

April 27, 2018

David Torian, Counsel & Health Policy Analyst
National Association of Insurance Commissioners (NAIC)
444 North Capitol Street NW
Hall of the States Building; Suite 700
Washington DC 20001-1512

RE: Comments to the Limited Long-Term Care Insurance Model Act and Regulation

Dear Mr. Torian:

The undersigned NAIC consumer representatives appreciates the opportunity to comment on the Limited Long-Term Care Insurance Model Act and Regulation currently exposed for comments.

We have had particular concerns with insurance policies providing “long-term care like” benefits that are not regulated under a similar standard as long-term care insurance. We appreciate the hard work of everyone who contributed to the drafts. We have however one major concern with the final product and that is the last minute change that occurred in regard to the training requirements for agents who sell or will sell these products under the new standards.

We are firm believers in training requirements for agents and brokers who sell retirement products in general, and specifically for products that pay benefits for long-term care services. It was clear during the discussion of this topic that many agents who currently sell this kind of short term care product don't sell long-term care insurance, and haven't had the required training for that product. Agents and brokers selling short duration long-term care insurance may have no more than a cursory understanding of long-term care services, providers, places of care, and state licensing issues that might affect benefit payments.

People who sell these products must be prepared to accurately explain the requirements that must be met before benefits can be paid, what services are covered, where a person can receive those covered services, and who can provide those services. They must also understand the differences between a long-term care insurance policy that is tax qualified and a short duration policy that is not, and what those differences are.

It's important that agents clearly explain to applicants the features and the limitations of a policy with benefits for long term care expenses. For example, it's important for agents to know, understand, and be able to describe covered benefits to applicants as well as any limitations described in the definition of home care and who can provide it, and where assisted living can occur and where it can't, to avoid conflicts at the time of claim. Consumers often envision home care benefits to be much more generous than they are defined in a policy. For instance, an insured person or their family member often thinks, incorrectly, that a waiting period will be met when family members provide care during that interval; even when they might understand that the policy won't pay a family member to provide care after the waiting period has been satisfied.

Companies often don't provide sufficient detail about a policy, instead concentrating on the attractive features it provides to both buyers and sellers. Failure to require even a bare minimum training requirement on the subject of long-term care and services has a negative effect on companies when their insured is subsequently denied benefits, or benefits are delayed, simply because their agent wasn't adequately prepared to understand the topic and properly explain the coverage. Coverage disputes often lead to complaints to regulators, bad press, and reputational difficulties for companies, and increasingly to litigation.

Companies should not only support educational requirements but require their agents and brokers have that background before selling their products. A "best interest" standard should be required for sales of all the products that fall into the new "retirement" package of benefits to ensure that consumers are presented with and sold appropriate amounts of coverage, benefits and combinations of coverage.

We feel strongly that leaving this requirement to the states will create a default position by requiring states to make the decision to add training requirements to their adoption of the Model, and bringing renewed attention and opposition to a requirement singled out from the rest of the Model. States are free to opt out of any part of the Model that doesn't fit their regulatory system, but adding to the Model is often harder than opting out of a particular provision. We urge retention of the original language to require a minimum of one hour for those who already sell long-term care insurance to ensure that they understand the limitations of these short duration products from those they are familiar with, and 4 hours for those who don't sell long-term care insurance, for all of the reasons previously stated.

Sincerely,

Bonnie Burns
Birny Birnbaum
Amy Bach
Ashley Blackburn
Dave Chandrasekaran
Laura Colbert
Deborah Darcy
Debra Judy
Katie Keith
Karrol Kitt
Matthew Smith
Peter Kochenburger
Claire McAndrew
James C. Roberts
Jackson Williams
Silvia Yee