LONG-TERM CARE INSURANCE (EX) TASK FORCE

Wednesday, April 6, 2022
3:30 – 4:30 p.m.
Convention Center—Grand Ballroom 2501 AB—Level 2

AGENDA

1. Consider Adoption of its 2021 Fall National Meeting Minutes
   —Commissioner Scott A. White (VA)

Attachment One
2. Receive a Report on the Long-Term Care Insurance Multistate Rate Review Framework (LTCI MSA Framework) Implementation Plans
   — Commissioner Scott A. White (VA) and Commissioner Michael Conway (CO)

3. Receive a Report on Long-Term Care Insurance (LTCI) Financial Solvency and Industry Trends—Fred Andersen (MN)

4. Receive a Report on the Development of the Multistate Actuarial (MSA) Associate Program—Fred Andersen (MN)

5. Consider Disbanding the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup—Commissioner Scott A. White (VA)

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

7. Adjournment

SharePoint/NAIC Support Staff Hub/Member Meetings/Spring 2022 National Meeting/Agendas/LTCITF_Agenda_040622.docx
The Long-Term Care Insurance Multistate Rate Review (EX) Subgroup met Dec. 12, 2021, immediately followed by a meeting of the Long-Term Care Insurance (EX) Task Force. The following Subgroup members participated: Michael Conway, Chair (CO); Alan McClain (AR); Andrew N. Mais represented by Paul Lombardo (CT); David Altmaier (FL); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Weston Trexler (ID); Amy L. Beard represented by Scott Shover (IN); James J. Donelon represented by Tom Travis (LA); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold and Fred Andersen (MN); Chlora Lindley-Myers (MO); Eric Dunning (NE); Russell Toal represented by Jennifer Catechis (NM); Barbara D. Richardson represented by Stephanie McGee (NV); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Raymond G. Farmer represented by Michael Wise (SC); Cassie Brown represented by Doug Slape (TX); Jonathan T. Pike (UT); Scott A. White (VA); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler and Lichiou Lee (WA); and Allan L. McVey represented by Tonya Gillespie (WV).

The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier represented by Anna Latham (AK); Jim L. Ridling represented by Mark Fowler (AL); Alan McClain (AR); Evan G. Daniels (AZ); Ricardo Lara represented by Susan Bernard (CA); Andrew N. Mais represented by Paul Lombardo (CT); David Altmaier (FL); Colin M. Hayashida (HI); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Weston Trexler (ID); Dana Popish Severinghaus represented by Susan Berry (IL); Amy L. Beard represented by Scott Shover (IN); Vicki Schmidt (KS); James J. Donelon represented by Tom Travis (LA); Gary D. Anderson (MA); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold and Fred Andersen (MN); Chlora Lindley-Myers (MO); Mike Chaney (MS); Troy Downing (MT); Mike Causey represented by Jackie Obusek (NC); Jon Godfrey represented by Matt Fischer (ND); Eric Dunning and Justin Schrader (NE); Russell Toal represented by Jennifer Catechis (NM); Barbara D. Richardson represented by Stephanie McGee (NV); Judith L. French (OH); Glen Mulready represented by Andrew Schallhorn (OK); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer represented by Jack Broccoli (RI); Raymond G. Farmer represented by Michael Wise (SC); Carter Lawrence represented by Brian Hoffmeister (TN); Cassie Brown represented by Doug Slape (TX); Jonathan T. Pike (UT); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler and Lichiou Lee (WA); Mark Afable represented by Nathan Houdek (WI); and Allan L. McVey represented by Tonya Gillespie (WV).

1. Long-Term Care Insurance Multistate Rate Review (EX) Subgroup
   a. Adopted its Nov. 15 and Sept. 28 Minutes

Commissioner Conway said the Subgroup met Sept. 10 in regulator-to-regulator session, pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meeting. He said the Subgroup also met Nov. 15 and Sept. 28 and took the following action: 1) received and discussed interested state insurance regulator and interested party comments on the draft Long-Term Care Insurance Multi-State Rate Review Framework (MSA Framework); and 2) exposed the revised MSA Framework for a 21-day comment period ending Dec. 6.

