

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Life Insurance and Annuities (A) Committee Dec. 15, 2021, Minutes

Accelerated Underwriting (A) Working Group Dec. 6, 2021, Minutes (Attachment One)

Accelerated Underwriting Educational Paper Draft Nov. 8, 2021 (Attachment One-A)

Life Insurance Illustration Issues (A) Working Group Chair Report (Attachment Two)

Draft Pending Adoption

Date:12/20/21

Life Insurance and Annuities (A) Committee
San Diego, California
December 15, 2021

The Life Insurance and Annuities (A) Committee met Dec. 15, 2021. The following Committee members participated: Glen Mulready, Vice Chair (OK); Jim L. Ridling (AL); Karima M. Woods represented by Philip Barlow (DC); Doug Ommen represented by Kim Cross (IA); Dean L. Cameron represented by Randy Pipal (ID); Vicki Schmidt (KS); James J. Donelon represented by Tom Travis (LA); Barbara D. Richardson (NV); Adrienne A. Harris represented by My Chi To (NY); Judith L. French represented by Jana Jarret (OH); Elizabeth Kelleher Dwyer (RI); Carter Lawrence represented by Brian Hoffmeister (TN); and Mark Afable represented by Nathan Houdek and Richard Wicka (WI). Also participating was: Mike Boerner (TX).

1. Adopted its Summer National Meeting Minutes

Director French made a motion, seconded by Mr. Travis, to adopt the Committee's Aug. 16 minutes (*see NAIC Proceedings – Summer 2021, Life Insurance and Annuities (A) Committee*). The motion passed unanimously.

2. Adopted the Reports of its Working Group and Task Force

Director French made a motion, seconded by Mr. Travis, to adopt the following reports: the Accelerated Underwriting (A) Working Group, including its Dec. 6 minutes (Attachment One); and the Life Actuarial (A) Task Force. The motion passed unanimously.

3. Received a Memorandum from the Life Actuarial (A) Task Force and the Valuation Analysis (E) Working Group on the FSAP Recommendation.

Commissioner Mulready explained that Mr. Boerner authored a memorandum as chair of the Life Actuarial (A) Task Force and the Valuation Analysis (E) Working Group to the Life Insurance and Annuities (A) Committee following up on a recommendation in the 2020 Financial Sector Assessment Program (FSAP) report regarding actuarial resources. The memorandum explains that having the necessary actuarial support for principle-based reserving (PBR) is important, and to that end the NAIC has added seven actuaries to its staff to help with PBR, mostly just to help PBR work as it was designed. Commissioner Mulready said the memorandum from Mr. Boerner indicates appreciation for the resources provided and states that if more resources are needed, NAIC leadership will be notified. Commissioner Mulready explained that the Committee is receiving this memorandum and is committed to monitoring how things are developing with PBR.

4. Adopted the Life Actuarial (A) Task Force's 2022 Proposed Charges

Mr. Boerner summarized the Life Actuarial Task Force's 2022 Proposed charges. He explained that the charges are largely unchanged from 2021 and only make necessary extensions to the time frames for completing the charges.

Birny Birnbaum (Center for Economic Justice—CEJ) commented that he would like to see actuaries move away from having charges addressing consumer-facing issues, like the Indexed Universal Life (IUL) Illustration (A) Subgroup charge to:

Monitor the results and practices of IUL illustrations following implementation of *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest to Policies Sold On or After December 14, 2020* (AG 49-A). Provide recommendations for consideration of changes to *Life Insurance Illustrations Model Regulation* (#582) to the Life Actuarial (A) Task Force, as needed.

Mr. Birnbaum said he wrote a comment letter suggesting that the Life Insurance and Annuities (A) Committee adopt a new charge to broadly look at issues involving life insurance illustrations.

Director French made a motion, seconded by Mr. Travis, to adopt the Life Actuarial (A) Task Force's 2022 proposed charges. (*see NAIC Proceedings – Fall 2021, Executive and Plenary Attachment Four*) The motion passed unanimously.

5. Adopted Revisions to AG 25

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Mr. Boerner said that revisions to *Actuarial Guideline XXV—Calculation of Minimum Reserves and Minimum Nonforfeiture Values for Policies With Guaranteed Increasing Death Benefits Based on an Index* (AG 25) pertain to very specific types of life insurance products, which include pre-need funeral policies and other small dollar policies with guaranteed increasing death benefits tied to a cost of living index. He said the revisions include the removal of the fixed 4% nonforfeiture interest rate floor to align AG 25 with the *Valuation Manual*.

Director French made a motion, seconded by Commissioner Schmidt, to adopt the revisions to AG 25 (*see NAIC Proceedings – Fall 2021, Executive and Plenary Attachment Seven*). The motion passed unanimously.

6. Adopted the 2022 GRET

Mr. Boerner explained that the development and adoption of the Generally Recognized Expense Table (GRET) is an annual process to provide expenses that are used by a significant percentage of life insurance companies in their life insurance illustrations pursuant to the *Life Insurance Illustrations Model Regulation* (#582). As in previous years, the Society of Actuaries (SOA) Committee on Life Insurance Company Expenses submitted its GRET analysis to the Life Actuarial (A) Task Force for the upcoming year. The SOA followed the same methodology in developing the 2022 GRET as last year for the 2021 GRET.

Commissioner Schmidt made a motion, seconded by Superintendent Dwyer, to adopt the 2022 GRET (*see NAIC Proceedings – Fall 2021, Executive and Plenary Attachment Six*). The motion passed unanimously.

7. Adopted its 2022 Proposed Charges

Commissioner Mulready explained that the 2022 proposed charges of the Life Insurance and Annuities (A) Committee were included in the meeting materials and had been posted on the Committee web page since Nov. 15. He said that the proposed charges are largely unchanged from the 2021 charges and reflect the working groups and their charges that were disbanded during 2021. He said the proposed 2022 charges also include an update to the Annuity Suitability (A) Working Group charge to reflect that the Working Group is continuing its work on a frequently asked questions (FAQ) document.

Commissioner Mulready explained that there were a few issues with the charges for the Committee to discuss. He reminded the Committee that at the Summer National Meeting, it asked Mr. Wicka, chair of the Life Insurance Illustration Issues (A) Working Group, to draft a “chair report” to guide the Committee in discussing the future of the Working Group and its charge. Additionally, Mr. Birnbaum submitted comments on the proposed charges.

Commissioner Mulready said the chair report (Attachment Two) is included in the meeting materials and was posted along with the Committee’s proposed charges on Nov. 15. He explained that the chair report includes an overview of the Life Insurance Illustrations Issues (A) Working Group’s history and progress to date. He said the report also includes the chair’s recommendations that the Committee adopt the “chair report” as the final report of the Working Group and disband the Working Group. The report explains that the chair report will be part of the official record in the *NAIC Proceedings*, making the revisions the Working Group has developed to date available for individual states to consider when exploring the possibility of enacting a summary disclosure requirement.

Commissioner Mulready said that NAIC funded consumer representative Brenda J. Cude (University of Georgia) and Mr. Birnbaum commented on the chair report. Commissioner Mulready explained that Ms. Cude wrote in support of keeping the Working Group and made four points in support of her view: 1) well-crafted disclosures are helpful to consumers, and consumer testing could ensure the policy overview is helpful; 2) states may be laboratories for policy change, but not typically for the development of consumer disclosures like the policy overview; 3) it is not clear that continuing with the Working Group is not supported by a sufficient number of the NAIC members; and 4) the templates are too unfinished to be picked up by the states. There needs to at least be an explanation of the purpose of the templates and drafting notes to indicate where the information should be specific to the policy.

Commissioner Mulready said that Mr. Birnbaum submitted two comment letters—one on the 2022 proposed charges and the other on the chair report. On the 2022 proposed charges, Mr. Birnbaum suggested: 1) creating a new charge to review existing NAIC models that address life insurance illustrations in order to develop consistent content and consumer protection principles throughout; and 2) retaining the substance of the Life Insurance Illustration Issues (A) Working Group, but renaming the group and revising the charge to develop a policy overview document to replace the policy summary in the *Life Insurance Disclosure*

Draft Pending Adoption

Model Regulation (#580). He explained that Mr. Birnbaum's second letter was addressing the chair report and urged the Committee to retain the revised charge as outlined in his comment letter on the proposed charges.

Ms. To shared New York's perspective on the recommendation in the chair report. She said the chair report was thoughtful, detailed, and useful. She said New York appreciates the consideration that led to the recommendation in the report to disband the Working Group and delete its charge, but New York is disappointed that such an important consumer protection issue did not generate the level of support necessary to move forward with the policy overview. She said the chair report highlights that specific issues had been identified with the documents used by insurers that hinder consumer understanding of life insurance products, which are complex. She said the report explained that in recognition of these issues, stakeholders coalesced around the idea of a short consumer-friendly overview that summarizes a policy's key features, but that the same group of stakeholders could not reach consensus on the form of a summary or when it would be presented to consumers.

Ms. To said that New York does not believe that this is a good outcome for consumers. She said consumers should have clear, concise, accurate, and realistic descriptions and illustrations of the complex products they purchase, which is not a controversial position. She said there are obviously different ways of achieving that goal, but New York thinks that a uniform policy overview would have been an important step in the right direction. She mentioned that the chair report invites states to play their role as the laboratories for policy change and experiment with the disclosures and disclosure model. Ms. To said that New York intends to take up that invitation.

Mr. Birnbaum offered some comments in opposition to disbanding the Working Group and its charge. He said that it is critical to understand that illustrations are not only the primary tool used by producers to sell products, but also they determine the structure and complexity of products. He said this is known based on insurer behavior after *Actuarial Guideline XLIX-A—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest to Policies Sold on or After December 14, 2020* (AG 49) was changed and companies changed their products in order to maintain high accumulation values.

Mr. Birnbaum also questioned the assertion in the report that there was a lack of consensus. He said there was little representation on the Working Group in terms of the number of states. He said he cannot understand why there was a lack of consensus on the issue of providing consumers with a buyer's guide and a better summary overview for shopping prior to purchase. He said the issue that seems to stymie consensus is that consumers should not get information necessary to make a purchase decision prior to the purchase.

He also said the assertion that the states could take the work product developed so far, when it is unadopted and opposed by industry, does not make sense. He said unfinished Working Group products is not a recipe for uniform and consistent high-level consumer protection across the states. He said it is a recipe for disparate treatment across the states. He said that with leadership and support from the Committee, the policy overview could be completed expeditiously.

Commissioner Mulready mentioned that the Life Insurance Online Guide (A) Working Group does not have a chair. He said that if this continues to be a priority for the Committee, there needs to be a chair, or possibly co-chairs, and he asked for volunteers. He suggested perhaps Jennifer Cook (NAIC) could put together some information regarding the Working Group that might be helpful in recruiting a new chair.

