



**Michael Lovendusky**  
Vice President & Associate General Counsel  
(202) 624-2390  
[michaellovendusky@acli.com](mailto:michaellovendusky@acli.com)

21 June 2019

Richard Wicka, Chair (WI)  
NAIC Life Insurance Illustrations Issues (A) Working Group  
c/o Jennifer Cook, NAIC  
Via [JCook@NAIC.org](mailto:JCook@NAIC.org)

RE: Draft 5-20-19 Revisions NAIC Life Insurance Disclosure Model Regulation (#580)

Dear Chairman Wicka & Members of the Working Group:

The ACLI communicates the following observations and suggestions for improvement to the captioned model:

First, the ACLI respectfully recommends that the model regulation must not be revised as to the timing of delivery of the Policy Overview, Guaranteed Premium and Benefit Patterns Summary or Buyers Guide. Rather, Model § 5A1 should be respected and sustained, and delivery of the Policy Overview and Guaranteed Premium and Benefit Patterns Summary should be based upon it. One important reason is that many of the personalized values required in the Policy Overview document can only be collected and accurately depicted after the underwriting process is complete.

Second, the ACLI has long understood that there will be separate, sample Policy Overviews for Term, Whole and Universal Life Insurance appended to the revised Model. While substantial progress has been made on the exposed sample Policy Overview for Term Life Insurance, the ACLI is concerned that sufficient time to expose, discuss and build consensus be provided for sample Whole and Universal Life Insurance Policy Overviews.

Third, ACLI requests that revisions to the Model should make clear that, for policies not marketed with an illustration, the insurer may combine the requirements of the Policy Overview and Guaranteed Premium and Benefits Patterns Summary into one document. The stated goal of revising the Model is to enhance consumer readability and comprehension of life insurance policy summaries. To this end, the explanatory Policy Overview information provides context to the ledger-type Guaranteed Premium and Benefits Pattern Summary. These requirements should work together; separation of the coordinating information will be counter-productive for enhancing consumer understanding of the product. One document, containing all the relevant information under discussion by the NAIC Working Group, may provide the consumer a clearer picture of the policy and its features. The option of combining the two documents should be permitted to insurers.

The following proposed changes with ACLI comments track the provisions of the draft, proposed revisions to the Model Regulation (Draft 5/20/19):

## Section 4. Definitions

For the purposes of this regulation, the following definitions shall apply:...

- A. “... ”
- B. “... ”
- C. “Illustration” means a presentation or depiction **that includes non-guaranteed elements** of a policy of life insurance ~~over a period of years~~ that is subject to [insert state equivalent to Life Insurance Illustrations Model Regulation].

*Comment: ACLI recommends that (1) at least delete the duplicative word “that” appearing in the NAIC draft but, more importantly, (2) substitute precisely the definition of “Illustration” from the Life Insurance Illustrations Model Regulation, or (3) substitute a simple reference to the state’s enacted equivalent of the Life Insurance Illustrations Model Regulation. The Life Insurance Illustrations Model Regulation definition is:*

*“Illustration” means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and that is one of the three (3) types defined below:*

- (1) *“Basic illustration” means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.*
- (2) *“Supplemental illustration” means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.*
- (3) *“In force illustration” means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.*

...

- F. “Policy Overview” means a brief summary of the policy prepared in accordance with this regulation and example, **an example of which** may be found in Appendix A.

*Comment: ACLI proposes grammatical corrections here.*

- G. “Guaranteed Premium and Benefit Patterns Summary” is a separate document that accompanies the Policy Overview where the insurer has identified the policy as one that will not be marketed with an illustration. **The insurer may combine the Guaranteed Premium and Benefit Patterns Summary and Policy Overview into a single document.**

*Comment: This change would accomplish the request mentioned in the beginning of the ACLI comment letter. That is, it makes clear that, for policies not marketed with an illustration, the insurer may combine the requirements of the Policy Overview and Guaranteed Premium and Benefits Patterns Summary into one document.*

## Section 5. Duties of Insurers

- A. Requirements Applicable Generally
  - (1) ...

- (2) The insurer shall provide a Policy Overview to all prospective purchasers. ... The Policy Overview is not required to be in a specific format beyond the requirements of ~~the~~ this Section. ... headings:

*Comment: ACLI proposes a grammatical correction here.*

(a) ...

(b) ...

(c) “Information about the Insured” which shall include the following information, as applicable:

(i) Name of insured or insureds;

(ii) Gender of insured or insureds;

(iii) Risk class ~~with a statement as to where the insured can find additional information regarding risk classes;~~

*Comment: ACLI proposes deleting text which presumes reference to an illustrated product since only an illustration might provide additional information about the product’s risks classes to a consumer. Every life insurer has a risk class structure different from those of other insurers for non-illustrated products; a consumer would need access to every company’s underwriting manual to compare company risk class structures. For this reason, detailed risk class information would not be a useful consumer comparison tool. For Policy Overview purposes, a simple provision of “risk class” will indicate basic class distinctions which might be useful to a consumer, e.g., smoker versus non-smoker.*

(iv) The following statement: “In the course of considering an insured’s application, ~~an~~ the insurer may ~~request or collect~~ have requested and collected health information about the insured in variety of ways.” ~~The statement shall indicate whether a physical examination or questionnaire may be required. If information was collected, the insured provided consent for the insurer to collect that information.~~

*Comment: In order to provide the Policy Overview contemplated by the proposed revision to the model, the insurer must accomplish underwriting the individual risk. Consequently, this provision and the proposed statement must be revised to acknowledge the accomplishment of the underwriting and the consent of the consumer in his or her providing sufficient personal information to enable underwriting and the Policy Overview.*