Commissioner Altman made a motion, seconded by Commissioner Altmaier, to adopt the Subgroup’s Nov. 15 (Attachment One) and Sept. 28 (Attachment Two) minutes. The motion passed unanimously.

b. Heard Comments on the Exposure Draft of the MSA Framework

Commissioner Conway said the MSA Framework was exposed for a public comment period ending Dec. 6. Comment letters were received from: 1) the American Council of Life Insurers (ACLI) and America’s Health Insurance Plans (AHIP); and 2) Risk & Regulatory Consulting LLC (RRC) (Attachment Three).

Jan Graeber (ACLI) thanked the Subgroup for its work on the MSA Framework. She said she recognizes that there are some issues that remain and this project will take time, and she looks forward to continuing the dialogue with the Subgroup. She said it will take the participation of both state insurance departments and insurance companies for the process to work.
Mr. Andersen summarized the drafting group’s response to comments received (Attachment Four). The drafting group agreed to make the recommended changes in items #3 and #9 from the letter. The drafting group did not recommend changes for the other items. Mr. Andersen discussed the rationale as follows:

- Item #2: The reasons for not utilizing the Interstate Insurance Product Regulation Commission (Compact) is because the rate proposals under the MSA Framework are outside the scope of the Compact.
- Item #4: The Subgroup recently decided that there is a benefit in sharing the MSA Advisory Report with the insurer. The MSA Team can answer questions from the insurer and provide clarifications rather than the insurer asking all jurisdictions.
- Item #5: The drafting group disagreed with the recommendation that at least one member of the MSA Team meet the qualification standards for actuaries issuing statement of opinion, as that is a high bar that is mostly for company actuaries that focus on valuation. No change was made.
- Item #6: As the process develops, the MSA Framework can be edited to address resources in the future.
- Item #7: The drafting group agreed that the MSA Team should have flexibility. The MSA Framework already includes this flexibility.
- Item #8: With each review, the MSA Team learns more about the time necessary for the review. Often, the timing is out of the MSA Team’s control, as it is dependent on the quality and completeness of the rate proposal.
- Item #10: The Texas and Minnesota methodologies eliminate the subsidization of one policyholder by another.
- Item #11: The MSA Framework includes an information checklist. A template may be helpful, but it will need to be developed in the future after more experience is gained from the process.
- Item #12: Actuarial Standards of Practice (ASOPs) are required regardless of being listed in the MSA Framework.
- Item #13: Assessing adequacy of reserves is outside the scope of the MSA Framework, which is focused on rate review.
- Items #14 and #15: The drafting group recommends no change for now, but it may make changes in the future.

c. Adopted the MSA Framework

Commissioner Conway said the MSA Framework will continue to undergo improvements as the MSA Team learns more about the needs of the state insurance departments and the experience of the insurers. Mr. Lombardo made a motion, seconded by Mr. Trexler, to adopt the MSA Framework (Attachment Five). The motion passed with Louisiana abstaining.

Having no further business, the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup adjourned into the Long-Term Care Insurance (EX) Task Force meeting.

2. Long-Term Care Insurance (EX) Task Force

a. Adopted the Long-Term Care Insurance (EX) Task Force’s Oct. 29 and Summer National Meeting Minutes

The Task Force conducted an e-vote on Oct. 29 to adopt the 2022 proposed charges for the Task Force and its subgroups.

Commissioner Altmaier made a motion, seconded by Commissioner Altman, to adopt the Task Force’s Oct. 29 (Attachment Six), and Aug. 13 (see NAIC Proceedings – Summer 2021, Long-Term Care Insurance (EX) Task Force) minutes. The motion passed unanimously.

b. Heard an Update on Industry Trends

Mr. Andersen said a group of state insurance regulators with long-term care insurance (LTCI) experience has reviewed insurers’ Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves (AG 51) filings and coordinated and communicated with the domestic state insurance departments. This year, the group has focused on cost-of-care trends for policies with inflation protection. Often, the actual daily cost-of-care has been less than the inflation protected daily maximum benefits stated in the policy. If the cost-of-care increases, it could have a significant impact on the claims cost for inflation protected products, especially for companies with a lot of 5% inflation protected business. There has been a general trend of companies planning to increase the conservatism in the future cost-of-care assumptions. He said the group has seen some shift of care from more costly facilities to less costly home settings. This is likely temporary and an aspect that will continue. It will continue to be monitored as it affects reserves. Mr. Andersen said the group has also seen an increasing trend in the complexity of assets supporting reserves. The Life Actuarial (A) Task Force is currently asking for comments to determine if additional documentation or constraints are needed related to the modeling of these assets and reserve adequacy.
Draft Pending Adoption

projections. Any changes by the Life Actuarial (A) Task Force could affect reserve standards as early as 2022. The impact of COVID-19 has also been studied. The increased mortality the last two years has generally resulted in shorter claims; however, due to the length of these policies, which may be in force for 30 years or more, any year-by-year loss ratio reductions will not have a material impact on the overall lifetime loss ratios. Generally, companies are not reducing reserves due to COVID-19 as they recognize the impact is short-term. Experience in this area continues to be monitored, including the emerging data on the Delta variant.

