

# Attachment B

TO: Commissioner Michael Conway, Chair  
 Long-Term Care Insurance Multistate Rate Review (EX) Subgroup  
 Sent via email

FROM: Commissioner Jessica K. Altman, Chair  
 Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup

DATE: October 6, 2021

SUBJECT: MSRRSG Referral to RBOSG

The Vermont Department of Financial Regulation submitted the following comment to the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup (MSRRSG) in response to the Subgroup's exposure of operational sections of the Long-Term Care Insurance (LTCI) Multistate Rate Review Framework (MSA Framework) for public comment:

On p. 14, in appendix D, Principles for Reduced Benefit Options (RBO) Associated with LTCI Rate Increases, it reads:

- Regulators and interested parties should continue to study the idea of offerings being made by insurers including potentially being tied to rate increases, e.g., providing hand railings for fall prevention in high-risk homes, and identifying the pros and cons of such an approach.

Vermont suggests keeping the bullet above as is, and adding another bullet:

- In the case that an offering is tied to a rate increase, and involves the collection of consumer data, regulators should ensure that data collection and use is clearly disclosed and easily understood, that the consumer is made aware of any other available options, that the offer is not discriminatory, and that the rate impact is correlated to the offering. Consumer data should not be collected to be monetized for profit or for advertising.

The MSRRSG referred the comment to the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup (RBOSG) during its Sept. 28, 2021 meeting for evaluation.

The RBOSG discussed the referral during its Oct. 4, 2021 meeting. It recommends the following:

*The RBOSG recommends that the proposed language not be added to the MSA Framework at this time. However, if the Multistate Actuarial LTCI Rate Review Team (MSA Team) is presented with a rate increase filing that includes the issue addressed in the comment, the RBOSG requests that the MSRRSG make a referral that includes details of the offering's connection to the rate increase request.*

Cc: Commissioner Scott A. White, Shannen Logue, Anna Van Fleet, Jeff Johnston, Jane Koenigsman

## Arizona Comments

Greetings,

The following comments are submitted from the Arizona Department of Insurance and Financial Institutions on the LTC Multistate Rate Review Framework (MSA). Thank you for accepting our late submission.

We appreciate the potential benefit of the uniformity of the MSA LTC rate review and standardized format of the corresponding reports, particularly if the MSA process becomes used by many state insurance departments. We also appreciate that there are multiple points in the process where participating/impacted states will be able to ask questions about and comment on the MSA review. However, we may not always be able to participate in, or become aware of, an MSA review until an insurer references an MSA report in its subsequent AZ rate filing. Thus, in order for Arizona to be able to maximize its use of the MSA reports to augment, or even potentially replace, some of its review of a LTC rate filing, we believe the MSA report should contain a certain level of detail about the actuarial rate review analysis. Currently, the framework document indicates the report will contain a “summary” of the analysis, rather than the actual analysis. Here are our suggestions for actuarial review details that we believe should be made available to participating/impacted states:

- A more detailed description about how the MSA reached its conclusions regarding the application of the different methodologies it used (Texas method, Minnesota method, other), including the calculated values (at a high level). Given that the methodologies used by the MSA to analyze the filing might differ from state-specific statutory or regulatory requirements, this analysis could be important for subsequent state reviewers to understand.
- A clear indication of whether the recommended increase in the report is based on:
  - a total allowed increase in the pending request, or
  - a recommended cumulative inception-to-date increase?
- A clear indication about whether the rate increase submitted for review to the MSA involved:
  - different increases for different coverages based on lifetime vs limited coverages,
  - different increase with or without inflation coverage
  - different increases based on issue age groupings
- In order to determine when we can and cannot use the MSA analysis, we must be able to discern whether the filing contains Pre Stabilization and/or Post Stabilization business in accordance with when our Rate Stabilization rules became effective. Currently, it appears that the MSA combines its results into a single Recommended rate increase, with no distinction between the policy issuance periods. Because states may have different standards for Pre Stabilization business than for Post Stabilization business, and because states adopted the Pre and Post rules at different times, there is a potential for the resulting recommended rate increase found in the MSA report to be either higher

## Arizona Comments

or lower than a rate more accurately based only on whether policies were issued in a Pre or Post period.

- A clear indication about whether the MSA independently projects lifetime premiums and claims and a comparison of the MSA projections to the filer's projections.
- A clear indication about any analysis the MSA made regarding the "fairness" or equity of landing spots or benefit reduction options.
- A clear indication about any analysis the MSA made regarding the filer's actuarial assumptions and margins, discount interest rate, and other pertinent factors.

Regards,

*Erin H. Klug*

Assistant Director, Product Filing & Compliance Division  
Arizona Department of Insurance and Financial Institutions

North Carolina Comments on Operational Section of the MSA Framework – 9/14/21

I had a few insignificant observations on the Long-Term Care Insurance Multi-State Rate Review Framework.

1. The Table of Contents needs to be updated with the addition of Section II. D.
2. In section VI. B. Appendix, I think the first sentence should read: "... LTCI rate increase review inquiries *from all of states*"
3. Section VI. A. 2. Disclaimers does not seem to be in the Section VII. A. Exhibit – Sample MSA Advisory Report.

Some additional questions:

1. How will Reduced Benefit Options like "landing spots" or new endorsements for reduced inflation benefits be handled? Especially when the MSA Team is recommending different rate increases for different states due to historical approvals.
2. Section II. F. states "the MSA Team ... may communicate with the insurer outside of SERFF." Will this be documented?
3. Section IV. B. – Will the insurer get a chance to respond to the MSA Team's recommendation before the Advisory Report is released to the states?

Thank you for the opportunity to comment.

David Yetter  
NCDOI




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*Objective. Independent. Effective.™*

October 8, 2021

Commissioner Scott A. White, Chair  
 Commissioner Michael Conway, Vice Chair  
 Long-Term Care Insurance (EX) Task Force  
 National Association of Insurance Commissioners (NAIC)

Attn: Jane Koenigsman, Senior Manager, Life and Health Financial Analysis

Re: Long-term Care Insurance (LTCI) Multistate Rate Review Framework Operational and Actuarial Sections, September 2021 Exposures

Dear Commissioners White and Conway:

On behalf of the American Academy of Actuaries<sup>1</sup> LTC Reform Subcommittee, I appreciate the opportunity to offer comments on the exposure drafts of the [operational](#) and [actuarial](#) sections of the *Long-Term Care Insurance Multi-State Rate Review Framework* (“Framework”) released September 10, 2021, and September 15, 2021, respectively. This letter provides our comments on both the operational and actuarial aspects of the exposed Framework.

We previously provided comments on the operational aspects of the prior version of the Framework in our [letter](#) dated May 24, 2021, and comments on the actuarial aspects in our [letter](#) dated July 26, 2021. We appreciate the NAIC Long-Term Care Insurance (EX) Task Force’s consideration of our previous comments and the opportunity to discuss them with the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup.

### **Actuarial Qualifications and Professional Judgment**

We appreciate the revisions and additions to the Framework reflecting our previous comments on actuarial qualifications and professional judgment.

### **Future Updates**

Section IV.E. of the Framework calls for regulatory feedback on the Multi-State Actuarial (MSA) Review process. We recommend that interested parties continue to be invited to review and comment on future changes to the Framework. In particular, if any formalized actuarial and/or policy approaches beyond the Minnesota and Texas approaches are considered for

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<sup>1</sup> The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

frequent use by the MSA Team in evaluating rate proposals (as contemplated in Section V.A.), we suggest that those new approaches should be similarly vetted through the NAIC's Multistate Rate Review (EX) Subgroup or the Long-Term Care Pricing (B) Subgroup, with opportunity for feedback from the Academy and others.

### **Future Non-Actuarial Considerations**

Section V.F.2. of the Framework discusses the potential for additional non-actuarial considerations to be incorporated into the MSA Review process. This introduces—or continues—a potentially open-ended and inconsistent decision-making process with respect to future rate increase proposals. Insurers and their pricing actuaries should be able to anticipate a stable regulatory framework when introducing new long-term care (LTC) policies into the market. We recognize that individual states' use of non-actuarial considerations may be outside the scope of the MSA Framework.

### **Loss Ratio Approach**

Section V.A. of the Framework specifies that the MSA Team will “apply both the Minnesota and Texas approaches for each rate proposal submitted.” This implies that the rate stabilization methodology is not sufficient. The rate stabilization approach is used by many state insurance departments. To not include this baseline approach would be contrary to the intent of the MSA Team proposal, which seeks uniformity across states and reduces the implied subsidization that currently exists. The MSA Team should also apply the appropriate loss ratio approach and provide an opinion on the assumptions underlying the calculation if it seeks to have greater state participation.

Section V.B.4. states that

“The loss ratio approach, one of the minimum standards in many states' statutes, is evaluated by the MSA Team. However, there is general recognition that this approach produces rate increases that are too high and do not recognize other typical statutory standards such as fair and reasonable rates.”

We suggest that the opinion in the preceding sentence be properly attributed to either the members of the MSA Team and/or a decision of an appropriate committee.

Section V.B.5. discusses an application of the 58% / 85% standard to rate-stabilized business. Not all states have adopted rate stability regulations, and effective dates vary across states that have adopted regulations based on policy issue date. Therefore, it is not entirely clear when a rate proposal will be considered to cover a “relevant block” of rate-stabilized business. Given that this test would impose, by regulation, a restriction on rate increases for policies initially issued under rate stability regulation, the MSA Framework's statement that “if this standard produced lower increases than the Minnesota and Texas approaches, it would produce the recommended rate increase,” may not be justified in all jurisdictions. If the 58% / 85% standard is analyzed by the MSA team, we suggest that the resulting rate increase be reported in comparison with the Minnesota and Texas results. This will allow individual Participating States to consider whether the 58/85 limit applies under their own regulations. Otherwise, the MSA Team's use of the 58/85

standard may have the effect of layering on a limit that was never applicable to some of the policies in a nationwide block.

### **Minnesota and Texas Approaches**

In sections V.D. and VII.A, the Minnesota and Texas approaches are described as actuarially justified approaches. As mentioned in our July 26 letter, these approaches include decisions based on non-actuarial considerations. Two examples of non-actuarial considerations in these approaches are cost-sharing provisions and disallowing interest rate deviations as a reason for a rate increase. We suggest recognizing that these approaches include both actuarial and non-actuarial considerations.

We believe that the Minnesota approach embeds implied policy decisions that are not actuarial in nature. While the calculations themselves may require actuarial methods, as stated in Section V.C., the approach embeds non-actuarial considerations that seek a “fair and reasonableness consideration,” the level of which is not clearly defined. Also, as the approaches labeled “if-knew / makeup approach” and “cost-sharing formula” are public policy decisions that are not specified in adopted model law, *defining* them as “actuarially justified” seems inappropriate.

