

PROJECT HISTORY - 2016

LONG-TERM CARE INSURANCE MODEL REGULATION (#641)

1. Description of the Project, Issues Addressed, etc.

The revisions to the *Long-Term Care Insurance Model Regulation* (#641) were made pursuant to the charge of the Long-Term Care Consumer Disclosure (B) Subgroup to: 1) review the existing requirements for consumer disclosures contained in the *Long-Term Care Insurance Model Act* (#640), Model #641 and the *Guidance Manual for Rating Aspects of the Long-Term Care Insurance Model Regulation* (Guidance Manual), and make recommendations for needed improvements to the Task Force; and 2) continue to consider all consumer disclosure requirements for long-term care insurance (LTCI), including those provided at the time of issue as well as those provided at the time of rate increase.

2. Name of Group Responsible for Drafting the Model and States Participating.

Long-Term Care Consumer Disclosure (B) Subgroup of the Senior Issues (B) Task Force.

California, Chair	Louisiana	South Carolina
Florida, Vice Chair	Maine	Texas
Indiana	North Carolina	Utah
Iowa	Oregon	Washington
Kentucky	Rhode Island	

3. Project Authorized by What Charge and Date First Given to the Group.

The Senior Issues (B) Task Force appointed the Long-Term Care Consumer Disclosure (B) Subgroup at the 2014 Summer National Meeting to update LTCI consumer disclosures, as they had not been reviewed in some time and may have needed important changes.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc.). Include any parties outside the members that participated.

The Long-Term Care Consumer Disclosure (B) Subgroup began with Appendix B (*Long-Term Care Insurance Personal Worksheet*) of Model #641 and made changes to various parts of said appendix. Interested parties, including industry and consumer groups, were able to comment on each draft. The Subgroup considered and accepted several comments made to the draft, including comments from industry and consumer groups. The Subgroup next examined Appendix F (*Long-Term Care Insurance Potential Premium Increase Disclosure Form*) of Model #641 and made changes to various parts of said appendix. Interested parties, including industry and consumer groups, were able to comment on each draft. The Subgroup considered and accepted several comments made to the draft, including comments from industry and consumer groups. Interested parties that commented on the drafts included: America’s Health Insurance Plans (AHIP), American Council of Life Insurers (ACLI), Brenda J. Cude of the University of Georgia and California Health Advocates (CHA).

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited).

The Long-Term Care Consumer Disclosure (B) Subgroup met 16 times via open conference call (April 26, 2016; March 24, 2016; Feb. 25, 2016; Jan. 21, 2016, Dec. 3, 2015; Oct. 29, 2015; Sept. 10, 2015; Aug. 4, 2015; July 16, 2015; June 29, 2015; May 11, 2015; April 9, 2015; March 5, 2015; Jan. 29, 2015, Dec. 18, 2014; and Oct. 28, 2014). The Subgroup adopted its changes on April 26, 2016. The Senior Issues (B) Task Force exposed the draft for public comment from May 16, 2016, to May 31, 2016. A draft was circulated to interested parties, including industry and consumer groups, and was posted to the NAIC website. The Task Force considered each comment that was received. The Senior Issues (B) Task Force adopted the model revisions on June 9, 2016. The Health Insurance and Managed Care (B) Committee adopted the model revisions on Oct. 25, 2016.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response).

None

7. Any Other Important Information (e.g., amending an accreditation standard).

None

PROJECT HISTORY - 2014

LONG-TERM CARE INSURANCE MODEL REGULATION (#641)

1. Description of the Project, Issues Addressed, etc.

These revisions make improvements to the “rate stability” standards contained in the *Long-Term Care Insurance Model Regulation* (#641). The improvements are intended to address the problem of rate increases on long-term care insurance policies and apply primarily to new policies sold after the effective date of the revisions.

Among the changes, the model revisions include:

- Expansion of the actuarial certification currently required by the model from a one-time statement at the time of initial filing to a more robust annual certification. The annual certification requirement is similar to one adopted by the IIPRC.
- New requirement that a minimum margin be incorporated into pricing calculations to encourage more conservative pricing.
- Improvements to consumer disclosure requirements, including a new disclosure required when consumers consider actions to mitigate rate increases that may impact Long-Term Care Partnership Program protections and Medicaid eligibility.
- Expansion of the contingent benefit upon lapse by requiring that consumers who have held the oldest policies (i.e., more than 20 years) will receive this benefit automatically.