Ms. Cross made a motion, seconded by Commissioner Schmidt, to revise the 2022 proposed charges as recommended in the chair report by adopting the chair report as the final work product of the Life Insurance Illustration Issues (A) Working Group and disbanding the Working Group and its charge (*see NAIC Proceedings – Fall 2021, Executive and Plenary Attachment Four*). The motion passed, with Mr. Barlow voting no.

Having no further business, the Life Insurance and Annuities (A) Committee adjourned.

[12-Amin](#)

Draft: 12/9/21

Accelerated Underwriting (A) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Fall National Meeting*)
December 6, 2021

The Accelerated Underwriting (A) Working Group of the Life Insurance and Annuities (A) Committee met Dec. 6, 2021. The following Working Group members participated: Mark Afable, Chair (WI); Grace Arnold, Vice Chair (MN); Jason Lapham (CO); Cynthia Amann (MO); Chris Aufenthie (ND); Lori Barron (OH); Elizabeth Kelleher Dwyer (RI); and Lichiou Lee (WA).

1. Discussed the Latest Draft of the Accelerated Underwriting Educational Report

Commissioner Afable explained that the purpose of the meeting is to discuss the comments received on the latest draft accelerated underwriting educational report dated Nov. 8 (Attachment One-A). He said the Working Group exposed the report on Nov. 8 for a public comment period ending Dec. 3. He added that the report is available on the Working Group's web page.

Commissioner Arnold explained that this is the first time the entire report has been exposed for comment; although, parts of the report have been released previously and revised based on comments received. She said four comment letters on the Nov. 8 draft report were submitted from Birny Birnbaum (Center for Economic Justice—CEJ); Brendan Bridgeland (Center for Insurance Research—CIR); Sue Bartholf (American Academy of Actuaries—Academy); and David Leifer and Gabrielle Griffith (American Council of Life Insurers—ACLI).

Commissioner Arnold offered each of the commenters the opportunity to summarize their comment letters.

a. Center for Economic Justice

Mr. Birnbaum said his comment letter is lengthy, but he mentioned four specific points he wanted to highlight. First, he said the definition of accelerated underwriting used in the draft report is problematic. He said the report misses the key distinction between traditional underwriting and accelerated underwriting; i.e., the acquisition and use of non-traditional, non-medical data. He said it is not the use of predictive models or machine learning (ML) that distinguishes traditional underwriting from accelerated underwriting. He said the new regulatory oversight steps needed to protect consumers from unfair discrimination and racial bias are obscured by conflating non-traditional and non-medical information with predictive modeling, which has long been used in traditional underwriting.

Second, Mr. Birnbaum said categorizing data into traditional data, non-traditional data, and Fair Credit Reporting Act (FCRA) data is problematic. He said the FCRA protects data that falls in the other two categories and is not an appropriate third category of data. He suggested that the FCRA should be discussed in the context of providing a template for some of the regulatory changes and new consumer protections needed for accelerated underwriting.

Mr. Birnbaum said another shortcoming in the report is that the NAIC's artificial intelligence (AI) principles are simply repeated, and there is no discussion on how to implement them. He said the purpose of the AI principles was to serve as the foundation for working groups to develop the application-specific regulatory guidance needed to operationalize those principles. He said the paper should make recommendations for specific regulatory actions (e.g., new uses of existing regulatory authorities and tools and new regulatory authorities) needed to ensure that the AI principles are implemented for accelerated underwriting.

Mr. Birnbaum also said he strongly disagrees with the suggestion in the report that market conduct examinations are sufficient to ensure that accelerated underwriting algorithms meet all the stated regulatory goals. He said market conduct examinations are not the appropriate tool to establish the new guidance needed for insurers' use of big data and AI. He said there are no standards for market conduct examiners, nor are there existing metrics or data sources available to market analysts to trigger the types of concerns raised in the paper regarding racial bias or problems with data or algorithms. He said the recommendations in the paper need to be expanded. He said they are subject to misinterpretation due to their brevity.

Mr. Birnbaum referenced seven specific statutory and regulatory recommendations in his comment letter that he would like the Working Group to consider including in the paper:

1. Require life insurers to routinely file a list of the types, sources, and uses of non-medical data for life insurance marketing, underwriting, claim settlement, and antifraud.
2. Require life insurers to routinely file and state insurance regulators to routinely review algorithms used for marketing, underwriting, claims settlement, and antifraud in the same manner that auto and home insurers are required to file credit-based insurance scoring models.
3. Require that all data sources used by insurers meet the consumer protection requirements of the FCRA, including consent, disclosure, challenge, and correction.
4. Develop specific guidance and requirements for insurer testing of data sources and algorithms for actuarial soundness and protected class bias. (Look to the approach used by the New York Department of Financial Services [NYDFS] in the cited Circular 1.)
5. Recommend the development of guidance for life insurer collection and treatment of applicant data on race, ethnicity, and other demographic characteristics to assist insurers and state insurance regulators in assessing proxy discrimination and disparate impact based on protected class characteristics.
6. Develop and update guidance for third parties providing pricing algorithms to insurers. Absent oversight of vendors providing these collective-pricing or collective-claims settlement algorithms, the third-party algorithm provider may be engaging in prohibited antitrust and anti-competitive activities.
7. Request that the Market Regulation and Consumer Affairs (D) Committee direct the Market Conduct Annual Statement Blanks (D) Working Group to complete its work on the accelerated underwriting revisions to the Life Insurance Market Conduct Annual Statement (MCAS) line independently of the work of the Accelerated Underwriting (A) Working Group.

Mr. Aufenthie asked Mr. Birnbaum to explain his understanding of the difference between non-medical data and non-traditional data. Mr. Birnbaum explained that non-medical data, like credit information, is used in traditional underwriting; but this same data, or variations of this data is broken down in a much more granular level to become non-traditional data. Another example is biometric screening at one end and facial recognition. Mr. Aufenthie asked Mr. Birnbaum whether he agrees with the statement that process is just as important as the data. Mr. Birnbaum replied that he mostly agrees with the statement. He said the use of new data sources necessarily requires the use of predictive models and AI. He said the new data is not used to predict mortality, like traditional data, but to achieve the same outcomes as traditional underwriting. He said this is why focusing on predictive modeling misses the sources and uses of new types of data. However, he said focusing on the sources and types of new data will necessarily lead to looking at the predictive models and ways companies are using this data.

b. Center for Insurance Research

Mr. Bridgeland said he supports Mr. Birnbaum's comment letter and the detailed analysis he provided regarding the numerous consumer issues arising from the use of accelerated underwriting programs. Mr. Bridgeland explained that his comments focus on making editorial and language suggestions designed to provide a more balanced tone and support the purpose of the paper as an "educational report" rather than an "advocacy piece." He said analysis of the benefits of accelerated underwriting to consumers is ongoing and some of his suggested revisions are intended to support this reality. Some of his other suggested revisions clarify that not all jurisdictions allow the use of behavioral data or credit scores, and other comments question the meaning of terms used like assessor data or voter information. Mr. Bridgeland also questioned the inclusion of possible data sources, like voice recognition to determine smoker status, as being untested scientifically, and the facial recognition, given the evidence of racial bias in its use that has come to light. Karl Ricanek (Lapetus Solutions Inc.) explained that facial recognition is the technology that was at issue in the film "Coded Bias," but there is also facial analytics, which is different, and perhaps the report should make the distinction.

c. American Academy of Actuaries

Ms. Bartholf summarized the Academy's comment letter. She said the Academy supports the general direction of the draft report, but it is concerned that some of the recommendations may be challenging to implement from a practical standpoint, and others may require more detail in order to ensure that they support the Working Group's charge.

Ms. Bartholf also said the Academy observed that many of the presentations provided to the Working Group included consumer benefits of accelerated underwriting, but the paper tends to focus on the potential issues. She said the Academy believes the paper might be more balanced if it included more discussion of the favorable impacts to the consumer.

Ms. Bartholf also said the Working Group heard from a variety of stakeholders regarding different practices and with different perspectives, but not all of the information provided should be generalized across the life insurance industry. She said the Academy comment letter includes some specific suggested revisions throughout the paper to avoid overgeneralizations.

Ms. Bartholf said the Academy is concerned with the definition in the report. She said the definition conflates the general concept of accelerated underwriting and the use of data and predictive models in underwriting. She said data and predictive models are used in all forms of underwriting. She said the Academy recommends revisiting this definition and the use of these terms in the report.

Ms. Bartholf said the Academy questions the footnote reference to Actuarial Standard of Practice (ASOP) No. 12—Risk Classification (for All Practice Areas) in the bullet point “FCRA data may be used to predict mortality, but there may not be a reasonable explanation for that correlation.” She said the Academy does not see a relationship to ASOP No. 12, and it suggests quoting the applicable language or removing the reference.

d. American Council of Life Insurers

Mr. Leifer summarized the ACLI comment letter. He said the ACLI likes how the paper is developing and believes there is useful information contained in the current draft that should be helpful to state insurance regulators and stakeholders as accelerated underwriting evolves. He said the ACLI comment letter includes a few language tweaks that are self-explanatory. He said from a big picture perspective, the ACLI is concerned that there are some negative inferences about accelerated underwriting that have not happened. He said accelerated underwriting is an evolving area, but the report should be careful not to overgeneralize.

Mr. Leifer said the ACLI is concerned that in places throughout the paper, the types of data used in traditional underwriting versus accelerated underwriting are mischaracterized, as well as the types of data sources, combining those that are more typically or traditionally used with more novel ones that are not used with prevalence (if at all) by the life industry. He said the ACLI recommends emphasizing in the paper that while the technology is new, its risk for unfair discrimination should not be viewed differently than traditional underwriting. Peter Kochenburger (University of Connecticut School of Law) said it is essential to examine racial bias beyond traditional underwriting.

2. Discussed Next Steps

Commissioner Arnold explained that the ad hoc drafting group planned to meet and discuss the comments provided in detail. She said the plan is to revise the report and expose it for another public comment period prior to the 2022 Spring National Meeting.

Having no further business, the Accelerated Underwriting (A) Working Group adjourned.

[12-6-21 AUWGmin](#)

DRAFT 11-8-21

Comments should be sent to jcook@naic.org by close of business Dec. 3, 2021

Accelerated Underwriting (A) Working Group
Ad Hoc Drafting Subgroup

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Appendix A: Additional Procedural Background

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Resources

New York Circular No. 1

Abbreviated Summary of Presentations

National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI)

Casualty Actuarial and Statistical (C) Task Force Regulatory Review of Predictive Models White Paper

Introduction

In 2019, the National Association of Insurance Commissioners (NAIC) established the Accelerated Underwriting (A) Working Group to consider the use of external data and data analytics in accelerated life insurance underwriting, including consideration of the ongoing work of the Life Actuarial (A) Task Force on the issue and, if appropriate, draft guidance for the states. In addition, the 2021 charges of the Special Committee on Race and Insurance direct the working group to include an assessment of and recommendations, as necessary, regarding the impact of accelerated underwriting on minority populations. A more detailed procedural background can be found in the appendix. This paper is the output of over a year's work by regulators to understand the current state of the industry and its use of accelerated underwriting. It summarizes what the Working Group has learned over the past year, contextualizes that learning and the topic of accelerated underwriting within other NAIC work and standard regulatory product evaluation processes, and makes recommendations for regulators and insurers when evaluating accelerated underwriting.

