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Richard Wicka, Wisconsin OCI Chief Legal Counsel &
Chair, NAIC Life Insurance Illustrations Issues (A) Working Group
c/o Jennifer Cook, Senior Life & Health Counsel
National Association of Insurance Commissioners
Via Jcook@naic.org

RE: Revisions Considered for Life Insurance Policy & Narrative Summaries

Dear Chairman Wicka & Members of the Working Group:

The ACLI believes that the NAIC Life Insurance Illustrations Issues (A) Working Group should either recognize it has fulfilled its charge and report accordingly to its parent NAIC (A) Committee or, alternatively, withdraw its request to the Committee relating to timing of delivery of the “policy overview” as premature.

It could be said that the Working Group accomplished its charge to “explore how the narrative summary required by Section 7B of the *Life Insurance Illustrations Model Regulation* (#582)ⁱ and the policy summary required by Section 5A(2) of *Life Insurance Disclosures Model Regulation* (#580)ⁱⁱ can be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers.” After all, a substantial investment of time and energy was made by all participating regulators and interested parties in far-ranging discussions.

Yet it could be said that there is no work product sufficiently resolved and voted upon to render a recommendation about any result of the exploration which is the subject matter of the Working Group charge. Should the Working Group believe that further consideration be given to promoting consumer readability and understandability of the policy summaries and policy narratives, the ACLI recommends we go “back to the future” and undertake a fact-finding as to whether, and with regard to which type of insurance policies, an actual problem exists that might justify revisions to the successful model regulations in place for more than 25 years, during which time tens of millions of life insurance policies have been sold and provided value to their purchasers and their loved ones.

Such a fact-finding might profitably begin with a professionally (or perhaps academically) constructed, objectively managed consumer test of representative sample policy summaries and narrative summaries. This approach was discussed by the Working Group in 2016. The ACLI supplied the NAIC and interested parties with access to numerous sample policy summaries and policy narratives. However, they were never consumer-tested to determine whether they were, in fact, unreadable or incoherent to consumers. Rather, the idea of consumer-testing, which was supported by industry and funded consumer representatives, was tabled in favor of exploring the development of a voluntary, short, consumer-oriented document which might theoretically supplant existing policy and narrative summaries.

After 163 weeks of exploring the concept of a voluntary, short, consumer-oriented “policy overview”, the Working Group in September 2019 voted to request that the Committee give it more direction or set up a separate group to review the timing of delivery requirements of consumer life insurance documents. Hence, the exploration led the Working Group to considerations beyond the scope of its charge, which is evidenced by the request before the NAIC (A) Committee. Respectfully, the ACLI advises that:

- The concept of the “policy overview” is beyond the charge of the Working Group, as is evidenced by the draft, proposed, dramatic changes not merely to Section 5A(2) of *Life Insurance Disclosures Model Regulation* but to other sections of the model.
- Changing the timing of delivery of a “Policy Overview” and “Guaranteed Premium and Benefit Patterns Summary”ⁱⁱⁱ, policy summary, and narrative summary from the existing guidance of the relevant model acts unfortunately but necessarily will empty such documents of consumer information and value;
- Changing the timing of delivery of a hard copy Buyers Guide from the existing guidance of the relevant model acts would be extremely, unnecessarily wasteful;
- An effort to develop a “Policy Overview” for non-illustrated policies for use prior to the time of policy delivery (i.e., at any time earlier than that currently provided for in the relevant model regulations) will prove to be infeasible since a company will not know its proposed customer sufficiently to offer insurance at such time;
- The development of a “Policy Overview” for illustrated policies is undesirable because it will diminish a consumer’s understanding of the relevance of the illustration and the clarity of the narrative summary;
- Risks of consumer misunderstanding of the insurance offered to them will increase with information disclosures in a “policy overview” which purports to extend beyond the information expressly required to be included in the policy summary or narrative summary pursuant to the existing model regulations and the working group charge;
- Information disclosures not properly informed with individual client information would increase consumer discontent with the insurance actually offered to them, causing more consumers to pass on the insurance they need, especially in the underserved middle American markets; and
- Consumers will be misled by false impressions of the NAIC undertaking if the NAIC Working Group – and the ACLI – inadvertently continue “mission creep” beyond the Working Group’s charge.

