

LONG-TERM CARE INSURANCE (EX) TASK FORCE

Long-Term Care Insurance (EX) Task Force Aug. 7, 2020, Virtual Summer National Meeting Minutes
Long-Term Care Insurance (EX) Task Force July 2, 2020, Conference Call Minutes (Attachment One)
Long-Term Care Insurance (EX) Task Force Fall National Meeting Minutes (Attachment One-A)
Reduced Benefit Options (RBO) Principles Document (Attachment One-B)
Subgroup Charges (Attachment Two)

Draft Pending Adoption

Draft: 8/12/20

Long-Term Care Insurance (EX) Task Force
Virtual Summer National Meeting
August 7, 2020

The Long-Term Care Insurance (EX) Task Force met via conference call Aug. 7, 2020. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier (AK); Jim L. Ridling (AL); Alan McClain represented by Carroll Astin (AR); Evan G. Daniels (AZ); Ricardo Lara represented by Bryant Henley (CA); Karima M. Woods (DC); Trinidad Navarro (DE); David Altmaier represented by John Reilly (FL); Colin M. Hayashida represented by Paul Yuen (HI); Doug Ommen (IA); Dean L. Cameron (ID); Robert H. Muriel (IL); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt represented by Nicole Boyd (KS); Sharon P. Clark (KY); James J. Donelon (LA); Gary Anderson (MA); Anita G. Fox represented by Karen Dennis (MI); Steve Kelley represented by Fred Andersen and Grace Arnold (MN); Chlora Lindley-Myers (MO); Matthew Rosendale represented by Bob Biskupiak (MT); Mike Causey represented by David Yetter (NC); Jon Godfread (ND); Bruce R. Ramge (NE); Marlene Caride (NJ); Russell Toal represented by Anna Krylova (NM); Glen Mulready represented by Andy Schallhorn and Cuc Nguyen (OK); Andrew R. Stolfi represented by TK Keen (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry D. Deiter (SD); Hodgen Mainda (TN); Kent Sullivan (TX); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler (WA); Mark Afable (WI); James A. Dodrill (WV); and Jeff Rude represented by Linda Johnson (WY).

1. Adopted its July 2 Minutes

Commissioner White said the Task Force met July 2 and took the following action: 1) adopted its 2019 Fall National Meeting minutes; 2) received progress reports on the current activities of its six workstreams; 3) exposed a draft reduced benefit option (RBO) principles document for a 30-day public comment period ending Aug. 3; and 4) exposed draft 2020 subgroup charges for a 14-day public comment period ending July 17. Commissioner Donelon made a motion, seconded by Commissioner Altman, to adopt the Task Force's July 2 minutes (Attachment One). The motion passed unanimously.

2. Adopted its Subgroup Charges

Commissioner White said the Task Force exposed the charges for three of its subgroups for public comment. No comments were received. The subgroups are a consolidation of the six workstreams, and the charges are a delegation of Task Force charges. The existing workstream memberships will be rolled into each subgroup, and existing interested parties of the Task Force will be listed as interested parties for each of the subgroups. If any state insurance regulator wishes to be added or removed as a member or interested regulator or if interested parties wish to be added to the distribution list, please notify NAIC staff.

Director Ramge made a motion, seconded by Commissioner Atman, to adopt the formation of three new subgroups—the LTCI Multi-state Rate Review (EX) Subgroup, the LTCI Reduced Benefit Options (EX) Subgroup, and the LTCI Financial Solvency (EX) Subgroup—and related 2020 charges (Attachment Two). The motion passed unanimously.

3. Received a Progress Report on Activities of the Task Force

a. Multi-State Rate Review Practice

Commissioner Conway said the multi-state rate review workstream remains the centerpiece work of the Task Force, and it is intended to develop a consistent state-based approach for reviewing long-term care insurance (LTCI) rate increase filings. The goal is to have the result be an actuarially justified rate increase process that is timely and eliminates cross-state rate subsidization. Commissioner Conway said the multi-state actuarial review group is overseen by himself and Commissioner White, and it has involved state department actuaries from Connecticut, Minnesota, Nebraska, Texas and Utah. The multi-state actuarial team considers the experience and expectations filed by the requesting company, as well as other actuarial matters that have been discussed by the Long-Term Care Pricing (B) Subgroup the past several years, including the handling of shrinking blocks and not allowing inappropriate inclusion of past losses in remaining policyholders' rates. Collaboration is also occurring between the multi-state team and the Interstate Insurance Product Regulation Commission (Compact) for rate filings submitted to the Compact. The infrastructure of the Compact is also used for efficiency and coordination. The pilot project is underway and reviewing several rate filings. The multi-state team will be working with the Task Force to determine the final work product. The intent is for state insurance departments to be able to rely on the work of the multi-state team in their review

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and granting of LTCI rate increase filings. However, each state will ultimately be responsible for approving, partially approving or denying a rate increase filing in their state.