Accelerated underwriting in life insurance may provide potential benefits to both consumers and insurers, if applied in a fair and non-discriminatory manner. In order to fairly deliver the benefits of more convenient and cost-effective processes, regulators and insurers should be guided by current law related to fair trade practices and unfair discrimination. Much of the discussion in this paper is framed in these general terms. The Working Group believes the charge to specifically address the impact on minority populations is included in these terms, and we have provided examples to illustrate the impact on minority populations. Future work products of the Working Group may address the charge from the Special Committee on Race and Insurance in more detail.

What is Accelerated Underwriting?

Throughout this paper, we use the term accelerated underwriting in life insurance. We propose the following as a definition:

Accelerated underwriting in life insurance is a process to replace traditional underwriting and allow some applications to have certain medical requirements, e.g., paramedical exams and fluid collection, waived. The process generally uses predictive models or machine learning algorithms to analyze data pertaining to the applicant, which includes both traditional and non-traditional underwriting data provided by the applicant directly, as well as data obtained through external sources.

Predictive models examine data sets for patterns to predict and assign the risk category, e.g., a model developer enters data points (potentially hundreds of thousands), and the model finds patterns and identifies future predictions of risk and assigns an insured to a risk category.¹ Machine learning algorithms are a process or set of

¹ For a more detailed discussion of predictive models in property and casualty insurance, see the Casualty Actuarial and Statistical (C) Task Force Regulatory Review of Predictive Models White Paper, Adopted by the Property and Casualty Insurance (C) Committee on Dec. 8, 2020.

rules executed to solve an equation², e.g., a life insurance underwriter uses a set of rules to place an individual insured in a particular risk category. The ‘learning’ part of machine learning means that those programs change how they process data over time, much as humans change how they process data by learning. Machine learning often falls into two groups: supervised or unsupervised. The difference between the two is whether the program is directed to analyze patterns or is self-automated.

Predictive models or machine learning trains a system to make judgments when exposed to data that is unfamiliar to serve as a substitute for human-centric decision making. These are both subcategories of artificial intelligence, which should not be confused with a static rule-based algorithm.

Life insurance underwriting is the process of determining eligibility and classifying applicants into risk categories to determine the appropriate rate to charge for transferring the financial risk associated with insuring the applicant. Traditional life insurance underwriting involves assessing the applicant’s physical health, then determining whether an applicant is eligible for coverage and the risk class to which that individual belongs. Accelerated underwriting relies on predictive models or machine learning algorithms to perform some of the tasks of an underwriter. The exact parameters of the application of accelerated underwriting vary by insurer.

Presentations made to the Working Group indicated that life insurers use accelerated underwriting in primarily two ways: 1) Accelerated underwriting is used to triage applicants, where unsuccessful applicants are re-routed to traditional underwriting, and successful ones continue through the accelerated underwriting process; or 2) Accelerated underwriting is used to rate applicants based on risk categories.

Most predictive or machine learning algorithms used in life insurance underwriting are in their second or third generation. The COVID-19 pandemic sped up the adoption of accelerated underwriting in the industry as both consumers and insurers looked for options to purchase and write policies that relied more on technology and involved less in-person contact. This has highlighted the need for ongoing monitoring of the machine learning algorithms—both their development and their uses in the marketplace.

Presentations made to the Working Group indicated that adverse underwriting decisions are sometimes reviewed by human underwriters. Companies presenting to the Working Group stated that the accelerated underwriting process is less cumbersome, costs less than traditional underwriting, improves the underwriting experience for consumers, shortens issue times, and increases policy acceptance rates.³

General Discussion of Issues and Recommendations

Increasing automation of life insurance underwriting presents new regulatory challenges. Regulators must ensure that the process is **fair, transparent, and secure**. With regard to accelerated underwriting in life

² The Big Data and Artificial Intelligence (EX) Working Group developed a survey to conduct analysis on private passenger automobile (PPA) insurers’ use and governance of big data, as used in an artificial intelligence (AI) and machine learning (ML) system. The survey is being conducted under the examination authority of Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin. This analysis will help inform the Working Group in completing its long-term goals of developing guidance and recommendations to update the existing regulatory framework for the use of big data and AI, including how to monitor and oversee the industry’s compliance with the NAIC’s AI principles. The survey work may be expanded to other lines of insurance as needed, such as life insurance and homeowners insurance. For the purposes of the survey only, AI/ML is defined as, “an automated process in which a system begins recognizing patterns without being specifically programmed to achieve a pre-determined result.” This is different from a standard algorithm that consists of a process or set of rules executed to solve an equation or problem in a pre-determined fashion, and evolving algorithms are considered a subset of AI/ML.

³ Presentations to Accelerated Underwriting (A) Working Group between Dec. 8, 2018, and Sept. 24, 2020.

insurance, this concern pertains to input data, the predictive model or machine learning algorithm, and the results of the process. One particular challenge is the potential for **unfair discrimination**. Due to the fact accelerated underwriting relies on predictive models or machine learning algorithms, it may lead to unexpected or unfairly discriminatory outcomes even though the input data may not be overtly discriminatory. It is critical to test the conclusions up front, on the back end, as well as, randomly, to ensure the machine learning algorithm does not produce unfairly discriminatory ratings. Testing can also be important in determining if a machine learning algorithm is accurate across demographic categories.

Such scrutiny is especially important when behavioral data is utilized. Behavioral data may include gym membership, one's profession, marital status, family size, grocery shopping habits, wearable technology, and credit attributes. Although medical data has a scientific linkage with mortality, behavioral data may lead to questionable conclusions as correlation may be confused with causation.

Recommendations

Consistent with the artificial intelligence principles approved by the NAIC in 2020⁴, the use of accelerated underwriting in life insurance should be fair and transparent. Companies should be accountable for operating in compliance with applicable laws, and the process and data used needs to be secure. To accomplish these objectives, regulators should dialogue with life insurers and third-party vendors to determine if consumer data is being used in problematic or unfair ways or generating unfair outcomes.

Insurers and other parties involved in accelerated underwriting in life insurance should:

- Take steps to ensure data inputs are transparent, accurate, reliable, and the data itself does not have any unfair bias.
- Ensure that the external data sources, algorithms or predictive models are based on sound actuarial principles with a valid explanation or rationale for any claimed correlation or causal connection.
- Ensure that the predictive models or machine learning algorithm within accelerated underwriting has an intended outcome and that outcome is being achieved.
- Ensure that the predictive models or machine learning algorithm achieve an outcome that is not unfairly discriminatory.
- Be able to provide the reason(s) for an adverse underwriting decision to the consumer and all information upon which the insurer based its adverse underwriting decision.
- Take steps to protect consumer privacy and ensure consumer data is secure.
- Have a mechanism in place to correct mistakes if found.
- Produce information upon request as part of regular rate and policy reviews or market conduct examinations.

Input data

⁴ See National Association of Insurance Commissioners (NAIC) Principles on Artificial Intelligence (AI) – Fair and Ethical a. AI actors should respect the rule of law throughout the AI life cycle. This includes, but is not limited to, insurance laws and regulations, such as those relating to trade practices, unfair discrimination, access to insurance, underwriting, privacy, consumer protection and eligibility practices, rate making standards, advertising decisions, claims practices, and solvency. b. Consistent with the risk-based foundation of insurance, AI actors should proactively engage in responsible stewardship of trustworthy AI in pursuit of beneficial outcomes for consumers and to avoid proxy discrimination against protected classes. AI systems should not be designed to harm or deceive people and should be implemented in a manner that avoids harmful or unintended consequences and corrects and remediates for such consequences when they occur.

Predictive models or machine learning algorithms within the accelerated underwriting process rely heavily on data and multiple variables. Examples of the variables used by some accelerated underwriting models include customer disclosures, prescription history, digital health records, credit attributes, medical information bureau data, public records, motor vehicle reports, smartphone apps, consumer activity wearables, claim acceleration tools, individual consumer risk development systems, purchasing history, behavior learned through cell phone usage, and social media because accelerated underwriting relies on predictive models or machine learning algorithms, it may lead to unexpected or unfairly discriminatory outcomes, even though the input data may be facially neutral.

Traditional Data

Traditional data used in life insurance underwriting includes data collected through a traditional underwriting process. This data may include the following:

- Application data, e.g., medical records, prescription questions, vocation questions, financial profile
- Tele-interview
- Medical records
- Data from the Medical Information Bureau (MIB) ⁵
- Data from Motor Vehicle Records
- Prescription drug history
- Public records, e.g., criminal records, bankruptcy records, civil litigation, etc.
- Paramedical or medical exam, including EKG's in some instances
- Fluids, e.g., blood, urine, swab/saliva test to determine tobacco usage
- Financial and tax information

Considerations for use of Traditional Data

- Traditional data has a long and established history in the life insurance industry. Carriers, producers, and consumers are generally familiar with the process.
- Traditional data has a history of usage by insurance carriers. Trained underwriters and producers have years of experience and often understand the process well.
- The relationship of the traditional data elements to the risk is well established and consumers understand how the elements impact their risk classification or premium charged.
- State statutes and case laws were developed based on the use of traditional data containing consumer protections created under the assumption that this was the type of data collected or reviewed during an underwriting process.
- Presentations made to the Working Group represented that time and costs associated with obtaining and reviewing traditional data are significant.

FCRA Data

Data is subject to the federal Fair Credit Reporting Act (FCRA), which means applicants:

- (1) Should have a right to be told if this information is used to deny insurance, and
- (2) Have the ability to request the data a consumer reporting agency is providing to an insurer.

Considerations for use of FCRA Data

- FCRA data is readily available.
- FCRA data is updated regularly.

⁵ This data is subject to the Fair Credit Reporting Act (FCRA).

- FCRA data is already used in property/casualty lines of business.
- There is existing regulation and oversight by the Federal Trade Commission (FTC) and Consumer Financial Protection Bureau (CFPB).
- Not all FCRA data is useful/ relevant to life insurance underwriting.
- If there is a dispute about findings, a consumer will have to obtain additional information and formally dispute these findings.
- FCRA data is extensive and accessing such data may result in access to non-usable credit attributes. In other words, significantly more data may be collected than is needed to determine risk.
- As additional rating factors are introduced via insurance scores or with specific data elements, unfair discrimination, including disparate impact, may be introduced or amplified.
- FCRA data may be used to predict mortality, but there may not be a reasonable explanation for that correlation.⁶

Nontraditional Data

Nontraditional data used in life insurance underwriting may include the following:

- Public records, e.g., assessor data, genealogy records, criminal records, court filings, voter information
- Property/casualty data from adjacent carrier(s)
- Marketing and social data, e.g., shopping habits, mortgage amount/lender, occupation and education, and social media, etc.
- Professional licenses
- Voice recognition used to determine smoking status
- Facial recognition
- Wearable devices

Considerations for use of Nontraditional Data

- Nontraditional data may be used to predict mortality, but there may not be a reasonable explanation for that correlation.
- As additional rating factors are introduced via insurance scores or with specific data elements, disparate impact across and between demographic groups may be introduced or amplified.
- Nontraditional data does not have the same consumer protections as FCRA and traditional data. For example:
 - There may not be a clear path for consumers to know how data affected their application and how inaccurate data may be corrected.
 - The type and purpose of data accessed are not required to be disclosed to the consumer.
 - There may be privacy concerns about the extent of the use of nontraditional data.