For these reasons, the ACLI requests the Working Group reconsider and withdraw its September motion relating to the NAIC (A) Committee and conclude whether the NAIC Working Group has, as a matter of fact, accomplished its assigned purpose and historic charge or, alternatively, has failed to decide upon a work product to recommend. The ACLI perspective on these matters is detailed in the following commentary.

The Working Group Exploration Traveled Far Afield in Its Considerations

Examination of the Minutes of the past 27 NAIC Working Group teleconferences beginning in 2016 remind us that:

- The working group charge arose from concerns relating to the illustrations of one product, Indexed Universal Life Insurance;
- The ACLI provided numerous sample life insurance company policy and narrative summaries for Term, Whole and Universal life insurance policies to facilitate regulator and interested party evaluation and considerations;
- There was and is no finding of any problem with current policy and narrative summaries for life insurance policies (with all interested parties aware that Indexed Universal Life Insurance illustrations are being considered by another working group of the NAIC Life Actuarial Task Force);
- In the absence of evidence of a problem with current policy and narrative summaries, the working group continued its exploration of how current policy information might be re-organized to be more understandable or readable to consumers;
- Consideration and development of a "policy overview" to replace the policy summary for non-illustrated products (and to be in addition to the narrative summary for illustrated products) has occupied two years of effort by regulators and interested parties; and that
- Some participants in the NAIC Working Group's conversations have championed the concept of the "policy overview" as a method for product comparison by consumers before purchase.

Substantial effort by the NAIC Working Group was expended in developing a "Term Life Insurance Policy Overview" before it was persuaded to consider recommending a change in the time of its delivery. However, because of the structure of the models, the delivery time of the conceptual "Policy Overview" was hooked to the Buyer's Guide, policy summary and narrative summary, erroneously pulling them all from the current time provided in the NAIC models to a time possibly even before an application for insurance is received by the insurance company. This radical idea precipitated a controversy and an ACLI evaluation of the viability of substituting a "Policy Overview" for the policy summary (and in addition to the narrative summary). ACLI concludes the concept will not improve the readability or understandability of insurance policies for consumers.

This commentary continues ACLI's explanation of its conclusions. However, the commentary which follows should be immaterial to a finding by the Life Insurance & Annuities (A) Committee that the specific request voted upon in September by the Working Group is beyond the scope of its charge. The commentary may lead the Working Group – and the NAIC (A) Committee -- to agree with the ACLI that the Working Group has, indeed, sufficiently explored the specific provisions of the two relevant models defined by the charge to conclude its exploration.

The Models Do Not Provide for a “Shopper’s Guide”

The *Life Insurance Disclosures Model Regulation* makes clear that the delivery of the policy summary by the insurer shall be consistent with the time for delivery of the Buyer’s Guide and that the Buyer’s Guide must be provided to all prospective purchasers prior to accepting the applicant’s initial premium or premium deposit *unless a “free look” period is provided to the policy owner*. That is, if the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer’s Guide may be delivered with the policy or prior to delivery of the policy.^{iv}

The significance of the “free look” period embedded in this duty cannot be overlooked or overestimated. Every state and the interstate insurance compact standards provide a “free look” period to life insurance purchasers that provides them the ability to cancel their policy and obtain a full refund of premium. Until a policy is issued to an applicant, information in a policy summary may be unavailable or irrelevant to the policy owner. Until a policy is issued to an applicant, the consumer is only expressing an interest in receiving an offer of insurance and consequently is willing to provide personal information necessary for the insurer to determine whether it will offer insurance coverage and upon what terms.