Birny Birnbaum (Center for Economic Justice—CEJ) asked if in evaluating rate inequality between states' policyholders under the work of the consultant performing the data call, how the Task Force will assess the quality of the rate reviews performed to-date by individual states. He asked whether rate inequality, if it exists, is due to differing assumptions by the states as to who is responsible—policyholders or shareholders—or pricing errors. Commissioner Conway said part of the multi-state review process has been to look at the rate increases that have been granted. This is a discussion that the Task Force is having. The multi-state team is focused on the actuarial rate review processes used by Minnesota and Texas, both of which consider the concerns Mr. Birnbaum has raised. Mr. Birnbaum asked if the data call submissions would be made publicly available to consumer stakeholders. If not, he inquired as to why, as the information seems like it would be the same information available in public rate filings. Additionally, he asked why the information is confidential. Commissioner White said the data call was conducted under confidentiality laws. He said the data has not yet been reviewed by the Task Force; therefore, no final decisions have been made, but the Task Force will evaluate if any information can be shared. Jan M. Graeber (American Council of Life Insurers—ACLI) said the insurance carriers that participated in the data call provided the information with the understanding that it would remain confidential. While carriers have access to their own information, they do not have access to other company information. Commissioner Conway said the Task Force will be as transparent as possible, but it must weigh confidentiality issues. He said the Task Force will have more discussions that can be made public.

Ms. Graeber asked when industry and interested parties would be included in any of the work of the multi-state rate review workstream. Commissioner Conway said the Task Force is just beginning to review an initial work product. He said the goal is to have the process in place by the end of the year, so he hopes to engage industry and interested parties within the next couple months.

Commissioner Donelon asked if the report of the multi-state review team will be released in confidential regulator-only form or if it will be publicly released. Commissioner White said the Task Force will discuss this on a future call. Commissioner Donelon asked if there is a pool of funds available industry wide to LTCI insurers. Mr. Andersen said each company holds reserves that will fund future policyholder claims, and he is not aware of any other funds.

b. RBO and Consumer Notices

Commissioner Altman said the RBO and Consumer Notices workstream developed a principles document to provide guidance to state insurance regulators when evaluating RBO offerings by insurers. The document is offered to assist the Task Force in completing its charge to “[i]dentify options to provide consumers with choices regarding modifications to long-term care insurance (LTCI) contract benefits where policies are no longer affordable due to rate increases.” The principles and issues outlined in the document are:

- Fairness and equity for policyholders that elect an RBO.
- Fairness and equity for policyholders that choose to accept rate increases and continue LTCI coverage at their current benefit level.
- Clarity of communication with policyholders eligible for an RBO.
- Consideration of encouragement or requirement for a company to offer certain RBOs.
- Exploration of innovation, particularly where an outcome of improved health and lower claim costs are possible.

Commissioner Altman said the workstream released an RBO Principles document for public comment and received comments from interested parties. She said the new subgroup will meet after the national meeting to discuss comments in more depth. She said the subgroup will also begin developing a principles document for consumer notices.

4. Received Comments on the RBO Principles Document

Bonnie Burns (California Health Advocates—CHA) said CHA's comment letter included concerns with how RBOs are presented and portrayed to policyholders, how they are offered, if policyholders have an understanding of the relationship between the RBOs and their potential premiums, how the rates are affected by the RBO decisions policyholders make, and the fairness of the rates. She said some consumer notices include language that there may be additional rate increases. She said standards for format and how information is presented in consumer notices will be important. She said she has done a lot of work in California with consumers. She wants to ensure that the RBOs are fair to the insured and that consumer notices are understandable for policyholders of different ages and financial and care-giving situations to make the best decision.

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Commissioner Altman said input from the consumer representatives will be important to the development of the consumer notices principles document. She said while they have not yet answered the questions around rates and the impact of RBOs, she is discussing with Commissioner Conway how the two subgroups will work together in bringing the review and pricing of RBOs into the multi-state rate review process.

