



2023 Spring National Meeting
Louisville, Kentucky

SENIOR ISSUES (B) TASK FORCE

Wednesday, March 23, 2023

3:00 – 4:00 p.m.

Ballroom C - Main Concourse Level - KY Convention Center

ROLL CALL

Marlene Caride, Chair	New Jersey	Gary D. Anderson	Massachusetts
Larry D. Deiter, Vice Chair	South Dakota	Anita G. Fox	Michigan
Mark Fowler	Alabama	Grace Arnold	Minnesota
Lori K. Wing-Heier	Alaska	Chlora Lindley-Myers	Missouri
Peni Itula Sapini Teo	American Samoa	Troy Downing	Montana
Barbara D. Richardson	Arizona	Eric Dunning	Nebraska
Ricardo Lara	California	Scott J. Kipper	Nevada
Michael Conway	Colorado	Mike Causey	North Carolina
Andrew N. Mais	Connecticut	Jon Godfread	North Dakota
Trinidad Navarro	Delaware	Joseph Rios Jr.	N. Mariana Islands
Karima M. Woods	District of Columbia	Judith L. French	Ohio
Michael Yaworsky	Florida	Glen Mulready	Oklahoma
John F. King	Georgia	Andrew R. Stolfi	Oregon
Gordon I. Ito	Hawaii	Michael Humphreys	Pennsylvania
Dean L. Cameron	Idaho	Carter Lawrence	Tennessee
Amy L. Beard	Indiana	Cassie Brown	Texas
Doug Ommen	Iowa	Jon Pike	Utah
Vicki Schmidt	Kansas	Kevin Gaffney	Vermont
Sharon P. Clark	Kentucky	Scott A. White	Virginia
James J. Donelon	Louisiana	Mike Kreidler	Washington
Timothy Schott	Maine	Allan L. McVey	West Virginia
Kathleen A. Birrane	Maryland	Nathan Houdek	Wisconsin

NAIC Support Staff: David Torian

AGENDA

1. Consider Adoption of its 2022 Fall National Meeting Minutes
—*Commissioner Marlene Caride (NJ)*
2. Discuss its 2023 Work Agenda—*Commissioner Marlene Caride (NJ)*
3. Discuss Any Other Matters Brought Before the Task Force
—*Commissioner Marlene Caride (NJ)*
4. Adjournment

AGENDA ITEM #1

Adoption of 2022 Fall National Meeting Minutes

[SITF 2022 Fall National Meeting Minutes](#)

AGENDA ITEM #2

SUGGESTED ISSUES/TOPICS FOR DISCUSSION BY SITF IN 2023

The issues/topics below are not meant to be the only items for possible discussion by the SITF this year. If you have other issues you wish for SITF to consider, please raise them under the Any Other Matters portion of the agenda. If you have any questions about the document, please do not hesitate to contact David at dtorian@naic.org

- **Medicare Advantage**

Continued discussion of Medicare Advantage (MA) and the issue of marketing and should oversight of Medicare Advantage (MA). As you are aware, prior to the Medicare Modernization Act (MMA) States had full authority to review marketing practices, pursue market conduct reviews, and penalize poor actors. After the MMA, States lost their authority over the plans except to ensure they are licensed and remain solvent. Discussions could possibly revolve around other actions or ideas to help States. **Below are links to the letters the NAIC sent to Congressional Leadership last year on this issue.**

[House Letter - MA Authority](#)

[Senate Letter - MA Authority](#)

- **LTCI Policy Recommendations**

There is still strong interest in Congress in the 10 LTCI policy options the NAIC developed in 2017. However, these options are now 6 years old. The SITF could perhaps revisit these options with an eye toward updating and refreshing.

