



Date: 8/11/21

*2021 Summer National Meeting
Columbus, Ohio*

LIFE INSURANCE AND ANNUITIES (A) COMMITTEE

Monday, August 16, 2021

12:30 – 1:30 p.m.

Greater Columbus Convention Center—Union Station Ballroom—Level 1

ROLL CALL

Marlene Caride, Chair	New Jersey	James J. Donelon	Louisiana
Glen Mulready, Vice Chair	Oklahoma	Barbara D. Richardson	Nevada
Jim L. Ridling	Alabama	Linda A. Lacewell	New York
Trinidad Navarro	Delaware	Judith L. French	Ohio
Karima M. Woods	District of Columbia	Elizabeth Kelleher Dwyer	Rhode Island
Dean L. Cameron	Idaho	Carter Lawrence	Tennessee
Doug Ommen	Iowa	Mark Afable	Wisconsin
Vicki Schmidt	Kansas		

NAIC Support Staff: Jennifer R. Cook/Jolie H. Matthews

AGENDA

1. Consider Adoption of its July 19 Minutes
—*Commissioner Marlene Caride (NJ)*
2. Consider Adoption of its Task Force and Working Group Reports—*Commissioner Marlene Caride (NJ)*
 - a. Accelerated Underwriting (A) Working Group
 - b. Life Actuarial (A) Task Force
3. Discuss Guidance on Next Steps for the Life Insurance Illustration Issues (A) Working Group
—*Commissioner Marlene Caride (NJ)*
4. Receive an Update on the Special (EX) Committee on Race and Insurance Workstream Four—*Commissioner Mark Afable (WI)*
5. Discuss Any Other Matters Brought Before the Task Force
—*Commissioner Marlene Caride (NJ)*
6. Adjournment

W:\National Meetings\2021\Summer\Agenda\A Cmte.docx

Draft: 7/29/21

Life Insurance and Annuities (A) Committee
Virtual Meeting
July 19, 2021

The Life Insurance and Annuities (A) Committee met July 19, 2021. The following Committee members participated: Marlene Caride, Chair (NJ); Glen Mulready, Vice Chair, represented by Andrew Schallhorn (OK); Karima M. Woods represented by Philip Barlow (DC); Doug Ommen (IA); Dean L. Cameron represented by Michele Mackenzie (ID); Vicki Schmidt (KS); James J. Donelon represented by Tom Travis (LA); Barbara D. Richardson (NV); Linda A. Lacewell represented by Bill Carmello (NY); Judith L. French, Tynesia Dorsey, and Michelle Brugh Rafeld (OH); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Carter Lawrence represented by Brian Hoffmeister (TN); and Mark Afable (WI). Also participating was: Mike Boerner (TX).

1. Adopted its June 30 and Spring National Meeting Minutes

Mr. Travis made a motion, seconded by Commissioner Afable, to adopt the Committee's June 30 (Attachment One-A) and April 12 (*see NAIC Proceedings – Spring 2021, Life Insurance and Annuities (A) Committee*) minutes. The motion passed unanimously.

2. Adopted a FAQ Guidance Document on the Best Interest Revisions to Model #275

Commissioner Ommen explained that late last year, the Annuity Suitability (A) Working Group began development of a frequently asked questions (FAQ) guidance document to assist the states as they move forward with adopting the revisions to the *Suitability in Annuity Transactions Model Regulation (#275)*, which added a best interest standard of conduct for insurers and producers.

Commissioner Ommen said the FAQ guidance document is part of the work the Working Group plans to do this year to complete the second part of its charge to “[c]onsider how to promote greater uniformity across NAIC-member jurisdictions.” He explained that the Working Group has been meeting since the 2020 Fall National Meeting to discuss the draft FAQ guidance document and consider revisions to the document.

During these meetings, the Working Group had robust discussions among all the stakeholders on the proposed FAQ questions and answers, particularly on those FAQ concerning the revised model's producer training provisions. He said although the Working Group anticipates resuming its work on the FAQ guidance document sometime this fall to add additional questions related to the model's safe harbor provision, the Working Group adopted the FAQ guidance document May 10 so that it would be available to the states as soon as possible. He said 15 states have adopted the revisions to Model #275, and an additional four states are considering the revisions.

Commissioner Ommen made a motion, seconded by Mr. Gendron, to adopt the FAQ guidance document. The motion passed unanimously.

Ms. Rafeld suggested that the FAQ be shared with the Producer Licensing (D) Task Force. Commissioner Ommen said the Working Group had discussed sharing the FAQ with the Task Force, and he agreed that this is a good idea. Commissioner Richardson asked how the guidance might apply to states that have not yet adopted the revisions. Ms. Rafeld explained that states had questions about how producer training is intended to operate under the revisions, and the FAQ guidance document is helpful to provide that uniform interpretation as states move forward. Jolie H. Matthews (NAIC) and Jennifer R. Cook (NAIC) offered to reach out to the Task Force and follow up with Ms. Rafeld and Commissioner Richardson regarding how best to share the FAQ guidance document.

3. Adopted Valuation Manual Amendments

Commissioner Caride said a package of 15 *Valuation Manual* amendments was included in the materials for the Committee's consideration. These amendments have all been adopted by the Life Actuarial (A) Task Force. Mr. Carmello said New York objects to the mortality improvement amendment, and as a result, it will not be voting for adoption of the package.

Commissioner Afable made a motion, seconded by Commissioner Ommen, to adopt the *Valuation Manual* amendments (see *NAIC Proceedings – Summer 2021, Executive (EX) Committee and Plenary, Attachment [redacted]*). The motion passed with New York dissenting.

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

W:\National Meetings\2019\Summer\Cmte\A\A Cmte 11-10-20 ConfCallmin draft.docx

Draft: 7/16/21

Life Insurance and Annuities (A) Committee
E-Vote
June 30, 2021

The Life Insurance and Annuities (A) Committee conducted an e-vote that concluded June 30, 2021. The following Committee members participated: Marlene Caride, Chair (NJ); Glen Mulready, Vice Chair (OK); Jim L. Ridling (AL); Karima M. Woods (DC); Trinidad Navarro (DE); Doug Ommen (IA); Vicki Schmidt (KS); James J. Donelon (LA); Barbara D. Richardson (NV); Linda A. Lacewell (NY); Judith L. French (OH); Elizabeth Kelleher Dwyer (RI); Carter Lawrence (TN); and Mark Afable (WI).

1. Appointed the Index-Linked Variable Annuity (A) Subgroup

The following proposed charge, adopted by the Life Actuarial (A) Task Force on June 17, was emailed on June 22 to the Life Insurance and Annuities (A) Committee for adoption via e-vote:

The **Index-Linked Variable Annuity (A) Subgroup** will:

1. Provide recommendations and changes, as appropriate, to nonforfeiture or interim value requirements related to index-linked variable annuities.

An explanation for the new charge was attached to the e-vote request. The explanation provided that a design of an annuity product has emerged over the past several years that does not fall neatly into existing regulations. They are commonly referred to as index-linked variable annuities (ILVAs) or registered index-linked annuities (RILAs). These products are exclusively filed in the states as variable annuities and are funded through non-unitized separate accounts. The Life Actuarial Task Force has discussed developing a draft standard for minimum interim values for these products and providing direction for implementing the standard.

The Life Actuarial Task Force proposed the establishment of a new Indexed-Linked Variable Annuity (A) Subgroup and provided an accompanying charge to develop the interim value standard. The Committee is asked to consider approval of the Subgroup and the adoption of its proposed charge.

The following states voted to adopt the proposed charge: Alabama, Delaware, District of Columbia, Iowa, Kansas, Louisiana, Nevada, New York, Ohio, Rhode Island, Tennessee, and Wisconsin. The motion passed.

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

W:\National Meetings\2021\Summer\Cmte\A\Evote 6-29-21.docx



Virtual Meeting

(in lieu of meeting at the 2021 Summer National Meeting)

ACCELERATED UNDERWRITING (A) WORKING GROUP

Thursday, July 29, 2021

11:30 a.m. – 12:30 p.m. ET / 10:30 – 11:30 p.m. CT / 9:30 – 10:30 p.m. MT / 8:30 – 9:30 a.m. PT

Meeting Summary Report

The Accelerated Underwriting (A) Working Group met July 29, 2021. During this meeting, the Working Group:

1. Discussed the latest draft of the accelerated underwriting educational report, dated July 8, which the Working Group exposed on July 9 for a 21-day public comment period ending July 30.

W:\National Meetings\2021\Summer\Summaries\Draft Summaries\AUWG Summary.docx

Draft: 8/2/21

Accelerated Underwriting (A) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Summer National Meeting*)
July 29, 2021

The Accelerated Underwriting (A) Working Group met July 29, 2021. The following Working Group members participated: Mark Afable, Chair (WI); Grace Arnold, Vice Chair (MN); Jason Lapham (CO); Russ Gibson (IA); Cynthia Amann (MO); Chris Aufenthie (ND); Laura Arp (NE); Lori Barron (OH); and Lichou Lee (WA).

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

Commissioner Afable explained that the purpose of the meeting was to discuss the latest draft accelerated underwriting educational report dated July 8 (Attachment Two-A). He said the Working Group exposed the report on July 9 for a 21-day public comment period ending July 30. He added that the report is available on the Working Group's web page.

Commissioner Arnold gave some procedural background on the draft and provided a few highlights on the substance of the draft. She said that a small regulator-only drafting group has been meeting on a weekly basis to develop a draft report. So far, two parts of what is intended to be a five-part paper have been exposed for comment. She explained that this is an iterative process and that comments are invited on the entire draft with every release of a new part. She explained that the group intends to collect and review comments throughout the process and that there will be an opportunity to revise earlier sections as new sections are developed.