Ms. Graeber said the ACLI provided comments on the RBO principles document. She said the ACLI wants to be a partner with state insurance regulators and other stakeholders on a goal in providing policyholders meaningful options for the rate increase on LTCI coverage. She said the ACLI is supportive of developing principles to guide state insurance regulators in the review of RBOs facing an increase on the LTCI policy. She said it is important to recognize the characteristics of the block of business and how those characteristics affect the choices that are provided to consumers. She said the ACLI identified three overarching principles supporting a review: 1) no policyholder or carrier should be required to modify a contract that has been entered into; 2) any offer made should consider the impact on remaining policyholders; and 3) offers should ensure that there is no unfair discrimination among policyholders. Providing fair and meaningful options to consumers starts with recognizing all aspects of LTCI policies, as not all LTCI products are the same and have evolved over time. Insurers have LTCI blocks with variations. Ms. Graeber said a policyholders' decisions may not be just based on affordability, but also based on their personal situation, so there is no one-size-fits-all for RBOs. Fairness and equity can be achieved by clear communication of the options available and insurers encouraging policyholders to base decisions on the appropriateness of that option for their individual situation and benefit level. She said a main point is to balance communication with the policyholders—what is reasonable and fair—while still allowing insurers the flexibility to identify what options make sense for their block of business.

Having no further business, the Long-Term Care Insurance (EX) Task Force adjourned.

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Long-Term Care Insurance (EX) Task Force
Conference Call
July 2, 2020

The Long-Term Care Insurance (EX) Task Force met via conference call July 2, 2020. The following Task Force members participated: Scott A. White, Chair, and Doug Stolte (VA); Michael Conway, Vice Chair (CO); Jim L. Ridling (AL); Alan McClain represented by William Lacy (AR); Christina Corieri represented by Vincent Gosz (AZ); Ricardo Lara represented by Susan Bernard (CA); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro (DE); David Altmaier represented by Carolyn Morgan (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dean L. Cameron represented by Weston Trexler (ID); Robert H. Muriel represented by Eric Anderson (IL); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt (KS); Sharon P. Clark represented by Stephanie McGaughey-Bowker (KY); James J. Donelon (LA); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Steve Kelley represented by Fred Andersen (MN); Matthew Rosendale represented by Regan Hess (MT); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge represented by Rhonda Ahrens (NE); Marlene Caride (NJ); Russell Toal represented by Anna Krylova (NM); Barbara D. Richardson (NV); Glen Mulready represented by Andrew Schallhorn (OK); Andrew R. Stolfi (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer represented by Matt Gendron (RI); Raymond G. Farmer (SC); Larry D. Deiter represented by Jill Kruger (SD); Hodgen Mainda represented by Rachel Jade-Rice (TN); Kent Sullivan and Doug Slape (TX); Todd E. Kiser (UT); Michael S. Pieciak represented by Emily Brown (VT); Mike Kreidler (WA); Mark A. fable represented by Richard Wicka (WI); James A. Dodrill (WV); and Jeff Rude (WY).

1. Adopted its 2019 Fall National Meeting Minutes

Commissioner Ridling made a motion, seconded by Commissioner Caride, to adopt the Task Force's 2019 Fall National Meeting minutes (Attachment One-A). The motion passed unanimously.

Commissioner White said the Task Force also met June 30 in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss workstream planning.

2. Received a Progress Report on Activities of the Task Force and Exposed a Draft Principles Document for Public Comment

a. Multistate Rate Review Practice

Commissioner Conway said the multi-state rate review workstream is the center-piece work of the Task Force. He said the workstream is intended to develop a consistent state-based approach for reviewing long-term care insurance (LTCI) rate increase filings that culminate actuarially appropriate increases granted by the participating state insurance departments. The rate review process will be timely and eliminate cross-state rate subsidization to the extent that it exists. Commissioner Conway said the multi-state actuarial review group will perform an actuarial review of a rate increase filing that can be relied upon by the state insurance departments. Member actuaries from Connecticut, Minnesota, Nebraska, Texas and Utah are leading this work. The multi-state actuarial team will consider the experience and expectations filed by the requesting company. The review will also consider actuarial matters that have been discussed by the Long-Term Care Pricing (B) Subgroup the past several years, including the handling of shrinking blocks and not allowing inappropriate inclusion of past losses in remaining policyholders' rates. The multi-state actuarial team will collaborate with the Interstate Insurance Product Regulation Commission (Compact) for rate filings submitted to the Compact. The infrastructure of the Compact may be used for efficiency and coordination. The team is currently reviewing several rate filings, and it is learning lessons as progress is made through those rate filings. The team will work with the Task Force on how the coordination of a rate review analysis will be designed.