Appendix 3 of the sample MSA Advisory Report in Section VII.A. includes a reference to cost sharing and the Texas approach. This reference should be clarified or corrected, as cost sharing does not appear throughout the rest of the Framework in the description of the Texas approach. To our knowledge, cost sharing has never been included in prior documentation of the Texas approach.

### **Goals of MSA Review Process**

The sample MSA Advisory Report in Section VII.A. mentions a goal of the MSA Team to attain the same resulting rate tables in each state for a given product. When products have had varied historical rate increase approvals, both in magnitude and timing across states, this goal conflicts, at least in part, with another stated goal of the MSA Review of eliminating cross-state subsidization. A goal of having the same resulting rate tables in each state has a potential adverse impact of creating less incentive for more appropriate rate increase approvals in states that were slow to approve (or did not approve at all) prior rate increase requests, before participating in an MSA review. Said another way, this could have the unintended effect of encouraging states to delay approving rate increases.

### **Additional Items**

Insurers may want to file rate increase requests in non-participating states concurrently with the MSA Review filing so that the insurer does not needlessly delay the filing and review process in non-participating states. It is unclear if and how insurers will know which states are Participating States in the MSA Review, and whether states will decide on participation in the MSA review each time any rate increase request is submitted.



Average premiums may vary significantly based on policy characteristics and issue age distribution differences across jurisdictions, in addition to past rate increase approvals. Also, Section V.A. acknowledges that premium rates may be lower in lower-cost states based on coverage differences elected by insureds. In the sample MSA Advisory Report in Section VII.A., the reference to average annual premium rate variation by state should be clarified. We suggest that any comparison of average premium rates be carefully considered as it may be misleading.

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Thank you for the opportunity to provide input on the development of the operational and actuarial aspects of the Long-Term Care Insurance Multi-State Rate Review Framework. We welcome the opportunity to speak with you in more detail and answer any questions you have regarding these comments or on other topics. If you do have any questions or would like to discuss further, please contact Matthew Williams, the Academy's senior health policy analyst, at [williams@actuary.org](mailto:williams@actuary.org).

Sincerely,

Andrew H. Dalton, MAAA, FSA  
Vice Chairperson, LTC Reform Subcommittee  
American Academy of Actuaries

CC: Eric King, Health Actuary, NAIC



October 11, 2021

Commissioner Michael Conway  
 Chairman, NAIC LTCI Multi-State Rate Review (EX) Subgroup  
 Colorado Insurance Department

Dear Commissioner Conway and Subgroup Members,

The American Council of Life Insurers (ACLI)<sup>i</sup> and the American Association of Health Insurance Plans (AHIP)<sup>ii</sup> appreciate the opportunity to comment on the second draft of the Operational Section of the Long-Term Care Insurance (LTC) Multi-State Rate Review Framework, exposed by the NAIC LTC (EX) Task Force on September 13, 2021. Our members recognize the hard work that has gone into developing the Framework thus far and hope that our input can further the progress already made.

#### GENERAL

The purpose of the Framework is to develop a consistent national approach for reviewing current LTC rates that results in actuarially appropriate increases being granted by the states in a timely manner that eliminates cross-state rate subsidization. We provide our comments in full support of this charge from the NAIC to the LTCI Multi-State Rate Review (EX) Subgroup.

Consistent, actuarially appropriate, timely rate increases that eliminate cross-state rate subsidization are achieved when the governance, policies, procedures, and actuarial methodologies utilized by the MSA Review Team are openly communicated and reliably followed. We are encouraged by the Subgroup's edits to the first draft of the Operational Section to give insurers access to the MSA Advisory Report. Access to the final Report will help insurers to understand the thought process the MSA Team worked through to make their recommendation, thereby giving insurers greater predictability in how their business will be regulated.

This letter's headings correspond with the various sections and subsections of the Framework for which we have comments. In addition to these comments, we respectfully submit our suggested edits (highlighted in yellow) to the Operational Section in the attached redlined document.

#### I. INTRODUCTION

##### PURPOSE

We urge the Subgroup to incorporate its entire charge into the Framework. Currently, the portion of the charge directing the Subgroup to develop an approach to the MSA Review that eliminates cross-state rate subsidization is not included. Eliminating cross-state rate subsidization should be a key component of, and explicitly stated in, the Framework. The original charge of the LTC (EX) Task Force emphasized the importance of addressing cross-state inequities. It recognized, ". . . the gravity of the threat posed by the current long-term care



insurance environment both to consumers and our state-based system of insurance regulation” and the need to take action to address the threat.

Many of the recommendations that ACLI/AHIP made in our comments on the first draft of the Operational Section, and are making again in this comment letter, would mitigate cross-state rate inequities. If adopted, these recommendations will help to keep rate increase decisions on blocks of business both consistent and actuarially sound.

#### STATE PARTICIPATION IN THE MSA REVIEW

ACLI/AHIP acknowledges the careful balance the Framework must achieve “to create a voluntary and efficient MSA Review that produces reliable and nationally consistent rate recommendations that state insurance regulators and insurers can depend upon.” A voluntary, yet dependable, MSA Review requires an expectation that Participating States will rely on the MSA Advisory Report in their rate approval decisions. If this expectation is not communicated to, and followed by, the states, rate recommendations will not be consistent, nor will regulators or insurers depend on them in their decision-making. We recommend that the Framework emphasize the expectation that participating in the MSA Review means a commitment to the results of the Review, barring any contradictory state law requirements.

Understanding that the Review process will be refined over time, we suggest that wording in the Operational Section be changed to say, “state participation is expected to increase (as opposed to evolve) in the future.” Emphasizing state reliance on the MSA Review will help to promote the consistency and efficiency the review process is meant to achieve.

In order for “[i]nsurance companies . . . to understand how . . . the MSA Advisory Report may impact the insurer’s in-force LTCI premium rate increase filing decisions and interactions with individual state insurance regulators” the MSA Review process must be transparent about how it applies the actuarial methodologies. ACLI/AHIP will address this matter in more detail in our comments on the second draft of the Actuarial Section of the Framework.

#### GENERAL DESCRIPTION OF THE MSA REVIEW

In our redline document, we suggest amendments to the language in this section to clarify that the MSA Team will keep insurers updated throughout the Review process and inform the insurer if the recommendation differs from the proposal. We also recommend language that strongly encourages states to rely on the MSA Advisory Report to achieve the charge and purpose of the MSA Review process.

#### BENEFITS OF PARTICIPATING IN THE MSA REVIEW

This Section lists the benefits state regulators will attain if they participate in the MSA process. However, unless the MSA Team, does, in fact, use the *same* dedicated approach to evaluate in force LTCI rate increase reviews, the states will *not* obtain the stated “benefit of using the same consistent methodology that is relied upon by other state insurance departments when reviewing in force LTCI rate increase filings in their state.” The MSA process will also not realize the “increased efficiency and reduced timelines for nationwide premium rate increase



requests” listed as a benefit for insurers. For these reasons, and as asserted in other sections of this letter, the Operational Section should encourage the states to not only accept the Advisory Report, but to also accept the rate filing submitted to the MSA Team, without additional state-specific filing requirements, unless mandated by state law.

### DISCLAIMERS AND LIMITATIONS

While we appreciate the additional clarification that Participating States will provide MSA Advisory Reports the same protection from disclosure as provided by the confidentiality provisions contained within their state’s laws and regulations for rate filings, we remain concerned that insurers’ proprietary information could be revealed in the MSA Review process. Section I. E. 2. refers to the Master Information Sharing and Confidentiality Agreement between states that governs the sharing of information among state insurance regulators. We respectfully request that this document be shared with insurers so that we may understand the privacy protocols in place throughout the MSA review process. We recommend that the Subgroup clarify which privacy rules govern each part of the MSA Review process in the Framework. The safeguards used to keep insurers’ information confidential will influence whether an insurer decides to participate in the MSA Review process. Development of the MSA recommendation, including the Advisory Report, should be held confidential, subject to the Master agreement. Once the insurer filed the Advisory Report with the state it should be provided the confidentiality protections afforded by the state’s law.

## II. MULTI-STATE ACTUARIAL LTCI RATE REVIEW TEAM (MSA TEAM)

### MSA ASSOCIATE PROGRAM

We applaud the addition of the MSA Associate Program to the Framework to develop and expand LTCI actuarial expertise amongst state insurance department regulators. ACLI/AHIP members offer their support of the program and their help answering questions, if desired.

## III. REQUESTING AN MSA REVIEW

### PROCESS FOR REQUESTING AN MSA REVIEW

ACLI/AHIP requests clarification on the confidentiality of information in SERFF. The draft Framework states that “Participating States will have access to view the insurer’s rate proposal and review correspondence in SERFF.” Is the request for a rate proposal in SERFF, as well as accompanying information and correspondence, protected by Compact confidentiality procedures, state law, the Master Agreement, or something else?

### CERTIFICATION

The certification provision references Participating States that “affirmatively relied on the MSA Review and/or the MSA Advisory Report in making its determination; or . . . consents in writing to use the MSA Review and/or the MSA Advisory Report.” Under what circumstances does the Subgroup believe that a state would do either? We suggest that all Participating States disclose whether they affirmatively relied on the MSA Review/Advisory Report in making their rate recommendations.

## IV. REVIEW OF THE RATE PROPOSAL

### RECEIPT OF A RATE PROPOSAL

In the referenced SERFF or email notifications, how much of the rate proposal submission, correspondence between the MSA Team and insurers, and other activities be visible to Participating States? Will Participating States be able to read all submitted information in its entirety? How will this information be kept confidential among the MSA Team and Participating States?

### COMPLETION OF THE MSA REVIEW

We would appreciate clarity regarding the timeline once the MSA Team completes its review. The Framework states that the insurer will receive sufficient information regarding the MSA Team's recommendation to allow "the insurer an opportunity to review the recommendation and in the event that the MSA Team recommendation differs from the proposal submitted by the insurer, the insurer will be given the opportunity to interact with MSA Team in order to ask questions, understand the MSA Team's reasoning, and provide additional information in support of its proposal [sic] will address questions from the insurer about the result of the review." Does this mean an insurer will see the recommendation before it is communicated to state insurance departments? If so, ACLI/AHIP are in support.

At what point will the MSA Team decide to abort the insurer's efforts to refute a MSA recommendation differing from its proposal? We suggest that the Framework clearly state that an insurer can see and appeal the MSA recommendation prior to its communication to Participating States. A minimum two-week appeal period would give the insurer time to compile and submit additional information in support of its proposal.

### PREPARATION AND DISTRIBUTION OF THE MSA ADVISORY REPORT

Furthermore, whether the recommendation differs from the proposal or not, our members would like to participate in MSA Team presentations of the draft MSA Advisory Report with regulators from Participating States. We believe an insurer's ability to answer questions and respond to concerns from Participating States, if needed, would be helpful to all involved and increase MSA review efficiency.

### TIMELINE OF REVIEW AND DISTRIBUTION OF THE MSA ADVISORY REPORT

Please see our suggested changes to the timeline in the redline document.

