2019 Fall National Meeting
Austin, Texas

LONG-TERM CARE INSURANCE (EX) TASK FORCE
Monday, December 9, 2019
12:00 – 1:00 p.m.
JW Marriott Austin—JW Grand Ballroom 1-4—Level 4

ROLL CALL

Scott A. White, Chair Virginia Steve Kelley Minnesota
Michael Conway, Vice Chair Colorado Bruce R. Ramge Nebraska
Lori K. Wing-Heier Alaska Barbara D. Richardson Nevada
Allen W. Kerr Arkansas Marlene Caride New Jersey
Ricardo Lara California John G. Franchini New Mexico
Trinidad Navarro Delaware Glen Mulready Oklahoma
Stephen C. Taylor District of Columbia Andrew Stolfi Oregon
David Altmairer Florida Jessica Altman Pennsylvania
Colin M. Hayashida Hawaii Elizabeth Kelleher Dwyer Rhode Island
Dean L. Cameron Idaho Raymond G. Farmer South Carolina
Robert H. Muriel Illinois Larry Deiter South Dakota
Stephen W. Robertson Indiana Hodgson Mainda Tennessee
Doug Ommen Iowa Kent Sullivan Texas
Nancy G. Atkins Kentucky Todd E. Kiser Utah
James J. Donelon Louisiana Michael S. Pieciak Vermont
Eric A. Cioppa Maine Mike Kreidler Washington
Gary Anderson Massachusetts James A. Dodrill West Virginia
Anita G. Fox Michigan Mark Afable Wisconsin

NAIC Support Staff: Jeffrey C. Johnston

AGENDA

1. Consider Adoption of its Oct. 31 and Summer National Meeting Minutes
   —Commissioner Scott A. White (VA)
   [Attachment One]

2. Receive Status Reports on the Current Activity of the Task Force’s Workstreams
   a. Multistate Rate Review Practices—Commissioner Michael Conway (CO)
   b. Restructuring Techniques—Doug Slape (TX)
   c. Reduced Benefit Options and Consumer Notices—Commissioner Jessica Altman (PA)
   d. Valuation of Long-Term Care Insurance (LTCI) Reserves—Fred Andersen (MN)
   e. Non-Actuarial Variance Among States—Commissioner Mike Kreidler (WA)
   f. Data Call Design and Oversight—Doug Stolte (VA)

3. Hear Comments from Patrick Cantilo (Cantilo & Bennett, L.L.P.)—Commissioner Scott A. White (VA)

4. Hear Comments from Interested Parties on the Task Force’s Charge to Develop a
   Consistent National Approach for Reviewing LTCI Rates—Commissioner Scott A. White (VA)
   a. American Council of Life Insurers (ACLI)

5. Discuss Any Other Matters Brought Before the Task Force—Commissioner Scott A. White (VA)

6. Adjournment

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The Long-Term Care Insurance (EX) Task Force conducted an e-vote that concluded Oct. 31, 2019. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier (AK); Allen W. Kerr represented by William Lacy (AR); Ricardo Lara represented by Camilo Pizarro (CA); Trinidad Navarro represented by Frank Pyle (DE); David Altmaier (FL); Colin M. Hayashida represented by Martha Im (HI); Robert H. Muriel represented by Mike Chrysler (IL); Stephen W. Robertson represented by Karl Knable (IN); James J. Donelon represented by Rich Piazza (LA); Eric A. Cioppa represented by Marti Hooper (ME); Anita G. Fox represented by Karen Dennis (MI); Bruce R. Ramge (NE); John G. Franchini represented by Anna Krylova (NM); Andrew Stolfi (OR); Jessica Altman (PA); Elizabeth Kelleher Dwyer (RI); Larry Deiter (SD); Kent Sullivan represented by Doug Slape (TX); Mike Kreidler represented by Michael Bryant (WA); Mark Afable (WI); and James A. Dodrill represented by Tonya Gillespie (WV).

1. **Adopted its 2020 Proposed Charges**

The Task Force conducted an e-vote to consider adoption of its 2020 proposed charges. A majority of the members voted in favor of adopting the 2020 proposed charges (Attachment One-A). Indiana opposed. The motion passed.