c. Received the Report of the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup

Commissioner Conway said the Subgroup met in regulator-to-regulator session Sept. 10 pursuant to paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings. He said the Subgroup also met Dec. 12, Nov. 15, and Sept. 28 and took the following action: 1) received and discussed interested state insurance regulator and interested party comments on the MSA Framework; 2) re-exposed the revised MSA Framework for a 21-day public comment period ending Dec. 6; and 3) adopted the MSA Framework.

Commissioner Conway described the due process that was undertaken to draft the MSA Framework. The drafting group was formed to draft and address comments on the MSA Framework. It began meeting in March of this year. The members of the group include six states—Connecticut, Minnesota, Nebraska, Texas, Virginia, and Washington—as well as the NAIC Legal team and support staff. The drafting group held 16 virtual working sessions between March and November, where it drafted and edited sections of the MSA Framework and reviewed comments. Three public exposures were held on each aspect of the draft, including two exposures for the operational section in April and September, two exposures for the actuarial section in June and September, and a third exposure of the combined draft in November. Commissioner Conway said the Subgroup has monitored the work of the drafting group and held eight meetings this year, including five public meetings to receive and address comments from state insurance regulators and interested parties and three regulator-to-regulator meetings to discuss confidential issues. All comments that were received have been reviewed and considered in the final draft.

Commissioner Conway said the MSA Framework has been a key goal of the Long-Term Care Insurance (EX) Task Force this year. He said a critical component for the future success of this MSA process is both state insurance department and insurer participation. He summarized the benefits of the MSA process to encourage both long-term care (LTC) insurers and state insurance departments to participate. The number one benefit of the MSA Framework is the expectation that through this coordinated review process, inequities in rate approvals between states can be reduced. The MSA process does not take away any authority of the state to make rate decisions, but it may reduce workloads for state insurance department staff, as it serves as another resource to help the rate review process. He said other benefits include: 1) the ability to leverage the collective expertise of the MSA Team working together to come to an advisory recommendation; 2) the ability to share questions and information between states on how the rate proposal promotes more consistency and increases one’s own department’s knowledge and expertise in this area; and 3) the ability to rely on the MSA Team, which will have the benefit of using the same consistent methodology that is relied upon by other state insurance departments when reviewing in force LTCI rate increase filings in one’s state.

Commissioner Conway said positive feedback has been received on the Pilot Project, and it is anticipated that the process will only improve as the MSA Team reviews more and more rate requests. He said it is also anticipated that LTC insurers will benefit from the process with more consistent rate approvals between states and shortened timelines. Overall, it is aimed at achieving the goal of the Task Force.

Commissioner Conway said once adopted, the Subgroup will focus on implementation to make this process operational by late summer 2022, then focus on monitoring for issues that need to be adjusted as the process evolves, and ultimately monitor its success in achieving the Task Force’s goals for reducing rate inequity. He said the MSA process will continue to undergo work and enhancements in the future. Feedback from both state insurance regulators and participating insurers on needs and ways to improve will be considered and likely result in revisions to the MSA Framework in the future.

Commissioner Conway made a motion, seconded by Commissioner Altman, to receive the report of the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup. The motion passed unanimously.

d. Adopted the MSA Framework

Commissioner White thanked the drafting group, the Subgroup, NAIC staff, state insurance regulators, and interested parties that contributed and provided feedback throughout the process. Mr. Lombardo said the MSA Framework is a work-in-progress,
and state insurance regulators will continue to work on the MSA Framework to make it better as more information is gathered. Commissioner White agreed that it is not a finished product and will be improved as the MSA Team completes its reviews. He asked everyone to remain engaged in the process going forward.

Commissioner Conway made a motion, seconded by Commissioner Pike, to adopt the MSA Framework (Attachment Five). The motion passed with Louisiana abstaining.