### FEEDBACK TO THE MSA TEAM

The MSA Review process will be refined over time. With this in mind, we strongly recommend that the draft Framework be edited to specify a formal, annual assessment of the MSA Review process. Further, in addition to a survey gathering feedback from Participating States, insurers should also be surveyed for feedback on the process. Obtaining a clear and complete picture of the process from all participants will give NAIC leadership a more accurate picture of how well the process is working and what areas need improvement. Moreover, the anonymous results of the annual assessment should be shared with both Participating States and insurers to aid both groups in their business-planning and decision-making.

## VII. EXHIBITS

### EXHIBIT A. SAMPLE MSA ADVISORY REPORT

In Appendix 1, the note regarding the Minnesota approach refers to downward adjustments to morbidity assumptions. We suggest the Advisory Report include more explicit information about the adjustments made so that they may be re-evaluated, if appropriate.

The cost-sharing formula included in Appendix 3 of Exhibit A. assumes a company should have had more information about the possibility of rate increases than the consumer had. Whether or not this is true in any given circumstance, inclusion of the cost-sharing formula here is inappropriate. The assumption is a policy consideration that should not be incorporated into the actuarial approach. Further, Appendix 3 appears to apply the prospective cost-sharing formula within the Texas methodology, which differs from the provided Texas methodology explanation. See our red-lined document for additional suggested edits to this portion of the draft Framework.

### CONCLUSION

ACLI/AHIP remains committed to working with the Subgroup to address the challenges in developing an MSA Review Framework. We look forward to addressing questions on our comments at our next LTCI Multi-State Rate Review (EX) Subgroup meeting.

Sincerely,



Jan M. Graeber  
ACLI Senior Actuary



Ray Nelson  
AHIP Consulting Actuary

<sup>i</sup> The American Council of Life Insurers advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Ninety million American families depend on our members for life insurance, annuities, retirement plans, long-term care (LTC) insurance, disability income insurance, reinsurance, dental, vision, and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

<sup>ii</sup> AHIP is the national association whose members provide coverage for health care and related services to hundreds of millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public- private partnerships that improve affordability, value, access, and well-being for consumers.

Draft: 9/10/21

# LONG-TERM CARE INSURANCE MULTI-STATE RATE REVIEW FRAMEWORK

*Drafted by the  
Ad Hoc Drafting Group<sup>1</sup> of the  
NAIC Long-Term Care Insurance (EX) Task Force*

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<sup>1</sup> The Ad Hoc Drafting Group consists of representatives from state insurance departments in Minnesota, Nebraska, Texas, Virginia, and Washington

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VII.	Exhibits .....
A.	Exhibit A – Sample MSA Advisory Report.....

## I. INTRODUCTION

### A. Purpose

The National Association of Insurance Commissioners (“NAIC”) charged the Long-Term Care Insurance (EX) Task Force (“LTCI (EX) Task Force”) with developing a consistent national approach for reviewing current long-term care insurance (“LTCI”) rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization. Considering that charge and the threat posed by the current LTCI environment both to consumers and the state-based system of insurance regulation, the LTCI (EX) Task Force developed this framework for a multi-state actuarial (“MSA”) LTCI rate review process (“MSA Review”).

This framework is based upon the extensive efforts of the LTCI Multi-State Review (EX) Subgroup, including its experience with a pilot program conducted by the pilot program’s rate review team (“Pilot Team”). As part of that pilot program, the Pilot Team reviewed ~~seven~~ LTCI premium rate increase proposals and issued MSA Advisory Reports recommending actuarially justified state-by-state rate increases. This framework aims to institutionalize a refined version of the Pilot Team’s approach to create a voluntary and efficient MSA Review that produces reliable and nationally consistent rate recommendations that state insurance regulators and insurers can depend upon. The MSA Review has been designed to leverage the limited LTCI actuarial expertise among state insurance departments by combining that expertise into a single review process analyzing in force LTCI premium rate increase proposals (“rate proposal”)<sup>2</sup> and producing an MSA Advisory Report for the benefit and use of all state insurance departments. Note that rate decreases can be contemplated within the MSA Review process. The same concepts of this MSA Framework would be applied, if such a decrease request is received for MSA Review. The goal of this framework is to create a process that will not only encourage insurers to submit their LTCI products for multi-state review, but also provide insurance departments the requisite confidence in the MSA Review so that they will voluntarily ~~rely upon~~ utilize that process’s recommendations when conducting their own state level reviews of in force LTCI rate increase filings<sup>3</sup>. Ultimately, the MSA Review is designed to foster as much consistency as possible between states in their respective approaches to rate increases.

The purpose of this document is to function as a ~~user’s manual~~ framework for the MSA Review that communicates to NAIC members, state insurance department staff, and external stakeholders how the MSA Review works to the benefit of state insurance departments and how insurers might engage in the MSA Review. This ~~user’s manual~~ MSA framework is intended to communicate the governance, policies,

<sup>2</sup> “Premium rate increase proposal(s)” or “rate proposal(s)” in this document refers only to an insurer’s request for review of a proposed in force LTCI premium rate increase or decrease under the MSA Review process.

<sup>3</sup> The term “filing(s)” in this document refers only to the in force LTCI premium rate request(s) that is submitted to individual state departments of insurance for a regulatory decision.

procedures, and actuarial methodologies supporting the MSA Review. State insurance regulators can utilize the information and guidance contained herein to understand the basis of the multi-state actuarial LTCI rate review team's ("MSA Team") MSA Advisory Reports. Insurance companies can access the information and guidance contained herein to understand how to engage in the MSA Review, and how the MSA Advisory Report may impact the insurer's in force LTCI premium rate increase filing decisions and interactions with individual state insurance regulators.

This document will be maintained by NAIC staff under the oversight of the LTCI (EX) Task Force and be revised as directed by the Task Force [or an appointed Subgroup](#). This document will be part of the NAIC library of official publications and copyrighted.

## B. State Participation in the MSA Review

The MSA Review of an insurer's rate proposal will be available to state insurance departments who are both an Impacted State and a Participating State. These are defined as follows.

- "Impacted State" is defined as the domestic state, or any state for which the product associated with the insurer's in force LTCI premium rate increase proposal is or has been issued.
- "Participating State" is defined as any impacted state insurance department that agrees to participate in the MSA Review. Participation is voluntary as described in Section I.E.1 below. Participation may include activities such as, but not limited to, receiving notifications of rate proposals in SERFF, participation in communication/Webinars with the MSA Team, and access to the MSA Advisory Report.

*[Note that state participation is expected to evolve/increase in the future as the MSA Review process continues to be developed and refined.](#)*

## C. General Description of the MSA Review

The MSA Review provides for a consistent actuarial review process that will result in an [MSA Advisory Report](#) which state insurance departments ~~may choose to rely on~~[will consider when deciding to make decisions](#) on an insurer's rate increase filing or to supplement the state's own review process.

The MSA Review is conducted by a team of state's regulatory actuaries with expertise in LTCI rate review. Each review will be led by a designated member of the MSA Team. The review process is supported by NAIC staff, the Interstate Insurance Product Regulation Commission ("Compact") staff, who will [administratively](#) assist insurers in making requests to utilize the MSA process and facilitate communication between the insurer, the MSA Team and [Participating/Impacted TBD<sup>4</sup>] States. The NAIC's electronic infrastructure, the System for Electronic Rates and Forms ("SERFF") will be used to streamline the rate proposal and review process. Although the administrative services of the Compact staff and SERFF's Compact filing platform are utilized in the MSA Review, MSA rate proposals are reviewed, and [MSA](#)

<sup>4</sup> Certain processes for Impacted vs. Participating States are yet to-be-determined (TBD).

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Advisory Reports are prepared by the MSA Team. MSA rate proposals are not Compact filings and Compact staff will not have any role in determining the substantive content of the MSA Advisory Reports.

The MSA Review process begins when an insurer expresses interest in an MSA Review being performed for an in force LTCI rate proposal to the MSA Team through SERFF, or ~~to~~-supporting NAIC or Compact staff. The eligibility of the rate proposal will be reviewed and determined by the MSA Team ~~and~~with assistance, as needed, from supporting staff.

The MSA Review of eligible rate proposals will resemble a state-specific rate review process utilizing consistent actuarial standards and methodologies. The MSA Team will apply the Minnesota and Texas approaches to calculate recommended, approvable rate increases. While aspects of the Minnesota and Texas approaches may result in lower rate increases than resulting from loss ratio-based approaches and are outside the pure loss-ratio requirements contained in many states' laws and rules, the approaches fall in line with legal provisions that rates shall be fair, reasonable, and not misleading. The MSA Team will review support for the assumptions, experience, and projections provided by the insurer and perform validation steps to review the insurer-provided information for reasonableness. The MSA Team will document how the proposal complies with the regulatory approach utilized by the MSA Team for Participating States. See Section V for more details on the actuarial review.

~~Throughout the MSA Review process the MSA team will provide updates to the insurer. The MSA team will deliver the final MSA advisory Report to the insurer and address any questions the insurer has about the results of the Review. Through the MSA Review the MSA Team will communicate MSA information to the insurer, including the final MSA Advisory Report, and the MSA Team will address any questions from the insurer about the results of the review.~~

Additionally, the review will consider reduced benefit options that are offered in lieu of the requested rate increases and factor in non-actuarial considerations.

At the completion of the review, the MSA Team will draft an MSA Advisory Report for Participating States and insurers that provides both summary and detail information about the rate proposal, the review methodologies, the analysis and other considerations of the team, and the recommendation for rate increases as outlined in Appendix A. The MSA Advisory Report will also indicate whether the recommendation differs from the insurer's proposal. Participating States ~~can~~are encouraged to utilize either rely on the information filed with the MSA Team in addition to the Advisory Report's recommendation unless required by state law, supplement their own state's rate review with it as described in the following Subsection I.D.

The rate proposal, review process, actuarial methodologies and other review considerations are detailed within this framework document and accompanying appendices.

#### **D. Benefits of Participating in the MSA Review**

Both state insurance regulators and insurers will benefit by participating in the MSA Review in multiple ways.

For state insurance regulators:

- First, they will be able to leverage the demonstrated expertise of the MSA Team in reviewing in force LTCI rate increases filed to their state. It is recognized that multiple states may not have significant actuarial expertise with LTCI, so participation in the MSA Review will allow those states to build on the specific, dedicated LTCI actuarial expertise of the MSA Team.
- Second, state insurance regulators will be able to ~~utilize~~ ~~rely on~~ the MSA Team to promote consistency of actuarial reviews among filings submitted by all insurers to states, and among actuarial reviews across all states. Because the MSA Team is using the same dedicated approach to in force LTCI rate increase reviews, states who ~~utilize~~ ~~rely on~~ the MSA Team will have the benefit of using the same consistent methodology that is relied upon by other state insurance departments when reviewing in force LTCI rate increase filings in their state.
- Third, the MSA Review allows for more state regulatory actuaries to work with or under the supervision of qualified actuaries which affords them an opportunity to establish LTCI-specific qualifications in making actuarial opinions. This is particularly important when we consider that requirements to be a “Qualified Actuary” include years of experience under the supervision of another already qualified actuary in that subject matter.
- Finally, participating in the MSA Review will allow all state insurance regulators to share questions and information regarding a particular rate proposal or review methodologies; thus, increasing each state’s knowledge base in this area and promoting a more consistent national approach to in force LTCI rate review.