b. Non-Actuarial Variances Among the States

Commissioner Kreidler said the non-actuarial variance among the states workstream was focused on evaluating the differences among the states in the application of non-actuarial factors and reviewing considerations in evaluating rate increase requests. The workstream was tasked with developing a model set of recommendations for non-actuarial practices. On June 24, the workstream adopted its recommendations that address caps, phase-in periods, and solvency impact, as well as other concepts, such as waiting periods, size of the block, and age of the policyholders. These are topics that may need to be viewed from both the actuarial and non-actuarial perspective. This workstream recognizes the need for the multi-state rate review workstream to

consider these recommendations, as the topics correspond with the actuarial development process. As the Task Force is aware, these recommendations were formerly referred to the multi-state rate review workstream to be incorporated into their development process for the overall rate review methodology and framework.

Mr. Knable said he would like to emphasize that the Task Force discusses the multi-state rate review and non-actuarial workstreams' recommendations with each individual state, and that each state will still be responsible for the final approval of the rate increase in their state, so that this process is not confused with a complete national approach to LTCI rate increases. Commissioner White said the non-actuarial considerations were referred to the multi-state rate review workstream, and there will be an opportunity for further discussion by commissioners as they are incorporated into that development process.

c. Restructuring Techniques

Mr. Slape said the restructuring techniques workstream was formed to evaluate restructuring options. The workstream has developed a scope of work that would direct a legal consultant to evaluate restructuring options and provide a report to the Task Force. The scope of work and listing of qualifications for a consultant have been adopted by the Task Force. Mr. Slape anticipates that the NAIC will consider and issue a Request for Proposal (RFP). Any law firms that may be interested in bidding on such a project and would like to be on a distribution list for an RFP may contact Dan Daveline (NAIC). If the RFP is issued, and once bids are received, before initiating the project, the Executive (EX) Committee would determine if a Budget and Fiscal Impact Statement (BFIS) should be adopted by the NAIC.

d. Reduced Benefit Options and Consumer Notices

Commissioner Altman said the workstream has been looking at the options that companies make available to consumers as alternative choices to accepting rate increases when rate increases are necessary. The workstream has also been focused on sharing information across the states on practices currently in use and opportunities to be more aligned strategically. The workstream developed the Reduced Benefit Options (RBO) Principles document to provide guidance to state insurance regulators when evaluating RBO offerings by insurers. The principles and issues outlined in the document are:

- Fairness and equity for policyholders that elect an RBO.
- Fairness and equity for policyholders that choose to accept rate increases and continue LTCI coverage at their current benefit level.
- Clarity of communication with policyholders eligible for an RBO.
- Consideration of encouragement or requirement for a company to offer certain RBOs.
- Exploration of innovation, particularly where an outcome of improved health and lower claim costs are possible.

Commissioner Altman said the draft RBO Principles document is ready for public comment. She recommends a 30-day public comment period with comments submitted to Eric King (NAIC) by Aug. 3. The workstream plans to engage with stakeholders going forward. The workstream will schedule a conference call shortly after the Summer National Meeting to discuss comments received on the draft and next steps for collaboration. One additional charge of the workstream is to focus on the consumer notices to make sure the information provided to consumers about RBOs is clear and robust. Commissioner White said the draft RBO Principles document (Attachment One-B) will be exposed for a 30-day public comment period ending Aug. 3.

e. Valuation of LTCI Reserves

Fred Andersen (MN) said the valuation workstream's goal is to coordinate valuation and rating issues affecting reserves, which tend to be the same issues, including morbidity, policyholder behavior and investment returns. There continues to be uncertainty in older-age morbidity and COVID-19. Older-age morbidity experience is continuing to develop. Recently, issues related to COVID-19 have affected LTCI. The current and future nursing home impacts and the market impact due to the declining interest rates could be offsetting in some areas. These issues will be a focus in upcoming months and years if consumers' attitudes over elders entering long-term care (LTC) facilities changes over time. Also, as part of the workstream's scope, a document was developed to help ensure that states' LTCI rate review and reserve teams are coordinating. The Task Force released this document for feedback from state insurance regulators only.

f. Data Call Design and Oversight

Mr. Stolte said the data call design and oversight workstream was organized to perform two functions: 1) define a scope of work for a data call for certain LTCI carriers in order to accumulate and analyze the current level of LTCI rate inequity among the states' policyholders; and 2) review the work of a consultant performing such a data call for communication to the Task Force. Prior to the 2019 Fall National Meeting, the workstream was focused on developing that data call, as well as developing a scope of work for a consultant. In November 2019, the NAIC released an RFP to several actuarial consulting firms; subsequently, the Executive (EX) Committee adopted a BFIS in February. Soon after, the NAIC announced that it had hired LTCG Actuarial Consulting Group (LTCG) as the NAIC's consultant on this project. Subsequently, the workstream met with the consultant to provide it with direction, and under Virginia state law, it directed 19 insurers to complete the data call overseen by LTCG. Most of the insurers have now completed that data call, and LTCG is analyzing the data. The workstream has met on three calls to review the data.