Commissioner Arnold made a few comments about the content of the paper. She said that after the release of the first part of the paper, there had been quite a few comments submitted on the definition of accelerated underwriting. She explained that the drafting group had spent a lot of time on the definition and considering definitions from a number of sources, in addition to the comments. She said that the drafting group concluded that the existing definition was largely in the middle of all the options offered and decided to hold off making any changes at this point. She said the drafting group acknowledges that once the rest of the paper is drafted, there may be a need to reconsider the definition.

Commissioner Arnold explained that the drafting group tried to keep the tone of the paper neutral. She said that the presentations the Working Group heard said a lot about the advantages and disadvantages of accelerated underwriting, but the drafting group tried to stay away from that in the report. She said the focus on the report is on what accelerated underwriting is, what accelerated underwriting does, and what the regulatory structure is or should be in the context of current laws.

Commissioner Arnold said they received several suggestions to create a glossary. She explained that the drafting groups decided not to develop a glossary at this point for a few reasons, but largely because some terms are defined differently in different contexts and in different states. She said the drafting group would prefer to have clarity directly in the report and that any suggestions on how to achieve that are welcome.

Commissioner Arnold also said that there were a number of comments suggesting that the report build on other, existing documents. She said that the drafting group agrees and has made an effort to use terminology that builds on and is consistent with the Artificial Intelligence (AI) Principles and the Casualty Actuarial and Statistical (C) Task Force white paper, in particular. She said she welcomes comments on places where there could be additional consistency.

Commissioner Arnold said the drafting group is specifically requesting comments on the parts of the paper addressing, from a legal and practical perspective, the data used in accelerated underwriting programs. Feedback on the kinds of data being used—whether data sources or the scores that come from the sources, feedback on what those terms mean, what kinds of obligations flow from them, and what a consumer sees or should see—would all be welcome. She explained that the drafting group did its best, but feedback to improve the clarity of this section regarding the distinctions between the types of data and what that means for state insurance regulators, companies, and consumers will be key.

Birny Birnbaum (Center for Economic Justice—CEJ) said he plans to submit written comments, but he wanted to get a sense of where the drafting group's thinking was on a few issues. He wondered why the report seems to conclude that state insurance regulators have all the tools they need to regulate accelerated underwriting and address consumer protection concerns when accelerated underwriting uses new third-party sources, AI and predictive modelling not used in traditional underwriting. He

said the AI Principles were specifically created to address new insurer practices like accelerated underwriting, so he asked why the paper does not include implementation of the principles in life insurance. Commissioner Arnold explained that the report has not reached the conclusion section yet, and specific recommendations have not been formulated. She said some of the preliminary recommendations do incorporate the AI Principles and specifically use language from the AI Principles document, especially with respect to transparency.

Mr. Birnbaum asked specifically how the report incorporates the AI Principle “to avoid proxy discrimination against protected classes.” Commissioner Arnold encouraged specific suggestions regarding things that might be missing. She said this is the kind of feedback they are looking for as they continue to add sections to the paper and move towards the development of more specific recommendations in the report.

Mr. Birnbaum said that the paper talks about the consumer protections afforded under the Fair Credit Reporting Act (FCRA), and he wondered why the report did not recommend the extension of those protections to non-FCRA data. He said many states have laws that regulate the use of consumer credit information and require the filing of models with the insurance commissioner. Commissioner Afbale reminded the Working Group that Commissioner Arnold had identified this section, which discusses the different sources of data used in accelerated underwriting, as an area where the drafting group was hoping to receive feedback from interested parties with expertise in data subject to the FCRA. He suggested that Mr. Birnbaum include this issue in his comment letter. Commissioner Arnold said that the drafting group spent a lot of time discussing what kind of data is subject to the FCRA and how that translates to credit scores or insurance scores developed using certain data. She said additional feedback in this area will help the drafting group figure out how to make recommendations that are in line with federal and state law and the AI Principles.

Matthew Wulf (Swiss Re) said he appreciates the overview from Commissioner Arnold and that the drafting group is taking a broad approach to developing the report. He said Swiss Re plans to submit written comments. He said one of the things that Swiss Re identified Commissioner Arnold already mentioned, which is consistency throughout the paper and among the different NAIC work products and workstreams. He said one example is the accelerated underwriting definition. He said the definition of accelerated underwriting acknowledges that not all accelerated underwriting programs use advanced algorithms or machine learning, but subsequent sections seem to assume that they do. He said that Swiss Re comments will point out some of these issues, but he added that he now understands the process and that the drafting group contemplates some reconciliation of these kinds of issues once the paper is complete.

Mr. Wulf also said that the Swiss Re comments will touch on the data sources versus data sets issue that Commissioner Arnold touched on. He said the distinction between data sources and data sets, especially when it comes to identifying the origin of unfair bias, is especially critical. He said another issue Swiss Re plans to focus its comments on is the issue of causation versus correlation. He said this is another area where clarity is critical.

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

W:\National Meetings\2021\Summer\Cmte\A\AUWG\7-29-21 AUWGmin.docx

LIIWG Next Steps Summary Comment Chart

Question 1	
Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.	
ACLI	<p>NO</p> <p>The working group has fulfilled its charge. The Working Group was created from concerns raised when the Indexed Universal Life (IUL) Illustrations (A) Subgroup under the Life Actuarial (A) Task Force was working on guidance for IUL policy illustrations that would result in consumers being better able to understand the product performance and interest variability of IUL products. A review of sample disclosures for all types of life insurance policies revealed that additional disclosures to those now required are likely to confuse consumers, which would be the opposite of the Working Group’s goal. Moreover, the additional disclosures could create liability traps for insurers regarding required versus supplementary disclosures and undermine well respected NAIC models enabling the availability of affordable insurance protection to millions of Americans.</p>
Finseca	<p>UNDECIDED</p> <p>We are in the process of contacting and assessing the position of our membership on this question. Finseca has consistently advocated for a streamlining of the consumer experience when purchasing life insurance. Thus, at first look, our members have expressed concern about the development of yet another disclosure document to be issued to consumers to accompany the already required panoply of consumer information documents and disclosures. If the current level of information provided is sufficient, the additional overview may only work to confuse the consumer. Should the committee continue this workstream we hope for future opportunities to provide input on behalf of the profession.</p>
NAIFA	<p>NO</p> <p>A policy overview document does not meet the Working Group's charge of enhancing consumer readability and understanding of life insurance policy documents. The summaries in the regulation are only one tool in providing the consumer with information during the policy purchasing process. These cannot replace the individualized advice and guidance of professional agents. Written (or online) documents are passive and cannot converse with consumers or discern what information might help resolve a consumer's confusion or misunderstanding.</p> <p>Without the involvement of an agent—if the consumer relies solely on the written materials provided—it is unlikely that he or she will have the necessary information and guidance needed to make the right decision considering the consumer's unique circumstances, regardless of when the policy overview document is provided.</p>
Brenda Cude	<p>YES</p> <p>I support development of this product. Consumers are inundated with information and it is difficult for them to discern what is important. I see little likelihood that regulation will require a truly readable life insurance policy or that companies have incentives to produce a truly readable policy on their own. Therefore, a policy overview document that follows a prescribed format will 1) assist consumers in discerning what information is important and 2) facilitate consumer comparison of important information across policies. This approach models the required Summary of Benefits and Coverage for health insurance.</p>

Question 1 continued...	
Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.	
New York	YES This document should help consumers better understand the fundamentals of the products by using a simple approach and user-friendly format.
NALC	NO We believe an extension of current discussion regarding illustrations for indexed annuity life insurance to term life insurance would not be beneficial to consumers. That effort would involve an expenditure of regulatory resources that could be more effectively deployed elsewhere, likely resulting in confusing, lengthy supplemental materials that would complicate the process of selecting the right insurance option for consumers. Additionally, there is little doubt that significant litigation will arise around the manner in which the supplemental disclosures were provided. Ultimately, these factors will lead to less conversation between agents and consumers about insurance needs, and more focus on reading the contents of a checklist of documents.
Utah	NO We do not support the development of the policy overview. The WG charge is to explore “how the narrative summary [...] and the policy summary [...] can be enhanced.” Improving readability of the already required documents would be preferable to an additional document.
CEJ	YES This work product is a modest, but vital, effort to address the glaring problems with current life insurance illustrations and disclosures. The overview will provide consumers with a disclosure that provides consistent and relevant information about product features in a manner that better fulfills the purpose of the Life Insurance Disclosure Model.

Question 2a	
Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement))	
ACLI	YES The current model regulation delivery requirements provide the only basis upon which supplementary disclosures might be feasible. The timing of current model regulation disclosures functions well because consumers can exercise their free look rights with their policy in hand, knowing its cost and details of its terms of coverage.
Finseca	YES We believe that any overview that would be provided to the consumer at the time of application would necessarily lack useful personalized information, and thus would be far too general to be valuable to that consumer. Consequently, should the NAIC eventually approve the policy overview document, we believe that the current delivery, at the time of provision of the buyer’s guide represents the time where it would provide the most possible value to the consumer, who would have the overview, the guide, and all other disclosures along with their policy, and with knowledge of the consumer’s free look rights.