The Buyer’s Guide and policy summary each serve a different purpose but both are premised upon the idea that a person has bought an insurance policy. Neither the Buyer’s Guide nor the policy summary is a “shopper’s guide.”

The Buyer’s Guide

The ACLI agrees that early availability of a Buyer’s Guide to prospective buyers of insurance might be desirable. To that end, the ACLI supported the recently accomplished revision of the Buyer’s Guide and its availability in electronic format on the NAIC website.

As a practical matter, however, it makes most sense for insurance companies to deliver the written Buyer’s Guide, pursuant to the *Life Insurance Disclosures Model Regulation*, at the time of policy delivery. First, the time of policy delivery is when all documents relating to the purchase are delivered; there is a convenience for all concerned to deliver all documents at one time. Most importantly, the provision of all documents relating to the insurance transaction to the buyer at one time is the best opportunity for the buyer to read and understand all aspects of the asset he or she is purchasing. Having gone through the process of considering one’s insurance needs, consulting with advisors, shopping for a policy and applying for a policy, it is helpful to the buyer to have the Buyer’s Guide at hand to answer any general questions about the policy bought.

Second, it would be extremely wasteful for an insurance company to be compelled to publish and distribute written Buyer’s Guides to every consumer who does *not* purchase an insurance policy. That is, if a typical insurance company sells or issues only one policy for every ten consumer expressions of interest, it will waste money, trees, ink, postage and time in publishing and distributing nine Guides to consumers who are not buyers, and to whom the superfluous Guide will be irrelevant.

The ACLI here suggests a genuine improvement in the *Life Insurance Disclosures Model Regulation*. The ACLI will support providing any consumer the hyperlink to a new electronic Consumer’s Guide available to all policy buyers. In other words, there is an opportunity to innovate a modern approach to educating consumers about life insurance

by distributing an NAIC-managed Consumer's Guide in electronic format earlier to consumers than the Buyer's Guide currently provided for in the Disclosure Model and, at the same time, save trees and expense.

Provision of a "Policy Overview" or Policy Summary for a Non-Illustrated Policy Before Policy Delivery is Infeasible

An insurance company will not represent to a prospective policy buyer that it will provide coverage without receipt of an application and a subsequent underwriting of the risk presented by the applicant. These necessary steps are accomplished by the time of policy delivery, which enables insurers to provide the policy summaries for non-illustrated policies under the *Life Insurance Disclosure Model Regulation*. This would also apply to the conceptual "Policy Overview" being contemplated by the working group.

Without personal information obtained from the application and underwriting, an insurance company simply cannot evaluate the capacity of the applicant to pay premium; the fundamental insurability of the risk; how the risk would be priced and reserved for; and whether one or more additional benefits might be available to offer for purchase to be able to create the contemplated (and detailed) "Policy Overview". Beyond the impossibility of providing the proposed "Policy Overview" before sufficient applicant personal information is received and underwritten to generate the details desired to be disclosed lies the liability risk of presuming to represent a promise of insurance coverage which later cannot be delivered.

Further, a less-informed "Policy Overview" prepared prior to delivery without sufficient producer oversight can generate consumer confusion and discontent when the less-informed overview is compared to the more-informed summary required to be provided at policy delivery for proper consumer explanation. A perceived reduction in risk class, face amount of coverage or any other number of potential differences could discourage the consumer from obtaining the insurance they need, especially in the vast, underserved middle American market. The request by the Working Group to the Committee to review the timing of delivery requirements of consumer life insurance documents displays a fundamental misapprehension how the Disclosure Model's consumer disclosures actually work in the marketplace.^v

Provision of a Policy Overview for Illustrated Policies is Duplicative and Potentially Confusing

Illustrations provided at the time of application already contain detailed information about how a policy may perform, under a specific set of illustrated parameters. The information available to appear in a "Policy Overview" or narrative summary already appears in the illustration. Trying to create a brief abstract of the illustration will inevitably result in a generalized and vague document, fail to express all necessary and required disclosures, and likely discourage consumers from reading the regulatorily-mandated documents contributing usefully to the purchase process.