*Note that states’ use of and reliance on the MSA Advisory Report is expected to ~~evolve~~ ~~increase~~ in the future as the MSA Review process continues to be developed and refined and the benefits of the MSA Review described above become more evident.*

Long-Term Care (LTC) insurers will likewise see multiple benefits in participating the MSA Review.

- First, by utilizing the MSA Review and through the receipt of MSA information and the MSA Advisory Report from the MSA Team, insurers should see increased efficiency and reduced timelines for nationwide premium rate increase requests. As the MSA Team delivers the MSA Advisory Report for a rate proposal to Participating States, they have functionally reduced the review time for each state, meaning that LTC insurers should see more efficient and timely reviews from these states.
- Second, participating in the MSA Review will provide LTC insurers with one consistent recommendation to be used when making rate increase filings to all states, thus reducing the carrier’s workload in developing often widely differing filings for states’ review.
- Finally, the consistency of one uniform national system for reviewing rate proposals should lead to more accurate reviews, theoretically reducing some of the need for ongoing rate increase filings.

## E. Disclaimers and Limitations

1. State Authority over Rate Increase Approvals

The MSA Advisory Report is **only** a recommendation to Participating States based upon the methodologies adopted by the MSA Review. The recommendations are not specific to, and do not account for, the requirements of any specific state’s laws or regulations. The MSA Review is not intended, nor should it be considered, to supplant or otherwise replace any state’s regulatory authority, responsibility and/or decision-making. Each state remains ultimately responsible for approving, partially approving or disapproving any rate increase in accordance with applicable state law. To satisfy the LTC EX Task Force charge to “develop a consistent national approach for reviewing LTCI rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization” it is expected that states will generally follow the MSA Advisory Report’s recommendations and not impose state-specific caps on actuarially appropriate increases unless specifically mandated by state law.

A Participating State’s use/adoption of the MSA Advisory Report’s recommendations with respect to one filing does not require that state to consider or use/adopt any MSA Advisory Report recommendations with respect to any other filing. The MSA Review in no way (a) eliminates the insurer’s obligation to file for a rate increase in each Participating State or (b) modifies the substantive or procedural requirements for making such a filing. While generally encouraged/expected to adopt the recommendations of the MSA Review in each of their state filings, insurers are not obligated to align their individual state rate filings with the recommendations contained within the MSA Advisory Report.

The MSA Advisory Reports, including the recommendations contained therein, are only for use by Participating States in considering and evaluating rate filings. The MSA Advisory Reports or their conclusions shall not be utilized by any insurer in a rate filing submitted to a non-participating state, nor shall the MSA Advisory Reports be used outside of each regulator’s own review process, or to challenge the results of any individual state’s determination of whether to grant, partially grant or deny a rate increase.

## 2. Information Sharing Between State Insurance Departments

The MSA Review, including, but not limited to, meetings, calls, and correspondence ~~with insurers~~ on insurer-specific matters are held in regulator-to-regulator sessions and are confidential. In addition, if certain information and documents related to specific companies that are confidential under the state law of a MSA Team member or a Participating State need to ~~Participating States’ laws but will~~ be shared with other regulators, such sharing will occur as authorized by state law, and pursuant to the Master Information Sharing and Confidentiality Agreement (“Master Agreement”) between states that governs the sharing of information among state insurance regulators. Through the Master Agreement, state insurance regulators affirm that any confidential information received from another state insurance regulator will be maintained as confidential and represent that they have the authority to protect such information from disclosure.

## 3. Confidentiality of the Rate Proposal

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Members of the MSA Team affirm and represent that [they will provide](#) any in-force LTCI rate proposal as discussed herein [with the same protection from disclosure, if any, as provided](#) ~~is protected from disclosure~~ by the confidentiality provisions contained within their state's laws and regulations.

#### 4. Confidentiality of the MSA Reports

Likewise, members of the MSA Team [and Participating States](#) affirm and represent that [they will provide any MSA Advisory Report\(s\) and MSA information provided to insurers](#) as discussed herein [with the same protection from disclosure, if any, as provided](#) ~~is protected from disclosure~~ by the confidentiality provisions contained within their state's laws and regulations [for rate filings](#).

### F. **Governing Body and Role of the NAIC Long-Term Care Insurance (EX) Task Force**

The NAIC LTCI (EX) Task Force is expected to remain in place for the foreseeable future to oversee the implementation of the MSA Review, and related MSA Advisory Reports, and to provide a discussion forum for MSA-related activities. The Task Force [or any successor](#) will continuously evaluate the effectiveness and efficiency of the MSA Review for the benefit of state insurance regulators and provide direction, as needed.

The LTCI (EX) Task Force may create one or more subgroups to carry out its oversight responsibilities.

Membership and leadership of the Task Force will be selected by the NAIC President and President-elect as part of the annual committee assignment meeting held in January. Selection of the membership and leadership may consider a variety of criteria, including commissioner participation, insurance department staff competencies, market size, domestic LTC insurers, and other criteria considered appropriate for an effective governance system.

## II. **Multi-State Actuarial LTCI Rate Review Team (MSA Team)**

The MSA Team comprises state insurance department actuarial staff. MSA Team members are chosen by their skill set and LTCI actuarial experience. The LTCI (EX) Task Force, or its appointed Subgroup, will determine the appropriate experience and skill set for qualifying members for the MSA Team. It is expected that state participants will provide expertise and technical knowledge specifically regarding the array of LTCI products and solvency considerations. The desired MSA Team membership composition should include a minimum of five and up to seven members.

Membership must follow the requirements below and be approved by the Chair of the LTCI (EX) Task Force or the Chair of an appointed Subgroup. The following outlines the qualifications, duties, participation expectations and resources required for MSA Team members.

### A. **Qualifications of an MSA Team Member**

To be eligible to participate as a member of the MSA Team, a state insurance regulator is required to:

- Hold a senior actuarial position in a state insurance department in life insurance, health insurance, or long-term care insurance
- Be recommended by the Insurance Commissioner of the state in which the actuary serves
- Have over five years of relevant LTCl insurance experience
- Hold an Associate of the Society of Actuaries (ASA) designation
- Currently participates as a member of the LTCl Multistate Rate Review (EX) Subgroup (or equivalent Subgroup appointed by the LTCl (EX) Task Force) and the LTC Pricing (B) Subgroup
- [At least one member of the MSA Team must be a member of the American Academy of Actuaries](#)

Additionally, the following qualifications are preferred:

- Hold a Fellow of the Society of Actuaries (FSA) designation
- Have spent at least one year engaged in discussions of either the LTCl (EX) Task Force or its appointed Subgroup

[As both state insurance regulators and the MSA Review process may benefit by developing and expanding specific LTCl actuarial expertise through participation in this process, having one or more suitably experienced and qualified actuaries participate in and supervise the work of the MSA Team is critical to the viability of the MSA process. Participation also provides opportunities for additional actuaries to meet the requirements of the U.S. Qualification Standards applicable to members of the American Academy of Actuaries and other U.S. actuarial organizations as they relate to LTCl.](#)

Consideration will be given to joint membership where two actuaries within a state combine to meet the criteria stated above.

[Consultants engaged by the state insurance department would not be considered for MSA Team membership.](#)

## **B. Duties of an MSA Team Member**

- Active involvement with the MSA Team, with an expected average commitment of 20 hours per month (See Section IV for details of the MSA Review and activities of a team member)
- Participate in all MSA Team calls and meetings (unless an extraordinary situation occurs)
- Review and analyze materials related to MSA rate proposals
- Provide input on the MSA Advisory Reports, including regarding the recommended rate increase approval amounts
- Maintain confidentiality of MSA Team meetings, calls, correspondence, and the matters discussed therein [to the extent permitted by state law](#) and protect from disclosure any confidential information received pursuant to the Master Information Sharing and

Confidentiality Agreement. [MSA Team Members should communicate any request for public disclosure of MSA information or any obligation to disclose.](#)

- Active involvement within NAIC LTCI actuarial groups
- Willingness to provide expertise to assist other states

### C. Participation of an MSA Team Member

Except for webinars and other general communications with state insurance departments, participation in the MSA Review conference calls and meetings related to the review of a specific rate proposal will be limited to named MSA Team members, supporting NAIC or Compact staff members who will be assisting the MSA Team, and the Chair and Vice Chair of the LTC (EX) Task Force, or its appointed Subgroup. Other interested regulators, e.g., domiciliary state insurance regulator, may be invited to participate on a call at the discretion of the MSA Team, or Chair or Vice Chair of the Task Force or its appointed Subgroup.

### D. [MSA Associate Program](#)

[The MSA Associate Program within the MSA Framework is intended to encourage and engage state insurance department regulators to become actively involved in the MSA process. Additionally, a benefit of the program is to provide an educational opportunity for state insurance department regulatory actuaries that wish to gain expertise in LTCI. Regulatory actuaries can participate with varying levels of involvement or for different purposes as described. Regulatory actuaries may participate:](#)

- [As a mentee. The mentee would participate in aspects of the MSA Review process. An MSA Team member will serve as a mentor to another state regulatory actuary and provide one-on-one guidance.](#)
- [To gain more knowledge and understanding of the Minnesota and Texas actuarial approaches.](#)
- [To share their own expertise through feedback to the MSA Team on MSA Advisory Reports, to better enhance the overall MSA process.](#)
- [To participate on an ad hoc limited basis, i.e., where a regulatory actuary would like to participate but is unable to make the required time commitment.](#)
- [To meet the U.S. Qualification Standards applicable to members of the American Academy of Actuaries and other U.S. actuarial organizations as they relate to LTCI by serving under the supervision of a qualified actuary on the MSA Team.](#)
- [To serve as a peer reviewer of the MSA Advisory Reports](#)

### ~~D~~.E. Conflicts, Confidentiality and Authority of the MSA Team

#### 1. [Authority of the MSA Team](#)

Members of the MSA Team serve in a purely voluntary basis, and any member's participation shall not be viewed or construed to be any official act, determination or finding on behalf of their respective jurisdictions.