Recommendations

Existing regulations apply to accelerated underwriting programs in the same way as traditional underwriting programs. State Departments of Insurance (DOIs) have broad regulatory authority to make inquiries into the processes and procedures of life insurers in order to investigate potential unfair trade practices. Complaints about underwriting practices are opportunities for DOIs to review a life insurer's use of accelerated underwriting and data collection methods. Additional DOI actions may include market conduct and on-site examinations as appropriate under existing authority.

⁶ See Actuarial Standards of Practice (ASOP) No. 12

Specifically, examiners may:

- Review the life insurer's underwriting practices and underwriting guidelines during an examination or upon initial submission of the policy rates and forms and confirm the proper use of the data elements.
- Request that explanation provided to the consumer for any negative action taken by the life insurer adequately informs the consumer as to why a particular action was taken without the consumer having to make additional inquiries.
- Request information about source data regardless of whether the data or score is provided by a third party.

Form and rate reviewers may:

- Request that the life insurer provides information about how a predictive model or machine learning algorithm will be used.
- Consider requiring the filing of models used to analyze data.
- Consider questioning the extent to which data elements correlate to applicant risk.
- Request information about source data regardless of whether the data or score is provided by a third party.

Life insurers have a responsibility to understand the data they are using. To accomplish this, life insurers should conduct post-issue audits and data analysis. For example, analyses such as evaluating claims and lapse rates may be helpful. Life insurers and third-party vendors should ensure data inputs are accurate and reliable.

Life insurers and third-party vendors should ensure that the external data sources, algorithms, or predictive models are developed with sufficient internal controls and oversight and based on sound actuarial principles with a valid explanation or rationale for any claimed correlation and causal connection.

Data Privacy

Data privacy—a consumer's ability to retain control over what data can be shared about them and with whom—is not a concern unique to accelerated underwriting in life insurance. Protecting consumer privacy is an issue across all lines of insurance and is the subject of the NAIC Privacy Protections (D) Working Group, formed in 2019 under the parent committee of Market Regulation and Consumer Affairs (D) Committee.

The Working Group's charge is to review the state insurance privacy protections regarding the collection, use, and disclosure of information gathered in connection with insurance transactions, and make recommended changes, as needed, to certain NAIC models and other existing federal or state statutes.⁷

⁷ The Working Group has focused its reviews on the Insurance Information and Privacy Protection Model Act #670, and the Privacy of Consumer Financial and Health Information Regulation Model Act #672 – both drafted in response to the enactment of GLBA, and #668 – the Insurance Data Security Model Act, enacted in 2019/20. With a great deal of research assistance from NAIC Legal Staff, the Working Group prepared a gap analysis – upon which it continues to work. The Working Group is also reviewing the consumer data privacy protections other than those already in these models, such as the numerous provisions contained in federal acts such as the Fair Credit Reporting Act {FCRA}, the Gramm-Leach Bliley Act {GLBA}, the Health Insurance Portability and Affordability Act {HIPAA}, Electronic Health Records {EHR}, etc. The Working Group is also analyzing the various provisions of recently enacted legislation, such as California's Consumer Privacy Act {CCPA} and its Consumer Data Privacy Regulation {CCPR}, Virginia's and Colorado's recently enacted Consumer Privacy Protection laws, certain provisions of the European General Data Protection Regulation {GDPR}, the NAIC's Record Retention Model Regulation and the NAIC's Unfair Claims Practice Model Act {UCA}. There are a lot of jurisdictional issues that remain to be sorted through.

The primary focus of the Working Group is on the six consumer data privacy rights or types of consumer data privacy protections identified in the NAIC's Member adopted *Strategy for Consumer Data Privacy Protections* policy statement. The secondary focus is on issues such as notice requirements and standards, disclosure of information collected, disclosure of shared information, requirements to disclose sources of information, requirements to disclose business purposes, and a requirement to disclose third party involvement. The current assignments for the Working Group are intended to create a framework for the policy statement: defining the parameters of these consumer rights by offering suggested definitions, examples of consumer risks, and what may not be protected in federal laws or not covered under NAIC Model laws.

The Privacy Protections Working Group's policy statement will address the following consumer privacy rights:⁸

- 1) Right to opt-out of data sharing
- 2) Right to opt-in of data sharing
- 3) Right to correct information
- 4) Right to delete information
- 5) Right to data portability
- 6) Right to restrict the use of data⁹

The Accelerated Underwriting (A) Working Group will continue to watch the work of this group. If at any point issues unique to accelerated underwriting arise, we will endeavor to address them in a future work product.

⁸ For purposes of the Working Group's paper, the use of the term "right" should be read as a basic protection, or, denoting access to making a request and not as a guarantee of having the requested right acted upon in the manner as the consumer requests.

⁹ for purposes of the Working Group's paper there is a distinction between an individual's data and information that results from the use of this data, *e.g.*, the insurance score that results from the use of an algorithm.

Appendix A: Additional Procedural Background

At the 2019 NAIC Summer National Meeting, the Life Insurance and Annuities (A) Committee discussed a referral it had received from the Big Data (EX) Working Group. The Big Data Working Group had discussed the use of predictive models in accelerated underwriting in life insurance, instead of medical examinations and the collection of fluids. The Big Data Working Group agreed that the issue would be most appropriately addressed by the life insurance subject matter experts and voted to refer the issue of the use of external data and data analytics in accelerated underwriting in life insurance to the Life Insurance and Annuities (A) Committee (Committee).¹⁰

The Committee discussed the referral and acknowledged that there are a multitude of issues surrounding insurers' use of data models and data analytics; issues that extend into many areas of insurance and overlap with the work of several groups at the NAIC. In addition to the Big Data (EX) Working Group, there is the Innovation and Technology (EX) Task Force, the Artificial Intelligence (EX) Working Group, the Casualty Actuarial and Statistical (C) Task Force, and the Privacy Protections (D) Working Group. The Life Actuarial Task Force was also looking at the use of accelerated underwriting in life insurance from an actuarial perspective, including looking at any potential impact on insurer solvency.

The Committee agreed that an effort to delve into accelerated underwriting in life insurance would need to be narrowly focused while taking into account the work of these other NAIC groups touching on the same topic.

Robert Muriel (IL) chaired the Working Group and Grace Arnold (MN) was the vice-chair. The following were Working Group members: Jason Lapham (CO); Russ Gibson (IA); Rich Piazza (LA); Cynthia Amann (MO); Rhonda Ahrens and Laura Arp (NE); Ross Hartley and Chris Aufenthie (ND); Lori Barron (OH); Elizabeth Kelleher Dwyer (RI); Lichiou Lee (WA); Mark Afable (WI). In January 2021, Commissioner Afable became chair of the Working Group and the rest of the membership remained the same.

The Working Group met for the first time on Oct 2, 2019, and developed a work plan to accomplish its charge. The work plan contemplated the Accelerated Underwriting (A) Working Group progressing through three phases with the goal of completing its charge by the 2020 Fall National Meeting. The first phase was focused on information-gathering. The second phase focused on identifying the issues and deciding on a work product, with the final phase devoted to drafting.

During the information gathering phase, the Working Group heard 15 presentations from varying stakeholders, including an academic (Professor Patrick Brocket¹¹), insurance companies, consulting firms (Deloitte and Milliman), a consumer advocate (Birny Birnbaum—CEJ), the American Academy of Actuaries, lawyers from 2 Illinois law firms (Foley & Lardner and Edelson), a machine learning assurance company (Monitaur), and a data analytics company (Verisk). Several of the presentations were held in regulator-only meetings when requested by presenters in order to share proprietary and confidential company-specific information.

Regulators from the Working Group volunteered to participate in two ad hoc groups to tackle the second and third phases of its work plan: There was an ad hoc NAIC liaison group to ensure awareness of and coordination with any work, including guidelines or protocols, developed by other NAIC groups, past and present, that related to the Working Group. There was also an ad hoc drafting group that agreed to take the information gathered, identify issues, recommend and draft a work product for review and approval by the Working Group.

¹⁰ See NAIC Proceedings – Spring 2019, Innovation and Technology (EX) Task Force, Attachment Two.

¹¹ Gus Wortham Chair in Risk Management and Insurance at the University of Texas at Austin and Editor, North American Actuarial Journal.

In November 2020, the ad hoc drafting group shared with the Accelerated Underwriting (A) Working Group a proposed draft outline for an educational report exploring accelerated underwriting in life insurance to provide guidance to regulators, industry, and consumer advocates, and other stakeholders. In February 2021, the ad hoc groups merged.

Appendix B: Machine Learning/ Artificial Intelligence Definition in 6/24/21 Draft Big Data and Artificial Intelligence (EX) Working Group Survey on private passenger automobile (PPA) insurers' use and governance of big data.

Artificial Intelligence/Machine Learning (AI/ML)

AI/ML describes an automated process in which a system begins recognizing patterns without being specifically programmed to achieve a pre-determined result. This is different from a standard algorithm in that an algorithm is a process or set of rules executed to solve an equation or problem in a pre-determined fashion. Evolving algorithms are considered a subset of AI/ML.

Artificial Intelligence / Machine Learning Systems include:

- Systems that adapt and adjust to new data and experience without manual human intervention.
- Systems that arrive at results for which the outcomes and the stepwise approach toward the outcomes were not configured in advance by a human programmer.
- Systems that dynamically respond to conditions in the external environment without the specific nature of such responses being known in advance to the designers of the systems.
- Systems that utilize neural networks and/or deep-learning algorithms, such as supervised, semi-supervised, and unsupervised learning algorithms.
- Systems that engage in automatic speech recognition, facial recognition, image recognition, text recognition, natural language processing, generation of customer-specific recommendations, automated customer communications (e.g., chatbots with non-preprogrammed prompts), autonomous or semi-autonomous vehicle operation or data gathering, or any other approach that does not require either preprogramming or a manual human intervention in every instance of an action or decision.
- Systems that automatically generate adaptive responses based on interactions with a consumer or third party.
- Systems that determine which data elements to rely upon, in a non-preprogrammed fashion, among a variety of possible alternatives.