Question 2a continued...	
Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement))	
NAIFA	YES Keeping in mind that the earlier the policy overview is required, the more generic and less helpful it will be to the specific consumer. This underscores the importance of the professional agent to this process and that a more personalized summary provided after the underwriting process is preferable.
Brenda Cude	NO My understanding of this is that the current delivery requirement would allow delivery of the policy overview with the policy for some policies (those with an unconditional refund provision of at least 10 days). I would oppose this revision for reasons explained in 2b below.
New York	NO This basic information should be known by the consumers at time of application when they are deciding whether to purchase the insurance and trying to compare options from different insurers. Receiving this information at time of policy delivery, even if there is a free look provision, is too late for making comparisons of insurers' product offerings and defeats a primary purpose of this overview document.
NALC	NO Proposed option 1-A is unnecessary as consumers are already protected by the free look period during which any questions concerning cost or coverage can be clarified.
Utah	YES We would prefer the revisions to Model #580 using the current delivery requirements for the Buyer's Guide (Option 2a). This option results in a shorter document (there is no need for the "What do I need to do to buy this policy?" section) and the information would be specific to the policy as issued.
CEJ	NO Retaining the current permission to delay delivery of these key documents until the delivery of the policy creates a loophole that swallows the primary directive of the section – to deliver the consumer disclosures critical to empower a consumer to select the most appropriate plan of life insurance for their needs. It is illogical to provide these documents only after the consumer has purchased the product. While it may have been reasonable at one point in time to permit delivery of the Buyer's Guide after purchase due to logistical constraints, that is surely no longer the case, and this provision is profoundly anti-consumer and must change. It encourages buying and cancelling a policy as the way to learn about the policy and contradicts the purpose of the model set out in 2A. Property/casualty insurers deliver quotes to consumers prior to purchase that have value to the consumer shopping for coverage. And there are life insurers who currently prepare – prior to a consumer's purchase – illustrations for some types of life insurance and policy summary tables of premiums and benefits for other types of life insurance.

Question 2b	
Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20, 2021)	
ACLI	NO Supplementary policy disclosures or illustrations at the time of application are unnecessary considering the existing, efficacious, current model regulation requirements. The current NAIC consumer disclosure paradigm respected by the regulators in all the states has been in place for decades. During that time, millions of life insurance policies have provided billions of dollars of financial protection to policyholders and beneficiaries. The NAIC should not risk undermining the Life Insurance Disclosures Model Regulation or the Life Insurance Illustrations Model Regulation, two of its most successful model regulations.
Finseca	NO We believe that any overview that would be provided to the consumer at the time of application would necessarily lack useful personalized information, and thus would be far too general to be valuable to that consumer. Consequently, should the NAIC eventually approve the policy overview document, we believe that the current delivery, at the time of provision of the buyer's guide represents the time where it would provide the most possible value to the consumer, who would have the overview, the guide, and all other disclosures along with their policy, and with knowledge of the consumer's free look rights.
NAIFA	NO NAIFA does not prefer updating model#580 to require the policy overview at the time of application. A generic document would contradict the model's stated goal, which is to "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." Additionally, NAIFA is concerned about which elements would be included in the policy summary under "key policy features and benefits" for products more complex than the Term Life Sample provided. There are many reasons and strategies that a prospective buyer and financial advisor may elect to add life insurance to a financial plan or protection portfolio. These may not be in line with generic "key benefits" listed, thus creating confusion and possibly undermining the professional advice of the producer.
Brenda Cude	YES I support this revision based on several points. 1) Consumers make the psychological commitment to purchase a policy at the time of the application. It is cognitively and psychologically difficult for them to consider information provided after the application, and thus, the information provided at that time is likely to be ignored. 2) With the electronic delivery methods and on-demand printing options now available to agents and consumers, delivery at any time or place is feasible.
New York	YES This basic information should be known by the consumers at time of application when they are deciding whether to purchase the insurance and trying to compare options from different insurers. Receiving this information at time of policy delivery, even if there is a free look provision, is too late for making comparisons of insurers' product offerings and defeats a primary purpose of this overview document.

Question 2b continued...	
Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20, 2021)	
NALC	<p>NO</p> <p>Requiring supplementary disclosures or illustrations to the consumer at the time of application would be inappropriate and not beneficial to consumers. Providing disclosures and illustrations before the underwriting process has been completed and costs have been determined would not provide meaningful information and would only serve to confuse the consumer.</p>
Utah	<p>NO</p> <p>We would prefer the revisions to Model #580 using the current delivery requirements for the Buyer’s Guide (Option 2a). This option results in a shorter document (there is no need for the “What do I need to do to buy this policy?” section) and the information would be specific to the policy as issued.</p>
CEJ	<p>YES</p> <p>We are puzzled why there is even a question whether a policy overview designed to promote comparison shopping by consumers and a Buyer’s Guide designed to assist consumers in buying life insurance should be delivered before or after purchase. Given that delivery before purchase fulfills the purposes of the model regulation and that there are no technical impediments to disclosure before purchase, it is unclear why delivery following the purchase – which defeats the purposes of the documents and the model regulation – is even a serious option. If an insurer can develop a 70-page illustration prior to purchase, it is simply not credible for insurers to argue that a document highlighting key features of the product and a standard Buyer’s Guide cannot be delivered prior to purchase.</p> <p>Since the delivery of the Buyer’s Guide is tied to the delivery of the Policy Overview and the purpose of the Policy Overview would be defeated if delivered after purchase, the two documents should be delivered prior to purchase. The delivery of the Buyer’s Guide prior to purchase is further supported by the recent revisions to the Buyer’s Guide – moving from a 20-page document to a two-page set of questions and answers.</p>

Additional Comments	
ACLI	<p>Should the Committee believe that further consideration be given to promoting consumer readability and understandability of life insurance policies, the ACLI recommends that the NAIC undertake its traditional approach to alleged systemic problems, namely, an objective fact-finding and study.⁴ It is not clear that there is a problem with consumer disclosures and, if so, what precisely the problem is and the extent of the alleged problem. The ACLI would welcome the opportunity to review objectively evidence that an alleged problem might be extensive and evaluate it against the manifest success of life insurance policy disclosures based upon the existing, successful model regulations.</p> <p>Footnote 4 - A modern way to help consumers understand life insurance is to accomplish an online guide which can be easily modified as new products, such as IUL, enter the market. The Life Insurance Online Guide (A) Working Group is charged accordingly.</p>
Finseca	<p>We would also like to recommend that the (A) Committee provide additional support documentation as to why the LIIIWG found it necessary to augment the current policy summaries issued by insurers with the new overview document. The record of the LIIIWG's proceedings does not provide a detailed justification of why the overview is necessary.</p>
NAIFA	<p>NAIFA supports the continued work of the workstream and its efforts to improve the life insurance sales process through clear and consistent sales materials, that continue to place the agent as the primary sales representative. We are happy to continue our efforts and offer our members perspective on the best timing and content to life insurance illustrations and related materials.</p>
Brenda Cude	<p>I recommend that a title be added to the sample document to help consumers understand the document's purpose and importance. One such title might be "Life Insurance Polity Overview" or "Policy Overview for [name of policy]."</p> <p>The impact of the requirement also would be greater if a standard format were developed for insurers to use. This also would reduce the time insurers have to invest to prepare a policy overview.</p>

Additional Comments continued...	
NALC	<p>While we appreciate the considerable time and effort spent by the Working Group examining current policy disclosure requirements and sample policy summaries to identify inadequacies or deficiencies, this review found that current model regulations and disclosure requirements are working well for policyholders. The NALC, therefore, does not support further efforts by the Working Group to develop either a “short policy overview document,” or the proposed changes to Model #580, and see no reason to develop additional supplemental materials.</p> <p>An additional concern involves interfering with the relationship between the agent and consumer and possible confusion that could result. The agent plays a critical role assisting the consumer to select the product that best suits the consumers’ needs. We believe consumers are far better served by discussing their needs and policy options with their agent, rather than requiring that agents spend time reading a prepared script and sharing multiple written summaries. This approach that encourages give and take between the consumer and their agent that has worked for the benefit of consumers for generations. If we treat these transactions like an advertisement for a pharmaceutical product with myriad confusing communications, we will deprive consumers of the opportunity to have a real conversation with their agent about their insurance needs and options.</p>
CEJ	<p>The working group long ago reviewed illustrations and disclosures provided by insurers for a variety of products and found these documents with great variation among insurers regarding lengthy and presentation – for the same products – as well as difficult to navigate and impractical to use for the comparison shopping purposes set out in the model regulation.</p> <p>(See attached Nov. 15, 2019 and Aug. 30, 2019, Aug. 26, 2019 CEJ comment letters attached.)</p>

Michael Lovendusky
Vice President & Senior Associate General Counsel

5 August 2021

Marlene Caride, Commissioner, New Jersey Department of Banking & Insurance, Chair
NAIC Life Insurance & Annuities (A) Committee
c/o Jennifer Cook, Senior Life & Health Counsel, NAIC
via jcook@naic.org

RE: Life Insurance Illustrations Issues (A) Working Group

Dear Chairwoman Caride & Members of the Committee:

The American Council of Life Insurers (ACLI) believes that consumers should have access to tools that help them make an informed decision when purchasing life insurance for financial protection. For that reason, we welcomed the opportunity to explore with the Life Insurance Illustrations Issues (A) Working Group how the narrative summary required by the *Life Insurance Illustrations Model Regulation* and the policy summary required by the *Life Insurance Disclosures Model Regulation* might be enhanced to promote consumer readability and understandability, including how they are designed, formatted and accessed by consumers. After an exhaustive review process, the ACLI believes the Working Group's efforts were a success. No regulator found fault with the information consumers currently receive from companies or agents. The discussions between stakeholders and regulators also reemphasized the value of the free look period as a key consumer protection. It provides consumers with time, typically ten days, after purchasing a policy to review and return it for a refund if they are not satisfied.

Therefore, the ACLI respectfully recommends that the Committee recognize the accomplishments of, receive a final report from, and retire the Life Insurance Illustrations Issues (A) Working Group. This letter explains the ACLI recommendation and answers the questions staff emailed to regulators and interested parties on July 28.

QUESTION 1

1. *Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.*

Answer: No. The working group has fulfilled its charge. The Working Group was created from concerns raised when the Indexed Universal Life (IUL) Illustrations (A) Subgroup under the Life Actuarial (A) Task Force was working on guidance for IUL policy illustrations that would result in consumers being better able to understand the product performance and interest variability of IUL

products.¹ A review of sample disclosures for all types of life insurance policies revealed that additional disclosures to those now required are likely to confuse consumers, which would be the opposite of the Working Group's goal. Moreover, the additional disclosures could create liability traps for insurers regarding required versus supplementary disclosures and undermine well-respected NAIC models enabling the availability of affordable insurance protection to millions of Americans.

