policy and the maximum total amount of benefits payable under the policy shall not be reduced due to proration. Finally, the provision prohibits use of the term "coordination of benefits" as a description.

Minnesota stated that they agree with the concerns expressed by the Consumer Advisory Committee in their letter dated February 18th. Although Minnesota does not oppose allowing for duplicate sales, it opposes the draft provision as proposed. The representative stated that second sales to existing customers cheapens the value of both policies. She noted that the company is provided with a second opportunity to underwrite and that rates on both the existing and new policy are inappropriately high since two policies with a lower daily benefit would be individually rated for a much higher probability of use than one policy with a higher daily benefit. The proposal would also make the second sale from the same insurer unsuitable since another insurer could offer more benefit value for the same level of price. Minnesota stated that before it could consider such a proposal, it would require that the provision contain a sales limit total of no more than the insurer is willing to sell on a single sale at the time the second policy is sold and that there be an actuarially approved discount.

Colorado questioned whether the extensive provisions listed would add a level of complication such that the insured or family member would be unable to understand how to apply the provision at the time of claim. Colorado also asked how the provision would apply in situations where the two policies had different terms, such as different elimination periods. He noted that nonduplication of benefit provisions appear to exist now and asked how they are being handled in the states. The member also noted that the PSC and the Management Committee have repeatedly asked the Industry Advisory Committee (IAC) to quantify the issue and asked if the IAC ever provided data indicating how many people have two or more policies with the same insurer or an affiliate and how often the issue of management of benefits arises. The IIPRC staff stated that the IAC has not provided this information.

Texas noted that sometimes insureds buy less coverage than needed because it depends on how much they can afford at that time. He stated that often it is the provider who is billing the insurer, not the insured and that the provider would be billing for the expenses incurred.

Following further discussion, the PSC agreed to expose the draft with added language to address Minnesota's concerns about suitability (not allowing more than the benefit level that would be offered in a single policy) and adding a rating discount for public comment for the PSC Public Call scheduled for March 14th. The PSC did not reach consensus on whether to alter its recommendation for no change to the existing standards, nor did it agree to propose the draft language to the Management Committee. The Chair noted that the draft language with the two added provisions would be exposed and that PSC would hear public comments and then meet later in the month to continue its discussions. Members were also asked to notify [Anne Marie Narcini](#) if their concerns about this provision were such that the state may consider opting out of the Long-term Care standards.

Agenda Item 2. Discuss Pennsylvania Department of Insurance suggested revisions to the *Additional Standards for Private Placement Plans for Individual Deferred Variable Annuity Contracts and the Additional Standards for Private Placement Plans for Individual Variable Adjustable Life Insurance Policies* and IAC response.

The IIPRC staff provided an overview of the request from the Pennsylvania Department of Insurance to amend the Surrender and Ownership provisions in the Private Placement Standards for consistency with other changes made to the proposed revisions. The IAC provided some suggested technical edits to Pennsylvania's revisions. The PSC discussed the revisions and agreed with Pennsylvania that they preferred the language "a remedy available under the contract" since the IAC's proposal of the words "another remedy" suggested that surrender was a remedy. The PSC agreed to the following changes to the Private Placement proposed amendments:

Additional Standards for Private Placement Plans for Individual Deferred Variable Annuity Contracts §3 F Ownership –

(3) The contract shall state that the owner must be a qualified owner to make payments into the contract or to make transfers among the investment divisions, but if the owner ceases to be a qualified owner, that the owner may be eligible to exchange the contract for an annuity

currently being offered by the company that does not require qualified owner status, as described in the CONTRACT EXCHANGE section below, or ~~the owner may be required to surrender the contract for cash, all subject to the liquidity date(s) and specified redemption notice periods to transfer funds from an exempt fund to a non-exempt fund or the general account as described in the TRANSFERS section. If the owner takes no action, the owner may be required~~ to surrender the contract for cash, all subject to the liquidity date(s) and specified redemption liquidity notice periods ~~specified in the contract~~.

§3 L. Surrenders

1) If the ~~company determines that the~~ owner ~~has ceased~~ ceases to be a qualified owner, and the owner does not elect ~~to exchange the contract for an annuity that does not require qualified owner status~~ a remedy available under the contract, the contract may require that the contract be surrendered. The contract shall describe any surrender charges which may apply ~~If the owner declines the opportunity to exchange and~~ is required to surrender the contract, ~~the contract shall state that surrender charges may apply.~~

Additional Standards for Private Placement Plans for Individual Variable Adjustable Life Insurance Policies

§3 E. Ownership:

(3) ~~The policy shall only be sold or transferred to a qualified owner.~~ The policy shall state that the owner must be a qualified owner to make payments into the policy or to make transfers among the investment divisions, but if the owner ceases to be a qualified owner the owner is eligible to exchange the policy for a plan of life insurance currently being offered by the company that does not require qualified owner status, as described in the POLICY EXCHANGE section below, ~~specified in the policy,~~ or to transfer funds from an exempt fund to a non-exempt fund or the general account as described in the TRANSFERS section. If the owner takes no action, the owner may be required to surrender the policy for cash, all subject to the liquidity date(s) and specified redemption liquidity notice periods.

§3M Surrender PA revisions highlighted in yellow – similar to the proposed change to the Annuity standards

(1) If the ~~company determines that the~~ owner ~~has ceased~~ ceases to be a qualified owner, and the owner does not elect ~~to exchange the policy for a plan of life insurance that does not require qualified owner status~~ a remedy available under the policy, the policy may require that the policy be surrendered. The policy shall describe any surrender charges which may apply ~~if the owner declines the opportunity to exchange and~~ is required to surrender the policy, ~~the policy shall state that surrender charges may apply.~~

Agenda Item 3. Review the PSC proposed Workload for 2017.

IIPRC staff provided a brief overview of the proposed work plan for 2017. Members were reminded that the deadline for written comments on Phase 8 of the 5-Year Review, Individual

Disability Income Insurance Uniform Standards, is March 10th. Members were advised to contact [Anne Marie Narcini](#) if they had any questions on the work plan.

Agenda Item 6. Any other matters.

The Chair noted that the PSC recommendations for Phase 7 of the 5-Year Review would be presented to the Management Committee on their call scheduled for March 13th. The PSC will hold a Public Call on March 14th to consider comments on the draft Long-Term Care management of benefits language discussed on today's call. The PSC will then meet in member session to discuss those comments.