Having no further business, the Long-Term Care Insurance (EX) Task Force adjourned.
The Long-Term Care Insurance (EX) Task Force met in New York, NY, Aug. 4, 2019. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier, (AK); Allen W. Kerr represented by Russ Galbraith (AR); Ricardo Lara (CA); Stephen C. Taylor (DC); Trinidad Navarro (DE); David Altmaier (FL); Colin M. Hayashida represented by Paul Yuen (HI); Doug Ommen (IA); Dean L. Cameron (ID); Robert H. Muriel represented by Kevin Fry (IL); Stephen W. Robertson represented by Amy Beard and Karl Knable (IN); Nancy G. Atkins (KY); James J. Donelon (LA); Gary Anderson (MA); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Steve Kelley represented by Grace Arnold (MN); Bruce R. Ramge and Rhonda Ahrens (NE); Marlene Caride (NJ); John G. Franchini represented by Paige Duhamel (NM); Barbara D. Richardson (NV); Glen Mulready represented by Tyler Laughlin (OK); Andrew Stolfi (OR); Jessica Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry Deiter (SD); Carter Lawrence represented by Lorrie Brouse (TN); Kent Sullivan (TX); Todd E. Kiser (UT); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler represented by Annalisa Gellermann (WA); Mark Afable represented by Amy Malm and Richard Wicka (WI); and, James A. Dodrill (WV).

1. **Received a Progress Report on Activities of the Task Force**

Commissioner White said state insurance regulators have been grappling with the issue of long-term care insurance (LTCI) for many years. Several different NAIC working groups and task forces have been focused on addressing the inconsistency among the states in rate review practices and concerns over potential reserve inadequacies within the industry. A few years ago, the Long-Term Care Insurance (E/B) Task Force was created to coordinate all the work being done within these various workstreams. Commissioner White said that while much work has been done, the various working groups expressed strong sentiment in favor of coordinated rate reviews but that a point had been reached where difficult decisions needed to be made at the commissioner level to move forward. Commissioners share the same concerns on the issues facing the LTCI industry, the shrinking of the market and the threat of insolvencies, particularly in the case of Penn Treaty Network America Insurance Company. All state insurance departments are dealing with significant rate increase requests by carriers, particularly on legacy blocks, and the impact it has on consumers. Commissioner White said it is also fair to say that as state insurance regulators have had discussions, there are strong views but a lack of consensus on how to move forward.

Commissioner White said, at the beginning of the year, the NAIC membership unanimously decided to make LTCI the top priority for 2019. NAIC President Superintendent Eric A. Cioppa (ME) and the NAIC officers seized the opportunity to create the Task Force and devote significant time and resources to this issue. The Task Force was formed during the Spring National Meeting and was charged with accomplishing two specific goals: 1) to develop a consistent national approach for reviewing LTCI rates that result in actuarially appropriate increases being granted by the states in a timely manner; and, 2) to focus on ensuring consumers are provided with meaningful options to reduce their benefits in situations where the premiums are no longer affordable.

Commissioner White said the Task Force met July 30, May 3, May 2 and April 29, and June 5–6 in Kansas City, MO, in regulator-to-regulator session pursuant to paragraph 8 (consideration of strategic planning issues related to federal legislative and regulatory matters or international regulatory matters) of the NAIC Policy Statement on Open Meetings. The meetings were educational in nature and provided members with a shared knowledge base. At the end of the discussions, the Task Force identified six workstreams to accomplish the goals of the Task Force.

a. **Multistate Rate Review Practice**

Commissioner White said that Commissioner Conway is leading the multistate rate review practices workstream. States employ a wide variety of practices in their review of LTCI, so this workstream is the centerpiece of the Task Force and gets to the core of the problem the Task Force is trying to solve. As part of the development of a state-based framework, this workstream will be evaluating different actuarial methodologies the states use. The actuarial methodologies that Minnesota and Texas currently use will be central to this evaluation process at this time. As far as developing a consistent national approach to reviewing LTCI rates, Commissioner White said the Task Force is currently focused on two different approaches. One approach would involve expanding the scope of the Interstate Insurance Product Regulation Commission (Compact). The other approach would be the development of a multistate examination model.
b. **Restructuring Techniques**

Commissioner White said Commissioner Sullivan and Doug Slape (TX) are leading the second workstream, which focuses on restructuring techniques and exploring possible alternatives for protecting policyholders from guaranty fund caps. It will also look at the impact of potential inequities that may result from states’ inconsistent approach to rate increase decisions.