QUESTION 2

2a. *Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement) 1-A)*

Answer: The current model regulation delivery requirements provide the only basis upon which supplementary disclosures might be feasible. The timing of current model regulation disclosures functions well because consumers can exercise their free look rights with their policy in hand, knowing its cost and details of its terms of coverage.

2b. *Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20, 2021 (At Application) 1-B)*

Answer: No. Supplementary policy disclosures or illustrations at the time of application are unnecessary considering the existing, efficacious, current model regulation requirements. The current NAIC consumer disclosure paradigm respected by the regulators in all the states has been in place for decades. During that time, millions of life insurance policies have provided billions of dollars of financial protection to policyholders and beneficiaries. The NAIC should not risk undermining the *Life Insurance Disclosures Model Regulation* or the *Life Insurance Illustrations Model Regulation*, two of its most successful model regulations.

Additional Comments

The Working Group substantially explored how the narrative summary required by [Section 7B](#) of the *Life Insurance Illustrations Model Regulation* and the policy summary required by [Section 5A\(2\)](#) of *Life Insurance Disclosures Model Regulation* might be enhanced to promote consumer readability and understandability of these life insurance policy summaries, including how they are designed, formatted and accessed by consumers. In 2016, the ACLI contributed samples of all types of policies for Working Group review. There was no regulatory finding of inadequacies or problems of readability or understandability with any type of policy from this fact-based exploration.

As a result, the Working Group tried to address an unknown problem, which is impossible to do. It undertook to devise simple "policy overviews" for term, whole, and universal life insurance policies, beginning with the simplest product. But neither of the two reported sample term life policy overviews is likely to help consumers read and understand their policies. Rather, either policy

¹ See 2016 NAIC Proceedings p. 424/1282 (Spring 2016 volume 1, Minutes of the LIIIG 4/3/16 [here](#)).

overview is likely to confuse consumers -- especially those whose policies are issued other than as applied for. This is because a supplementary policy overview (especially one delivered at time of application, before underwriting) will not improve the ability to select *the most appropriate plan of life insurance for the buyer's needs* in the absence of an agent, broker or advisor; or improve the buyer's understanding of the *features of the policy that has been purchased*.² Rather, such an overview will lack useful, personalized policy information.³

These observations should not be construed to be criticism of the NAIC working group effort. To the contrary, the ACLI believes the working group explorations were a success. No regulator found fault with the sample policy summaries provided by the ACLI to the working group in 2016; the reasons for the traditional business practice of providing consumer disclosures at time of policy delivery – and especially the importance of the Free Look Period – were remembered; and the importance of agents and financial advisors in helping consumers select the most appropriate plan of life insurance and explain policy features was appreciated anew. The NAIC working group succeeded in its charge and the ACLI thanks its members for their efforts.

Should the Committee believe that further consideration be given to promoting consumer readability and understandability of life insurance policies, the ACLI recommends that the NAIC undertake its traditional approach to alleged systemic problems, namely, an objective fact-finding and study.⁴ It is not clear that there is a problem with consumer disclosures and, if so, what precisely the problem is and the extent of the alleged problem. The ACLI would welcome the opportunity to review objectively evidence that an alleged problem might be extensive and evaluate it against the manifest success of life insurance policy disclosures based upon the existing, successful model regulations.

In such circumstances, the ACLI will gladly contribute information and empirical knowledge to the study of the alleged problem. If one is found, we will work with you to rectify it. Thank you for your consideration.

Sincerely,



THE AMERICAN COUNCIL OF LIFE INSURERS
Michael Lovendusky, Vice President & Senior Associate General Counsel
Telephone 202.624.2390 | michaellovendusky@acli.com

² Italicized comments quote the NAIC *Life Insurance Disclosure Model Regulation* § 2A (“Purpose”).

³ See ACLI Letter to NAIC Life Insurance Illustrations Issues (A) Working Group (11/15/19) [here](#).

⁴ A modern way to help consumers understand life insurance is to accomplish an online guide which can be easily modified as new products, such as IUL, enter the market. The [Life Insurance Online Guide \(A\) Working Group](#) is charged accordingly.



Board of Directors

Chair

Jeri Turley
M Financial

Immediate Past Chair

Kelly Kidwell
The Guardian Life Insurance
Company of America

Chair-Elect

Ed Deutschlander
Securian Financial

Secretary

Rick Van Benschoten
MassMutual

Treasurer

Bob Baccigalupi
Retired

Directors

Kristi Acree
Mutual of Omaha

Michelle Hubert
Farm Bureau Financial

Kristi Barens
M Financial

Mike James
NFP & Partners Financial

Luis Chiappy
Equitable

James Joyce
Lion Street

Christie Corado
Crump

Don Lippencott
New York Life

Paul Dodd
Northwestern Mutual

Timothy Maguire
Equitable

Robert Eichler
Penn Mutual

Eric Naison-Phillips
M Financial

David Fritz
Northwestern Mutual

Amy Salo, CFP, CAP
The Guardian Life Insurance
Company of America

Joe Gergely
COUNTRY Financial
Agency

JR Toland
Ohio National

Jim Heberts
NFP & Partners Financial

George "Chip" Van
Dusen
LIBRA

Larry Herman
LIBRA

August 9, 2021

Marlene Caride, Commissioner
New Jersey Department of Banking & Insurance
NAIC Life Insurance & Annuities (A) Committee
c/o Jennifer Cook, Senior Life & Health Counsel, NAIC
via jcook@naic.org

RE: Life Insurance Illustrations Issues (A) Working Group

Dear Chairwoman and the Members of the Committee:

Thank you for the opportunity to provide feedback to the questions posed concerning the draft revisions to the Life Insurance Disclosure Model Regulation (#580) adding a policy overview disclosure requirement for term life policies, as well as a sample policy overview submitted by the Life Insurance and Illustrations Issues Working Group.

Finseca represents financial security professionals across the United States. They are affiliated in all segments of distribution, in all marketplaces, at all levels of practice complexity. Finseca advocates for the financial security profession, to develop and grow its leaders, and promote the noble and necessary work our members do to provide financial and retirement security for the individuals, families, and businesses they serve. At Finseca we believe in financial security for all. The women and men of the financial security profession who Finseca represents spend their days crafting financial security plans for their clients that ensure protection of what those clients hold most dear – their families, retirement, employees, and businesses.

Given the 12 trillion dollar protection gap LIMRA has identified, Finseca believes charges such as this one should be evaluated based on how we help consumers to get the coverage they need. Finseca members are committed to providing consumers with access to all information and tools to enable them to make the right decisions to secure their financial future. We encourage the committee to consider the cumulative effect of everything a consumer receives as a part of such transactions.



Board of Directors

Chair

Jeri Turley
M Financial

Immediate Past Chair

Kelly Kidwell
The Guardian Life Insurance
Company of America

Chair-Elect

Ed Deutschlander
Securian Financial

Secretary

Rick Van Benschoten
MassMutual

Treasurer

Bob Baccigalupi
Retired

Directors

Kristi Acree
Mutual of Omaha

Michelle Hubert
Farm Bureau Financial

Kristi Barens
M Financial

Mike James
NFP & Partners Financial

Luis Chiappy
Equitable

James Joyce
Lion Street

Christie Corado
Crump

Don Lippencott
New York Life

Paul Dodd
Northwestern Mutual

Timothy Maguire
Equitable

Robert Eichler
Penn Mutual

Eric Naison-Phillips
M Financial

David Fritz
Northwestern Mutual

Amy Salo, CFP, CAP
The Guardian Life Insurance
Company of America

Joe Gergely
COUNTRY Financial
Agency

JR Toland
Ohio National

Jim Hebets
NFP & Partners Financial

George "Chip" Van
Dusen
LIBRA

Larry Herman
LIBRA

While we have not participated in this examination conducted by the Life Insurance Illustrations Issues Working Group (LIIWG) previously, we have begun discussions with our members to determine their thoughts on the proposal. We look forward to working with the members of both the Life Insurance (A) Committee and the LIIWG in the future. We answer your questions as follows:

Question 1

1) Do you support the development of a short policy overview document for the working group to achieve its charge?

Response. We are in the process of contacting and assessing the position of our membership on this question. Finseca has consistently advocated for a streamlining of the consumer experience when purchasing life insurance. Thus, at first look, our members have expressed concern about the development of yet another disclosure document to be issued to consumers to accompany the already required panoply of consumer information documents and disclosures. If the current level of information provided is sufficient, the additional overview may only work to confuse the consumer. Should the committee continue this workstream we hope for future opportunities to provide input on behalf of the profession.

Question 2

2a) Do you prefer the revision to Model #580 using the current delivery requirement in the model? Why or Why not? Refer to DRAFT April 20, 2021 (Current delivery requirement) 1-A

2b) Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why or Why not? Refer to DRAFT April 20, 2021 (At application) 1-B

We believe that any overview that would be provided to the consumer at the time of application would necessarily lack useful personalized information, and thus would be far too general to be valuable to that consumer. Consequently, should the NAIC eventually approve the policy overview document, we believe that the current delivery, at the time of provision of the buyer's guide represents the time where it would provide the most possible value to the consumer, who would have the



Board of Directors

Chair

Jeri Turley
M Financial

Immediate Past Chair

Kelly Kidwell
The Guardian Life Insurance
Company of America

Chair-Elect

Ed Deutschlander
Securian Financial

Secretary

Rick Van Benschoten
MassMutual

Treasurer

Bob Baccigalupi
Retired

Directors

Kristi Acree
Mutual of Omaha

Michelle Hubert
Farm Bureau Financial

Kristi Barens
M Financial

Mike James
NFP & Partners Financial

Luis Chiappy
Equitable

James Joyce
Lion Street

Christie Corado
Crump

Don Lippencott
New York Life

Paul Dodd
Northwestern Mutual

Timothy Maguire
Equitable

Robert Eichler
Penn Mutual

Eric Naison-Phillips
M Financial

David Fritz
Northwestern Mutual

Amy Salo, CFP, CAP
The Guardian Life Insurance
Company of America

Joe Gergely
COUNTRY Financial
Agency

JR Toland
Ohio National

Jim Hebets
NFP & Partners Financial

George "Chip" Van
Dusen
LIBRA

Larry Herman
LIBRA

overview, the guide, and all other disclosures along with their policy, and with knowledge of the consumer's free look rights.