## 2. Disclosures and Confidentiality Obligations, as Applicable

All members of the MSA Team acknowledge and understand that the MSA Review, [including, but not limited to, meetings, calls, and correspondence are confidential and may not be shared, transmitted, or otherwise reproduced in any manner. Additionally, all members of the MSA Team affirm and represent that they will \(a\) provide any in force LTCI rate proposal with the same protection from disclosure, if any, as provided by the confidentiality provisions contained within their state's laws and regulations and \(b\) provide any MSA Advisory Report with the same protection from disclosure, if any, as provided by the confidentiality provisions contained within their state's laws and regulations for rate filings.](#) ~~any resulting advisory report, as well as all meetings, calls, correspondence, and all other materials produced in connection herewith are confidential and may not be shared, transmitted, or otherwise reproduced in any manner.~~

## 3. Conflict of Interest Avoidance Procedures and Certifications

No member of the MSA Team may own, maintain, or otherwise direct any financial interest in any company or its affiliates subject to the regulation of any individual State, nor may any member serve or otherwise be affiliated with the management or board of directors in any company or its affiliates subject to the regulation of any individual State. All conflicts of interest, whether real or perceived, are prohibited and no member of the MSA Team shall engage in any behaviors that would result in or create the appearance of impropriety.

### E.F. Required NAIC and Compact Resources

The MSA Team will require administrative and technical support from the NAIC. As the MSA Review develops, it is expected NAIC support resources will play an integral role in managing the overall program. Administrative staff support will be needed to support MSA Team communications and manage record keeping for underlying workpapers and final MSA Advisory Reports associated with each rate proposal, etc. Additionally, it is possible that limited actuarial support will be needed for the analysis of rate proposals, including preparing data files, gathering information, performing limited actuarial analysis procedures, drafting MSA Advisory Reports, and monitoring interactions among the state insurance departments and the MSA Team. Dedicated staff support for the ongoing work of the LTCI (EX) Task Force will be needed as well. As more experience with rate proposal volumes and average analysis time is gained, the full complement of human resources required will be better understood.

The MSA Team and supporting NAIC and Compact staff will use the NAIC SERFF electronic infrastructure to receive insurer rate proposals and correspond with insurers. As needed, the MSA Team or supporting NAIC and Compact staff may communicate with the insurer outside of SERFF. [NAIC and Compact staff will communicate with insurers only at the direction of the MSA Team. Compact staff will perform administrative work related to MSA Filings at the direction of the MSA Team and as described in this Framework.](#)

### III. REQUESTING AN MSA REVIEW

#### A. Scope and Eligibility of a Rate Proposals for MSA Review

The following are the preferred eligibility criteria for requesting an MSA Review of a rate proposal.

- Must be an in force long-term care insurance product ([individual or group](#))
- Must be seeking a rate increase in at least 20 states and must affect at least 5,000 policyholders [nationwide](#)
- Includes any stand-alone LTCI product approved by states, not by the Interstate Insurance Product Regulation Commission (Compact)
- For Compact-approved products meeting certain criteria, the Compact Office will provide the first-level advisory review subject to the input and quality review of the MSA

It is recognized that rate proposals vary from insurer to insurer. The above criteria and the timelines provided below are general guidelines. The MSA Team has the authority to weigh the benefits of the MSA Review for state insurance departments and the insurer against available MSA Team resources when considering the eligibility of rate proposals and the timeline for completion. Based on these considerations, the MSA Team, at its discretion, may elect to perform an MSA Review on a rate proposal that does not satisfy the above eligibility criteria.

The MSA Team reserves the right to deny a request that does not meet eligibility criteria. An insurer will be notified if the request for an MSA Review is denied.

An insurer may ask questions for more information about a potential rate proposal through communication to supporting NAIC and Compact staff and the MSA Team. This will be accomplished through a Communication Form that will be available on the Compact webpage. Supporting NAIC and Compact staff will work with the insurer to complete the necessary steps to assess eligibility, discuss any technical or other issues and answer questions.

The insurer will have access to primary and supplementary checklists in Appendix B that provide guidance to the insurer for information that should be included in a complete MSA rate proposal requested through the NAIC's SERFF application.

#### B. Process for Requesting an MSA Review

As noted in Section I.C. above, the MSA Review will utilize the Compact's multi-state review platform within the NAIC's SERFF application and its format for in-force LTCI rate increase requests. Therefore, a state may participate in the MSA Review without being a member of the Compact. The following describes a few key elements of the process for insurers and state insurance department regulators.

- The insurer will work with NAIC and Compact support staff and the MSA Team to make a seamless request.

- Instructions containing a checklist for information required to be included in the rate proposal, as reflected in Appendix B, will be available to insurers through the Compact’s webpage or within SERFF.
- The insurer shall include in the rate proposal a list of all states for which the product associated with the rate increase request is or has been issued. Participating Sstates will have access to view the insurer’s rate proposal and review correspondence in SERFF.
- Fee schedule for using the MSA Review [To Be Determined].
- Rate proposals for MSA Review within SERFF will be clearly identified as separate from Compact filings.
- The supporting NAIC and Compact staff through SERFF will notify the Impacted Sstates upon receipt of the request with the SERFF Tracking No.
- The MSA Team may utilize a “queue” process for managing workload and resources for incoming requests through SERFF.
- The MSA Team may utilize Listserv or other communication means for inter-team communications.
- The MSA Team’s review of objections and insurer responses are completed through SERFF.

### C. Certification

The insurer shall provide certifications signed by an Officer of the insurer that it acknowledges and understands the non-binding effect of the MSA Review and MSA Advisory Report. The certification shall also provide, and the insurer shall agree, that it will not utilize or otherwise use the MSA Review and/or the resulting MSA Advisory Report to challenge, either through litigation or any applicable administrative procedure(s), any state’s decision to approve, partially approve or disapprove a rate increase filing except when: 1) the individual state is a [Participating/Impacted TBD] State that affirmatively relied on the MSA Review and/or the MSA Advisory Report in making its determination; or 2) the individual state consents in writing to use of the MSA Review and/or the MSA Advisory Report.

Failure to abide by the terms of the insurer’s certification will result in the insurer and its affiliates being excluded from any future MSA Reviews, and it will permit the MSA Team to terminate, at its sole discretion, any other ongoing review(s) related to the insurer and its affiliates.

Should the MSA Team exclude any insurer and its affiliates for failure to adhere to its certification, the MSA Team, at its sole discretion, may permit the insurer and its affiliates to resume submitting rate proposals for review upon written request of the insurer.

## IV. REVIEW OF THE RATE PROPOSAL

### A. Receipt of a Rate Proposal

The MSA rate review process begins when an insurer expresses interest in an MSA Review being performed for a rate proposal. This interest can be expressed through completion of a Communication

Form, which will be available through the Compact webpage. The initial request will be reviewed by the MSA Team lead reviewer and/or supporting NAIC and Compact staff. Once an insurer has completed this initial communication and meets the criteria for requesting an MSA Review, the insurer will work with supporting NAIC and Compact staff and the MSA Team to complete the rate proposal in SERFF. The MSA Team will be notified, via SERFF, when the proposal is available for review.

The supporting NAIC and Compact staff via SERFF or e-mail will notify [Participating/Impacted states TBD] when rate proposals are submitted, correspondence between the MSA Team and insurer is sent or received in SERFF, the MSA Advisory Report is available and other pertinent activities occur during the review.

### **B. Completion of the MSA Review**

The MSA Team shall designate a lead reviewer to perform the initial review of each rate proposal. Once the rate proposal is made through SERFF, the MSA Review will resemble a state-specific review process.

The MSA Team will meet periodically to discuss the review and determine any needed correspondence with the insurer. Objections and communications with filers will be conducted through SERFF, similar to any state-specific filing or Compact filing, to maintain a record of the key review items. Other supplemental communication between the insurer and the MSA Team or supporting NAIC and Compact staff, may occur, such as conference calls or emails, as appropriate.

The timeframe for completion of the MSA Team's review and drafting the MSA Advisory Report will be dependent upon the completeness of the rate proposal and the size and complexity of the block of policies for which the rate increase applies. The MSA Team may utilize a "queue" process for managing workload and resources for incoming requests through SERFF. The timeliness of any necessary communication between the MSA Team and the insurer to resolve questions or request/receive additional information about the rate proposal will impact the completion of the review.

As the MSA Team completes its review: 1) the insurer will receive initial communication of a completed review and that a final MSA Advisory Report with recommendations will be drafted and-communicated to state insurance departments within the next month which may serve as a signal for a potential ideal time for the insurer to prepare to submit the state-specific filings to each state; and, 2) the insurer will receive sufficient MSA Review information regarding the MSA Team's recommendation to allow for the insurer an opportunity to review the recommendation and in the event that the MSA Team recommendation differs from the proposal submitted by the insurer, the insurer will be given the opportunity to interact with MSA Team in order to ask questions, understand the MSA Team's reasoning, and provide additional information in support of its proposal. ~~will address questions from the insurer about the result of the review.~~

### **C. Preparation and Distribution of the MSA Advisory Report**

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Upon completion of the actuarial review, the MSA Team will prepare a draft MSA Advisory Report for the rate proposal. The reports will be made available within SERFF “reviewer notes” for Participating States. Supporting NAIC and Compact staff will maintain a distribution list and send notifications of the availability of reports to Participating States. [Consultants engaged by a state insurance department staff to perform rate reviews would be given access to the MSA Advisory Report, subject to the terms of the agreement between the consultant and the Participating State insurance department.](#)

[Consultants who are bound by the actuarial Code of Professional Conduct, adopted by the Academy of Actuaries, Society of Actuaries and Conference of Consulting Actuaries, should consider whether receipt of the MSA Advisory Report is acceptable under Precept 7 regarding Conflicts of Interest. For other professions, similar consideration should be made if bound by similar professionalism standards.](#)

Prior to finalizing the MSA Advisory Report, the MSA Team will present the draft MSA Advisory Report to Participating States on a [regulatory-only](#) WebEx call, as deemed necessary, to provide an overview of the recommendations and respond to questions from Participating States. [Insurers may participate in the call, or a portion of call, to directly address state regulator questions.](#)

The MSA Team will issue the final MSA Advisory Report to the Participating States [and the insurer](#) after consideration of any comments and questions from Participating States.

The MSA Advisory Report will include standardized content as reflected in Appendix A, with modifications as necessary for any unique factors specific to the rate proposal. The content and format are based on feedback received from state insurance departments and the LTCI (EX) Task Force during the pilot project.

The content and format of the MSA Advisory Report may be modified in the future under the direction of the LTCI (EX) Task Force, or appointed Subgroup, as the MSA Team gains more experience in generating the reports and receives more feedback through this process. [A formal, annual review will ensure Participating States and insurers have a forum to provide feedback.](#)

#### D. Timeline for Review and Distribution of the MSA Report

The draft MSA Advisory Report will be made available to Participating States for a two-week comment period prior to being finalized. The following timeline for this comment period and distribution of the final MSA Advisory Report will be adhered to as close as possible, barring timing delays due to, e.g., holidays or other unexpected events. [Note that the MSA Review is intended to occur before filings are made to the state insurance departments, therefore not impacting state insurance departments’ required timelines for review. However, use of the MSA Advisory Report by the state review may result in a/s expected to reduced](#) the amount of time required for the state to complete its review.