c. **Reduced Benefit Options and Consumer Notices**

Commissioner White said he views the third workstream, reduced benefit options and consumer notices, as one of the more significant workstreams Task Force has launched. He said Commissioner Altman will be leading this workstream. State insurance regulators have seen that insurers have been developing more innovative options in the last few years, and the Task Force realizes it has work to do to account for, and consider, the range of options being offered to consumers. This workstream will also be taking a closer look at the notices sent by insurers to ensure that consumers fully understand their options in the face of a significant rate increase.

d. **Valuation of LTCI Reserves**

Commissioner White said the fourth workstream involves the valuation of insurers’ reserves, which has been underway for more than a year now through the AG-51 filings. Commissioner Kelly and Fred Andersen (MN) are leading this workstream. The work being is a key part of the discussion on how to properly balance rate increase assumptions with reserving assumptions.

e. **Non-Actuarial Variations**

Commissioner White said the fifth workstream, which Commissioner Kreidler is leading, will be examining what is referred to as non-actuarial variances among the states in approving rate increases. Not all states base their final rate decisions solely on actuarial analysis. A central objective of this workstream will be to better understand the rationale behind factors that are not of an actuarial basis and, if possible, develop a model set of non-actuarial practices.

f. **Data Call Design and Oversight**

Commissioner White said the final workstream, which Doug Stolte (VA) is leading, will be exploring whether additional data is needed to support the work of the Task Force and/or to refine its understanding of the financial impact of different state practices.

Commissioner White said the Task Force is currently in the planning stages and will likely continue through the end of August. He said he anticipates some of the workstreams will become full working groups, with significant interaction in open sessions. However, some workstreams will continue to operate in a confidential setting until work products begin to develop, at which time the Task Force will conduct its business in open session. The Task Force has been charged with delivering a proposal on these and other related matters to the Executive (EX) Committee by the 2020 Fall National Meeting.

2. **Received Comments from Consumer and Industry Representatives**

Bonnie Burns (California Health Advocates—CHA) provided a slide presentation and a document for the CHA programs and the national State Health Insurance Assistance Program (SHIP) Resource Center, which has been shared with those who are counselling policyholders on options being offered by insurers, what the options mean and how to balance decisions about options (Attachment One). She said public awareness on LTCI issues has grown considerably over the past 10 years. Baby boomers have experience with LTC because either they or a family member has used it. Employers are aware of LTC issues because their employees are affected by it through absence, missed hours or early retirement. Media is also more aware due to their own experiences. The second slide highlights the complexity of LTC. The third slide illustrates reactions by politicians, media, employers and caregivers. Slide four illustrates the dramatic shift in the buyer population for LTCI. Early on, more people of moderate income bought LTCI. Those are the consumers today that are on claim and experience rate increases if not actively on claim. She said in her conversations with companies, more benefits are paid for home care than for nursing home care. Slide six illustrates that impact on caregivers, who are important to the issue. She said insurers have indicated that 50% to 60% of claims are paid for home care, as shown in slide seven. Assisted living accounts for 15% to 20%, and nursing home care is approximately 10%. The nursing home care includes the longest, most expense claims for dementia. She said the structure of policies changed in the late 1980s and 1990s, and how benefits are used has changed. Slide eight
shows how long a policy lasts because policyholders conserve benefits to extend coverage. She said CHA programs are helping policyholders through premium increases. In counseling policyholders on deciding on reduced benefit options, they do not want policyholders to reduce daily benefits below a minimum if there is another rate increase, or the guaranty association limits, and to leave room in the decision for rate increases and benefit reductions that may occur later. Counselling consumers on this decision is difficult as they have paid premiums for years or decades. These consumers are at this point in their life where their ability to continue to fund these policies, even with reductions in benefits, is not easy. She said she does not want to see consumers drop their policies and lose the benefits they have paid for. It is difficult to explain to consumers why they are burdened with additional costs. Commissioner White said there is a lot of overlap in the concerns of Ms. Burns and those of the Task Force.