Commissioner White thanked Superintendent Cioppa for starting the process to find solutions for LTCI issues in 2019. Commissioner White thanked NAIC leadership for making LTCI a priority and giving the Task Force the necessary resources.

Commissioner White said the MSA Framework will be considered for adoption by the Executive (EX) Committee and Plenary at the 2022 Spring National Meeting. In 2022, the Subgroup will focus on implementation of the MSA Framework, which is expected to be fully operational by September 2022. Companies can continue to make rate proposals through the Pilot Project, which will inform future improvements to the MSA Framework.

e. Received the Report of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup

Commissioner Altman said the Subgroup met Dec. 7 (Attachment Seven), Nov. 19 (Attachment Eight), Oct. 19 (Attachment Nine), Oct. 4 (Attachment Ten), Sept. 27 (Attachment Eleven), and Aug. 23 (Attachment Twelve). During these meetings, the Subgroup took the following action: 1) discussed comments received on a draft LTC wellness program issues document; and 2) discussed comments received on a draft reduced benefit options (RBOs) consumer notices checklist. Both documents were adopted through an open and collaborative process with state insurance regulators, industry, and consumer representatives. Both documents provide excellent guidance in two key areas aimed at protecting LTC consumers.

Commissioner Altman said on Nov. 19, the Subgroup adopted the “Checklist for Premium Increase Communications” document. This checklist is intended to establish a consistent approach to drafting and reviewing LTCI RBO policyholder communications. The checklist can be used by states for guidance, and it is not required to be used for the review of insurer communications with policyholders. It is a tool to try to gain more consistency across the states. This tool will be available to state insurance regulators to use; as reviews of consumer notices are performed, state insurance departments will need to consider states’ requirements.

Commissioner Altman said on Dec. 7, the Subgroup adopted a document titled “Issues Related to LTC Wellness Benefits Document.” She said the Subgroup first heard from industry about the types of benefits they were introducing and testing. This is an area of LTCI that is new, and there are a lot of innovative ideas out there. Therefore, it also requires state insurance regulators to consider the issues that may arise from these types of new benefits. The document outlines issues, observations, and next steps that the Subgroup identified for various topics, including:

- The effectiveness of LTC wellness programs.
- Preventions of unfair discrimination related to extra-contractual benefits and costs.
- Consumer confusion over wellness programs.
- Rebutting; i.e., whether some LTC wellness benefits run afoul of anti-rebating laws.
- Tax considerations for policyholders.
- The regulatory role in approving or evaluating LTC wellness approaches.
- Actuarial considerations of the impact of LTC wellness benefits.
- Data privacy.

Commissioner Altman said the document is intended to provide guidance to state insurance regulators. The area of wellness benefits is expected to evolve over time; therefore, this document may be revised and enhanced in the future as these benefits evolve and these conversations mature. She encouraged every state to review and utilize these documents.

Bonnie Burns (California Health Advocates) said RBOs are a serious decision for consumers when faced with the trade-offs they make to maintain some of their coverage. She related a story of an 88-year-old woman that had reduced benefits over the years instead of rate increases and was left with a policy with only two years of coverage and no inflation protection. That said, the RBOs given to consumers is decreasing the promise that the company made to the consumer when the policy was purchased. State insurance regulators need to understand how the RBOs work over time and how many decisions policyholders are being asked to make to keep some of their coverage. RBOs have serious consequences for consumers. Commissioner White said the
work on RBOs is important. If policyholders are given options, they need to understand the consequences for accepting those RBOs. The checklist goes a long way in ensuring consumers have good options and understand those options.

Commissioner Conway made a motion, seconded by Commissioner Altmaier, to receive the report of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup. The motion passed unanimously.

f. **Draft Pending Adoption**

Commissioner Altman made a motion, seconded by Mr. Gaffney, to adopt the “Issues Related to LTC Wellness Benefits” document (Attachment Thirteen). The motion passed unanimously. 

Ms. Burns said wellness benefits are new and are operating in an unregulated and unstructured environment. It is important for the NAIC to have some oversight over these benefits. Ms. Burns asked that state insurance regulators monitor these products as they emerge.

g. **Draft Pending Adoption**

Commissioner Altman made a motion, seconded by Commissioner Altmaier, to adopt the “Checklist for Premium Increase Communications” document (Attachment Fourteen). The motion passed unanimously.

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