Artificial Intelligence / Machine Learning Systems are not:

- Static “scorecards” that deterministically map consumer or other risk characteristics to treatments or decisions. (However, an AI/ML system may use the output of such static “scorecards” as input data for the AI/ML system to consider.)
- Systems with solely preprogrammed decision rules (e.g., “If A, then B” applied invariably in all situations).
- Tables of point or factor assignments in rating plans.
- Static rate making and/or predictive modeling methodologies, including linear regression, generalized linear modeling (GLM), or generalized additive modeling (GAM). Purely informational static databases, such as databases used to obtain reference amounts for claim settlements, or static databases pertaining to consumer characteristics or experience, regardless of the amount of information in the database. However, if AI/ML is used to create a static predictive model, that AI/ML system is considered within the scope of this survey.
- Deterministic “phone trees” that navigate consumers through pre-recorded voice prompts.

- Any approach that an insurer could have realistically utilized in the year 2000 or prior.

AI/ML Use Descriptions and/or Explanations

- **Underwriting: AI/ML Uses**
 - Automated Approval: Approving an application without human intervention on that particular application.
 - Automated Denial: Denying an application without human intervention on that particular application.
 - Underwriting Tier Determination: Decisions regarding the criteria to use to establish specific named or numbered categories (called tiers) which utilize combinations of attributes that affect an insurer's underwriting decision.
 - Company Placement: Decisions regarding which of several affiliated companies within an insurance group will accept an individual risk.
 - Input into Non-Automated Approval Decision: Providing data, analysis, or recommendations regarding a decision to approve an application in a situation where a human decision-maker still has the ability and responsibility to affirmatively consider this information and make a decision independently of the AI/ML system. In this situation, the AI/ML system cannot automatically approve the application, and protocols exist that ensure that each recommendation from the AI/ML system is actively reviewed and not adopted by default.
 - Input into Non-Automated Denial Decision: Providing data, analysis, or recommendations regarding a decision to deny an application in a situation where a human decision-maker still has the ability and responsibility to affirmatively consider this information and make a decision independently of the AI/ML system. In this situation, the AI/ML system cannot automatically deny the application, and protocols exist that ensure that each recommendation from the AI/ML system is actively reviewed and not adopted by default.
 - Automate Processing Thru the Agency Channel: Enabling agencies to receive certain information about applicants automatically without specifically requesting that information and/or to provide quotes to the applicants and/or recommend a decision regarding the application to the agent without being based on preprogrammed decision rules.

CHAIR REPORT

LIFE INSURANCE ILLUSTRATION ISSUES (A) WORKING GROUP

Per the request of the Life Insurance and Annuities (A) Committee, this report provides an overview of the Life Insurance Illustrations (A) Working Group's (LIIWG) history and progress to date. The report also includes the Chair's recommendations regarding the future direction of the Working Group.

In 2016, concerns were raised at the NAIC regarding consumer understanding of complex life insurance products such as indexed universal life products. The A Committee decided to address these concerns by forming a Working Group to explore how consumer understanding for all life insurance products could be improved. The Working Group was given a broad charge over all life products and the charge was not limited to indexed universal life products.

The LIIWG is charged to:

Explore 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 the *Life Insurance Disclosure Model Regulation* (#580) 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.

Current Summary Disclosure Requirements in NAIC Model Regulations

Before discussing the working group, I believe it is helpful to understand the current requirements in the NAIC model regulations that are part of the working group's charge. The model regulations take a two-track approach to consumer disclosure requirements. Policies are divided into those identified to be marketed with an illustration and those identified to be marketed without an illustration.

No policy is required to be illustrated, however, those policies that are illustrated must follow the requirements of the *Life Insurance Illustrations Model Regulation* (# 582) (Illustrations Model). Specifically relevant to the working group's charge, illustrations must contain a "narrative summary" that is a "brief description of the policy being illustrated." This description must include things such as the premium outlay, a description of any policy features shown in the illustration, and definitions of key terms used in the illustration.

For policies that are not illustrated, the *Life Insurance Disclosure Model Regulation* (#580) (Disclosure Model) requires that the policyholder be provided with a "policy summary" which is defined "as a written statement describing the elements of the policy." The information that must be provided in a policy summary includes the annual premium for the basic policy and each optional rider, the amount payable upon death, the total guaranteed cash surrender value and information regarding policy loan interest rates.

Under the two model regulations, a policyholder will always receive some form of summary disclosure, either in the form of the narrative summary accompanying an illustration or a policy summary for the unillustrated products. However, while there is some overlap, the information required for each summary is not exactly the same.

History of Working Group Activity

To complete its charge, the Working Group first decided that it needed to review current narrative summaries and policy summaries to identify any issues that could be addressed to improve consumer understanding. The Working Group requested, and the American Council of Life Insurers (ACLI) compiled, sample narrative summaries and policy summaries for the three main types of life insurance products: term, whole and universal life. The Working Group established an ad hoc subgroup consisting of regulators, life insurers and consumer representatives to review these summaries to identify areas that could be improved.

During this review, several issues were identified as hampering the usefulness of narrative and policy summaries in promoting consumer understanding of life products. (See, for example, *NAIC Proceedings – Summer 2016, Life Insurance and Annuities (A) Committee, Attachment Five and NAIC Proceedings – Spring 2017, Life Insurance and Annuities (A) Committee,*

Attachment Nine-A). One overarching issue identified was that the narrative and policy summaries were often not designed as direct consumer disclosures. They were designed to be explained to the consumer by a financial professional and serve as a tool for the key features of the policy to be identified by a financial professional. To make these documents more consumer friendly would, to a certain extent, require a change in the audience they were written for.

The group also identified three specific issues with the summaries themselves. First, it was determined that current summary disclosures were quite lengthy which impeded consumer understanding. For example, summary disclosures for even simple term policies often ran to ten or more pages. Given the length of these summaries, it could be difficult for a consumer to locate key features of the policy.

Second, the summaries showed variations in layout and the accessibility of the language used. As can be expected, the samples varied in quality between different insurers and some samples were more consumer-friendly than others. Some summaries also contained puffery or marketing language that were not necessarily directly related to the purpose of the disclosure.

Third, the structure of the model regulations drove some of the issues with the summary's length and made them less consumer friendly. For example, the narrative summary requires that key terms in the illustration be described and defined. These definitions would often run several pages. While these definitions are important to understanding the illustration, they run counter to the narrative summaries purpose to provide a "brief" description of the policy. Similarly, the policy summary requires a five-year illustration of the policy's premium and benefit patterns that serves as a kind of "mini-illustration." Thus, both the narrative summary and policy summary work to cross purposes to some degree as they are required to be both brief summaries of the policy and to provide comprehensive information.

While the ad hoc group was reviewing the sample documents, a consensus emerged between the life insurers, regulators and consumer representatives as to how the Working Group could meet its charge. There was agreement that a one or two-page summary disclosure or "Policy Overview" should be created that only listed a policy's key features. This document would be created specifically for consumers while leaving the current structure of the narrative and policy summaries in place. The consensus was that current summaries served important purposes such as defining key terms and providing the "mini-illustration," but that the key features of the policy should be listed in a more accessible way.

This context is important to address one of the comments made by the ACLI. Specifically, that the Working Group did not identify any specific issues or problems with current summaries. As stated, the ad hoc group did in fact identify specific issues that hindered consumer understanding of life insurance products. More importantly, a consensus developed that a Policy Overview document would be helpful to consumers and meet the working group's charges. With agreement from all interested parties, including the life insurer representatives, on exploring a possible solution, there was little value in spending a great deal of time indexing issues beyond those already noted in the meeting minutes.

Development of a Policy Overview Document

To develop the Policy Overview, the Working Group started by identifying the key elements that consumers should be aware of in purchasing a life insurance policy. To complete this task, the Working Group started with simple term products before identifying key features in whole and universal life products. The key elements identified by the Working Group include basic features of the policy such as the premium, benefit amount, loan and investment features, riders and other benefits. It also included elements that would be unique to each type of life product such as the term of the policy or a description of the cost of insurance charges for universal products.

After identifying the key elements, the Working Group began developing revisions to the Disclosure Model to create the legal structure for the adoption of the Policy Overview. Changes were made to the Disclosure Model to require a short, consumer-friendly disclosure containing the required key elements that would be provided in the same form for illustrated and non-illustrated products¹. While there was general agreement on the key elements to be included in the Policy Overview, there were a couple of issues where there was not consensus that I will highlight.

The first area of disagreement was whether the Policy Overview should have a required format or whether insurers should be given latitude as to how they developed the Policy Overview. Consumer representatives argued that the Policy Overview should

¹ The working group considered adopting this policy overview as a cover page to the narrative summary of an illustration or to the policy summary for the non-illustrated products. As discussions progressed a consensus emerged that the policy overview should be a separate document that was provided to the consumer in the same form for illustrated and non-illustrated products.

be delivered on a required template so that consumers could compare products from different insurers. The life insurance industry supported more flexibility arguing that life insurers needed to have the ability to customize the Policy Overview to their specific products. The Working Group determined that a template would not be required but that the Working Group would develop sample Policy Overviews that insurers could use as an example in creating the Policy Overview.

The second issue of disagreement involved the delivery requirement for the Policy Overview. The current delivery requirement in the Disclosure Model requires that the buyer's guide and policy summary be delivered "prior to accepting the applicant's initial premium" or if the "policy for which application is made contains an unconditional refund provision" delivery may be made with the policy. Some regulators and the life insurance industry supported keeping the current delivery requirement. However, other regulators and consumer representatives argued that the Policy Overview should be required to be delivered at the time of application. They argued that the Policy Overview would be of most use to consumers prior to purchase and that the delivery of the Policy Overview at application would not be burdensome due to changes in technology that made delivery easier.

Because there was no consensus from the Working Group on the delivery requirement, the Working Group requested that the Life Insurance and Annuities (A) Committee provide direction on what the delivery requirement should be. The Chair of the Committee at the time instructed the Working Group to draft the model law changes in the alternative so that the Committee could decide the issue of timing of delivery.

Attached to this report are two version of the amendments to the Disclosure Model. Attachment A contains the amendments to the model law to adopt a Policy Overview without changing the delivery requirement, i.e., delivery at the time of policy delivery if there is a free look period. Attachment B contains the amendments to the model law to adopt the Policy Overview with language that requires that the Policy Overview be delivered at application². The delivery language included was modified from the Annuity Disclosure Model Law (#245). That language reads:

Where the application for a life insurance policy is taken at a face-to-face meeting, the applicant at or before the time of application shall be given the Policy Overview. Where the application for a life insurance policy is taken by means other than in a face-to-face meeting, the applicant shall be sent the Policy Overview not later than five business days after the receipt of the application.

After completing work on the revisions to the Model Regulation, the Working Group turned to developing the sample Policy Overview. The Working Group looked for existing disclosure documents that might serve as a starting point for the development of the Policy Overview. It was noted that in 2007 the ACLI developed a drafting guide and focus-group tested templates for insurers to develop annuity disclosures "in a truly consumer-friendly manner." The Working Group asked the ACLI and its members if they would be willing to develop similar templates for the proposed Policy Overview. The ACLI declined the working group's invitation to do so. Nevertheless, the Working Group used these annuity disclosure templates as the base to build the Policy Overview samples.

