

November 23, 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 13 through Section 19

Section 13 Requirement to Offer Inflation Protection

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.

In addition, we suggest changing the language in Section 13 F 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. Requirements for Application Forms and Replacement Coverage

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.

Section 14 A: Current language: 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 Reporting Requirements Subsection I, and Section 18 Reserve Standards

Subsection I of Section 15 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 A through F: 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.

Thank you for the opportunity to comment.

Bonnie Burns, NAIC Consumer Representative
Birny Birnbaum, NAIC Consumer Representative
Brenda Cude, NAIC Consumer Representative
Brendan Bridgeland, Center for Insurance Research
Deborah Darcy, NAIC Consumer Representative
Erica Eversman, NAIC Consumer Representative
Harry Ting, NAIC Consumer Representative
Justin Giovanelli, NAIC Consumer Representative
Karrol Kitt, NAIC Consumer Representative
Kenneth Klein, NAIC Consumer Representative
Matthew Smith, NAIC Consumer Representative
Natasha Kumar, NAIC Consumer Representative
Peter Kochenburger, NAIC Consumer Representative
Rachel Klein, NAIC Consumer Representative
Silvia Yee, NAIC Consumer Representative
Wayne Turner, NAIC Consumer Representative