We would also like to recommend that the (A) Committee provide additional support documentation as to why the LIIIWG found it necessary to augment the current policy summaries issued by insurers with the new overview document. The record of the LIIIWG's proceedings does not provide a detailed justification of why the overview is necessary.

We again express our appreciation for your work and desire to build a strong and constructive relationship with the (A) Committee and the LIIIWG. If we can provide any additional information to assist the committee, please contact me at arobinson@finseca.org.

Armstrong Robinson
Chief Advocacy Officer
Finseca



August 9th, 2021

Marlene Caride, Commissioner, New Jersey Department of Banking & Insurance, Chair
NAIC Life Insurance & Annuities (A) Committee

Submitted Via email to jcook@naic.org

RE: Life Insurance Illustrations Issues (A) Working Group

Dear Chairwoman Caride & Members of the Committee:

The National Association of Insurance and Financial Advisors (NAIFA) purpose in commenting today is to emphasize to the Working Group members and interested parties the significant role that the professional agent plays in the disclosure and consumer education regime that is at the heart of this effort. We would like to recognize the efforts of the Working Group over the years and applaud the inclusion of agent information on the draft summary documents. These continued efforts and the Working Group's discussions have better included the role of the agent and the contributions that agents can and do make in educating consumers and guiding them along as they move through the process of selecting the right product for their individual situations. However, we do have some continued concerns regarding the proposed policy overview documents.

QUESTION 1

1. Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.

Answer: No, the short policy overview document does not meet the Working Group's charge of enhancing consumer readability and understanding of life insurance policy documents.

Narrative summaries, policy summaries, and policy overviews are only one tool in providing the consumer with information during the policy purchasing process. None of these can replace the hands-on, individualized advice and guidance that knowledgeable and professional agents provide to their clients day in and day out. Written (or online) documents are passive materials that cannot have a conversation with a consumer or discern what information might help resolve a consumer's confusion or misunderstanding.

Without the involvement of an agent—if the consumer relies solely on the written materials provided—it is unlikely that he or she will have the necessary information and guidance needed to make the right decision considering the consumer's unique circumstances, regardless of when the policy overview document is provided.



QUESTION 2

2a. Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20th, 2021 (Current Delivery Requirement) 1-A)

Answer: Keeping in mind that the earlier the policy overview is required, the more generic and less helpful it will be to the specific consumer. This underscores the importance of the professional agent to this process and that a more personalized summary provided after the underwriting process is preferable.

2b. Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20th, 2021 (At Application) 1-B)

Answer: No. NAIFA does not prefer updating model#580 to require the policy overview at the time of application. A generic document would contradict the model's stated goal, which is to "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." Additionally, NAIFA is concerned about which elements would be included in the policy summary under "key policy features and benefits" for products more complex than the Term Life Sample provided. There are many reasons and strategies that a prospective buyer and financial advisor may elect to add life insurance to a financial plan or protection portfolio. These may not be in line with generic "key benefits" listed, thus creating confusion and possibly undermining the professional advice of the producer.

Additional Comments

NAIFA supports the continued work of the workstream and its efforts to improve the life insurance sales process through clear and consistent sales materials, that continue to place the agent as the primary sales representative. We are happy to continue our efforts and offer our members perspective on the best timing and content to life insurance illustrations and related materials.

Thank you for considering our comments. If you have any questions, please feel free to contact me at mgale@naifa.org.

Sincerely,

Maeghan Gale
Policy Director, Government Relations

TO: Jennifer Cook, NAIC

FROM: Brenda J. Cude, NAIC Consumer Representative

Brenda J. Cude

RE: Request for Comment and Feedback on the work of the Life Insurance and Illustrations Issues Working Group

DATE: August 8, 2021

I write to offer my thoughts on the two questions posed in your July 28, 2021 email.

Question 1

1. Do you support the development of a short policy overview document for the working group to achieve its charge?

Yes I support development of this product. Consumers are inundated with information and it is difficult for them to discern what is important. I see little likelihood that regulation will require a truly readable life insurance policy or that companies have incentives to produce a truly readable policy on their own. Therefore, a policy overview document that follows a prescribed format will 1) assist consumers in discerning what information is important and 2) facilitate consumer comparison of important information across policies. This approach models the required Summary of Benefits and Coverage for health insurance.

I would, however, recommend that a title be added to the sample document to help consumers understand the document's purpose and importance. One such title might be "Life Insurance Policy Overview" or "Policy Overview for [name of policy]."

The impact of the requirement also would be greater if a standard format were developed for insurers to use. This also would reduce the time insurers have to invest to prepare a policy overview.

Question 2

- 2a. Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why or why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement) 1-A).

My understanding of this is that the current delivery requirement would allow delivery of the policy overview with the policy for some policies (those with an unconditional refund provision of at least 10 days). **I would oppose this revision** for reasons explained in 2b below.

- 2b. Do you prefer the revisions to Model #580 requiring delivery of the policy overview at the time of application? Why or why not? (Refer to DRAFT April 20, 2021 (At Application) 1-B)

I support this revision based on several points.

- 1) Consumers make the psychological commitment to purchase a policy at the time of the application. It is cognitively and psychologically difficult for them to consider information provided after the application, and thus, the information provided at that time is likely to be ignored.
- 2) With the electronic delivery methods and on-demand printing options now available to agents and consumers, delivery at any time or place is feasible.

From: Cook, Jennifer R.
Sent: Wednesday, July 28, 2021 3:59 PM
Subject: Bill Carmello (NY) responses - Request for comments on LIIIWG

Importance: High

QUESTION 1

1. Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.

Yes

If yes, please explain why.

This document should help consumers better understand the fundamentals of the products by using a simple approach and user-friendly format.

If no, please explain why and address how the charge should be fulfilled.

Please proceed to Question 2. (The Committee is interested in feedback on question 2, even if you answered "No" to Question 1.)

QUESTION 2

2a. Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement) 1-A)

No. This basic information should be known by the consumers at time of application when they are deciding whether to purchase the insurance and trying to compare options from different insurers. Receiving this information at time of policy delivery, even if there is a free look provision, is too late for making comparisons of insurers' product offerings and defeats a primary purpose of this overview document.

2b. Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20, 2021 (At Application) 1-B)

Yes. See answer to 2.a

Let me know if you have any questions.

Jennifer Cook
Senior Life and Health Policy Counsel
National Association of Insurance Commissioners
Cell – 202-590-7573
jcook@naic.org



NATIONAL ALLIANCE OF LIFE COMPANIES

An Association of Life and Health Insurance Companies

August 9, 2021

Commissioner Marlene Caride
Chair, Life Insurance and Annuities (A) Committee
National Association of Insurance Commissioners
Kansas City, Missouri

Re: Life Insurance Illustrations Issues Working Group

Dear Commissioner Caride:

This letter is submitted on behalf of the National Alliance of Life Companies (the NALC), an association of more than fifty (50) life and health insurers and associates with a focus on the concerns of small and mid-sized life and health insurers and their policyholders. Many of our members play a significant role in the sale of pre-need and final expense insurance to address the needs of American families. The NALC appreciates the opportunity to respond to the Life Insurance and Annuities (A) Committee's (the A Committee) request for comments on two questions concerning the work of the Life Illustrations Working Group (the Working Group).

While we appreciate the considerable time and effort spent by the Working Group examining current policy disclosure requirements and sample policy summaries to identify inadequacies or deficiencies, this review found that current model regulations and disclosure requirements are working well for policyholders. The NALC, therefore, does not support further efforts by the Working Group to develop either a "short policy overview document," or the proposed changes to Model #580, and see no reason to develop additional supplemental materials.

An additional concern involves interfering with the relationship between the agent and consumer and possible confusion that could result. The agent plays a critical role assisting the consumer to select the product that best suits the consumers' needs. We believe consumers are far better served by discussing their needs and policy options with their agent, rather than requiring that agents spend time reading a prepared script and sharing multiple written summaries. This approach that encourages give and take between the consumer and their agent that has worked for the benefit of consumers for generations. If we treat these transactions like an advertisement for a pharmaceutical product with myriad confusing communications, we will deprive consumers of the opportunity to have a real conversation with their agent about their insurance needs and options.

The Life A Committee posed two questions to stakeholders. The first involved whether we supported the development of short policy overview documents for the Illustrations Working Group to meet its charge. The short answer is no. We believe an extension of current discussion regarding illustrations for indexed annuity life insurance to term life insurance would not be beneficial to consumers. That effort would involve an expenditure of regulatory resources that could be more effectively deployed elsewhere, likely resulting in confusing, lengthy supplemental materials that would complicate the process of selecting the right insurance option for consumers. Additionally, there is little doubt that significant litigation will arise around the manner in which the supplemental disclosures were provided. Ultimately, these factors will lead to less conversation between agents and consumers about insurance needs, and more focus on reading the contents of a checklist of documents.

The second question posed involved proposed revisions to Model #580 and the delivery requirement for the Model. The NALC opposes both proposed changes. Proposed option 1-A is unnecessary as consumers are already protected by the free look period during which any questions concerning cost or coverage can be clarified.

