October 27, 2021

To: Phil Gennace, Chair of the Long-Term Care Insurance Model Regulation Update (B) Subgroup

The undersigned NAIC consumer representatives respectfully offer the following comments on the compatibility of the NAIC Model Regulation on Long-Term Care Insurance (Model 641) with the current LTCI marketplace.

Consumer Group Comments Section 7 through Section 12

Section 7: **Unintentional Lapse**
Subsection 7 A(1): Insurers should be required to send any changes in their contact information to the 3rd party as well as an insured. There have been instances when there was a change in address for an insurer and as a consequence past due premiums and notices of an impaired policyholder were returned to the 3rd party as they were mailed to an outdated address

We suggest adding a confirmation notice to be sent to the current 3rd party every two years. Insurers are required to notify policyholders of the right to change a 3rd party for notification of a lapse in premium payment. There is no requirement that an insurer periodically confirm the current contact information for the 3rd party who is to be notified of a pending lapse. There have been instances where a 3rd party has moved or died, or the notice went to an outdated or even a wrong address.

Section 8: **Required Disclosure Provisions**
Subsection 8 A(2): Policyholders often don't see the language about premium increases buried in the paragraph about guaranteed renewability. Notice of the right to increase premiums should be in a separate paragraph from guaranteed renewability.

Subsection 8 E: This subsection should include a requirement for a clear notice of waiver of premium. That notice should describe any benefits covered by a premium waiver, clear notice of the benefits not covered by a premium waiver, and clear notice of how and when the premium waiver will be credited, or refunded. Policy language generally describes that premium payment will be owed when benefits are no longer payable, but may not clearly describe how and when waived premiums will be credited or returned. Generally a premium waiver is described in one place in a policy while the return or credit of the waived premium is described separately.

Section 9. **Required Disclosure of Rating Practices to Consumers**
Comment: Life and annuity contracts that provide for long term care benefits have internal costs associated with the policy and with the benefits paid by the policy. There is no mention of how those costs might change in this section. For instance, the cost of insurance charged in a policy might change, or the cost of long term care insurance might change which could affect the earnings in a policy and the daily benefit amount paid for care. While this isn't a change in premium changes in internal costs affect the benefit a policyholder will receive.

Section 11: **Post Claims Underwriting**
Subsection C(1): Insurers have begun to ask questions about family health history as part of the application process that could lead to misinformation or mistaken information that could be used later to rescind coverage. Insurers and others have access to information and data from many sources that could contain erroneous information or information and data that are different from what the policyholder entered on the application. For instance, an applicant might know anecdotally about the cause of death of a family member but that might be inconsistent with the medical cause of death listed on a death certificate. Some older family members might conceal a health condition from other family members leading to an erroneous response on an application.

Section 12. **Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies**

Subsection C. Drafting note: Should the dollar amount of $25 be increased? A home health care benefit that provided $25 a day would be illusory based on costs today. In addition, the drafting note seems to conflict with the language in B.

> B: A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.
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> C. Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

Drafting Note: Subsection C permits the home health care benefits to be counted toward the maximum length of long-term care coverage under the policy. The subsection is not intended to restrict home health care to a period of time which would make the benefit illusory. It is suggested that fewer than 365 benefit days and less than a $25 daily maximum benefit constitute illusory home health care benefits.

Thank you for the opportunity to comment.

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