2. Name of Group Responsible for Drafting the Model and States Participating

The Senior Issues (B) Task Force was chaired by Commissioner Scott J. Kipper (NV) and vice chaired by Commissioner Wayne Goodwin (NC). The Long-Term Care Rate Stability (B) Subgroup of the Senior Issues (B) Task Force was chaired by John Rink (NE). The Task Force and Subgroup relied heavily upon the work of the Health Actuarial (B) Task Force (chaired by Steve Ostlund (AL)) to make recommendations on the actuarial aspects of the model revisions, including its Long-Term Care Actuarial (B) Working Group (chaired by Perry Kupferman (CA)) and the Long-Term Care Pricing (B) Subgroup (chaired by Jan Graeber (TX)). Other members of the Senior Issues (B) Task Force and the Health Actuarial (B) Task Force also participated.

3. Project Authorized by What Charge and Date First Given to the Group

At the 2012 Fall National Meeting, the Executive (EX) Committee approved a request by the Senior Issues (B) Task Force to amend the *Long-Term Care Insurance Model Act* (#640) and Model #641. At the 2013 Spring National Meeting, the Health Insurance and Managed Care (B) Committee granted the Task Force an extension to complete its work.

All changes are being proposed for Model #641 and no changes are required for Model #640.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

A draft of the model revisions was developed by the chair of the Senior Issues (B) Task Force and the chair of the Long-Term Care Rate Stability (B) Subgroup and was distributed to Task Force members prior to a June 2013 interim meeting of the Task Force. This draft was developed following prior discussions by the Task Force and with interested parties. The Health Actuarial (B) Task Force was asked to provide comments on the draft. The Long-Term Care Pricing (B) Subgroup developed multiple sets of recommendations that were each adopted by the Health Actuarial (B) Task Force and then considered by the Senior Issues (B) Task Force on various conference calls.

At the 2013 Fall National Meeting, the Task Force granted a request by the Health Actuarial (B) Task Force for additional time to work on outstanding issues and recommendations. These additional recommendations were completed and presented to the Task Force on a March 14, 2014, conference call. The model revisions were adopted by the Senior Issues (B) Task Force March 29, 2014, at the Spring National Meeting and then by the Health Insurance and Managed Care (B) Committee on a June 10, 2014, conference call.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The Senior Issues (B) Task Force exposed the draft model for a public comment period in November 2013. The Health Actuarial (B) Task Force exposed the draft model for an additional public comment period in February 2014. The Health and Managed Care (B) Committee exposed the draft model for an additional public comment period prior to its adoption of the model on a June 10, 2014, conference call.

All drafts of the model were made available to interested parties by the Senior Issues (B) Task Force and the Health Actuarial (B) Task Force, as well as by their subgroups and working groups. All drafts considered by the Senior Issues (B) Task Force were posted on the Task Force's Web page.

There were also opportunities for interested parties to provide comment on all conference calls, at each of the national meetings where the model was being discussed in 2013 and 2014, at the June 2013 interim meeting of the Senior Issues (B) Task Force and at the Senior Issues (B) Task Force's Public Hearing on Long-Term Care Insurance Issues, which was held Nov. 28, 2012.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

These model revisions would largely apply prospectively to rate increases on new policies. In order to quickly address the problem of rate increases on older policies (including older pre-rate-stabilized policies), the Task Force first worked to develop a model bulletin on long-term care premium increases that would apply to rate increases on existing policies. The Executive (EX) Committee and Plenary adopted this model bulletin in December 2013.

