Comments Received to Sections 13 through 19 of the *Long-Term Care Insurance Model Regulation*, #641

Sections 13 through 19

ACLI/AHIP: With the exception of **Section 13.A. (1)-(2)**, ACLI and AHIP believe that the language currently contained in Sections 13 through 19 remains flexible and compatible with the current long-term care insurance (LTCI) marketplace and that new language is unnecessary. However, as the subgroup continues its review of the remaining sections of the model regulation, we recognize that changes needed to those sections could result in a need to reconsider our position regarding the opening of Sections 13 through 19.

As stated in the call notice, the purpose of the review is to determine if the existing language in the model no longer meets the current LTCI marketplace. If someone feels that the language is no longer compatible or flexible, they should provide comment and explain why it is no longer flexible or compatible. To provide meaningful input and feedback on any stakeholder comments, we respectfully request that the subgroup adhere to this process and request that any stakeholder requesting changes provide and explanation as to why the current language no longer meets the current LTCI marketplace.

Section 13 (page 16 in Model #641)

NAIC Consumer Representatives: Life insurance products that provide long-term care benefits are not required to include inflation protection. This exemption assumes that life insurance benefits accumulate differently, and that inflation protection described in the Model is contrary to the way in which life insurance benefits fluctuate. We think there needs to be clear requirement for how life insurance benefits will meet the cost of care in future years.

The Model should adapt to a major change in the market where the majority of long-term care benefits are now sold with life and annuity insurance benefits. It's important that consumers understand the daily benefit amounts they will have to meet their daily long-term care expenses when they need them, and how benefits they are buying will meet that need in the future. There does not seem to be any specific exception for annuity products in this section of the Model as there is for life insurance. We are concerned whether annuities provide benefits that can increase over time to meet the increased cost of care, and if those products are required to include inflation protection or some similar way for benefits to address the increasing cost of care. We think those requirements should be clear in the Model or that there should be cross references to a similar requirement in other Models.

Consumers who buy those financial products with long-term care insurance benefits need clear information about their benefits for long-term care expenses and how those benefits will change over time. There should be some requirement in the Model to address these issues. Requirements that affect long-term care benefits in life and annuity products that don't fit in this Model might require changes to other Models. There should be citations to those other Models. Cross referencing to other Models becomes even more important as the industry introduces creative new products and platforms that can include benefits to pay for long-term care expenses.

Section 13A(1) (page 16 in Model #641)

UTAH: 5% increase amount is likely too high in the current environment.

ACLI/AHIP: Section 13A states that insurers must offer a policyholder the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are "meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy."

Subsections (1) and (2) of Section 13A requires that the "increases are compounded annually at a rate not less than five percent (5%)." Based on industry data, an increase of five percent compounded annually does not align with the current LTC insurance marketplace, and results in insurers offering policyholders a product that is more expensive than needed to meet their future needs.

Section 13 A (1)-(2) should be opened specifically to update "five percent" to a percentage that more appropriately aligns with "reasonably anticipated increases in the costs of long-term care services covered by the policy."

Section 13B (page 16 in Model #641)

CALIFORNIA: The requirement to offer 5% inflation protection may be out of step with the current economy, and 5% is an expensive option. Consider changing the requirement to an offer of 3%, which is a more practical option for most consumers. Alternatively, if a 5% option is still seen as important, there could be requirements to offer both a 3% option and a 5% option in order to provide flexibility for consumers.

UTAH: Most of the group policies today are non-contributory, i.e. the entire premium is paid by the certificate holder. In cases where the certificate holder pays the entire premium it would make more sense to have the offer made to the certificate holder.

Section 13C (page 16 in Model #641)

UTAH: It isn't clear if this Subsection applies to LTC benefits provided through annuities. In addition, given the shift in the marketplace to combo products, the issue of whether combo products need to offer inflation protection should be revisited.