In early 2021, the Working Group completed its development of sample Policy Overviews for term products after incorporating comments from the life insurance industry, consumer representatives, and regulators³. Attachment C to this report is the sample Policy Overview with the current delivery requirements. Attachment D contains the sample Policy Overview for a delivery requirement at application. The Working Group decided to present the attached draft model law revisions and sample Policy Overviews to the Life Insurance and Annuities (A) Committee for consideration and for further guidance. The Committee issued a request for comment on these drafts from interested parties on August 11, 2021.

Chair's Recommendations

² It should also be noted that there are some minor differences in the key data elements for the alternative revisions to account for the different delivery requirements. For example, the revisions for delivery at application require an estimated premium versus the actual premium since the actual premium would not be known prior to underwriting.

³ While work on the sample templates was ongoing, in 2020 ACLI informed the A committee that it opposed the enactment of a policy overview document arguing that it would not enhance consumer understanding of life insurance products. ACLI also declined to provide comments on the sample policy overviews to be delivered at application because of their opposition to changing the delivery requirement.

After review of the comments received from interested parties and discussions with members of the Committee, the following are my recommendations as Chair for the future of the Working Group. These recommendations are based solely on my opinion and have not been adopted by the Working Group.

The comments received by the Life Insurance and Annuities (A) Committee show that there is not a consensus regarding whether the proposed Policy Overview will aid consumers in understanding life products. ACLI, Finseca, the National Association of Insurance and Financial Advisors (NAIFA), the National Alliance of Life Companies (NALC) and the states of Ohio and Utah all expressed opposition to the adoption of a Policy Overview requirement. While the comments differed to various degrees, they all expressed concern that an additional consumer disclosure will only serve to further confuse consumers or provide little additional value.

Consumer Representatives Brenda Cude and Birny Birnbaum as well as the state of New York expressed support for the development of the Policy Overview. They argue that the Policy Overview would be helpful to consumers and serve to increase consumer understanding of life products.

Both sides of the issue make valid points regarding the proposed Policy Overview and it is not possible to determine whether the Policy Overview will aid consumers without it being used in the marketplace. This new disclosure may aid consumers by providing a simple way to access key information or it may create confusion or simply be redundant. At this point, it is simply a matter of opinion whether or not this document would improve consumer understanding. This uncertainty, in my opinion, argues against the adoption of NAIC model law revisions to require a Policy Overview.

First, one of the NAIC's criteria for adoption of a model law is that the issue calls for a minimum national standard. There is currently a minimum national standard for consumer disclosures in the Illustrations and Disclosure models. To adopt significant changes to this national standard and encourage states to adopt them, there should be relative certainty and agreement that the revisions will have the desired effect. As noted, it is untested and a matter of disagreement whether or not the Policy Overview will aid consumers.

In many instances, NAIC model laws are based on regulations or laws that have been enacted by some states or other regulators. To my knowledge, no state has adopted a summary disclosure requirement such as the one that is being contemplated by the working group. This is an area where the state's strengths as laboratories for policy change should be utilized and where a top-down approach seems inappropriate. To be clear, the Policy Overview that was developed may be an effective way to aid consumer understanding of life products but until this idea is tried by some states it is not clear this should be adopted as a best practice and national standard by the NAIC.

Second, based on the comment letters and my discussions with commissioners, I question whether the proposed model meets the NAIC's requirement for the approval of a model law. Adoption of a model law requires approval by two-thirds of the NAIC members. Voting to approve indicates that the member will support adoption of the model in their state as a priority. Three states submitted comments on the adoption of a Policy Overview, two opposed the changes and one state supported it. Among the states that have not commented, I have not received an indication that the adoption of a summary disclosure for life insurance is currently a top priority of their state.

For these reasons, it is my recommendation that the Life Insurance and Annuities (A) Committee not adopt the Policy Overview revisions as a model law change. For states that are interested in pursuing regulation in this area, the revisions that were developed by the Working Group are attached to this report and can be used as a starting point for individual states that wish to enact a Policy Overview or similar summary disclosure requirement. If summary disclosures of life insurance products prove effective in educating consumers, the NAIC can always revisit whether such requirements should be adopted as a national standard with the benefit of the experience of those states.

In summary, I recommend that the Committee consider adopting this report as the final report of the Working Group and the Working Group be disbanded. By adopting this report, the revisions the Working Group has developed will be available for individual states to consider when exploring the possibility of enacting a summary disclosure requirement.

Finally, I would like to thank all the members of the Working Group for their time and commitment and their insightful comments on how we could improve consumer understanding of life insurance products. It is my hope that the life insurance industry can use some of these insights in drafting more consumer-friendly disclosures.

Attachment A

Revision marks show changes to existing model.
DRAFT April 20, 2021 (Current Delivery Requirement)

LIFE INSURANCE DISCLOSURE MODEL REGULATION

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Section 2.	Purpose
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Section 1. Authority

This rule is adopted and promulgated by the commissioner of insurance pursuant to [insert state equivalent to Section 4A(1) of the Unfair Trade Practices Act] of the Insurance Code.

Drafting Note: Insert title of chief insurance regulatory official wherever the term “commissioner” appears.

Section 2. Purpose

- A. The purpose of this regulation is to require insurers to deliver to purchasers of life insurance information that will improve the buyer’s ability to select the most appropriate plan of life insurance for the buyer’s needs and improve the buyer’s understanding of the basic features of the policy that has been purchased or is under consideration.
- B. This regulation does not prohibit the use of additional material that is not a violation of this regulation or any other [state] statute or regulation.

Section 3. Scope

- A. Except for the exemptions specified in Section 3B, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. Section 5B shall apply only to an existing nonexempt policy held by a policyowner residing in this state. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.
- B. This regulation shall not apply to:
 - (1) Individual and group annuity contracts;
 - (2) Credit life insurance;
 - (3) Group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy);

- (4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 *et seq.* as amended; or
- (5) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

Section 4. Definitions

For the purposes of this regulation, the following definitions shall apply:

- A. “Buyer’s Guide” means the current Life Insurance Buyer’s Guide adopted by the National Association of Insurance Commissioners (NAIC) or language approved by the commissioner.
- B. “Current scale of nonguaranteed elements” means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.
- C. “Illustration” means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years that is subject to [insert state equivalent to *Life Insurance Illustrations Model Regulation* (#582)].
- D. “Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.
- E. “Policy data” means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values and endowment benefits.
- F. “Policy Overview” means a brief summary of the policy prepared in accordance with this regulation and an example may be found in Appendix A.
- G. “Guaranteed Premium and Benefit Patterns Summary” is a separate document that accompanies the Policy Overview where the insurer has identified the policy as one that will not be marketed with an illustration.
- H. “Preneed funeral contract or prearrangement” means an agreement by or for an individual before that individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

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 Overview to all prospective purchasers. Delivery of the Policy Overview shall be consistent with the time for delivery of the Buyer’s Guide as specified in Paragraph (1). Insurers should endeavor to limit the length of the Policy Overview to the minimum length necessary to reasonably inform consumers of the information required to be included in the Policy Overview. The Policy Overview is not required to be in a specific format beyond the requirements of this Section. The Policy Overview must be prepared in language and in a format that would be understood by a typical person within the segment of the public to which the policy

is directed. A sample Policy Overview that meets the requirements of this Section is provided in Appendix A. A Policy Overview shall include the following topics with appropriate headings

- (a) An introductory section containing the following language: “This document lists this insurance policy’s key features and benefits. You can get a similar summary of key policy features from other insurance companies to help you compare similar policies. If you have questions about life insurance generally or other types of policies, the National Association of Insurance Commissioners has useful information at <https://content.naic.org/consumer/life-insurance.htm/>. If you have questions about this particular life insurance policy, ask the agent, broker, advisor, or a company representative. If you have questions about company or agent licensing, contact [insert reference to state department of insurance].;”
- (b) “Company [and Agent Information]” which shall contain the name, address, email address and phone contact information of the insurance company and insurance agent, if an agent is involved;
- (c) “Information We Use to Determine Your Premium” which shall include the following information about the policy owner and insured, as applicable:
- (i.) A brief description of the data elements that the insurer collects from the applicant and other sources that are used to determine an applicant’s premium;
 - (ii.) A brief description of the policy features that will affect the amount of premium such as the amount of the death benefit and optional riders;
 - (iii) How risk class is assessed to generate the quote.;
- (d) “Cost Information” which shall include the following information, as applicable:
- (i) An explanation of how much the life insurance policy costs or is estimated to cost at the time of application, including initial premium or the estimated premium quoted at the time of application and an explanation of differences in costs based on premium mode selected;
 - (ii) A summary of the available options for funding the policy and the minimum funding needed to maintain the policy in force;
 - (iii) An explanation of whether the premium can vary and, if so, how the premium will be determined;
 - (iv) An explanation of any costs associated with cancelling the policy (i.e. surrender charges) and, if yes, the period of time the charges apply or, if no, whether any money is eligible to be returned;
 - (v) If applicable, a narrative description of fees other than premium;
 - (vi) If applicable, a narrative explanation of the cost of insurance fee, how the cost of insurance fee changes with age, a narrative explanation of the net amount of risk to which the fee will apply, and the maximum allowable cost of insurance fee allowed under the policy.
- (e) “Policy Information” which shall include the following information, as applicable:
- (i) Policy type (Including single or joint policy);
 - (ii) Policy name;

- (iii) State of issue;
 - (iv) An indication of whether the policy is term or permanent life insurance, and if it is term insurance, the length of the initial term, including whether and how the term may be extended;
 - (v) If the Policy Overview is provided prior to underwriting, a general description of what the policyholder needs to do to obtain the policy
 - (vi) If the Policy Overview is provided prior to underwriting, the following statement: “In the course of considering an insured’s application, an insurer may request or collect health information about the insured in variety of ways.” The statement shall indicate whether a physical examination or questionnaire will be required.
 - (vii) Death benefit or the death benefit as applied for;
 - (viii) A yes or no indication of whether the death benefit can change, and if yes, a summary of the reasons and timing for a change in the death benefit;
 - (ix) Policy loan options and applicable charges.
- (f) “Additional Policy Benefits” which shall include the following information, as applicable:
- (i) A yes or no indication of whether a waiver of premium or deductions option is available, and if yes, a summary of the options available;
 - (ii) A yes or no indication of whether policy conversion options exist and, if yes, a ~~brief~~ summary of conversion options available;
 - ~~(iii) If the policy has a term, a yes or no indication of whether there are o~~
 - (iv) A yes or no indication of the availability of optional riders and, if yes, a summary of how the insured may obtain additional information regarding the availability and costs of optional riders;
 - (vi) A yes or no indication of any living benefit option(s), and if yes, a summary of the option(s);
 - (vii) A yes or no indication of whether the policy can accumulate cash value, and if yes, a summary of the benefit;
 - (viii) A yes or no indication of whether there are guaranteed interest rates on fixed accounts and, if yes, the amount of the guaranteed interest rate;
 - (ix) A yes or no indication of whether there are indexed account options and if yes, a summary of how the insured may obtain additional information regarding indexed account options.
- (3) The insurer shall provide a Guaranteed Premium and Benefits Patterns Summary to prospective purchasers where the insurer identified the policy form as one that will not be marketed with an illustration. Delivery of the Guaranteed Premium and Benefits Patterns Summary shall be consistent with the time for delivery of the Buyer’s Guide as specified in Paragraph (1). The Guaranteed Premium and Benefits Pattern Summary shall show guarantees only and include 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 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. The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty (60) through sixty-five (65) and policy maturity:

- (a) The annual premium for the basic policy;
- (b) The annual premium for each optional rider;
- (c) The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;
- (d) The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
- (e) Any endowment amounts payable under the policy that are not included under cash surrender values above;
- (f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the Guaranteed Premium and Benefits Patterns Summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

B. Requirements Applicable to Existing Policies.

- (1) Upon request by the policyowner, the insurer shall furnish either policy data or an in force illustration as follows:
 - (a) For policies issued prior to the effective date of [insert state equivalent to Life Insurance Illustrations Model Regulation], the insurer shall furnish policy data, or, at its option, an in force illustration meeting the requirements of [insert state equivalent to Life Insurance Illustrations Model Regulation].
 - (b) For policies issued after the effective date of the illustration regulation that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of the regulation.
 - (c) If the policy was issued after the effective date of the illustration regulation and declared to be used with an illustration, an in force illustration shall be provided.
 - (d) Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee, not to exceed \$[insert amount], for the preparation of the statement.

- (2) If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies; it shall, no later than when the first payment is made on the new basis, advise each affected policy owner residing in this state of this change and of its implication on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed \$5,000.
- (3) If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor; it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this state.

Section 6. Preneed Funeral Contracts or Prearrangements

The following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit; for a preneed funeral contract or prearrangement that is funded or to be funded by a life insurance policy:

- A. The fact that a life insurance policy is involved or being used to fund a prearrangement;
- B. The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;
- C. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;
- D. The impact on the prearrangement:
 - (1) Of any changes in the life insurance policy including but not limited to, changes in the assignment, beneficiary designation or use of the proceeds;
 - (2) Of any penalties to be incurred by the policyholder as a result of failure to make premium payments;
 - (3) Of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;
- E. A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;
- F. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;
- G. Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee; and

Drafting Note: States should consider whether the insurance regulator has the authority to enforce the provisions of Subsections E, F and G.

- H. If so, the fact that a sales commission or other form of compensation is being paid and the identity of the individuals or entities to whom it is paid.

Section 7. General Rules

- A. Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document authorized and used by the insurer pursuant to this regulation. The file shall contain one copy of

each authorized form for a period of three (3) years following the date of its last authorized use unless otherwise provided by this regulation.

- B. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.
- C. An insurance producer shall not use terms such as “financial planner,” “investment advisor,” “financial consultant,” or “financial counseling” in such a way as to imply that he or she is primarily engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.
- D. Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company’s current scale of nonguaranteed elements (use appropriate special term such as “current dividend” or “current rate” scale.) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued after the effective date of the [insert citation to state equivalent to Life Insurance Illustrations Model Regulation] that includes nonguaranteed elements over a period of years shall be governed by that regulation.

Section 8. Failure to Comply

Failure of an insurer to provide or deliver a Buyer’s Guide, an in force illustration, a policy summary or policy data as provided in Section 5 shall constitute an omission that misrepresents the benefits, advantages, conditions or terms of an insurance policy.

Section 9. Separability

If any provisions of this rule be held invalid, the remainder shall not be affected.

Section 10. Effective Date

This rule shall become effective [insert a date at least 6 months following adoption by the regulatory authority].

Attachment B

Revision marks show changes to existing model.
DRAFT April 20, 2021 (At Application)

LIFE INSURANCE DISCLOSURE MODEL REGULATION

Table of Contents

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Section 10.	Effective Date

Section 1. Authority

This rule is adopted and promulgated by the commissioner of insurance pursuant to [insert state equivalent to Section 4A(1) of the Unfair Trade Practices Act] of the Insurance Code.

Drafting Note: Insert title of chief insurance regulatory official wherever the term “commissioner” appears.

Section 2. Purpose

- A. The purpose of this regulation is to require insurers to deliver to purchasers of life insurance information that will improve the buyer’s ability to select the most appropriate plan of life insurance for the buyer’s needs and improve the buyer’s understanding of the basic features of the policy that has been purchased or is under consideration.
- B. This regulation does not prohibit the use of additional material that is not a violation of this regulation or any other [state] statute or regulation.

Section 3. Scope

- A. Except for the exemptions specified in Section 3B, this regulation shall apply to any solicitation, negotiation or procurement of life insurance occurring within this state. Section 5B shall apply only to an existing nonexempt policy held by a policyowner residing in this state. This regulation shall apply to any issuer of life insurance contracts including fraternal benefit societies.
- B. This regulation shall not apply to:
 - (1) Individual and group annuity contracts;
 - (2) Credit life insurance;
 - (3) Group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy);

- (4) Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 *et seq.* as amended; or
- (5) Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account.

Section 4. Definitions

For the purposes of this regulation, the following definitions shall apply:

- A. “Buyer’s Guide” means the current Life Insurance Buyer’s Guide adopted by the National Association of Insurance Commissioners (NAIC) or language approved by the commissioner.
- B. “Current scale of nonguaranteed elements” means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.
- C. “Illustration” means a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years that is subject to [insert state equivalent to *Life Insurance Illustrations Model Regulation* (#582)].
- D. “Nonguaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.
- E. “Policy data” means a display or schedule of numerical values, both guaranteed and nonguaranteed for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values and endowment benefits.
- F. “Policy Overview” means a brief summary of the policy prepared in accordance with this regulation and an example may be found in Appendix A.
- G. “Guaranteed Premium and Benefit Patterns Summary” is a separate document that accompanies the Policy Overview where the insurer has identified the policy as one that will not be marketed with an illustration.
- H. “Preneed funeral contract or prearrangement” means an agreement by or for an individual before that individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

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 Overview to all prospective purchasers. Where the application for a life insurance policy is taken at a face-to-face meeting, the applicant at or before the time of application shall be given the Policy Overview. Where the application for a life insurance policy is taken by means other than in a face-to-face meeting, the applicant shall be sent the Policy Overview not later than five business days after the receipt of the application. The Policy Overview is a summary of the high level features and terms of the policy. Insurers should endeavor to limit the length of the Policy Overview to the minimum length necessary to reasonably inform consumers of

the information required to be included in the Policy Overview. The Policy Overview is not required to be in a specific format beyond the requirements of this Section. The Policy Overview must be prepared in language and in a format that would be understood by a typical person within the segment of the public to which the policy is directed. A sample Policy Overview that meets the requirements of this Section is provided in Appendix A. A Policy Overview shall include the following topics with appropriate headings:

- (b) An introductory section containing the following language: “This document lists this insurance policy’s key features and benefits. You can get a similar summary of key policy features from other insurance companies to help you compare similar policies. If you have questions about life insurance generally or other types of policies, the National Association of Insurance Commissioners has useful information at <https://content.naic.org/consumer/life-insurance.htm/>. If you have questions about this particular life insurance policy, ask the agent, broker, advisor, or a company representative. If you have questions about company or agent licensing, contact [insert reference to state department of insurance];”
- (c) “Company [and Agent] Information” which shall contain The name, address, email address and phone contact information of the insurance company and insurance agent, if an agent is involved.
- (c) “Information We Use to Determine Your Premium” which shall include the following information about the policy owner and insured, as applicable:
- (i.) A brief description of the data elements that the insurer collects from the applicant and other sources that are used to determine an applicant’s premium;
 - (ii.) A brief description of the policy features that will affect the amount of premium such as the amount of the death benefit and optional riders;
 - (iii) How risk class is assessed to generate the quote;
- (d) “Cost Information” which shall include the following information, as applicable:
- (i) An explanation of how much the life insurance policy is estimated to cost at the time of application, including the estimated premium and an explanation of the differences in cost based on premium mode selected;
 - (ii) A summary of the available options for funding the policy and the minimum funding needed to maintain the policy in force;
 - (iii) An of whether the premium can vary and, if so, how the premium will be determined;
 - (iv) An explanation of any costs associated with cancelling the policy (i.e. surrender charges) and, if yes, the period of time the charges apply or, if no, whether any money is eligible to be returned;
 - ~~(iv) A yes or no indication of whether there is an option to lower benefits to reduce premium;~~
 - (v) If applicable, a narrative description of fees other than premium;
 - (vi) If applicable, a narrative explanation of the cost of insurance fee, how the cost of insurance fee changes with age, a narrative explanation of the net amount of risk

to which the fee will apply, and the maximum allowable cost of insurance fee allowed under the policy

- (d) “Policy Information” which shall include the following information, as applicable:
- (i) Policy type (Including single or joint policy);
 - (ii) Policy name;
 - (iii) State of issue;
 - (iv) An indication of whether the policy is term or permanent life insurance, and if it is term insurance, the length of the initial term, including whether and how the term may be extended;
 - (v) A general description of what the policyholder needs to do to obtain the policy
 - (vi) The following statement: “In the course of considering an insured’s application, an insurer may request or collect health information about the insured in variety of ways.” The statement shall indicate whether a physical examination or questionnaire will be required;
 - (vii) Death benefit that is available or the death benefit as applied for;
 - (vi) A yes or no indication of whether the death benefit can change, and if yes, a summary of the reasons and timing for a changes in the death benefit;
 - (viii) Policy loan options and applicable charges.;
- (f) “Additional Policy Benefits” which shall include the following information, as applicable:
- (ii) A yes or no indication of whether a waiver of premium or deductions option is available, and if yes, a summary of the options available;
 - (ii) A yes or no indication of whether policy conversion options exist and, if yes, a summary of conversion options available;
 - (iii) A yes or no indication of the availability of optional riders and, if yes, a summary of how the insured may obtain additional information regarding the availability and costs of optional riders;
 - (iv) A yes or no indication of any living benefit option(s), and if yes, a summary of the option(s);
 - (v) A yes or no indication of whether the policy can accumulate cash value, and if yes, a summary of the benefit;
 - (vi) A yes or no indication of whether there are guaranteed interest rates on fixed accounts and, if yes, the amount of the guaranteed interest rate;
 - (vii) A yes or no indication of whether there are indexed account options and if yes, a summary of how the insured may obtain additional information regarding indexed account options.