Bonnie Burns (California Health Advocates—CHA) asked when the documents and reports discussed by the workstreams would be made available to the public. Jeffrey C. Johnston (NAIC) said the data call RFP was posted to the NAIC website last fall, and it was removed once the NAIC administrative process was completed. Commissioner Conway said the multi-state rate review workstream has not reached the point where information can be made public yet. Once that point is reached, information will be made available for public discussion.

Birny Birnbaum (Center for Economic Justice—CEJ) said the data call information will be of great interest to stakeholders, he and asked if the data call information will be made public and in what timeframe. Mr. Stolte said the data was collected confidentially under Virginia state law. He said a report will be made available when the analysis is complete. Mr. Johnston said the data analysis is still in process, and the Task Force may know a timeframe by the Summer National Meeting.

3. Exposed Proposed Subgroup Charges for Public Comment

Commissioner White said the next steps for the Task Force include moving more discussions about the rate review methodology, reduced benefit options, and consumer notices into the public realm. An administrative plan is to consolidate the six workstreams into three NAIC subgroups. This organizational step will help to ensure that the Task Force properly accounts for the views of the consumer representatives, industry and other stakeholders. The Task Force chose to form subgroups, as these groups are largely intended to be temporary NAIC groups. The subgroup charges include a delegation of the Task Force charges a new LTCI Multistate Rate Review (EX) Subgroup and a new LTCI Reduced Benefit Options (EX) Subgroup. The new LTCI Multistate Rate Review (EX) Subgroup will be the consolidation of the multi-state rate review and non-actuarial variances workstreams, which will be chaired by Colorado. The new LTCI Reduced Benefit Options (EX) Subgroup will be the RBO and consumer notices workstream, which will be chaired by Pennsylvania. The new LTCI Financial Solvency (EX) Subgroup will be a consolidation of the restructuring techniques, valuation of LTCI reserves, and data call design and oversight workstreams. It is intended to address the confidential work of those three workstreams. It is co-chaired by Minnesota and Texas. The Task Force is exposing the proposed charges for a 14-day public comment period ending July 17. Comments should be sent to Jane Koenigsman (NAIC). The Task Force will plan to address any comments and consider the charges for adoption at the Summer National Meeting on Aug. 7.

Having no further business, the Long-Term Care Insurance (EX) Task Force adjourned.

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Long-Term Care Insurance (EX) Task Force
Austin, Texas
December 9, 2019

The Long-Term Care Insurance (EX) Task Force met in Austin, TX, Dec. 9, 2019. The following Task Force members participated: Scott A. White, Chair, and Doug Stolte (VA); Michael Conway, Vice Chair, represented by Eric Unger (CO); Lori K. Wing-Heier (AK); Allen W. Kerr represented by William Lacy (AR); Stephen C. Taylor (DC); Trinidad Navarro (DE); David Altmaier (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dean L. Cameron (ID); Robert H. Muriel (IL); Stephen W. Robertson represented by Amy Beard and Karl Knable (IN); Nancy G. Atkins (KY); James J. Donelon represented by Rich Piazza (LA); Gary Anderson (MA); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Steve Kelley, Grace Arnold and Fred Anderson (MN); Bruce R. Ramage and Rhonda Ahrens (NE); Marlene Caride (NJ); John G. Franchini represented by Anna Krylova (NM); Barbara D. Richardson represented by Stephanie McGee (NV); Glen Mulready represented by Ron Kreiter (OK); Andrew Stolfi (OR); Jessica Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry Deiter (SD); Hodgen Manda (TN); Kent Sullivan and Doug Slape (TX); Todd E. Kiser represented by Tanji Northrop (UT); Michael S. Pieciak represented by Anna Van Fleet (VT); Mike Kreidler (WA); Mark Afable (WI); and James A. Dodrill (WV).

1. Adopted its Oct. 31 and Summer National Meeting Minutes

The Task Force conducted an e-vote that concluded Oct. 31 to adopt its 2020 proposed charges.