Section 13D Drafting Note (page 16 in Model #641)

CALIFORNIA: Is the drafting note that follows 13D somehow related to 13D? Its placement here is confusing. The statement that inflation protection be "provided" rather than "offered" seems inconsistent with 13A. Lastly, the suggestion that meaningful benefits or durations could include "providing increases to attained age" or for "at least 20 years" sounds contradictory to 13E, which states that inflation protection benefits shall continue without regard to an insured's age or length of time insured

Section 13E (page 16 in Model #641)

CALIFORNIA: Given the high cost of inflation protection and varying needs among consumers, more flexibility could be achieved here by a requirement that "at least one inflation protection option offered" must meet the continuation requirements. That way, insurers could also offer options for inflation protection of a shorter duration that may better meet the needs and budget of a consumer

Section 13F (page 16 in Model #641)

NAIC Consumer Representatives: We suggest changing the language in Section 13F from the permissive language of "may change" to "likely will change."

> Subsection F: An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may *likely will* change in the future unless the premium is guaranteed to remain constant.

Section 14, Replacement Notices following the Section (page 17 and 19 in Model #641)

NAIC Consumer Representatives: The requirements in this section continue to provide important consumer protections to mitigate inappropriate replacement or stacking of multiple variations of long-term care insurance benefits. The two notices in this section should be reviewed in light of advances in consumer information and disclosure technology and knowledge.

However, we suggest the lead-in sentence on the current replacement notice should be redrafted to reflect newer products that include benefits for long-term care in life and annuity products, riders to these newer hybrid products, and short term long-term care products.

Current language of paragraph one (1) in the two notices accompanying Section 14:

> According to [your application] [information you have furnished], you intend to lapse or otherwise terminate ~~existing accident and sickness or~~

~~long-term care insurance and replace it with an individual long-term care insurance policy~~ to be issued by [company name] Insurance Company.

Section 15, A through F (pages 20-21 in Model #641)

NAIC Consumer Representatives: We suggest that a category of reporting include a requirement to report: Third party sources of data used in the underwriting and application process.

Consumers need careful regulation of the costs and benefits of these newer complex financial products. These hybrid products promise consumers benefits for long-term care as part of a life or annuity product. These are already complicated products with costs accruing inside the policy that few policyholders understand. Consumers need to know about the interaction between these policy costs and their benefits to know how long-term care benefits will work when they need them.

As has been mentioned repeatedly during these calls, newer more specific disclosures notices are required in regard to hybrid products with long-term care benefits, along with some changes and additions to the existing Model Regulation.

Section 15 I (page 21 in Model #641)

NAIC Consumer Representatives: This subsection (and **Section 18**) should be carefully examined to determine what changes if any are required as a result of the work being done by the EX Committee LTCI Task Force subgroups on Financial Solvency and Multistate Rate Review.

Section 15 I(2)(a)(i)(I) and (II) (page 21 in Model #641)

CALIFORNIA: The sections permit a margin for MAE (moderately adverse experience) to be added outside of the rate increase request process. An insurer should not be allowed to re-establish this margin each year, as any necessary rate adjustments should be handled through the established rate increase process.

Section 18 (page 23 in Model #641)

UTAH: Is this section necessary because should the Subgroup decide to open the model for edit, it may be a good idea to check with the actuarial task forces (HATF and LATF) whether this guidance is needed. LTC reserves are addressed in other places like the *Health Insurance Reserves Model Regulation*, #10. The *Limited Long-Term Care Insurance Model Regulation*, #643, simply refers to Model #10.

NAIC Consumer Representatives: See comments to **Section 15 I** above.

Section 19C (page 25 in Model #641)

UTAH: As written, Subsection C exempts only life insurance policies that accelerate benefits for long-term care. It would seem that life insurance policies with extension benefits (benefits) are not exempt. Neither are annuities that provide long term care. Because the Section 19 only applies to pre rate stability policy, there might not be too many combo products to which it applies. So, this comment may not have much impact.