"Policy Overview" Elements Beyond Policy Summary or Narrative Summary Requirements are Beyond the Working Group's Charge

The Working Group is drafting proposed amendments far beyond Section 5A(2) of *Life Insurance Disclosures Model Regulation* including proposed revisions of critical model

definitions. Rather than exploring Section 5A(2) for ways to improve policy summary readability and understandability, the Working Group is considering to propose to the NAIC (A) Committee the opening of two, long-standing, well-respected models for wholesale revision even before it completes its focused charge.

Thus, the ACLI cannot agree to information disclosures in a "Policy Overview" beyond the information expressly required to be included in the policy summary for a non-illustrated policy or the narrative summary for an illustrated policy pursuant to the existing model regulations and the working group charge.

A proposal pending before the Working Group illuminates how its members have moved beyond the charge and why it should conclude its exploration and report finally to the NAIC (A) Committee. The proposal is to include in the conceptual "Term Life Policy Overview" a chart in which an insurer would disclose surrender *charges* for each of the first five years of the policy (and invite the consumer to inquire about charges for surrenders in other years). The proposed chart starkly contrasts with the requirements in model Section 4F(5) providing for Policy Summary disclosure of "total guaranteed cash surrender *values*" (italicized emphasis added).^{vi}

Please consider this situation. The public policy goal is, or should be, to encourage individuals to purchase life insurance for which the individual has a personal, familial or business need. The insurance producer and insurance company aspire to offer insurance coverage to the individual. The *Life Insurance Disclosures Model Regulation* appropriately requires disclosure of cash surrender values at a time when the individual has sufficient information to decide whether the insurance offered addresses his or her insurance need – and sufficient time to cancel the insurance if needs have changed or for any reason or no reason at all. The *Life Insurance Illustrations Model Regulation* provides for the production of a hypothetical rendering of how a policy may operate, detached from the reality of the actual policy which may or may not even be issued. Yet the proposal is that, before the policy is delivered, the insurer must introduce to the consumer the undesirable ideas of ending the policy, the charges for ending a policy not even issued and providing many other data points not yet determined.

Unfortunately, the direction of the development of the "Policy Overview" is trending in this negative direction contrary to genuine consumer interests and the spirit and structure of the *Life Insurance Disclosures Model Regulation*. The Working Group is moving:

- toward recommendations for changes to the policy summary by which the insurance company will no longer disclose values but rather charges;
- toward "Policy Overview" disclosures in Y/N format of omissions of theoretically available coverages in the market rather than opportunities for coverages which might be actually available from each company;
- toward changing the exploration authorized by the charge into recommendations of revisions beyond the charge to multiple models;
- toward a mandatory "Policy Overview" exhibiting what is not in the policy as opposed to explaining what is actually in the policy; and
- from the reality of insurance producer involvement in most purchasing decisions to the fantasy of consumers' shopping for life insurance products – from the

simplest to the most sophisticated – all by themselves without the expert assistance of licensed insurance producers.

Without the involvement of a professional agent—if the consumer relies solely on the written materials provided-- it is less likely that an everyday consumer will have the information and guidance needed to make the right decision to meet the consumer's unique needs under his or her unique circumstances, regardless of when the "policy overview" document is provided.

ACLI Appreciation and Conclusions

The Working Group's deliberations have successfully and in painstaking detail met the charge and explored how the narrative summary required by Section 7B of the *Life Insurance Illustrations Model Regulation* (#582) and the policy summary required by Section 5A(2) of *Life Insurance Disclosures Model Regulation* (#580) can be enhanced to promote consumer readability and understandability of these life insurance policy summaries. In the absence of evidence of any problem with existing policy summaries and policy narratives, the NAIC elected not to pursue one recommendation made in 2016 by all interested parties, i.e., to consumer-test sample policy and narrative summaries to ascertain how they might be improved for readability and understandability.

