

Date: 7/20/20

2020 Summer National Meeting
Virtual Meeting

LONG-TERM CARE INSURANCE (EX) TASK FORCE

Friday, August 7, 2020

11:00 a.m. – 12:30 p.m. ET / 10:00 – 11:30 a.m. CT / 9:00 – 10:30 a.m. MT / 8:00 – 9:30 a.m. PT

ROLL CALL

Scott A. White, Chair	Virginia	Mike Chaney	Mississippi
Michael Conway, Vice Chair	Colorado	Chlora Lindley-Myers	Missouri
Jim L. Ridling	Alabama	Matthew Rosendale	Montana
Lori K. Wing-Heier	Alaska	Bruce R. Ramage	Nebraska
Christina Corieri	Arizona	Barbara D. Richardson	Nevada
Alan McClain	Arkansas	Marlene Caride	New Jersey
Ricardo Lara	California	Russell Toal	New Mexico
Trinidad Navarro	Delaware	Mike Causey	North Carolina
Karima M. Woods	District of Columbia	Jon Godfread	North Dakota
David Altmaier	Florida	Glen Mulready	Oklahoma
Colin M. Hayashida	Hawaii	Andrew R. Stolfi	Oregon
Dean L. Cameron	Idaho	Jessica K. Altman	Pennsylvania
Robert H. Muriel	Illinois	Elizabeth Kelleher Dwyer	Rhode Island
Stephen W. Robertson	Indiana	Raymond G. Farmer	South Carolina
Doug Ommen	Iowa	Larry D. Deiter	South Dakota
Vicki Schmidt	Kansas	Hodgen Mainda	Tennessee
Sharon P. Clark	Kentucky	Kent Sullivan	Texas
James J. Donelon	Louisiana	Todd E. Kiser	Utah
Eric A. Cioppa	Maine	Michael S. Pieciak	Vermont
Gary Anderson	Massachusetts	Mike Kreidler	Washington
Anita G. Fox	Michigan	James A. Dodrill	West Virginia
Steve Kelley	Minnesota	Mark Afable	Wisconsin
		Jeff Rude	Wyoming

NAIC Support Staff: Jeffrey C. Johnston

AGENDA

1. Consider Adoption of its July 2 Minutes—*Commissioner Scott A. White (VA)* Attachment One
2. Consider Adoption of Subgroup Charges—*Commissioner Scott A. White (VA)* Attachment Two
3. Receive Status Reports on the Current Activity of its Workstreams
 - a. Multistate Rate Review Practices—*Commissioner Michael Conway (CO)*
 - b. Reduced Benefit Options and Consumer Notices—*Commissioner Jessica K. Altman (PA)*
4. Discuss Any Other Matters Brought Before the Task Force—*Commissioner Scott A. White (VA)*
5. Adjournment

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Draft: 7/17/20

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 Afile 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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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~~ the 2021 Summer National Meeting.

- *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*