The model revisions do not make any changes to the dual loss-ratio structure currently contained in Model #641. When the rate stability amendments were first adopted in 2000, the previous 58% loss ratio requirement was replaced with a dual structure of 60% at the time of initial pricing and 85% if a rate increase is later required. When the Health Actuarial (B) Task Force considered its final recommendations, it adopted a provision to increase the 85% loss ratio requirement to 92%. The Senior Issues (B) Task Force rejected this proposal and, at the 2014 Spring National Meeting, adopted the model revisions without accepting this recommendation. A subsequent motion for the Task Force to amend the adopted model revisions, substituting 92% for the 85% loss ratio requirement, failed to win adoption. The Health Insurance and Managed Care (B) Committee discussed the 92% proposal during consideration of the model revisions on its March 29, 2014, conference call, but adopted the model revisions without any further changes. The Health Insurance and Managed Care (B) Committee and the Senior Issues (B) Task Force discussed that there may be opportunities to review the entire loss ratio structure at a future time.

7. Any Other Important Information (e.g., amending an accreditation standard)

The Senior Issues (B) Task Force and the Health Actuarial (B) Task Force are now working to update guidance to regulators contained in the *Guidance Manual for Rating Aspects of the Long-Term Care Insurance Model Regulation* in order to help the states implement the model revisions.

PROJECT HISTORY – 2009

APPENDIX E CLAIM DENIALS REVISIONS TO THE LONG-TERM CARE INSURANCE MODEL REGULATION (#641)

1. Description of the Project, Issues Addressed, etc.

Revisions relating to Appendix E (Claims Denial Reporting Form) of the Long-Term Care Insurance Model Regulation (#641).

2. Name of Group Responsible for Drafting the Model and States Participating

The Appendix E Subgroup of the Senior Issues (B) Task Force drafted the revisions. The participating states were: South Dakota, Florida, Wisconsin, Arkansas, Nebraska, Nevada, Texas, and Pennsylvania. South Dakota was the Chair.

3. Project Authorized by What Charge and Date First Given to the Group

The Health Insurance and Managed Care (B) Committee has the following ongoing charges, which are delegated to the Senior Issues Task Force.

Develop appropriate regulatory standards and revisions to the NAIC models, consumer guides and training material, as necessary, on long term care insurance. Work with federal agencies as appropriate. Report annually (Delegated to Senior Issues Task Force);

Continue to study and evaluate evolving long-term care insurance product design, rating, suitability and other related factors, and review the existing Long-Term Care Model Act and Regulation to determine their flexibility to remain compatible with the evolving delivery of long-term care services and remain compatible with the evolving long-term care insurance marketplace. Report quarterly (Delegated to Senior Issues Task Force);

The Senior Issues Task Force authorized the formation of a Subgroup to work on revising the model regulation to address Appendix E in the Summer of 2009.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The model revisions were drafted by a Subgroup of the Senior Issues Task Force chaired by South Dakota. The following interested parties, organizations, and consumer representatives were on the email list: Amanda Matthiesen (America's Health Insurance Plans), Miriam Krol (American Council of Life Insurers), Genworth Life Insurance, Prudential Life Insurance, Melissa Lawler (American Academy of Actuaries), PriceWaterhouseCoopers, Congressional Research Service, MetLife, Aegon USA, Unum Provident, Bonita Kallestad (Western Minnesota Legal Services), Barbara Cude (University of Georgia), Birny Birnbaum (Center for Economic Justice), and John Hancock Life Insurance Company.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The Senior Issues (B) Task Force appointed a Subgroup at the 2009 Summer National Meeting, to be chaired by South Dakota. The Subgroup held an open conference call on August 6, 2009. Notice for this conference call was emailed to Subgroup regulators and interested parties and posted on the NAIC website.

Prior to the August 6 conference call, Subgroup members and interested parties received and reviewed the current version of Appendix E. Industry representatives proposed draft revisions to Appendix E, which were also distributed to Subgroup members and interested parties. The Subgroup reviewed the industry's proposed revisions on the conference call, and also made additional revisions to Appendix E and to Section 15 of the model regulation. After the conference call, a final draft of the agreed-upon revisions was distributed to Subgroup members and interested parties. The Senior Issues (B) Task Force adopted the revisions at the 2009 Fall National Meeting, and they were exposed for a 30 day public comment period prior to consideration by the Health Insurance and Managed Care Committee.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

This project was in response to the discovery made during compilation of the 2008 LTC Data Call Analysis and Report, which was adopted by the Health Insurance and Managed Care Committee and the Market Regulation and Consumer Affairs (D) Committee, that companies were using different methodologies to report claim denial data on Appendix E, and therefore the usefulness of this reporting was limited. The Task Force agreed that *Appendix E* should be revised and created the Subgroup. Regulators, industry and consumer groups were in agreement regarding the need to make revisions to Appendix E.