FYI -- The SECURE Act 2.0, which was signed into law on December 29, 2019, includes provisions mirroring Option #1 in the NAIC document: permitting retirement plans to distribute up to \$2,500 per year for the payment of premiums for certain specified LTCI contracts and the distributions from plans to pay for (qualifying) LTCI premiums are exempt from the additional 10% tax on early distributions. The law specifies that only a policy that provides for “high quality coverage” is eligible for early distribution and waiver of the 10% tax. **Below is a link to those 10 LTCI Policy Options**

[LTCI Federal Policy Issues](#)

- **LTCI Models**

The SITF should be prepared for any recommendations or suggestions from the Long-Term Care Insurance (EX) Task Force, possibly on Reduced Benefits Options (RBO).

If there is a recommendation or suggestion on RBOs from the LTCI (EX) Task Force, the SITF would need to determine what action should be taken, including the possibility of editing the RBO sections(s) in the *Long-Term Care Insurance Model Act* (#640) and the *Long-Term Care Insurance Model Regulation* (#641).

- **State Health Insurance Assistance Program (SHIP)**

While this is not a topic or issue that needs to be discussed, it is an annual issue that the Task Force is updated about in terms of SHIP's funding. Below are links to the letters sent to Congress last year in support of continued funding for the SHIP. This year the SHIP letters will be incorporated into a larger letter to Congress on a variety of NAIC topics and issues of interest.

[House 2022 SHIP Letter](#) [Senate 2022 SHIP Letter](#)

- **Addressing Fraud Targeting Seniors**

This was an idea first raised in 2019. The idea would be for the SITF, along with the Life Insurance and Annuities (A) Committee, to consider developing a document similar to the Senate Select Committee on Aging's document on the top scams across the country (**link below to most recent Senate document**). The idea is that the NAIC's document would be specific to insurance and seniors focusing on life and health insurance. The idea would be to create a unique document to help consumers, particularly seniors, on insurance scams and not to duplicate what may already exist.

https://www.aging.senate.gov/imo/media/doc/aging_committee_fraud_book_20221.pdf

- **Durable Medical Equipment, Medicare Supplement and Excess Charges**

This issue was a hot topic at the beginning of 2022. On Nov. 30, 2021, the SITF held its Interim Meeting In Lieu of the Fall National Meeting. The SITF spent most of the meeting discussing an issue Nebraska has raised in the past but gained additional attention when America's Health Insurance Plans (AHIP) raised concerns early last year.

What was revealed is that there seems to be dispute on the definition of supplier in the law where it is worded broadly but CMS defines it narrowly. The meeting ended with a consensus that a letter from the SITF/NAIC to CMS asking why the relevant language is narrowly defined by them and how much leeway do they really have in their interpretation would be a good place to start.

On March 17, 2022, the SITF wrote to CMS requesting guidance regarding nonparticipating DME suppliers in order to help State regulators, Medicaid insurers and Medicare beneficiaries understand better how to

address this matter. CMS responded on August 9 (the day before the CMS Administrator was scheduled to meet with state insurance regulators at the 2022 Summer National meeting) with a reply that satisfied no one and upset a number of regulators and interested parties. ***Links to both the SITF letter and CMS' reply are below.***

This is an issue that probably will not go away but there also seems to be no more that can be done other than perhaps state insurance regulators talking to their congressional delegations and educating and informing them of this ongoing problem.

[SITF March 17 Letter to CMS - nonparticipating DME suppliers](#)

[CMS' August 9 Response to SITF's DME Letter](#)

- **COBRA & Medicare**

As you may be aware, the SITF has examined this issue for the last two years. The issue involves the conflict between Medicare and COBRA rules that has led to some confusion about which system and which set of rules govern eligibility for coverage, and how the responsibility for payment of health care benefits for eligible individuals is determined.

After several meetings in 2022, a decision was made to draft letters to Congress and the U.S. Department of Labor, however, no motions were offered to adopt these letters at the Fall National Meeting. Links to the draft letters from Tampa are below.

[Letter to USDOL - COBRA/Medicare](#)

[Letter to U.S. Congress - COBRA/Medicare](#)