Commissioner Kreidler made a motion, seconded by Commissioner Altman, to adopt the Task Force's Oct. 31 (Attachment One) and Aug. 4 (*see NAIC Proceedings – Summer 2019, Long-Term Care Insurance (EX) Task Force*) minutes. The motion passed unanimously.

Commissioner White said the Task Force also met Oct 16 in regulator-to-regulator session pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings to discuss workstream planning.

2. Received a Progress Report on Activities of the Task Force

Commissioner White said the goals of the Task Force were divided into six workstreams, each of which has work underway or planned. Commissioner White said a public summary report on each of the workstreams was posted to the Task Force's web page and was distributed to all interested state insurance regulators and interested parties on Oct. 25.

a. Multistate Rate Review Practice

Ms. Ahrens said the workstream met Nov. 13 to discuss base questions and criteria for selecting a recommended long-term care insurance (LTCI) rate increase review methodology to use in a multistate review. Next, several actuaries were asked to refine the base questions and criteria, which will be discussed during a conference call in December.

b. Restructuring Techniques

Mr. Slape said the workstream was organized to consider if any restructuring techniques could be used to protect policyholders as opposed to receivership. The group has met to develop a set of guiding principles and a scope of work. He said a conference call is scheduled for next week to review the scope of work and consider next steps for analysis.

c. Reduced Benefit Options and Consumer Notices

Commissioner Altman said the workstream has met several times and is focused on information gathering from state insurance regulators on states' practices for the review of reduced benefit options and consumer notices sent by companies, sample of notices and decisions states have made related to reduced benefit options. The group plans to continue information gathering by hearing from states that have robust review processes, discuss specific types of reduced benefit options and then shift to consumer disclosures.

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Bonnie Burns (California Health Advocates—CHA) asked how reduced benefit options are regulated by states since they are not included in NAIC models and there is inconsistency between states. Commissioner Altman said the workstream has found that states have different review processes. One of the goals of the workstream is to reach a high level of consistency, keeping in mind the concerns affecting policyholders.

Ms. Burns asked when the workstream meetings would be open to interested parties. Commissioner White said the Task Force wants to be transparent and get input from stakeholders. Therefore, at the appropriate time, more information will be made available and more feedback will be requested from interested stakeholders. Commissioner Altman said with respect to this workstream, the input from consumer representatives and industry is necessary. It is just a matter of reaching the right point in the process to involve interested parties.

d. Valuation of LTCI Reserves

Mr. Andersen said the workstream's primary charge regarding coordination and communication of LTCI reserving issues is being accomplished under the Valuation Analysis (E) Working Group and its review of companies' *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51) filings and meeting with companies. In 2019, the Working Group's focus was on morbidity improvement, rate increase and investment return assumptions. In 2020, the focus has been on morbidity, including cost of care projections, effect of underwriting and what happens with older age policies. The workstream is also looking at ways to assist states in understanding the commonality between drivers of rate increases and reserving. The workstream conducted a survey on states' interdepartmental coordination and communication between rate review actuaries and valuation actuaries and found that with few exceptions, states' actuaries do communicate with each other.

Ms. Burns asked what happens to policyholder reserves when benefits are reduced. Mr. Andersen said companies are required to project out all cash flows, including premium, claims and investment income. When there are rate increases, the premium cash-flow projection for premium is changed for the new premium rate. When there are benefit changes, the cash-flow projections for benefits would be changed. That is something the workstream will focus on but does not have any data yet.

Birny Birnbaum (Center for Economic Justice—CEJ) asked which workstream will be looking at if the reduced benefit options offered to consumers are fair and equitable. Commissioner Altman, Mr. Andersen and Ms. Ahrens confirmed that the prospective review of reduced benefit options is within the scope of the reduced benefit option and consumer notice workstream and the multistate rate review practice workstream, while the historical review falls within the scope of the valuation of LTCI reserves workstream.

e. Non-Actuarial Variations

Commissioner Kreidler said the workstream is focused on evaluating the variances between states' use of non-actuarial factors and review considerations in reviewing rate increase requests and develop best practices.

The workstream began with a limited scope survey of 14 workstream members about their departments' policies, practices and authority to modify rate increase determinations of LTC rate filings based on non-actuarial factors. Nearly all states responding indicated they have authority to consider non-actuarial factors in the rate approval process. The top three factors were phase-in periods, caps (or limits) on the amount of allowed rate increases, and waiting periods between rate increase approvals and subsequent requests. The workstream also found that the length of phase-in and waiting periods and the threshold for caps varied from state to state. The workstream noted other factors included such things as the size of the block of policyholders, prior rate increase approvals, the size of the rate increase and its impact on consumers.