- (3) The insurer shall provide a Guaranteed Premium and Benefits Patterns Summary to prospective purchasers where the insurer identified the policy form as one that will not be marketed with an illustration. Delivery of the Guaranteed Premium and Benefits Patterns Summary shall be consistent with the time for delivery of the Buyer's Guide as specified in Paragraph (1). The Guaranteed Premium and Benefits Pattern Summary shall show guarantees only and include 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 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. The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty (60) through sixty-five (65) and policy maturity:

- (a) The annual premium for the basic policy;
- (b) The annual premium for each optional rider;
- (c) The amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider; with benefits provided under the basic policy and each rider shown separately;
- (d) The total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;
- (e) Any endowment amounts payable under the policy that are not included under cash surrender values above;
- (f) The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the Guaranteed Premium and Benefits Patterns Summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law.

B. Requirements Applicable to Existing Policies.

- (1) Upon request by the policyowner, the insurer shall furnish either policy data or an in force illustration as follows:
- (a) For policies issued prior to the effective date of [insert state equivalent to Life Insurance Illustrations Model Regulation], the insurer shall furnish policy data, or, at its option, an in force illustration meeting the requirements of [insert state equivalent to Life Insurance Illustrations Model Regulation].
 - (b) For policies issued after the effective date of the illustration regulation that were declared not to be used with an illustration, the insurer shall furnish policy data, limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting the requirements of the regulation.
 - (c) If the policy was issued after the effective date of the illustration regulation and declared to be used with an illustration, an in force illustration shall be provided.

- (d) Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary. The statement of policy data shall include nonguaranteed elements according to the current scale, the amount of outstanding policy loans, and the current policy loan interest rate. Policy values shown shall be based on the current application of nonguaranteed elements in effect at the time of the request. The insurer may charge a reasonable fee, not to exceed \$[insert amount], for the preparation of the statement.

- (2) If a life insurance company changes its method of determining scales of nonguaranteed elements on existing policies; it shall, no later than when the first payment is made on the new basis, advise each affected policy owner residing in this state of this change and of its implication on affected policies. This requirement shall not apply to policies for which the amount payable upon death under the basic policy as of the date when advice would otherwise be required does not exceed \$5,000.

- (3) If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor; it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this state.

Section 6. Preneed Funeral Contracts or Prearrangements

The following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit; for a preneed funeral contract or prearrangement that is funded or to be funded by a life insurance policy:

- A. The fact that a life insurance policy is involved or being used to fund a prearrangement;

- B. The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person;

- C. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

- D. The impact on the prearrangement:
 - (1) Of any changes in the life insurance policy including but not limited to, changes in the assignment, beneficiary designation or use of the proceeds;
 - (2) Of any penalties to be incurred by the policyholder as a result of failure to make premium payments;
 - (3) Of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;

- E. A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

- F. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;

- G. Any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services or the prearrangement guarantee; and

Drafting Note: States should consider whether the insurance regulator has the authority to enforce the provisions of Subsections E, F and G.

- H. If so, the fact that a sales commission or other form of compensation is being paid and the identity of the individuals or entities to whom it is paid.

Section 7. General Rules

- A. Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document authorized and used by the insurer pursuant to this regulation. The file shall contain one copy of each authorized form for a period of three (3) years following the date of its last authorized use unless otherwise provided by this regulation.
- B. An agent shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a life insurance agent and inform the prospective purchaser of the full name of the insurance company which the agent is representing to the buyer. In sales situations in which an agent is not involved, the insurer shall identify its full name.
- C. An insurance producer shall not use terms such as “financial planner,” “investment advisor,” “financial consultant,” or “financial counseling” in such a way as to imply that he or she is primarily engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.
- D. Any reference to nonguaranteed elements shall include a statement that the item is not guaranteed and is based on the company’s current scale of nonguaranteed elements (use appropriate special term such as “current dividend” or “current rate” scale.) If a nonguaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to nonguaranteed elements. A presentation or depiction of a policy issued after the effective date of the [insert citation to state equivalent to Life Insurance Illustrations Model Regulation] that includes nonguaranteed elements over a period of years shall be governed by that regulation.

Section 8. Failure to Comply

Failure of an insurer to provide or deliver a Buyer’s Guide, an in force illustration, a policy summary or policy data as provided in Section 5 shall constitute an omission that misrepresents the benefits, advantages, conditions or terms of an insurance policy.

Section 9. Separability

If any provisions of this rule be held invalid, the remainder shall not be affected.

Section 10. Effective Date

This rule shall become effective [insert a date at least 6 months following adoption by the regulatory authority].

Attachment C

Term Life Sample (post UW)

ABC Insurance Co. Guaranteed Level Term

This document lists this insurance policy's key features and benefits. You can get a similar summary of key policy features from other insurance companies to help you compare similar policies. If you have questions about life insurance generally or other types of policies, the National Association of Insurance Commissioners has useful information at <https://content.naic.org/consumer/life-insurance.htm/>. If you have questions about this particular life insurance policy, ask the agent, broker, advisor, or a company representative. If you have questions about company or agent licensing, contact [insert reference to state department of insurance].

Company and Agent Information

ABC Insurance Company, 111 Half Street, Washington, DC
email@email.com
202-111-222

Prepared by Agent Joe Smith, 111 Main St., Kansas City, MO
email@email.com
816-111-222

Information We Use to Determine Your Premium

Policy Owner and Insured

This overview is prepared for John Smith for insurance on the life of John Smith.

Information We Obtain From You

Age
Sex
Family History
Tobacco Use
Occupation
Hobbies

Information We Obtain From Other Sources

Credit Reports
Motor Vehicle Registration
Auto, Home and other Insurance Claims
Driving Records
Medical Prescriptions
Criminal History

Policy Features that will Affect the Premium

Amount of the Death Benefit
Optional Riders

How We Assess Your Risk

We have X rate levels for (smokers/non smokers). John Smith's premium will be based on the Y best of the X levels.

Cost Information

What Does this Life Insurance Policy Cost?

The premium is \$AAA annually or \$BBB quarterly or \$CCC monthly. You may pay the premium monthly, quarterly or semi-annually or annually. If you pay premiums monthly, quarterly or semi-annually the total premium you pay will be more than if you pay annually.

Will my premium ever change?

The premium will stay the same for the initial term of the policy. After that term ends, the premium will increase each year if you chose to renew the policy.

Are there any costs if I decide to cancel the policy? Do I get any money back if I cancel the policy?

No, there are no costs to cancel this policy. However, if you do cancel this policy, you won't get any money back.

Policy Information

What is the name of this policy?

This is a policy to be issued in Wisconsin called Guaranteed Level Term.

Does the policy ever end? If so, what is the term of the policy

Yes. The policy ends when the term you choose (20 years) ends but you can choose to renew this policy each year until you are age 95. The premium will increase each year you renew the policy.

What is the death benefit?

The death benefit is \$500,000.

Can the death benefit change?

No, the death benefit will stay the same unless you ask, and the company agrees to increase it.

Can I take a loan from my policy?

No. You can't borrow money from this policy.

Additional Policy Benefits

Does the policy have a waiver of premium option?

Yes, you can buy a waiver of premium rider for an extra cost. A waiver of premium rider for this policy means you won't have to pay premiums after you've been totally disabled for at least 4 months.

Can I convert this policy to another type of life insurance?

Yes, you can convert this policy to a whole life insurance policy before the policy term ends, as long as you're younger than age 70.

Are there other policy enhancements or optional riders available for this policy?

Yes, there are other policy enhancements – know as riders. Ask the agent, broker, advisor, or a company representative offering this product about them.

Is there a policy option that allows me to access my death benefit while I'm alive?

Yes, for additional premium, you can get part of your death benefit before you die if you are terminally ill.

Does this policy accumulate cash value?

No. This policy provides no cash benefits other than the death benefit.

DRAFT

Attachment D

Term Life Sample (at application)

ABC Insurance Co. Guaranteed Level Term

This document lists this insurance policy's key features and benefits. You can get a similar summary of key policy features from other insurance companies to help you compare similar policies. If you have questions about life insurance generally or other types of policies, the National Association of Insurance Commissioners has useful information at <https://content.naic.org/consumer/life-insurance.htm/>. If you have questions about this particular life insurance policy, ask the agent, broker, advisor, or a company representative. If you have questions about company or agent licensing, contact [insert reference to state department of insurance].

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Information We Obtain From Other Sources

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Driving Records
Medical Prescriptions
Criminal History

Policy Features that will Affect the Premium

Amount of the Death Benefit
Optional Riders

How We Assess Your Risk

We have X rate levels for (smokers/non smokers). John Smith's premium will be based on the Y best of the X levels.

Cost Information

What Does this Life Insurance Policy Cost?

The premium is \$AAA annually or \$BBB quarterly or \$CCC monthly. You may pay the premium monthly, quarterly or semi-annually or annually. If you pay premiums monthly, quarterly or semi-annually the total premium you pay will be more than if you pay annually.

Will my premium ever change?

The premium will stay the same for the initial term of the policy. After that term ends, the premium will increase each year if you chose to renew the policy.

Are there any costs if I decide to cancel the policy? Do I get any money back if I cancel the policy?

No, there are no costs to cancel this policy. However, if you do cancel this policy, you won't get any money back.

Policy Information

What is the name of this policy?

This is a policy to be issued in Wisconsin called Guaranteed Level Term.

Does the policy ever end? If so, what is the term of the policy?

Yes. The policy ends when the term you choose (20 years) ends, but you can choose to renew this policy each year until you are age 95.

Can I extend the term of coverage?

Yes. After the initial term ends, you can renew this policy until you are age 95. The premium will increase each year you renew the policy.

What is the death benefit?

You have selected a death benefit of \$500,000 to generate this quote. You may select a death benefit between \$250,000 and \$2 million subject to underwriting approval.

Can I take a loan from my policy?

No. You can't borrow money from this policy.

What do I need to do to buy this policy?

You'll need to fill out an application. You also must go through an underwriting process. Underwriters review your application and decide if you're eligible to buy this policy, and, if you are, what your premium would be and how much coverage you could buy.

In the course of considering your application, an insurer may request or collect health information about you in a variety of ways. You might be approved to buy a policy without any information about your health. If you aren't, you may still be eligible for this policy, but you'll be required to fill out a health questionnaire and undergo a physical examination.

Additional Policy Benefits

Does the policy have a waiver of premium option?

Yes, you can buy a waiver of premium rider for an extra cost. A waiver of premium rider for this policy means that you won't have to pay premiums after you've been totally disabled for at least 4 months.

Can I convert this policy to another type of life insurance?

Yes, you can convert this policy to a whole life insurance policy before the policy term ends, as long as you're younger than age 70.

Are there other policy enhancements or optional riders available for this policy?

Yes, there are other policy enhancements – known as riders. agent, broker, advisor or a company representative offering this product about them.

Is there a policy option that allows me to access my death benefit while I'm alive?

Yes, for additional premium, you can get part of your death benefit before you die if you are terminally ill.

Does this policy accumulate cash value?

No. This policy provides no cash benefits other than the death benefit.

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