(d) “Cost Information” which shall include the following information, as applicable:

(i) Initial premium and premium mode;

(ii) A short statement describing if the premium varies after the first year, and, if so, a statement as to where the insured can find information as to how the premium will be determined after the first year;

- (iii) ~~Available options for premium funding such as policy payment periods, any dividend options or lump sum payments options;~~

*Comment: ACLI recommends deletion of this proposed element because, by the time of the provision of a Policy Overview (i.e., at time of policy delivery), the information will be irrelevant because the consumer will have already elected a premium payment mode. Further, the information useful to the consumer is already encompassed by subsection (ii), supra.*

- (iv) A yes or no indication as to whether a waiver of premium or deductions option is available;

- (v) ~~A description of surrender charges and the period of time that surrender charges apply~~ A yes or no indication as to whether there are surrender charges and, if so, how long they apply;

*Comment: ACLI proposes a re-wording of this sub-section without changing its intent.*

- (vi) ~~A narrative description of the cost of insurance and other fees needed to keep the policy in force and how those fees may change over time.~~

*Comment: This element should be deleted in its entirety. Cost of insurance provisions are today and historically have been approved by every insurance regulator in every state for decades. The meanings of the provisions are now the subject of numerous judicial proceedings. Further, this would require the insurer to replicate the cost of insurance provision in its entirety, which is often of considerable length, to accurately describe its features.*

- (e) “Policy Information” which shall include the following information, as applicable:
- (i) Product type (Including single or joint policy);
  - (ii) Product name and form number;
  - (iii) Coverage period description;
  - (iv) Initial death benefit and a yes or no indication as to whether the death benefit can change;
  - (v) Death benefit option;
  - (vi) **Policy effective date;**

*Comment: This information will be obvious by the time the Policy Overview is likely provided, i.e., at time of delivery. Reference to it should be deleted here.*

- (vii) State of issue;
  - (viii) Policy loan option and applicable charges;
- (f) “Additional Policy Benefits” which shall include the following information, as applicable:

- (i) ~~Eligibility for a dividend~~ **A yes or no indication as to whether the policy is eligible for a dividend;**
- (ii) ~~A yes or no indication as to whether the policy Conversion options that may be exercised exist;~~
- (iii) **A yes or no indication as to whether the policy provides** Options to extend the term of the coverage;
- (iv) **A yes or no indication as to whether the policy provides** Any available optional riders as requested by the insured, and an indication if there is an additional cost;
- (vi) **A yes or no indication as to whether the policy provides** Living benefit option(s);
- (vii) **A yes or no indication as to whether the policy provides any** Option to lower benefits to reduce premium;
- (viii) A yes or no indication as to whether the policy can accumulate cash value;
- (ix) ~~**A yes or no indication as to whether the policy provides**~~ Guaranteed interest rates on fixed accounts and any indexed account options as requested by the insured.

*Comment: ACLI recommends uniform provision of information in a Yes/No format for Policy Overview disclosure of Additional Policy Benefits.*

- (3) The insurer shall provide a Guaranteed Premium and Benefits Patterns Summary to prospective purchasers where the insurer identified the policy form as one that will not be marketed with an illustration. Delivery of the Guaranteed Premium and Benefits Patterns Summary shall be consistent with the time for delivery of the Buyer's Guide as specified in Paragraph (1). The Guaranteed Premium and Benefit Patterns Summary shall show guarantees only and include all required information set out in a manner that does not minimize or render any portion of the description obscure. Any amounts that remain level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as a blank space. The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty (60) through sixty-five (65) and policy maturity:
  - (a) ...;
  - (b) The annual premium for each optional rider, **if any**;

- (c) The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;
- (d) The total guaranteed cash surrender values at the end of **each policy year** with values shown separately for the basic policy and each rider **that has a cash surrender value;**

*Comment: ACLI proposes a clarification to relieve insurers from generating useless information erroneously suggesting that a value is missing from a policy or rider which was not designed, approved or intended to provide a cash surrender value.*

- (e) Any endowment amounts payable under the policy that are not included under cash surrender values above;
- (f) The **maximum** effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the Guaranteed Premium and Benefits Patterns Summary shall also indicate that the annual percentage rate will be determined by the company **in accordance with the provisions of the policy and the applicable law.**

*Comment: When only guaranteed elements are specified, ACLI recommends using the maximum allowed under the policy to be consistent with the use of guaranteed elements only. Text specifying the adjustable nature to lesser amounts is also consistent. Also, ACLI recommends deletion superfluous text at the end of the paragraph.*

...

B. Requirements Applicable to Existing Policies.

- (1) Upon request by the policyowner, the insurer shall furnish either policy data or an in force illustration as follows:
  - (a) ...
  - (b) ...
  - (c) ...
  - (d) Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary **or later but prior to the in force statement date.** The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee, not to exceed \$[insert amount], for the preparation of the statement.

*Comment: It is more beneficial to the consumer to receive an in force guaranteed quote based on the most recent values, not just those starting at the prior anniversary. Many states have*

*not adopted the in force provisions of the current model regulation, perhaps, in part, because of this requirement.*

~\*~

Thank you for your consideration.

Sincerely

A handwritten signature in black ink, appearing to read "Michael Lovendusky". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

THE AMERICAN COUNCIL OF LIFE INSURERS  
Michael Lovendusky  
Vice President & Associate General Counsel

21 June 2019