The workstream thinks the results of the survey are a representative sample of states' practices, and it intends to use the results to develop recommendations for possible best practices. Over the next few weeks, the workstream will first be working on gathering additional information to better understand how the states determined these factors and established thresholds. Following that, the workstream will begin to develop possible best practices for the use of non-actuarial practices in the rate determination process that the Task Force can consider at a future date.

f. Data Call Design and Oversight

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Mr. Stolte said the workstream was organized to perform two functions: 1) define a scope of work data call for certain long-term care (LTC) insurers in order to accumulate and analyze the current level of potential LTCI rate inequity among states' policyholders; and 2) review the work of a consultant performing such a data call for communication to the Task Force.

Mr. Stolte said the workstream held preliminary discussions in July to brainstorm the type of data that may be needed to achieve the objective, and then in August, the actuaries began designing the data call. In September, testing and proposed improvements were made mostly from an instructional perspective. Ultimately, the workstream drafted a proposed scope of work for a consultant to complete such work. On Nov. 11, the NAIC released a Request for Proposal (RFP), which is posted to the NAIC website. Some key dates in the RFP are as follows:

- On Nov. 19, notification of intent to bid and submission of questions from bidders was due. Ten firms responded with their intent to bid, and on Nov. 22, responses to questions were provided.
- Bids are due Dec. 11.
- Firm selection is expected to be made in mid-February 2020.

Commissioner Stolfi said one data point that he is interested in receiving is how carriers have distributed dividends, whether currently available in annual financial reporting or through the data call.

3. Received Comments from Consumer and Industry Representatives

Patrick Cantilo (Cantilo & Bennett LLP) said the problem with LTCI rates is that pricing was originally based on modeling like life and annuities. The assumptions for lapse rates, termination rates, morbidity and mortality were misjudged. Investment yield assumptions have changed due to economic changes. For policies sold in the 1970s and 1980s, the premium was found to be grossly underpriced. It is not uncommon today for a company to have policies for a single product with rates that vary as much as sevenfold to tenfold between states. State insurance regulators have had a variety of valid concerns regarding companies' rate increase requests. He said he has two observations:

- Policyholders had little input in the setting of premium rates and were often led to believe the rates would not change over time.
- Policyholders were inadvertently receiving a bargain, which was not a sustainable model.

Mr. Cantilo said there are three options for legacy blocks of LTCI:

- Market solutions are like the work being evaluated by the restructuring workstream group. Some in industry are developing creative solutions that have not been tested. Criteria should be observed with those solutions, including that the solutions be nondiscriminatory and treat policyholders fairly, and that the solutions must be effective and workable.
- Rehabilitation gives the domiciliary regulator broad authority to restructure the company and an opportunity to provide a better outcome for policyholders than market solutions or liquidation.
- Liquidation adds the value of guaranty association safety net but comes with benefit limitations.

Charles Piacentini (American Council of Life Insurers—ACLI) said the first message to convey is that the ACLI is committed to providing resources to answer questions and provide information. He said that all the workstreams are important and that the multistate rate review workstream is the cornerstone of all the workstreams. Industry has coalesced around the prospective present value (PPV) methodology, also known as the Texas Approach, as it achieves the objectives identified by state insurance regulators and concerns expressed by consumers. Stabilization and addressing legacy blocks are important to having coverage in the future and providing solutions to protect the financial security for consumers. He said coming up with a standard methodology will also enable streamlining of the information provided to each state. Applying a common methodology addresses the concerns across jurisdictions to treat similarly situated policyholders equitably.

Jan Graeber (ACLI) said she encourages the Task Force to leverage the work completed by the Long-Term Care Pricing (B) Subgroup. She said the ACLI is committed to devoting resources to demonstrate how the PPV address state insurance regulators' concerns. The PPV requires carriers to share in the cost by absorbing the losses that have occurred in the past. The PPV addresses the inequity between states that have approved different rate increases. Internally, the ACLI is developing a high-level demonstration to show how the PPV addresses these concerns. Carriers need a level of predictability to price and manage their business.

Draft Pending Adoption

Mr. Knable said that while Indiana is fine with a consistent approach to reviewing rates, he emphasized the need to maintain a state-based approach to applying rate increases to policyholders that considers actuarial factors and policyholder expectations.

Having no further business, the Long-Term Care Insurance (EX) Task Force adjourned.