Likewise, we also oppose option 1-B. Requiring supplementary disclosures or illustrations to the consumer at the time of application would be inappropriate and not beneficial to consumers. Providing disclosures and illustrations before the underwriting process has been completed and costs have been determined would not provide meaningful information and would only serve to confuse the consumer.

Thank you again for the opportunity to respond.

Sincerely,

A handwritten signature in cursive script that reads "Jim Hodges".

Jim Hodges
Executive Director

State of Utah response to the survey (in red)

QUESTION 1

1. Do you support the development of a short policy overview document for the working group to achieve its charge? Yes or No.

If yes, please explain why.

If no, please explain why and address how the charge should be fulfilled.

We do not support the development of the policy overview. The WG charge is to explore “how the narrative summary [...] and the policy summary [...] can be enhanced.” Improving readability of the already required documents would be preferable to an additional document.

Please proceed to Question 2. (The Committee is interested in feedback on question 2, even if you answered “No” to Question 1.)

QUESTION 2

- 2a. Do you prefer the revisions to Model #580 using the current delivery requirement in the model? Why? or Why not? (Refer to DRAFT April 20, 2021 (Current Delivery Requirement) 1-A)
- 2b. Do you prefer the revision to Model #580 requiring delivery of the policy overview at the time of application? Why? or Why not? (Refer to DRAFT April 20, 2021 (At Application) 1-B)

We would prefer the revisions to Model #580 using the current delivery requirements for the Buyer’s Guide (Option 2a). This option results in a shorter document (there is no need for the “What do I need to do to buy this policy?” section) and the information would be specific to the policy as issued.



Comments of the Center or Economic Justice

To the NAIC Life Insurance and Annuities (A) Committee

Response to Questions Regarding the Work of the Life Insurance Illustrations WG

August 11, 2021

CEJ offers the following comments in response to the following questions posed to interested parties by e-mail on July 28, 2021 from Jennifer Cook regarding the work of the Life Insurance Illustrations Working Group:

- 1) Whether the Working Group should continue to develop a policy overview document to achieve its charge of improving the understandability of the life insurance policy summaries; and
- 2) If the answer to question 1) is yes, when should it be delivered to consumers?

Need for Policy Overview Document

.CEJ is puzzled why the first question is being asked yet again – for at least the third time since the working group’s charge was developed in 2015. Each time, the A Committee has affirmed the charge and the work product of the working group. Our attached comments from August 2019 provide some of the history of the project.

Yet, ACLI has long opposed the working group’s charge and the working group has proceeded at a glacial pace. While other NAIC working groups have picked up the pace on their charges and work products, the Life Illustrations WG has been virtually inactive for two years. We suggest the lack of working group activity should be met by A Committee encouragement to expeditiously complete the working group’s charge and not raise questions about the charge itself.

CEJ continues to support the working group’s efforts to develop a policy overview. This work product is a modest, but vital, effort to address the glaring problems with current life insurance illustrations and disclosures. The overview will provide consumers with a disclosure that provides consistent and relevant information about product features in a manner that better fulfills the purpose of the Life Insurance Disclosure Model, which include:

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***.

The insurer shall provide a Buyer's Guide to all ***prospective*** purchasers, prior to accepting the applicant's initial premium or premium deposit.

The insurer shall provide a policy summary to ***prospective*** purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration.

The working group long ago reviewed illustrations and disclosures provided by insurers for a variety of products and found these documents with great variation among insurers regarding lengthy and presentation – for the same products – as well as difficult to navigate and impractical to use for the comparison shopping purposes set out in the model regulation. It is not credible to argue that the current life insurance disclosure regime serves and empowers consumers.

It is long past time for the working group to move expeditiously to complete its work and present a work product to the A Committee for consideration. We urge the A Committee to direct the working group to expeditiously complete its work.

Timing of Delivery of Policy Overview and Buyer's Guide

Our attached comments from August and November 2019 provide detailed discussion of this issue. But, again, we are puzzled why there is even a question whether a policy overview designed to promote comparison shopping by consumers and a Buyer's Guide designed to assist consumers in buying life insurance should be delivered before or after purchase.

Given that delivery before purchase fulfills the purposes of the model regulation and that there are no technical impediments to disclosure before purchase, it is unclear why delivery following the purchase – which defeats the purposes of the documents and the model regulation – is even a serious option.

If an insurer can develop a 70-page illustration prior to purchase, it is simply not credible for insurers to argue that a document highlighting key features of the product and a standard Buyer's Guide cannot be delivered prior to purchase.



Comments of the Center or Economic Justice
To the NAIC Life Insurance Illustrations Working Group
Regarding Timing of Delivery of Life Disclosure Model Consumer Disclosures
November 15, 2019

CEJ offers the following comments in response to the working group's request. The Life Insurance Disclosure model regulation includes the following:

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*.

The insurer shall provide a Buyer's Guide to all *prospective* purchasers, prior to accepting the applicant's initial premium or premium deposit.

The insurer shall provide a policy summary to *prospective* purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration.

Clearly, the purpose of the regulation and of the Buyer's Guide and policy summary is to assist the consumer in shopping for insurance.

The last major revision to this model (other than changes to the content of the Buyer's Guide occurred over 19 years ago in June 2000. One of the changes at that time was the following:

The insurer shall provide, [a Buyer's Guide](#) to all prospective purchasers, ~~a Buyer's Guide and a policy summary~~ prior to accepting the applicant's initial premium or premium deposit; ~~provided, however, that:~~ ~~However, (a) —~~ ~~If~~ the policy for which application is made ~~or its policy summary~~ contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide ~~and policy summary must~~ may be delivered with the policy or prior to delivery of the policy.

Now, almost 20 years later, it is clear that there is no technology impediment to delivery of the Buyer's Guide, the Policy Overview and the Guaranteed Premium and Benefit Pattern Summary can be provided prior to accepting the applicant's initial premium payment. Retaining the current permission to delay delivery of these key documents until the delivery of the policy creates a loophole that swallows the primary directive of the section – to deliver the consumer disclosures critical to empower a consumer to select the most appropriate plan of life insurance for their needs.

It is illogical to provide these documents only after the consumer has purchased the product. While it may have been reasonable at one point in time to permit delivery of the Buyer's Guide after purchase due to logistical constraints, that is surely no longer the case and this provision is profoundly anti-consumer and must change. It is not only illogical and inefficient – it encourages the use of buying and cancelling a policy as the way to learn about the policy – but also directly contradicts the purpose of the model set out in 2A. Since the delivery of the Buyer's Guide is tied to the delivery of the Policy Overview and the purpose of the Policy Overview would be defeated if not delivered until after purchase, the two documents should be delivered prior to purchase. The delivery of the Buyer's Guide prior to purchase is further supported by the recent revisions to the Buyer's Guide – moving from a 20-page document to a two-page set of questions and answers.

ACLI's has previously argued that delivering the Policy Overview and the Buyer's guide prior to delivery of the policy will “empty them of consumer value.” This claim will certainly be a surprise to all property/casualty insurers who are somehow able to deliver quotes to consumers prior to purchase that appear to have value to the consumer shopping for coverage. And it should also surprise life insurers who currently prepare – prior to a consumer's purchase – illustrations for some types of life insurance and policy summary tables of premiums and benefits for other types of life insurance.



Comments of the Center or Economic Justice
To the NAIC Life Insurance Illustrations Working Group
Response to Recent Comments by ACLI and NAIFA
August 30, 2019

With these comments, CEJ responds to ACLI's August 23, 2019 comment letter and NAIFA's August 26, 2019 comment letter. Both comment letters miss the mark terribly regarding the working group's efforts.

“ACLI New Considerations”

After opposing the delivery of the Policy Overview and the Buyer's Guide prior to purchase when the documents would actually facilitate shopping by the consumer, Mr. Lovendusky continues ACLI's obstruction of the working group's efforts by urging the working group to abandon its charge and the agreed-upon work product of the Policy Overview.

For anyone following the working group's efforts, the observer might be surprised at the blatant contradiction and abject hypocrisy shown by Mr. Lovendusky in asking the working group to ignore its charge after routinely taking up the working group's time with diatribes and false accusations against others for recommendations allegedly exceeding the working group's charge. Yet, now, as the working group is finalizing its work, Mr. Lovendusky shows neither embarrassment nor shame for engaging in precisely the same offensive act of which he has accused others.¹

Mr. Lovendusky questions the working group's charge arguing that “It is not clear that the policy summary required by Model #580 and the narrative summary of Model #582 are, in fact, unreadable or incomprehensible to consumers.” Of course, this is a straw man argument. The documents need not be “unreadable or incomprehensible” to warrant improvement.

¹ Mr. Lovendusky has made a cottage industry of obstructing the working NAIC Working Groups. In response to a request by the NAIC Market Analysis Procedures Working Group for technical comments on Disability Insurance Market Conduct Annual Statement Scorecard Ratios which had been the subject of numerous stakeholder conference calls over many months and were set for final adoption, Mr. Lovendusky's letter to the MAP WG questions data elements and definitions that had been adopted over a year earlier, the MCAS process and even the application of MCAS to life insurance and disability insurance while inexplicably seeking a delay in reporting. See attached CEJ comments illuminating Mr. Lovendusky's efforts.

It is also a bizarre argument since the documents do, in fact, warrant significant improvement in readability and consumer comprehension to achieve the purposes of the Life Insurance Disclosure Model Act:

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.

The Life Insurance (A) Committee recognized this in 2015 when it adopted the charge for the working group:²

Commissioner Gerhart noted that some of the comments appear to merit some review of Model #582. Director Ramage agreed and made a motion, seconded by Commissioner Gerhart, that the Committee establish a new working group with a 2016 Proposed Charge to explore how the narrative summary required by Section 7B of Model #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.