Birny Birnbaum (Center for Economic Justice—CEJ) said his comments today are focused on a few of the Task Force’s workstreams, but he will follow up on the other topics. Regarding consistent review, the fundamental policy question regarding rate increases is: What are the respective responsibilities of insurers versus policyholders for the needed rate increases? Much of the disagreement in approaches across states stem from differences in opinion in how to allocate the rate increase between insurers and policyholders. He said insurers and their investors should own a significant majority of any needed rate increases for several reasons. First the problem was created by insurers through mispricing and by closing blocks of business to new entrants, thus creating a death spiral for the closed block. Second, when investors purchase shares of insurance companies, they understand it is not a risk-free investment. Equities are risky investments. It is unreasonable to guaranty returns for investors who made a risky investment while dramatically raising rates for consumers who were told 10 to 20 years ago that premiums would not increase, let alone increase by 100% to 400%. Third, it has been well documented that insurers mispriced their products with errors about lapse rates, investment income and mortality. Mispriced products sold briskly in the first two decades during which time shareholders and investors received amounts thought to be profits from the industry. Just as General Electric had to come up with billions of dollars to honor its LTCI reinsurance agreements, LTCI rate increases should consider any funds syphoned away from the business as illusory profits. Fourth, the 10% margin for adverse experience should be eliminated. LTCI insurers have decades of experience, and current key assumptions are already at ultra conservative levels, negating the need for this cushion. Fifth, states that want to do a thorough review of rate increases and reject unjustified rate increases should not be penalized because some states have chosen not to give the state insurance regulator necessary authority to review and approve rate increases. Regarding one state subsidizing another state, states should not be penalized because other states have granted large rate increases because they lack the authority other states have. Sixth, there needs to be some rate increase certainty for consumers. It is a disservice to consumers who decide today to reduce benefits to avoid a rate increase only to have to face the decision a few years down the road. If a consumer takes a cut in benefits to afford the policy, it is useful to have information today that the consumer will have to face the same decision years down the road.

Mr. Birnbaum said regarding reduced benefit options or buyout of the policy, he has asked several states and notes these options are not filed with and reviewed by the state. He said states do not receive these options because it is being offered on a voluntary basis by the insurer. He said the rate increase approval should include the filing and approval of the benefit options for two reasons. First, consumers are not in the position to determine if benefit reduction versus rate increase is actuarially equivalent. Consumers are going to assume that state insurance regulators have made that consumer protection decision. He said he believes state insurance regulators need to make that decision. Second, consumers are ill-equipped to understand the implications of these benefit reduction options. He said he believes state insurance regulators are in a position to develop information to accompany these options that will assist consumers. For example, what does it mean to a consumer not on claim to reduce daily benefits from $200/day to $100/day when the consumer does not know what the costs of various LTC services are? It would be useful to accompany that option with average costs of common services today and, with average inflation, in the future. There is opportunity to provide consumers with improved information to make more informed decisions. Ms. Ahrens asked how many states were surveyed regarding options not being filed and reviewed by the state. Mr. Birnbaum said he reached out to three states, and all three said they do not review the reduced benefit options. Ms. Burns said the options offered are not consistent between insurers. The notices may say the consumer can call the company for more options. Ms. Burns said she feels some options may be written or displayed in a way that leads the consumers to select a paid-up policy. She said there needs to be more review of the notices to consumers and how they are written. Commissioner Altman said the reduced benefit option workstream will survey the states on how states are reviewing the reduced benefit options and the notices. She said all the comments heard today will be part of that workstream.

Mr. Birnbaum said regarding the restructuring mechanisms workstream, based on recent insurance business transfer (IBT) legislative activities in Illinois and Oklahoma and presentations at the Restructuring Mechanisms (E) Working Group, he has great concerns with LTCI insurers using these new authorities to split off LTCI into a new company and the related implications. He said he would like to closely monitor this workstream and urged the Task Force to conduct its work in public sessions to the extent possible. Mr. Laughlin said regarding Oklahoma’s legislation, Oklahoma would strongly push back on any notion
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of using an IBT for an LTCI transaction. Oklahoma would disavow any notion that Oklahoma would support IBT for LTCI and has publicly said IBT is not a venue for LTCI.

Director Cameron asked if the speakers had views on situations when insurers divide the LTCI into separate blocks of business and rate increase requests are separated by block. Mr. Birnbaum said related to this topic, he has raised concerns with rate increase on very small blocks of business and at what point is the block too small to grant the rate increase. He said other characteristics of the rate increase request should be based on actuarial analysis.