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**REDUCED BENEFIT OPTIONS ASSOCIATED WITH LONG-TERM CARE INSURANCE (LTCI) RATE INCREASES –
REQUEST FOR PUBLIC COMMENT -**

Drafted by the Reduced Benefit Options Workstream (#3) of the Long-Term Care Insurance (EX) Task Force

INTRODUCTION

The Reduced Benefit Options (RBO) Workstream is composed of regulators from 17 state insurance departments. It has been tasked with assisting the Long-Term Care Insurance (EX) Task Force in completing the following charge:

Identify options to provide consumers with choices regarding modifications to long-term care insurance (LTCI) contract benefits where policies are no longer affordable due to rate increases.

The Workstream regulators have developed a list of RBO principles in order to provide guidance for evaluating RBO offerings.

PRINCIPLES AND ISSUES, INCLUDING THOSE WITH PARTICULAR NEED FOR STAKEHOLDER INPUT, INCLUDE:

1. Related to fairness and equity for policyholders that elect an RBO:

- Are all policyholders facing a rate increase being offered an RBO?
- Do the RBOs provide reasonable value?

2. Related to fairness and equity for policyholders that choose to accept rate increases and continue LTCI coverage at their current benefit level:

- To what extent could anti-selection take place, placing the financial stability of the remaining block of business at further risk?

3. Related to clarity of communication with policyholders eligible for an RBO:

- What are recommendations for ensuring policyholders have maximized opportunity to make decisions in their best interest?
- Should regulators, in some cases, encourage a company to offer fewer options in order to reduce the complication in decisions policyholders will face?

4. Related to consideration of encouragement or requirement for a company to offer certain RBOs:

- Evaluate legal constraints, impact on remaining policyholders and company finances, and impact on Medicaid budgets if regulators are driving reduced LTCI benefits.

5. Related to exploration of innovation, particularly where an outcome of improved health and lower claim costs are possible:

- Identify pros and cons of rate increases being tied into insurers offering, e.g., hand railings for fall prevention in high-risk homes.

WIDELY ESTABLISHED RBOs IN LIEU OF RATE INCREASES

- a. Reduce inflation protection going forward, while preserving accumulated inflation protection
- b. Reduce Daily Benefit
- c. Decrease Benefit Period/Maximum Benefit Pool
- d. Increase Elimination Period
- e. Contingent Nonforfeiture
 - i. Claim amount can be sum of past premiums paid
 - ii. Only receive that benefit if the policyholder qualifies for a claim

LESS COMMON RBOs FOR POTENTIAL DISCUSSION

- a. Cash buyout
- b. Co-pay percentage on benefits

Proposed Charges:

The **LTCI Multistate Rate Review (EX) Subgroup** will:

Develop a consistent national approach for reviewing LTCI rates that results in actuarially appropriate increases being granted by the states in a timely manner and eliminates cross-state rate subsidization. The Subgroup should complete its charges by the 2021 Summer National Meeting.

- *Chair: Commissioner Michael Conway (CO)*
- *Consolidation of workstream 1–Multi-state Rate Review Practices and workstream 5– Non-Actuarial Variance Among the States*
- *Open Sessions or Regulator Only Sessions, pursuant to open meetings policy #3 – discussion of companies, entities or individuals*

The **LTCI Reduced Benefit Options (EX) Subgroup** will:

Identify options and develop recommendations for the rate review approach that provides consumers with choices regarding modifications to LTCI contract benefits where policies are no longer affordable due to rate increases. The Subgroup should complete its charges by Dec. 31, 2020.

- *Chair: Commissioner Jessica K. Altman (PA)*
- *Former workstream 3—Reduced Benefit Options and Consumer Notices*
- *Open Sessions*

The **LTCI Financial Solvency (EX) Subgroup** will:

- a. Explore restructuring options and techniques to address potential inequities between policyholders in different states; and techniques to mitigate policyholders' risk to state guaranty fund benefit limits including states' pre-rehabilitation planning options. Evaluate the work of the consultant and report on the work to the Task Force
- b. Evaluate the results of consultants' work on the completion of a data call and report on the work to the Task Force
- c. Monitor work performed by other NAIC solvency working groups and assist in the timely multi-state coordination/communication of the review of the financial condition of LTC insurers

The Subgroup should complete its charges by the 2021 Summer National Meeting.

- *Co-Chairs: Doug Slape (TX) and Fred Andersen (MN)*
- *Consolidation of workstream 2–Restructuring Techniques, workstream 4–Valuation of Long-Term Care Insurance (LTCI) Reserves and workstream 6–Data Call Design and Oversight*
- *Regulator Only Sessions, pursuant to open meetings policy #3 – discussion of companies, entities or individuals*