- [Share the draft Report with the insurer. If the recommendation in the Report differs from the insurer’s proposal, allow the insurer a two-week comment period to ask questions and provide additional information.](#)
- Day 1 – Distribution of a draft MSA Advisory Report to all Participating States

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- Day 5-7 – ~~Regulator to regulator~~ WebEx conference call of all Participating States ~~and the insurer~~ during which the MSA Team will present the recommendations in the MSA Advisory Report and seek comments from states
- Day 21 – Deadline for comments on the ~~draft initial~~ MSA Advisory Report
- Day 35 – Distribution of the final MSA Advisory Report, with consideration of comments, to Participating States ~~and the insurer~~
- Date to be determined by the Insurer – Individual rate increase filings submitted to each state insurance department
- Date to be determined by each state’s department of insurance – approval or disapproval of the rate increase filing submitted to in each state

#### E. Feedback to the MSA Team

At the direction of the LTCI (EX) Task Force, or appointed Subgroup, state insurance departments will be requested to ~~periodically~~ annually provide data and feedback on their state rate increase approval amounts and feedback on their state’s use of and reliance on the MSA Advisory Reports. Among other things, the annual review/survey will collect and share information about:

1. The number of filings made with the MSA Review Team
2. The number of rate requests approved by the MSA Review Team
3. The number of states that approved MSA recommendations
4. The number of states that required additional information from the insurer before making an approval or disapproval decision
5. Feedback regarding how the Review process and methodology could be improved

State responses will be confidential pursuant to the Master Agreement and aggregated results of feedback surveys will not specifically identify state responses. Insurers will also be anonymously surveyed on their experience using the MSA Review process. This collective feedback will aid the Task Force in understanding the practical effects of the MSA Review process in achieving the goal of developing a more consistent state-based approach for reviewing LTCI rate proposals that result in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization. The feedback will also help refine the review process, improve future reports to better meet participants’ needs and make updates to this MSA Framework. Finally, the feedback will assist NAIC leadership in making decisions regarding the technology and staff resources needed for the continued success of the project. Aggregated survey results will be shared with Participating States and insurers. —

#### VI.A. APPENDIX A—MSA ADVISORY REPORT FORMAT FOR REGULATORS

The MSA Advisory Report that is distributed to Participating State insurance departments and the insurer will generally follow a template that includes the following information. Note that degree of rigor in the review and the details and content of the MSA Advisory Report will depend on the magnitude of rate

increase and complexity of the rate proposal and the insurer's financial condition. [See also the sample MSA Advisory Report in Exhibit A.](#)

1. Executive Summary
  - a. Overall recommended rate increase, before consideration of different states' history of approvals
  - b. [Explanation of whether or not the recommended rate approval is in line with the insurer's proposal](#)
2. Disclaimers
  - a. Purpose and intent of how states should use the MSA Advisory Report
  - b. Disclaimer that the MSA Review and findings shall not be considered an approval of the rate schedule increase filing, nor shall it be binding on the states or the insurer
  - c. Statement that the in-force rate increase request filed with the respective states shall be subject to the approval of each state, and each state's applicable state laws and regulations shall apply to the entire rate schedule increase filing
  - d. [Statement that states are encouraged to work directly with insurers to address lifetime rate equity](#)
3. Background on the MSA Rate Review process
4. Explanation of the Insurer's Request
5. Summary of the MSA Team's rate review analysis, including these aspects:
  - a. Actuarial review
  - b. Summary of consideration of differences in the history of state's rate increase approvals
  - c. Non-actuarial considerations and findings
  - d. Financial solvency-related aspects and adjustments
  - e. Review for reasonableness and clarity of reduced-benefit options
  - f. Summary information about the mix of business
6. Appendices
  - a. Summary of the drivers of the rate increase request
  - b. Details regarding the Minnesota and Texas approaches as applied to the rate proposal
  - c. Summary of rate proposal correspondence
  - d. Tables of recommended rate increases by state, after consideration of different state's history of approvals
  - e. Frequently Asked Questions (FAQ)

## VI.B. APPENDIX B— INFORMATION CHECKLIST

At the request of the former Long-Term Care Insurance (B/E) Task Force, the LTC Pricing (B) Subgroup developed a single checklist that reflects significant aspects of LTCI rate increase review inquiries from all

of states. In this context, “checklist” means the list or template of inquiries, that states typically send at the beginning of reviews of state-specific rate increase filings.

This document contains aspects of the *NAIC Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation*<sup>5</sup> and checklists developed by several other states. This consolidated checklist is not intended to prevent a state from asking for additional information. The intent is to take a step toward moving away from 50 states having 50 different checklists to have a more efficient process nationally to provide the most important information needed to determine an approvable rate increase. To keep the template at a manageable length, it is anticipated that this template will result in states attaining 90 to 100 percent of the information necessary to decide on approvable rate increases. State and block specifics will generate the other zero to ten percent of requests. As states apply this checklist, it or an improved version may be considered for future addition to the *Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation*.

#### A. Information Required for an MSA Review of a Rate Proposal

The following provides a checklist of information necessary for a complete rate proposal to the MSA Review. This checklist is consistent with the “Consolidated, Most Commonly Asked Questions – States’ LTC Rate Increase Reviews”<sup>6</sup> as adopted by the Health Actuarial (B) Task Force on March 23, 2018.

1. Identify all states for which the product associated with the rate increase request is or has been issued.
2. New premium rate schedule, percentage increase for each rating scenario such as issue age, benefit period, elimination period, etc., from the existing and original rates.
  - a. Provide rate increase percentages by policy form number and clear mapping of these numbers to any alternative terminology describing policies stated in the actuarial memorandum and other supporting documents.
  - b. Provide the cumulative rate change since inception, after the requested rate increase, for each of the rating scenarios
3. Rate increase history that reflects the filed increase.
  - a. Provide the month, year, and percentage amount of all previous rate revisions.
  - b. Provide the SERFF MSA numbers associated with all previous rate revisions.
4. Actuarial Memorandum justifying the new rate schedule, which includes:
  - a. Lifetime loss ratio projection, with earned premiums and incurred claims discounted at the maximum valuation interest rate.
    - i. The projection should be by year.
    - ii. Provide the count of covered lives and count of claims incurred by year.

<sup>5</sup> [https://www.naic.org/documents/committees\\_b\\_senior\\_issues\\_160609\\_ltc\\_guidance\\_manual.pdf](https://www.naic.org/documents/committees_b_senior_issues_160609_ltc_guidance_manual.pdf)

<sup>6</sup> [https://content.naic.org/sites/default/files/inline-files/cmte\\_b\\_ltc\\_price\\_sg\\_180323\\_ltc\\_increase\\_reviews%20%289%29.docx](https://content.naic.org/sites/default/files/inline-files/cmte_b_ltc_price_sg_180323_ltc_increase_reviews%20%289%29.docx)



- iii. Provide separate experience summaries and projections for significant subsets of policies with substantially different benefit and premium features. Separate projections of costs for significant blocks of paid-up and premium-paying policies should be provided.
  - iv. Provide a comparison of state versus national mix of business. In addition, a state may request separate state and national data and projections. The insurer should accompany any state-specific information with commentary on credibility, materiality, and impact on requested rate increase.
- 5. Reasons for the rate increase, including which pricing assumptions were not realized and why.
  - a. Attribution analysis - present the portion of the rate increase allocated to and impact on the lifetime loss ratio from each change in assumption.
  - b. Related to the issue of past losses, explain how the requested rate increase covers a policyholder's own past premium deficiencies and/or subsidizes other policyholders' past claims.
  - c. Provide the original loss ratio target to allow for comparison of initially assumed premiums and claims and actual and projected premiums and claims.
  - d. Provide commentary and analysis on how credibility of experience contributed to the development of the rate increase request.
- 6. Statement that policy design, underwriting, and claims handling practices were considered.
  - a. Show how benefit features, e.g., inflation and length of benefit period, and premium features, e.g., limited pay and lifetime pay, impact requested increases.
  - b. Specify whether waived premiums are included in earned premiums and incurred claims, including in the loss ratio target calculation; provide the waived premium amounts and impact on requested increase.
  - c. Describe current practices with dates and quantification of the effect of any underwriting changes. Describe how adjustments to experience from policies with less restrictive underwriting are applied to claims expectations associated with policies with more restrictive underwriting.
- 7. A demonstration that actual and projected costs exceed anticipated costs and the margin.
- 8. The method and assumptions used in determining projected values should be reviewed considering reported experience and compared to the original pricing assumptions and current assumptions.
  - a. Provide applicable actual-to-expected ratios regarding key assumptions.
  - b. Provide justification for any change in assumptions.

9. Combined morbidity experience from different forms with similar benefits, whether from inside or outside the insurer, where appropriate to result in more credible historical claims as the basis for future claim costs.
  - a. Explain the relevance of any data sources and resulting adjustments made relevant to the current rate proposal, particularly regarding the morbidity assumption.
  - b. A comparison of the population or industry study to the in-force related to the rate proposal should be performed, if applicable.
  - c. Explain how claims cost expectations at older ages and later durations are developed if data is not fully credible at those ages and durations.
  - d. Provide the year of the most recent morbidity experience study.
  
10. Information from the *NAIC Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation Q&A: Morbidity, Lapse, Mortality, Interest*.
  - a. Comparison with asset adequacy testing reserve assumptions.
    - i. Explain the consistency regarding actuarial assumptions between the rate proposal and the most recent asset adequacy (reserve) testing.
    - ii. Additional reserves that the insurer is holding above NAIC Model Regulation 10 formula reserves should be provided, (such as premium deficiency reserves and Actuarial Guideline 51 reserves).
  - b. Assumptions Template in Appendix 6 of the *NAIC Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation* (for policies issued after 2017, where applicable).
  - c. Provide actuarial assumptions from original pricing and most recent rate increase proposal and have the original actuarial memorandum available upon request.
  
11. Provide the following calendar year projections, including totals, for current premium paying nationwide policyholders only, prior to the rate increase, all discounted at the maximum valuation interest rate\*:
  - a. Present value of future benefits (PVFB) under current assumptions
  - b. PVFB under prior assumptions {from prior rate increase filing, or if no prior increase, from original pricing}.
  - c. Present value of future premiums (PVFP) under current assumptions.
  - d. PVFP under prior assumptions {from prior rate increase filing, or if no prior increase, from original pricing}.

\*To emphasize, these projections should include only active nationwide policyholders currently paying premium, and should not include any policyholders not paying premium, regardless of the reason. Projections under current actuarial assumptions must not include policyholder behavior as a result of the proposed premium rate increase, such as a shock lapse assumption or benefit reduction assumption.

- b. Also, please identify the maximum valuation interest rate and ensure that it is the same for all four projections.