Charles Piacentini (American Council of Life Insurers—ACLI) said a slide presentation was provided (Attachment Two). He said the ACLI’s primary focus is a commitment to work together to ensure the needs of the consumer are addressed. He said that consumers are at the core of our collective interest and that it’s important to ensure that the coverage they purchased is available to them when they need it. He said the ACLI sees this as an opportunity for industry, state insurance regulators and consumer advocates to work together to develop a solution that will address their challenges and ensure consumer interests are at the heart of anything they do going forward.

Jan Graeber (ACLI) said the ACLI believes the challenges with inconsistency in the rate review process across states can be addressed through a consistent national approach that includes three elements: 1) establishes a single point of review; 2) uses a uniform set of information to be included in the rate filing; and, 3) uses a uniform methodology that produces an actuarially justified rate increase and reflects adjustments due to past differences in rate approvals between states. It has become common for consumers in one state to pay significantly more in premium for the exact same coverage as a consumer in another state due to differences between states’ rate review and approval processes. Use of a consistent process across states results in a company’s ability to offer a consistent set of options to its policyholders in all states along with consistent messaging to consumers. The ACLI member companies support the use of a prospective present value (PPV) approach, also known as the Texas Approach, because the ACLI believes it addresses various concerns that even Ms. Graeber had when she served as a state insurance regulator. With the PPV, there is no recoupment for past losses; rather, it only looks forward. The PPV considers a specific state’s past rate actions, so it eliminates the inequity in premium between policyholders in different states that have the same coverage. The PPV addresses small remaining blocks and is completely actuarial in its application. Additionally, there are no subjective non-actuarial adjustments. The PPV addresses the concern the ACLI hears from consumers who want to know that this is the end. The PPV comes up with an actuarially justified rate increase. As companies continue to monitor their business, the volatility that has been seen in rate increases is diminished. The ACLI believes the groundwork has already been established for all three elements and looks forward to working with the Task Force on them.

Ms. Graeber said based on low lapse rates and talking to consumers, consumers value their LTCI, and based on the experience of the ACLI’s members, this is true even if faced with extreme rate increases. The overwhelming majority of consumers elect to accept the rate increase and continue their current coverage. Only 2% to 3% of policyholders will terminate coverage, including voluntary lapse and death. When faced with a rate increase, the take-up rate for reduced benefit options depends on several factors, such as the number and amount of increases previously approved, the level of benefit period, inflation, and whether a landing spot is offered. Historically, less than 8% of consumers chose to reduce their benefits. Consumers want options to mitigate rate increases. The ACLI’s members will continue offering meaningful options for policyholders to modify their coverage, mitigate rate increases and offer benefit reduction options that are written in plain language. The ACLI wants to work with state insurance regulators to understand and explain the impact that any rate increase mitigation option has on consumers and companies. There have been issues with outside analysts misinterpreting public financial information, resulting in misleading messaging. The ACLI believes that there is an opportunity through, for example, revisions to the Long-Term Care Experience Reporting Forms in the annual statement that can help with accurate messaging.

Mr. Piacentini said regarding rate increases, it is important to note that there are significant differences in policy features that individuals have even across the same company and that each solution to improve information to consumers must consider the different levers available to the consumer. The industry has focused on exploring additional options to offer to consumers, such as better education to the consumers regarding the nature of their coverage. Industry recognizes consumers want to stay independent as they age, and the policies they have should better enable them to do that. There may be issues to work toward to better facilitate those options. Based on an American Association of Retired Persons (AARP) study, three out of four adults age 50 and above indicate they want to age in place—in their homes. The industry is looking at ways to help policyholders age in place—how to stay cognitively aware, how to remain healthy, how to leverage technology to support medication management, and resources for caregivers. The ACLI members are strongly committed to looking at options that may include incidental benefit beyond what is available in the policy. Policies currently require the triggering of long-term care events through the loss of activities of daily living (ADL). By that time there may be little that can be done to help individuals avoid or delay the need for LTC. As a parallel path, the ACLI wants to ensure opportunities to provide additional services to
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customers to enable them to stay in their homes, such as care management initiatives, wellness programs, home accessibility and fall prevention programs.

Mr. Piacentini said the ACLI is also looking to prepare for the next generation of LTCI. The ACLI is looking at financing options that the former NAIC Long-Term Care Innovation (B) Subgroup advanced. Further, any solution must preserve the state guaranty fund system and provide certainty for the marketplace so that consumers have access to LTCI in the future.

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

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