In 2016, Mr. Lovendusky agreed about consumer confusion with complex insurance products. According to the minutes of the April 3, 2016 minutes of the working group:

Mr. Lovendusky said the ACLI work group also discussed whether the best way to accomplish the charge is to develop one simplified disclosure document for each model or whether multiple disclosure documents for each life insurance product— whole, term and universal—are contemplated for each model. He said this is an issue for the Working Group to decide. He said the ACLI work group thinks that most confusion for consumers involves complex products like universal life, and not simple products like term life. He said consumers are mostly confused about options, guarantees and riders.

Mr. Lovendusky's latest suggestion – to forego the Policy Overview in place of the Life Online Buyer's Guide – was considered and rejected by Life (A) Committee in April 2016.

Commissioner Gerhart explained that the American Academy of Actuaries (Academy) wrote a letter suggesting expansion of the Working Group's charge to include a review of the *Life Insurance Buyer's Guide* (Buyer's Guide). He said the American Council of Life Insurers (ACLI) followed up with a letter stating that it did not oppose the addition, but pointed out that the Committee itself already has an existing charge to revise the Buyer's Guide, and the addition of this task to the Working Group might slow down its ability to accomplish the current charge.

² Minutes of the November 20, 2015 Meeting of the NAIC Life Insurance (A) Committee

Birny Birnbaum (Center for Economic Justice—CEJ) expressed support for updating the Buyer’s Guide generally, but said the charges contemplated for the Working Group serve a different purpose. He explained that the Buyer’s Guide is an educational document and the revisions contemplated in the charge to the Working Group focus on plan-specific information.

Mr. Regalbuto said New York is releasing Insurance Regulation 74 focusing on universal life illustration issues and updated its buyer’s guide with respect to universal life. Brenda Cude said the Buyer’s Guide needs a total overhaul, not just a revision. She explained that the products in the marketplace have radically changed since the time the Buyer’s Guide was first written.

The Committee agreed that because there is an existing charge to revise the Buyer’s Guide and the focus of the Buyer’s Guide is different from focus of the Working Group’s charge, the charge should remain as written.

The working group did solicit and review examples of then-current narrative summaries and policy summaries in 2016. The examples submitted by the ACLI showed wildly different formats, lengths and content of the documents across insurers and even across the same category of products. The industry practice was shown to be a document that combined the requirements of the policy summary and narrative summary of the two models without distinction – industry was unable to identify a specific policy summary document.

The working group decided that the best approach would be to create a new, simpler document – called the Policy Overview – to replace the policy summary to fulfill the charge of the working group. The working group presented this approach to the parent Life (A) Committee at the August 27, 2016 Committee meeting and received the Committee’s support.

Mr. Wicka said the Working Group met via conference call to consider the recommendation of its ad hoc group, made up of consumer representatives, industry and regulators. He said the insurance industry provided the ad hoc group with sample narrative and policy summaries to review to consider the best way to accomplish the Working Group charge to “[e]xplore how the narrative summary required by Section 7B of the *Life Insurance Illustrations Model Regulation* (#582) and the policy summary under the *Life Insurance Disclosure Model Regulation* (#580) can be enhanced to promote consumer readability and understandability of life insurance policy summaries, including how they are designed, formatted and accessed by consumers.” He said after hearing the ad hoc group’s report, the Working Group agreed that developing a one- or two-page consumer-oriented policy overview would satisfy its charge to make illustrations more consumer-friendly. Mr. Johnson made a motion, seconded by Director Ramege, to adopt the Life Insurance Illustration Issues (A) Working Group’s report, including its Aug. 22 (Attachment Four) and Aug. 17 (Attachment Five) conference call minutes. The motion passed unanimously.

At each national meeting of the Life (A) Committee following the August 2016 meeting, the Life Insurance Illustrations Working Group report has included an update on the progress developing the Policy Overview without objection by any Life (A) Committee member. It is clear that the efforts of the working group to develop the Policy Overview are supported by the parent committee to fulfill, at least in part, the charges of the working group.

Given the history of the working group, Mr. Lovendusky's comments under "New ACLI Considerations" are – gasp! – clearly beyond the scope of the working group and should be directed to the parent committee (where the recommendations have previously been presented and rejected). The working group should not devote one minute to consideration of the "New ACLI Considerations."

Timing of Delivery of the Buyer's Guide and Policy Overview

Unable to stop himself from utter hypocrisy, Mr. Lovendusky starts his comments about timing of delivery of the Policy Overview with the false – no, absurd – claim that the timing of document deliver – including timing of delivery of the Policy Overview – is beyond the working group's charge:

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 Model #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*.

It would indeed be a novel interpretation of "consumer access" to exclude the timing of delivery of the document the consumer can access. The working group must reject this argument.

Mr. Lovendusky's next argument is that delivering the Policy Overview and the Buyer's guide prior to delivery of the policy will "empty them of consumer value." This claim will certainly be a surprise to all property/casualty insurers and consumers who are somehow able to deliver quotes to consumers prior to purchase that appear to have value to the consumer shopping for coverage.

Mr. Lovendusky stakes his claim on the premise that the Policy Overview has "personalized information" that can somehow only be provided after the life insurer has issued a policy *In fact, the Policy Overview, has very limited items personalized to the consumer*. The vast majority of the data elements in the Policy Overview are generic to the product that is the subject of the Policy Overview. The personalized information in the Policy Overview is the premium for the policy – based on information known to the producer or insurer at the time and subject to change based on additional or revised information – and that information can be provided prior to purchase. If an insurer can produce an illustration for a complex, investment-type life insurance product prior to the consumer purchase, it is clearly possible for an insurer to provide the premium for a policy prior to purchase.

It is important to understand what the ACLI – and NAIFA – are claiming in their opposition to delivery of the Policy Overview and Buyer’s Guide prior to policy purchase. The trades are claiming a consumer must purchase a policy to actually get information about the policy. They are claiming that, despite technological advances in the speed and delivery of consumer information, insurers are stuck with mid-20th century technology and capability. They are claiming that they can now use Accelerated Underwriting to provide instant quotes, but that delivery of a Policy Overview and Buyer’s Guide prior to purchase would bring the industry to its knees. Who knew?

One of the purposes of the Life Insurance Disclosure Model and, particularly, the Policy Overview is to assist consumers in selecting the product that best meets their needs and shopping for that product. To provide said Policy Overview – and the Buyer’s Guide – only after purchase by the consumer is inconsistent with the purposes of the model and undermines the role of these documents.

NAIFA

Despite no participation to date in the working group’s efforts over the past four years, NAIFA decides it needs to now weigh in on the important role of agents in the life insurance sales process and that without an agent to interpret these documents for consumers, the consumers will be lost at sea.

Mr. Sanders’s complaint that the working group is ignoring the role of agents in educating consumers is factually incorrect and unrelated to the work product at hand. It is unclear what basis Mr. Sanders has for his allegation. The top of the draft Policy Overview includes the following disclosure:

ABC Insurance Co. Decreasing Term Life Insurance Disclosure

This document lists this product’s key features, benefits and costs. You can get a similar summary of key product features from other insurance companies to help you compare similar products. ***If you have questions about this particular life insurance product, ask the agent, broker, advisor, or a company representative offering this product for clarification. If you have questions about life insurance products generally or about company or agent licensing, contact [insert name of state department of insurance]. Prepared by Agent Joe Smith, [Emphasis Added]***

The explicit charge to the working group is to review specific consumer disclosures, not to promote agents in the sales process.

Further, in a transparent attempt to support the ACLI position on timing of delivery even though such delivery would the responsibility of the insurer and pose no burden for the agent, Mr. Sanders’s plea that disclosures serve no purpose unless interpreted for consumers by agents is slightly outdated – no more than 50 years – in an era of digital technology. Mr. Sanders makes the bold claim:

Without the involvement of an agent—if the consumer relies solely on the written materials provided-- it is unlikely that he or she will have the information and guidance needed to make the right decision in light of the consumer's unique circumstances, regardless of when the policy overview document is provided.

This claim will no doubt surprise the many consumers who purchase life insurance online using digital technology as well as the insurers and insurtechs developing accelerated underwriting to educate and speed consumers through the purchase process.

More important, Mr. Sanders's entire comment letter misses the point of the Policy Overview. The purpose is to provide consumers with basic features about a product in a consistent format that enables the consumer to compare products across insurers. It is not and never has been promoted as substitute for other information needed to help a consumer select and understand life insurance products.

Finally, Mr. Sanders regurgitates ACLI's erroneous claim that delivery of the Policy Overview and Buyer's Guide prior to purchase will rob the Policy Overview of meaningful content. We explain above why this argument is incorrect.

Mr. Sanders's drive-by comments to the working group are based on false assertions and misunderstanding of the working group's efforts. His comments have no relevance for the current efforts of the working group.



Comments for the Center for Economic Justice

To the NAIC Market Analysis Procedures Working Group

Response to AHIP and ACLI Comments on Proposed Disability MCAS Scorecard Ratios

August 26, 2019

Summary

At the Summer National Meeting, the Market Analysis Procedures Working Group (MAP WG) requested technical comments on proposed scorecard ratios for the Disability Income MCAS line of business. The request for comments was so limited because the ratios had been fully vetted by a drafting group consisting of industry, regulator and consumer stakeholders over numerous phone calls during which every industry suggestion and concern was considered.

The comment letters submitted by AHIP and ACLI comment letters go far afield of the request for comments. The bulk of the AHIP comments are a request to clarify or reconsider data elements. In addition to being non-responsive to the MAP WG request for comments, ***the requested action is beyond the scope of the MAP WG's charge*** and is properly directed to the Market Conduct Annual Statement Working Group (MCAS WG) for any needed clarification of data elements and definitions.