12. *NAIC Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation* checklist items: summaries (including past rate adjustments); average premium; distribution of business, including rate increases by state; underwriting; policy design and margins; actuarial assumptions; experience data; loss ratios; rationale for increase; reserve description.
13. Assert that analysis complies with actuarial standards of practice, including 18 & 41.
14. Numerical exhibits should be provided in Excel spreadsheets with active formulas maintained, where possible.
15. Rate Comparison Statement of renewal premiums with new business premiums, if applicable.
16. Policyholder notification letter – should be clear and accurate.
  - a. Provide a description of options for policyholders in lieu of or to reduce the increase.
  - b. If inflation protection is removed or reduced, is accumulated inflation protection vested?
  - c. Explain the comparison of value between the rate increase and policyholder options.
  - d. Are future rate increases expected if the rate increase is approved in full? If so, how is this communicated to policyholders?
  - e. How are partnership policies addressed?
17. Actuarial certification and rate stabilization information, as described in the Guidance Manual, and contingent benefit upon lapse information, including reserve treatment.

## B. Supplemental Information

As part of the LTCI (EX) Task Force's pilot project in 2020-2021, the following supplemental information was identified by the MSA Team as beneficial and therefore, may be requested to assist in the MSA Review.

1. Benefit utilization:
  - a. Provide current, prior rate increase, and original assumptions, including first-projection year through ultimate utilization percentages for 5% compound inflation, lesser inflation, and zero inflation cells.
  - b. Explain how benefit utilization assumptions vary by maximum daily benefit.
  - c. Provide the cost of care inflation assumption implied in the benefit utilization assumption.
2. Attribution of rate increase

- a. Provide the attribution of rate increase by factor: morbidity, mortality, lapse, investment, other.
  - b. For the morbidity factor, break down the attribution by incidence, claim length, benefit utilization, and other.
  - c. Provide information on the assumptions that are especially sensitive to small changes in assumptions.
3. Reduced benefit options (RBOs)
  - a. Provide the history of RBOs offered and accepted for the block.
  - b. Provide a reasonability analysis of the value of each significant type of offered RBO.
4. Investment returns:
  - a. Provide original and updated / average investment return assumptions underlying the pricing.
  - b. Explain how the updated assumption reflects experience.
5. Expected loss ratio:
  - a. With respect to the initial rate filing and each subsequent rate increase filing, provide the target loss ratio.
  - b. Provide separate ratios for lifetime premium periods and non-lifetime premium periods and for inflation-protected and non-inflation-protected blocks.
6. Shock lapse history: Provide shock lapse data related to prior rate increases on this block.
7. Waiver of premium handling:
  - a. Explain how policies with premiums waived are handled in the exhibits of premiums and incurred claims.
  - b. Explain how counting is appropriate (as opposed to double counting or undercounting).
8. Actual-to-expected differences: Explain how differences between actual and expected counts or percentages (in the provided exhibits) are reflected or not reflected in assumptions.
9. Assumption consistency with the most recent asset adequacy testing: Explain the consistency or any significant differences between assumptions underlying the rate increase request and those included in Actuarial Guideline 51 testing.

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## VII.A. EXHIBIT – SAMPLE MSA ADVISORY REPORT<sup>7</sup>

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FROM: Long-Term Care Insurance (LTCI) Multistate Actuarial Rate Review Team

DATE: [Date]

RE: ABC Insurance Company – Block LTC1 – Draft of *Initial* MSA Advisory Report

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### Executive Summary

The LTCI Multistate Actuarial Rate Review Team (MSA Team) recommends a rate increase of 35% to be approved for inflation-protected products and 20% to be approved for products with no inflation, related to ABC Company's block.

Higher rate increases are recommended for states where past cumulative rate increases below 55% have been approved. Reduced benefit options may be selected to help manage the impact of the rate increase.

Analysis by the MSA Team resulted in the recommended rate increase being consistent with that resulting from the actuarially justified Texas and Minnesota approaches. The recommended rate increases are below the increases that would have resulted from the lifetime loss ratio approach and the rate stability rules.

### Background

The MSA Team was formed to assist the Task Force in developing a consistent national approach for reviewing LTCI rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization.

The members are: [List names and state of members]. Starting in the first half of 2020, the MSA Team accepted rate increase filings as part of a pilot program. The MSA Review process became operational on [insert date].

This MSA Advisory Report is related to the rate increase request filed by ABC Company for its LTC 1 block sold between 2003 and 2006. The MSA Team's actuarial analysis is provided below. The intention is that states can utilize this analysis and feel comfortable accepting the MSA Advisory Report recommendation when taking action on the upcoming ABC filings that will be made to the states.

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<sup>7</sup> Information contained in this sample report is an example only and is not derived from any actual rate filing.

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As this is a state-approved product, each state will ultimately be responsible for approving, partially approving, or disapproving the rate increase. A goal of the Task Force is for as much consistency as possible to occur between states in the rate increase approvals.

#### Insurer's Request

ABC Company requests a rate increase of 60% to be approved for inflation-protected products and 40% to be approved for products with no inflation.

In addition, ABC is requesting higher rate increases for states that did not grant full approval of prior rate increase requests, consistent with the MSA Team's goal of attaining the same resulting rate tables in each state for a given product.

#### Workstream-related Review Aspects

#### Actuarial Review

At the direction of the LTCI Multistate Rate Review (EX) Subgroup, the MSA Team applied the Minnesota and Texas approaches to calculate the recommended, approvable rate increases. Aspects of the Minnesota approach that result in lower rate increases than those resulting from loss ratio-based approaches contained in many states' laws and rules include:

- Reduction in rate increases at later policy durations to address shrinking block issues;
- Elimination of rate increases related to inappropriate recovery of past losses;

Minnesota also has additional unique aspects: consideration of adverse investment expectations related to decline in market interest rates, adjustments to projected claim costs to ensure impact of uncertainty is adequately borne by the insurer, and a cost-sharing formula applied in typical circumstances.

Even though these additional aspects are outside the pure loss-ratio requirements, they fall in line with legal provisions that rates shall be fair, reasonable, and not misleading.

The Minnesota approach, including application of the typical-circumstance cost-sharing formula, results in an approvable rate increase of 35% for inflation-protected products and 20% for products with no inflation protection.

The Texas approach results in an approvable rate increase of 29% in aggregate.

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[The MSA Team’s recommendation, in consideration of the Minnesota and Texas approaches, is to approve a rate increase of 35% for inflation-protected products and 20% for products with no inflation protection.](#)

[Higher rate increases are recommended for states where past cumulative rate increases below 55% have been approved.](#)

[The MSA Team reviewed support for the assumptions, experience, and projections provided by the insurer and performed validation steps to review the insurer-provided information for reasonableness. Details regarding the actuarial review are provided in Appendix 1. Also, the initial submission and subsequent correspondence between the insurer and MSA Team are available on SERFF. The SERFF tracking number is ABCC-123456789.](#)

#### **Consideration of Differences in Histories of States’ Rate Increase Approvals**

[According to the \*Historical Rate Level Summary\*, Appendix D in the insurer filing, past rate increase approvals by state have varied and can be categorized as follows:](#)

- [25 states have granted full or near-full approval of ABC’s past requests \(at or near 55%, cumulative\).](#)
- [18 states have granted cumulative approvals averaging 45%.](#)
- [5 states have granted cumulative approvals averaging 27%.](#)
- [2 states have granted cumulative approvals averaging 15%.](#)

[The insurer’s stated goal is to bring rates in all states up to an equivalent rate level. Currently, the average annual premium rates for a policyholder range from below \\$1,700 in some states \(with the lowest past approvals\) to over \\$2,200 in other states \(with the highest past approvals\).](#)

[The MSA Team’s recommendation is based on a goal of rates per benefit unit being uniform between states going forward.](#)

[A table of examples of recommended rate increases, based on past cumulative approval history is provided in Appendix 2.](#)

#### **Non-actuarial & Valuation/Solvency Considerations**

[Non-actuarial considerations, including, flexibility regarding phase-in of rate increases, waiting periods between rate increases should be coordinated with phase-in periods, and other issues are being discussed at the LTCI \(EX\) Task Force and LTCI Multistate Rate Review \(EX\) Subgroup.](#)

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[Even with future claims potentially being reduced due to COVID-19-related behavioral impact, ABC will continue to experience substantial losses on this block.](#)

[Regarding coordination of rate and reserving reviews, the insurer states that assumptions underlying the rate increase request are consistent with assumptions underlying the reserve adequacy testing.](#)

#### **[Reduced Benefit Options – Review for Reasonableness](#)**

[Unless a rider was purchased, ABC policyholders facing a rate increase will be offered the following applicable options in lieu of a rate increase:](#)

- [1\) extending the elimination period;](#)
- [2\) decrease the benefit period;](#)
- [3\) Reduce future inflation accumulation.](#)

[The insurer produced rate tables which demonstrate the RBOs provide reasonable value in relation to a case of a policyholder retaining full benefits and paying the full rate increase.](#)

#### [Financial Impact for Insurer](#)

[The requested rate increase associated with recent adverse development would result in around \\$50 million of reduced losses for this block, according to information contained in the actuarial memorandum.](#)

#### [Mix of Business](#)

[From the insurer's actuarial memorandum:](#)

##### [Enrollees:](#)

- [• Total enrollees as of date of filing: 15,000](#)
- [• Inflation protection: 9,000 \(inflation protection\), 6,000 \(no inflation\)](#)
- [• Benefit period: 8,500 \(lifetime benefits\), 6,500 \(limited benefits\)](#)

[Product type: Expense reimbursement](#)

[Average issue age: 58](#)

[Average attained age: 75](#)

[Annualized premium: \\$30 million; \\$2,000 average per policyholder](#)

#### **[Appendix 1](#)**

[Drivers of Rate Increase Request - Summary](#)



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The primary drivers, summarized in the insurer actuarial memorandum, were lower lapses and longer average claim length. The insurer assumptions were based on actual-to-expected adjustments, based in part by insurer experience that has become more credible in recent years. The assumptions were determined to be reasonable and in line with industry and actuarial averages.

#### Details Regarding Minnesota Approach

For an average (in terms of benefit period and issue age) 5% compound inflation-protected cell:

- Makeup cumulative rate increase: 177% (the increase from original rates needed going forward to get the block to the financial position contemplated at original pricing)
  - This increase is equal to the increase that would result from a pure loss ratio approach.
- If-knew cumulative rate increase: 36% (the increase from original rates needed if the insurer could go back to the past and reprice the product given information it knows now)
- Proportion of original policyholders remaining in force, based on insurer original and updated assumptions: 62%
- Blended if-knew / makeup rate cumulative rate increase since issue: 123%
  - = .62 \* 177% + (1 - .62) \* 36%, adjusted for rounding
- Insurer cost share based on Minnesota formula (see Appendix 3): 12%
- Recommended cumulative rate increase since issue: 109%
  - = (1 - .12) \* 1.23, adjusted for rounding
- Past cumulative rate increases: 55%
- Actuarial recommended rate increase from current rates: 35%
  - = (1 + 1.09) / (1 + 0.55) - 1, adjusted for rounding
- Final actuarial recommended rate increase from current rates (for the inflation-protected cell): 35%
  - Minimum of: calculated approval rate of 35% and insurer request of 60%.
- Using the same methodology, the final actuarial recommended rate increase from current rates (for the non-inflation-protected cell): 20%

Note that the Minnesota approach includes reflection of declining interest rates which tends to lead to adverse investment returns compared to expectations in original pricing. Also, where applicable, insurer morbidity assumptions are adjusted downward due to lack of credible support at extremely high ages.