Instead, with the cooperation of all interested parties, the Working Group began parsing Term Life insurance policy elements to consider whether they might be rendered in a standard format different from the bespoke policy summary formats tailored by each insurance company. It was a worthwhile undertaking because it informs us today of the wisdom imbued in the existing model consumer disclosures, especially with regard to the timing of the provision of the existing model consumer disclosures and the relevance of the free look period. It has not resulted in a completed work product to recommend to the NAIC (A) Committee.

For these reasons, the Working Group should either recognize it has fulfilled its charge and report accordingly to its parent NAIC (A) Committee or, alternatively, withdraw its request to the Committee relating to timing of delivery of the "policy overview" as premature. Thank you for your consideration.

Sincerely,



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ⁱ Section 7. Standards for Basic Illustrations A. ...

B. Narrative Summary. A basic illustration shall include the following: (1) A brief description of the policy being illustrated, including a statement that it is a life insurance policy; (2) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid

to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;(3)A brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;(4)Identification and a brief definition of column headings and key terms used in the illustration; and(5)A statement containing in substance the following: “This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown.”

ii **Section 5. Duties of Insurers** A. Requirements Applicable Generally (1) The insurer shall provide a Buyer’s Guide to all prospective purchasers, prior to accepting the applicant’s initial premium or premium deposit. However, if the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer’s Guide may be delivered with the policy or prior to delivery of the policy. **(2) The insurer shall provide a policy summary to prospective purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration. The policy summary shall show guarantees only. It shall consist of a separate document with all required information set out in a manner that does not minimize or render any portion of the summary obscure. Any amounts that remain level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in Section 4F(5) shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as a blank space. Delivery of the policy summary shall be consistent with the time for delivery of the Buyer’s Guide as specified in Paragraph (1).**

iii Reference to the conceptual “Policy Overview” hereafter also includes the conceptual “Guaranteed Premium and Benefit Patterns Summary.”

iv *Life Insurance Disclosures Model Regulation § 5A(1).*

v Indeed, if all is sought by regulators and interested parties hoping to better educate consumers about the standard elements of Term, Whole and Universal life insurance policies, the best resource can be found at insurancecompact.org, where the Interstate Insurance Compact publishes the [Record of Adopted Standards](#) for:

INDIVIDUAL APPLICATION

- INDIVIDUAL TERM LIFE PRODUCT LINE
- INDIVIDUAL WHOLE LIFE PRODUCT LINE
- INDIVIDUAL ENDOWMENT INSURANCE PRODUCT LINE
- INDIVIDUAL NON-VARIABLE ADJUSTABLE LIFE INSURANCE PRODUCT LINE
- INDIVIDUAL VARIABLE ADJUSTABLE LIFE INSURANCE PRODUCT LINE
- STANDARDS FOR INDIVIDUAL LIFE BENEFIT FEATURES
- INDIVIDUAL VARIABLE ANNUITY PRODUCT LINE
- INDIVIDUAL NON-VARIABLE ANNUITY PRODUCT LINE
- STANDARDS FOR INDIVIDUAL ANNUITY BENEFIT FEATURES
- INDIVIDUAL LONG-TERM CARE INSURANCE PRODUCT LINE |
- INDIVIDUAL DISABILITY INCOME INSURANCE PRODUCT LINES | UNIFORM STANDARDS - GROUP
- GROUP POLICYHOLDER APPLICATION
- GROUP TERM LIFE PRODUCT LINE
- GROUP DISABILITY INCOME INSURANCE PRODUCT LINE and the
- GROUP ANNUITY PRODUCT LINE

vi Indeed, most term life insurance policies do not carry cash values and surrender charge rate emphasis is irrelevant.