

**America's Health
Insurance Plans**

601 Pennsylvania Avenue, NW
South Building
Suite Five Hundred
Washington, DC 20004

202.778.3200
www.ahip.org



May 3, 2018

Commissioner Lori K. Wing-Heier
Chair, Senior Issues Task Force
National Association of Insurance Commissioners
444 North Capitol Street NW
Suite 700
Washington, DC 20001
Via email: dtorian@naic.org

RE: Comments on the Limited Long-Term Care Model Act and Model Regulation Exposure Drafts

Dear Commissioner Wing-Heier,

On behalf of America's Health Insurance Plans (AHIP), we write to offer comments to the NAIC Senior Issues (B) Task Force on the exposure draft for the new models currently titled *Limited Long-Term Care Insurance Model Act* and *Limited Long-Term Care Insurance Model Regulation*. We have many substantive comments, as well as a few technical corrections, which we outline below.

AHIP is the national association whose members provide coverage for health care and related services. Our members offer health and wellness products in every insurance market, in every state, to individuals, families, small and large businesses as well as Medicaid and Medicare beneficiaries. 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.

Substantive Comments

Model Act

- **Section 4.** Under definitions (and throughout each of the models), we recommend that the descriptions of health insurance products that are “excepted benefits” conform to the language used in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). For example, the phrase “hospital confinement indemnity insurance” should be updated to align with the HIPAA description, which is “hospital indemnity or other fixed indemnity insurance.”

- **Section 4.** Under paragraph A, a policy or rider that triggers benefit payments based on “cognitive impairment or the loss of functional capacity” would be included within the scope of the term “limited long-term care insurance.” We recommend clarifying that trigger does not apply to the list of health insurance products that are explicitly excluded from the scope of the models later in the paragraph.
- **Section 8.** Our understanding is that the intent of this section was to allow but not require companies to offer an optional non-forfeiture rider; however, some of the language could create confusion (e.g., “shall be made” and “benefits to be offered”). We recommend eliminating paragraphs B and C and retain paragraph A, which simply states that the policies may be offered with an optional non-forfeiture rider.
- **Section 9.** The optional producer training section is carried over from the *Long-Term Care Model Act* and requires information on Partnership programs, Medicaid, and other items that are more appropriate for a long-term care insurance policy but not necessarily for the more limited nature of the policies subject to this model act. We recommend the Task Force consider removing the requirements to include training materials on these topics.

Model Regulation

- **Section 4.** We recommend removing the entire final drafting note in the section as it references IRS Code Section 7702B, which relates to tax-qualified long-term care insurance policies.
- **Section 5.** Beginning in this section and continuing throughout the document, the term “home health care services” has been changed to “home care services.” The definition of the term has not changed, so it is unclear why the terminology change was made. We recommend leaving the term unchanged.
- **Section 6.** In subsection B(2), “Alzheimer’s Disease” was changed to “cognitive impairment.” This term is too broad and could include all mental disorders. We recommend using the term “organic brain disorders” – this expands the purpose of the subsection beyond Alzheimer’s Disease, but does not necessarily include all mental and nervous disorders. Similarly, in **Section 31** (E), item 12, we recommend retaining the term “organic brain disorders.”
- **Section 12.** If some companies want to sell a recovery-care oriented policy, prohibiting a requirement for a higher level of care before other items are covered could be problematic. We recommend allowing such policies to continue to be sold as other limited benefit health policies.
- **Section 12.** Section 12 B retained the requirement that any home health benefit be at least one half of one year’s coverage for nursing home benefits. Because this model applies specifically to policies with shorter benefit period, we recommend removing this requirement as it unintentionally creates a floor of a six-month benefit period.
- **Section 15.** While we understand the requirement for a report on lapses and replacements in a long-term care insurance policy, we are not certain there is a need for a formal report for these more limited duration policies. We recommend issuers maintain internal reports that can be provided by request of the state. This also relates to Appendix B.
- **Section 15.** In Section 15H(2)(a)(i)(I)a, the annual rate certification requirement retains a requirement the rates have provision for moderately adverse experience, which is also

referenced in subsection b that follows. While this is appropriate for long-term care insurance where there is no minimum loss ratio at issue, this requirement is incompatible with the minimum loss ratio of 55 percent referenced in other sections of the regulation. As all references to moderately adverse experience were explicitly removed from the other rate filing sections, we recommend removing this requirement. Retention of any requirement for margins for moderately adverse experience would require, as is the case for long-term care insurance policies, removal of the minimum loss ratio requirement at issue.

- **Section 15.** In Section 15H(2)(b), we recommend removing the drafting note that references an Actuarial Standard of Practice and practice note for long-term care insurance including rate stability standards. These items are not part of the *Limited Long-Term Care Insurance Model Regulation*.
- **Section 18.** The remaining subsection A should be rewritten to remove a reference to the deleted subsection above. We suggest this section simply state that reserves should conform to the requirements for individual health policies that do not fall into any of the categories already specified in the referenced *Health Insurance Reserves Model Regulation*, as is the case today.
- **Section 23.** Section 23A(2)(b) requires a “discussion with applicants of how the benefits and costs of limited long-term care insurance compare with long-term care insurance.” Some producers may be licensed to sell limited long-term care insurance policies but not long-term care insurance policies or may not be appointed with an insurer that offers long-term care insurance policies. In these situations, producers may not have access to accurate information about costs and benefits of long-term care insurance policies. We recommend removing this requirement.
- **Section 26.** In Section 26G, item (3) should be deleted as it pertains to Partnership policies.
- **Section 27.** Our understanding is that the intent was to allow, but not require, an offer of a non-forfeiture benefit at issue while retaining a requirement for a contingent non-forfeiture benefit at the time of a qualifying rate increase. However, the wording assumes an offer of a nonforfeiture benefit was required at issue, such as restrictions on the types of benefits, and reference to “Should the offer made ... be rejected” as a preface to providing the contingent nonforfeiture benefit. Because an offer at issue is not required, we recommend rewriting this section to remove all references to offers at issue, and instead state the requirement to provide contingent non-forfeiture at the time of a qualifying rate increase.
- **Section 28.** In Section 28 B, the requirement to use all six Katz ADLs was retained. We do not object to this requirement; however, there is also not a reason to retain this requirement. There are no tax qualification ramifications for these types of policies, and some carriers may wish to have variants on the benefit triggers that may be appropriate for policies that, for example, are designed to focus on post-acute recovery care.
- **Section 31.** In Section 31E, items 10 and 11 of the Outline of Coverage, references to “long-term care” needs and services were changed to “limited long-term care” needs and services. As the term “limited long-term care” applies to the type of insurance and not the actual services being covered, we recommend removing the word “limited.”

Technical Corrections

Model Act

- **Section 5.** “Jurisdiction” is misspelled in the last drafting note.

Model Regulation

- **Section 4.** In the definition of “cognitive impairment,” the word “short” was inadvertently changed to “limited long.”
- **Section 13.** In Section 13A(2), a reference to five percent should be three percent.
- **Section 15.** In Section 15F(3), the definitions of “claim” and “denied” were retained even though the report in which these definitions were used was deleted. We recommend removing those definitions.
- **Section 22.** In Section 22A(8), the references to Section 28 should be changed to Section 27.

We appreciate the opportunity to respond to your request for comments. If you have any questions or would like to discuss any of these comments, please do not hesitate to contact me at (202) 778-1149.

Sincerely,



Heather E. Jerbi
Executive Director, Product Policy

cc: Candy Gallaher, Senior Vice President, State Policy, AHIP