**Commented [CB1]:** See ACLI/AHIP comment letter

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[and general lack of complete support for aspects of morbidity assumptions, including uncertainty regarding future benefit utilization.](#)

#### [Details regarding Texas approach](#)

- [Insurer Calculation \(aggregate\): 52%](#)

#### [PPV calculations](#)

- [Texas Life & Health Actuarial Office \(LHAO\) PPV Calculation \(aggregate\): 29%](#)

#### [LHAO Comments](#)

- [For purposes of the MSA report, and as a component of the calculation of the approvable rate increase, Texas recommends an actuarially justified PPV calculated amount of 29%.](#)

#### [Texas rate stabilized PPV Formula:](#)

$$\text{rate increase \%} = \frac{\Delta PV(\text{future incurred claims}) - \left( \frac{.58 + .85 C}{1 + C} \right) \Delta PV(\text{future earned premiums})}{.85 PV_{\text{current}}(\text{future earned premiums})}$$

#### [Reconciliation of Minnesota and Texas approaches](#)

[The Texas PPV calculated amount of 29% aligns well with the Minnesota approach's recommended rate increase of 35% for inflation-protected policies and 20% for non-inflation-protected policies when the distribution of inflation-protected vs non-inflation-protected cells is applied. The MSA Team's recommended rate increase is 35% for inflation-protected policies and 20% for non-inflation-protected policies.](#)

[Recommended rate increases by state, in consideration of various histories of rate increase approvals, are listed in Appendix 2.](#)

#### [Filing Correspondence Summary](#)

- [Template information request for multi-state rate increase filings, based on the list adopted by the NAIC Health Actuarial Task Force on March 23, 2018.](#)
- [New premium rate schedule, percentage increase for each rating scenario such as issue age, benefit period, elimination period, etc., from the existing and original rates.](#)
- [Rate increase history that reflects the filed increase.](#)
- [Actuarial Memorandum justifying the new rate schedule, which includes:](#)

- Lifetime loss ratio projection, with earned premiums and incurred claims discounted at the maximum valuation interest rate.
  - Reasons for the rate increase, including which pricing assumptions were not realized & why.
  - Statement that policy design, underwriting, and claims handling practices were considered.
  - A demonstration that actual and projected costs exceed anticipated costs and the margin.
  - The method and assumptions used in determining projected values should be reviewed in light of reported experience and compared to the original pricing assumptions and current assumptions.
  - Combined morbidity experience from different forms with similar benefits, whether from inside or outside the insurer, where appropriate to result in more credible historical claims as the basis for future claim costs.
  - Information (from NAIC *Guidance Manual for Rating Aspect of the Long-Term Care Insurance Model Regulation*, “Guidance Manual” Q&A): Morbidity, Lapse, Mortality, Interest
 
    - Comparison with asset adequacy testing reserve assumptions
    - Provide actuarial assumptions from original pricing and most recent rate increase filing, and have the original actuarial memorandum available upon request.
  - Guidance Manual Checklist items: summaries (including past rate adjustments); average premium; distribution of business, including rate increases by state; underwriting; policy design and margins; actuarial assumptions; experience data; loss ratios; rationale for increase; reserve description
  - Assert that analysis complies with Actuarial Standards of Practice, including No. 18 & No. 41.
  - Numerical exhibits should be provided in Excel spreadsheets with active formulas maintained, where possible.
- Rate Comparison Statement of renewal premiums with new business premiums, if applicable.
  - Policyholder notification letter – should be clear and accurate.
    - Provide a description of options for policyholders in lieu of or to reduce the increase.
    - If inflation protection is removed or reduced, is accumulated inflation protection vested?
    - Explain the comparison of value between the rate increase and policyholder options.
    - Are future rate increases expected if the rate increase is approved in full? If so, how is this communicated to policyholders?
    - How are partnership policies addressed?
  - Supplementary information, based on a list developed by the MSA Team following review of initial pilot program filings:
    - Information on benefit utilization
    - Attribution of rate increase by factor

- [Reduced benefit option history and reasonability analysis](#)
- [Investment returns](#)
- [Expected loss ratio](#)
- [Shock lapse history](#)
- [Waiver of premium handling](#)
- [Actual-to-expected differences](#)
- [Assumption consistency with Actuarial Guideline 51 asset adequacy testing](#)

• [Following initial review of the filing, additional information was requested by the MSA Team related to:](#)

- [Original pricing assumptions.](#)
- [Lapse assumption by duration.](#)
- [Premiums & incurred claims by calendar year based on original assumptions.](#)
- [Distribution of inforce by inflation protection.](#)
- [Loss ratios by lifetime/non-lifetime benefit period and with/without inflation protection.](#)
- [Description of waiver of premium handling in premium & claim projections.](#)
- [Commentary on COVID-19 short-term and long-term LTC impact](#)

**Appendix 2**

[Examples of Rate Increases if a Reduced Benefit Option is not Selected](#)

ABC Company				
Jurisdiction Example*	Past Cumulative Approved Increases	Increase to catch up	Recommended New	2021 Recommended Rate Incr
Example: state with average past approvals	55%	0%	35%	<b>35%</b>
Example: state with lower than average past approvals	27%	22%	35%	<b>65%</b>
*The recommendation for each state is based on the actual past cumulative approved increases in that state.				

**Commented [CB2]:** Change to “state with full past approvals”  
 Re “state with average past approvals”—is this the average or is this the maximum rate approved by a state?

**Appendix 3**

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Potential Cost-Sharing Formula for Typical CircumstanceCumulative rate increase since issue date is haircut by:

- No haircut for the first 15%
- 10% for the portion of cumulative rate increase between 15% and 50%
- 25% for the portion of cumulative rate increase between 50% and 100%
- 35% for the portion of cumulative rate increase between 100% and 150%
- 50% for the portion of cumulative rate increase in excess of 150%

Example: if the Texas approach or pre-cost sharing Minnesota approach results in a cumulative 210% rate increase since issue:

- Break 210% into the following components: 15%, 35%, 50%, 50%, 60%
- Post haircut approval is 100% of 15% + 90% of 35% + 75% of 50% + 65% of 50% + 50% of 60%
- = 15% + 32% + 38% + 33% + 30%
- = 147%

Legal justification for the cost-sharing formula is that the insurer should have had more information about the possibility of triple-digit rate increases than the consumer had.Adjustments to the formula may be desired when an insurer's solvency position is dependent on a certain level of rate increase approval. That is not the case with this insurer or filing.**Commented [CB3]:** See ACLI/AHIP comment letter**Commented [CB4]:** Is there a legal ruling regarding this justification?

October 28, 2021

Commissioner Michael Conway  
Chairman, NAIC LTCI Multi-State Rate Review (EX) Subgroup

Dear Commissioner Conway and Subgroup Members,

The American Council of Life Insurers (ACLI)<sup>i</sup> and the American Association of Health Insurance Plans (AHIP)<sup>ii</sup> appreciate the opportunity to comment on the second draft of the Actuarial Section of the Long-Term Care Insurance (LTC) Multi-State Rate Review Framework, exposed by the NAIC LTC (EX) Task Force on September 15, 2021. Our members recognize the hard work that has gone into developing the Framework and hope that our input can further the progress already made.

#### PRIMARY COMMENT

The purpose of the Framework is to develop a consistent national approach for reviewing current LTC rates that results in actuarially appropriate increases being granted by the states in a timely manner that eliminates cross-state rate inequities. We provide our comments in full support of this charge from the NAIC to the LTCI Multi-State Rate Review (EX) Subgroup.

As we mentioned in our July 26, 2021 comment letter, insurers best protect their policyholders when they can fulfill the obligations they made to these policyholders. This is accomplished when insurers have some level of predictability in their ability to effectively manage their LTC business over time. At its core, this level of predictability can only be achieved through transparency and consistency within the MSA Review Process, specifically with respect to the methodology used to calculate the increase recommended by the MSA Team.

While some fundamental questions outlined in our prior comment letter remain, we recognize that for a new process of this magnitude, many questions will need to be addressed over time as both regulatory and industry experience evolves. Our hope is that regulators will continue to have an open dialogue with industry to address outstanding issues.

As mentioned in Section V. A of the Framework document, the *“MSA Team will apply a balanced approach and professional judgement for each rate proposal based on the characteristics of the block reviewed to determine the method most appropriate.”*

Our primary request at this time is that the Framework document include a commitment that after review of a certain number of filings, the MSA Team will provide insight into the general rationale or criteria utilized when determining which method applied to each filing. We understand that this is a dynamic review and that flexibility is key. We acknowledge that different characteristics of the block might influence the method used in the future. For example, general category trends, such as those in the chart below, would be helpful to

industry in managing their blocks of business going forward as well as in understanding how business being sold today will be regulated.

We suggest that the following language be added to Section V. A - MSA Team's Actuarial Review Considerations

After review of "X" filings, the MSA Team will provide the method generally applied to the filings based on the following general characteristics:

Primary Characteristic of the Block	Method Used (Texas, Minnesota, Loss Ratio)
Small Remaining Block (i.e. percentage of policyholders remaining is less than X percent)	
Older Legacy Block or Newer Block (i.e. blocks with policies first issued before or after MM/DD/YYYY)	
Cumulative Past Rate Increase Percentage Greater Than "X" Percent	

The above characteristic are examples and may differ from those the MSA Team identified as the primary characteristics of the blocks actually.

#### **ADDITIONAL COMMENT**

We appreciate the subgroup's change to heading of Section V. C. 5. with respect to the term "bait and switch" under the Minnesota method. We believe the name itself draws a legal conclusion and believe that all references to this type of adjustment should be categorized as an "original assumption adjustment". The term "bait and switch" remains in Sections V.C.5.a.iii and VI.A.3.a.i.3.c. We believe this is an oversight and respectfully request that the term "bait and switch" be removed from these sections.

## CONCLUSION

ACLI/AHIP remains committed to working with the Subgroup to address the challenges in developing an MSA Review Framework. We look forward to addressing questions on our comments at our next LTCI Multi-State Rate Review (EX) Subgroup meeting.

Sincerely,



Jan M. Graeber  
ACLI Senior Actuary



Ray Nelson  
AHIP Consulting Actuary

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<sup>i</sup> The American Council of Life Insurers advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Ninety million American families depend on our members for life insurance, annuities, retirement plans, long-term care (LTC) insurance, disability income insurance, reinsurance, dental, vision, and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

<sup>ii</sup> AHIP is the national association whose members provide coverage for health care and related services to hundreds of millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.