The ACLI letter goes even further afield – questioning data elements, definitions, the MCAS process, even the application of MCAS to life insurance and disability insurance – while inexplicably seeking a delay in reporting. Mr. Lovendusky's comments on behalf of ACLI, instead of technical comments on the proposed scorecard ratios, questions not only the ratios themselves, but also questions the data elements and definitions adopted over a year ago.

Displaying no shame for a blatant effort to obstruct regulatory data collection to monitor the disability income insurance market, ACLI, based on egregiously false assertions about lack of clarity, requests a delay in collection of Disability MCAS data. Apparently, ACLI believes it can make regulators jump to their commands, no matter how ridiculous. ***In any event, the changes requested by ACLI are based on false claims, without any evidentiary support, beyond the scope of the request for comments and beyond the scope of the MAP WG charges. The ACLI comments must be rejected.***

Background

The Disability MCAS data elements and definitions were adopted – after development by a drafting group convening many times over many months with full industry participation – by the Market Regulation (D) Committee on July 10, 2018 (over a year ago). The minutes of that D Committee call state:

Ms. Ailor said the Market Conduct Annual Statement Blanks (D) Working Group began drafting the Disability Income MCAS Data Call and Definitions in 2017 and adopted the data call and definitions on May 16, 2018. Ms. Ailor said the Disability Income MCAS Data Call and Definitions were developed with subject-matter experts (SMEs) of regulators, industry and consumers. Ms. Ailor said the development was coordinated with the Market Analysis Procedures (D) Working Group.

The issue before the MAP WG is the adoption of proposed scorecard ratios. Like the data elements and definitions, the scorecard ratios were developed by a drafting group meeting regularly and with full industry participation. Every concern of industry was considered. The ratios were fully vetted and ready for adoption at the Summer 2019 National Meeting, but industry requested more time for comments. The working group agreed to additional comments limited to technical comments on the ratios. The draft minutes of the meeting state:

Birny Birnbaum (Center for Economic Justice—CEJ) said the industry representatives have been involved in the creation of the ratios for the last three of four conference calls, and they have had the opportunity to discuss with their member companies. He noted that there are no unexpected implications to companies by adopting the ratios because the actual data elements of the MCAS blank have not changed.

Randy Helder (NAIC) said the ratios need to be adopted by September to allow enough time to program them into the MCAS system for next year. Ms. Ailor said the Working Group has some time to request comments and decide by September. Ms. Dingus suggested that the Working Group could schedule its next conference call in the last week of August. Mr. Haworth agreed to set a conference call of the Working Group for the last week in August to consider adoption of the ratios. *Mr. Birnbaum said comments should be limited to technical changes and not be allowed to question whether a ratio should be removed. Ms. Burns said there were no concerns with the ratios, and their comments would only be technical in nature.*

AHIP Comments

Despite Ms. Burns' promise on behalf of AHIP, Mr. Cashdollar's comment letter on behalf of AHIP is devoted to questioning data definitions and re-litigating ratios.

Ratios 2 and 3¹

AHIP's purported comments about Ratios 2 and 3 are, in fact, not about the ratios. Rather, AHIP asks for clarification of a data element – when is a claim “received” and complains that long-term disability insurers cannot make initial claim decisions within 90 days. AHIP, despite full industry participation in the development of the data elements and definitions from 2017 to 2018, now asks to revise the data elements involved in Ratio 3. These comments, if they are to be addressed at all, should be addressed to the MCAS WG for any needed clarification of data definitions. ***For purposes of the MAP WG's adoption of the proposed scorecards, the comments are irrelevant and beyond the scope of the working group.***

Ratio 6²:

Despite being fully vetted by the drafting group, AHIP asks that Ratio 6 be eliminated. ***Again, despite the WG's request for technical comments, AHIP seeks to re-litigate a ratio.*** Ratio 6 is one of three complaint ratios:

- complaints for individual disability policies to number of individual policies (which is the same as number of lives in-force) (Ratio 4)
- complaints for group policies to number of lives in force on group policies (Ratio 5)
- complaints for group policies to number of group policies (Ratio 6)

These three complaint ratios provide different and complementary information. It is reasonable and necessary to develop complaint ratios separately for individual and group products because a ratio combining the complaint experience will lead to unreliable results that are not comparable across companies.

With individual policies, if the policyholder wants to register a complaint, it will be filed with the insurance department, producer and/or insurer. (For purposes of the ratios, we ignore the possibility of a complaint to another regulatory agency or third party organization – like the Better Business Bureau.)

¹ Ratio 2 is Percentage of claims processed with initial decisions after 45 days for short term coverage. Ratio 3 is Percentage of claims processed with initial decisions after 90 days for long-term coverage.

² Ratio 6 is the number of complaints relating to group policies to average number of group policies in force during the reporting period.

With group policies, the employer or the group organization is the policyholder and the individual insureds are the employees or group members to whom a certificate has been issued. In addition to the possibility of filing a complaint with the insurance department or insurance company, a certificate holder may also file the complaint with the employer or group administrator. In such a scenario, a significant number of certificate holders might encounter the same issue and complain to the employer or group administrator, who then files a single complaint about the common issue to the insurance company.

Further, individual and group products are sufficiently different to expect different complaint frequencies. We expect a higher frequency of complaints for individual policies because the insured is more actively engaged with the policy administration (application, underwriting, billing, coverage) than a certificate holder is with a group policy as the group policyholder makes many of the decisions that an insured under an individual policy is required to make.

Complaint frequencies for group products should be generated on the basis of both covered lives and average policies in force. To illustrate, assume companies D and E both have complaint ratios calculated on the basis of policies and both have 100 group policies in force and both have a 1% complaint ratio. But company D has 50,000 covered lives while company E has 5,000 covered lives. In this example, company E is producing a much higher frequency of complaints per covered life than company D. While this piece of information alone is not dispositive, it is very useful to supplement and interpret the related ratios.

If, after a few years of experience, individual and group product complaint frequencies are the same, the ratios can be simplified. But, initially, the more refined ratios are necessary to identify whether there are significant differences in complaint frequencies – as expected – between individual and group products.

Ratio 8:

AHIP requests the title of the ratio be changed from “Non-renewals and cancellations to average policies in force” to “**Insurer** non-renewals and cancellations to average policies in force.” CEJ has no objection.

Ratio 9:

AHIP requests the title of the ratio be changed from “Covered lives affected by non-renewals to average policies in force” to “Covered lives affected by **insurer** non-renewals to average policies in force.” CEJ has no objection.

ACLI

Far from comments limited to technical issues with proposed Disability MCAS ratios, ACLI's letter offer comments on many things other than the proposed ratios. The ACLI comments must be rejected.

ACLI starts by questioning the MCAS development process, suggesting that ratios should be developed simultaneously with data elements and definitions. Putting aside the fact that Mr. Lovendusky did not participate in either the development of the data elements and definitions or the development of the ratios, his "I know better than everyone else" approach is unsurprisingly uninformed. As anyone who participates in the development of MCAS data elements and definitions knows, the usefulness of a data element and its potential use in a scorecard ratio are integral to such development.

ACLI's next comment is a request for definitions of "paid" and "denied." Again, putting aside the fact that these terms are explicitly defined in the data element definitions, these comments are unresponsive to MAP WG's request and the requested actions are ***outside the scope of the MAP WG and should be addressed to the MCAS WG.***

ACLI, without the benefit of participating in the extensive discussions during numerous conference calls to develop and refine the ratios suggests changing Ratio 1 – Percentage of claims denied. ***ACLI offers no rationale or explanation for the proposed change. The proposal must be rejected.***

ACLI, again without the benefit of participating in the extensive discussions during numerous conference calls, questions Ratio 6 – "More insight regarding this ratio is desired." We suggest the working group refer Mr. Lovendusky to the CEJ comments on the complaint ratios earlier in this comment letter. ***In any event, ACLI's effort to re-litigate the ratio is inappropriate and must be rejected.***

Regarding Ratio 7, percentage of lawsuits closed with consideration for the consumer, ACLI seeks to re-litigate both the data element and the related definition. ***ACLI's request is outside the scope of the MAP WG and must be rejected.***

Regarding Ratio 8, non-renewals and cancellations to average policies in force, Mr. Lovendusky asks if the ratio pertains to individual coverages – a question he could answer by simply looking at the Disability MCAS Data Call and Definitions. The ratio will be calculated for individual and group coverages. The application to individual and group coverages is important. In combination with Ratio 9 for group coverages, Ratio 8 provides a holistic view of non-renewals and cancellation by relating them to group policies (Ratio 8) and to covered lives on group policies (Ratio 9). ***ACLI's comment must be rejected.***

Regarding Ratio 9, covered lives affected by non-renewals to average policies in force for group coverages only, and again without the benefit of participating in the extensive discussions during numerous conference calls, Mr. Lovendusky questions the value of this ratio. Ratios 8 and 9 are complementary. Ratio 8 relates non-renewals and cancellation to average policies in force. For individual coverages, Ratio 8's denominator – average policies in force – is the same or similar to covered lives. For group coverages, Ratio 8 does not relate non-renewals and cancellations to covered lives – hence, the inclusion of Ratio 9 which does. ***ACLI's comment must be rejected.***

ACLI questions the usefulness of Ratio 10, average pending benefit determinations to claims received. ***ACLI's uninformed attempt to re-litigate the ratio is outside the scope of the request for comments and must be rejected.***

Based on ACLI's false claims about errors in data definitions, ACLI asks that the adoption of ratios be delayed and data definitions be reconsidered. ACLI has provided no actual evidence of errors in data definitions. Instead, the ACLI comment letter is an uninformed drive-by attack on all things MCAS. ***The request for delay and reconsideration must be rejected.***

Finally, not content to obstruct Disability MCAS ratios, ACLI concludes its diatribe by arguing that MCAS isn't needed for life insurance and annuities, based on a false history of the purpose and development of MCAS. ***Clearly, these comments are not appropriate and must not be considered by the MAP WG.***