There are two distinct methods of counting and reporting claim denials that are being used by companies – per claimant and per transaction. Neither method is predominantly used, as industry reported that roughly half the companies count and report by claimant and roughly half count and report by transaction. Therefore, industry suggested that the form be amended so that companies would indicate the manner of reporting. Some states were interested in requiring that companies be required to change their methodology so that all companies were using a uniform method. However, industry stated that this would be cost-prohibitive. The Subgroup agreed to make changes to Appendix E to include the manner of reporting.

Regulators also discussed the overall goal of improving tools for state regulators and others to assess the long-term care insurance marketplace. As such, the Subgroup decided to adopt additional revisions to Appendix E that would add a query regarding in-force policies by state and nationwide. This information is intended to assist in helping regulators better put the rest of the Appendix E data in context.

Additionally, the Subgroup noted that the current drafting note following Section 15F stated that the definition of claim denied in Appendix E was limited to HIPAA reporting purposes only. In accordance with the goal of making Appendix E more broadly useful to state regulators and others in assessing the marketplace, the Subgroup decided to delete this drafting note.

7. Any Other Important Information (e.g., amending an accreditation standard).

PROJECT HISTORY - 2006

LONG TERM CARE INSURANCE MODEL REGULATION (#641)

1. Description of the Project, Issues Addressed, etc.

The revisions to the model regulation incorporate revisions adopted by the Accident and Health Working Group of the Life and Health Actuarial Task Force addressing contingent benefit upon lapse. In addition, revisions were made to ensure that long-term care insurance policies pay for services in facilities in other states, even if those facilities are licensed or registered in a different way from facilities in the state in which the policy was sold. Language was also added to the model regulation addressing the availability of new services or providers and the right to reduce coverage and lower premiums.

2. Name of Group Responsible for Drafting the Model and States Participating

Long Term Care (B) Working Group (previously Senior Issues (B) Task Force)

Kansas - Chair, Florida – Vice Chair, Wisconsin – Vice Chair, Alabama, Arkansas, California, Colorado, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia

3. Project Authorized by What Charge and Date First Given to the Group

The Health Insurance and Managed Care (B) Committee has a standing charge to “Continue to study and evaluate evolving long-term care insurance product design, rating, suitability and other related factors, and review the existing Long-Term Care Model Act and Regulation to determine their flexibility to remain compatible with the evolving delivery of long-term care services and remain compatible with the evolving long-term care insurance marketplace.” This charge was delegated to the Senior Issues Task Force until Spring 2006, when the charge was delegated to the Long-Term Care Working Group.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

The task force has been working since 2003 to identify issues and draft language to revise the model regulation. Some long-term care insurance contracts provide for benefit payments in certain facilities only if they are licensed or certified. However, many people move to a different state from where they purchased their long-term care insurance policy and not all states regulate these facilities in the same way. The model regulation was revised to reflect this reality and allow for the beneficiary to continue to receive benefits. Conforming revisions were made to: Section 5. Policy Definitions; Section 6. Policy Practices and Provisions; and Appendix C.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The Long-Term Care Insurance Model Regulation was last updated in August 2000. At that time, rating practices and enhanced consumer disclosures were added to the model. After adopting the revisions to the model regulation, the task force decided to give states a few years to revise their laws before undertaking to revise the model regulation again. Because of the rapidly evolving nature of long-term care, the task force recognized the need to begin review of the model regulation. In 2003, the task force solicited input from the states about areas where states had “gone further” than the model regulation to protect consumers. The results were compiled into a list of issues for the task force to consider. Some issues were referred to the Life and Health Actuarial Task Force, while other issues remained with the Senior Issues Task Force to debate and consider. These revisions represent areas where consensus has been reached.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group’s response)

These revisions represent those areas where the regulators, industry groups and consumer groups were able to reach consensus. More controversial issues are still the subject of debate and discussion by the Long-Term Care Working Group.

7. Any Other Important Information (e.g., amending an accreditation standard).