



Date: 11/29/21

2021 Fall National Meeting
San Diego, California

LONG-TERM CARE INSURANCE MULTISTATE RATE REVIEW (EX) SUBGROUP

Followed by

LONG-TERM CARE INSURANCE (EX) TASK FORCE

Sunday, December 12, 2021
11:30 a.m. – 1:00 p.m.
Convention Center—Ballroom 20 ABC—Upper Level

ROLL CALL

*Task Force members who are also Subgroup members are identified with an asterisk**

Scott A. White, Chair*	Virginia	Chlora Lindley-Myers*	Missouri
Michael Conway, Vice Chair*	Colorado	Troy Downing	Montana
Jim L. Ridling	Alabama	Eric Dunning*	Nebraska
Lori K. Wing-Heier	Alaska	Barbara D. Richardson*	Nevada
Evan G. Daniels	Arizona	Marlene Caride*	New Jersey
Alan McClain*	Arkansas	Russell Toal*	New Mexico
Ricardo Lara	California	Mike Causey	North Carolina
Andrew N. Mais*	Connecticut	Jon Godfread	North Dakota
Trinidad Navarro	Delaware	Judith L. French	Ohio
Karima M. Woods*	District of Columbia	Glen Mulready	Oklahoma
David Altmaier*	Florida	Andrew R. Stolfi*	Oregon
Colin M. Hayashida	Hawaii	Jessica K. Altman*	Pennsylvania
Dean L. Cameron*	Idaho	Elizabeth Kelleher Dwyer*	Rhode Island
Dana Popish Severinghaus	Illinois	Raymond G. Farmer*	South Carolina
Amy L. Beard*	Indiana	Larry D. Deiter	South Dakota
Doug Ommen*	Iowa	Carter Lawrence	Tennessee
Vicki Schmidt	Kansas	Cassie Brown*	Texas
James J. Donelon*	Louisiana	Jonathan T. Pike*	Utah
Eric A. Cioppa	Maine	Michael S. Pieciak*	Vermont
Gary D. Anderson	Massachusetts	Mike Kreidler*	Washington
Anita G. Fox*	Michigan	Allan L. McVey*	West Virginia
Grace Arnold*	Minnesota	Mark Afable	Wisconsin
Mike Chaney	Mississippi	Jeff Rude	Wyoming

NAIC Support Staff: Jeffrey C. Johnston\Eric King

LONG-TERM CARE INSURANCE MULTISTATE RATE REVIEW (EX) SUBGROUP AGENDA

1. Consider Adoption of its Nov. 15 and Sept. 28 Minutes
—Commissioner Michael Conway (CO)

Attachment One



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| 2. Hear Comments on the Exposure of the Multistate Rate Review Framework (Pending Dec. 6 Comment Deadline)— <i>Commissioner Michael Conway (CO)</i> | Attachment Two
(Pending) |
| 3. Consider Adoption of the Multistate Rate Review Framework — <i>Commissioner Michael Conway (CO)</i> | Attachment Three
(Pending-See
Exposure Draft) |
| 4. Discuss Any Other Matters Brought Before the Subgroup — <i>Commissioner Michael Conway (CO)</i> | |
| 5. Adjourn into Task Force Session— <i>Commissioner Michael Conway (CO)</i> | |

LONG-TERM CARE INSURANCE (EX) TASK FORCE AGENDA

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| 6. Consider Adoption of its Oct. 29 and Aug. 13 Minutes — <i>Commissioner Scott A. White (VA)</i> | Attachment Four |
| 7. Receive the Report of the Long-Term Care Insurance Financial Solvency (EX) Subgroup— <i>Fred Andersen (MN)</i> | |
| 8. Receive the Report of the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup— <i>Commissioner Michael Conway (CO)</i> | |
| 9. Consider Adoption of the Multistate Rate Review Framework (Pending Adoption by the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup on Dec. 12)— <i>Commissioner Scott A. White (VA)</i> | Attachment Three
(Pending -See
Exposure Draft) |
| 10. Receive the Report of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup— <i>Commissioner Jessica K. Altman (PA)</i> | Attachment Five |
| 11. Consider Adoption of the Issues Related to LTC Wellness Benefits Document (Pending Adoption by LTCI RBO (EX) Subgroup on Dec. 7) — <i>Commissioner Jessica K. Altman (PA)</i> | Attachment Six
(Pending) |
| 12. Consider Adoption of the Checklist for Premium Increase Communications — <i>Commissioner Jessica K. Altman (PA)</i> | Attachment Seven |
| 13. Discuss Any Other Matters Brought Before the Task Force — <i>Commissioner Scott A. White (VA)</i> | |
| 14. Adjournment | |

Draft: 11/22/21

Long-Term Care Insurance Multistate Rate Review (EX) Subgroup
Virtual Meeting
November 15, 2021

The Long-Term Care Insurance Multistate Rate Review (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Nov. 15, 2021. The following Subgroup members participated: Michael Conway, Chair (CO); Jimmy Harris (AR); Paul Lombardo (CT); Phillip Barlow (DC); Benjamin Ben (FL); Klete Geren (IA); Dean L. Cameron (ID); Alex Peck (IN); Rod Friedy (LA); Fred Andersen (MN); William Leung (MO); Michael Muldoon (NE); Russel Toal (NM); Jessica K. Altman (PA); Matt Gendron (RI); Michael Wise (SC); Doug Slape (TX); Tomasz Serbinowski (UT); Bob Grissom (VA); Anna Van Fleet (VT); Michael Walker (WA); and Joylynn Fix (WV).

1. Discussed and Exposed Comments on an MSA Framework Draft

Mr. Conway said the purpose of today's meeting is to: 1) review the latest changes that have been made to the draft combined Long-Term Care Insurance (LTCI) Multistate Rate Review Framework (MSA Framework); 2) address the comments received on the second exposure of the MSA Framework; and 3) expose the draft for a final public comment period in advance of the Fall National Meeting.

Mr. Andersen presented a recommendation (Attachment One-A) from the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup. He said the recommendation was in response to a referral from the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup for guidance concerning suggested edits to the Reduced Benefit Options appendix of the draft MSA Framework. He said it is recommended that no changes be made at this time.

Mr. Andersen gave a summary of the changes made to the draft MSA Framework in response to comments received from the Arizona Department of Insurance (DOI) and Financial Institutions (Attachment One-B), the North Carolina DOI (Attachment One-C), the American Academy of Actuaries (Academy) (Attachment One-D-), and the American Council of Life Insurers (ACLI) and America's Health Insurance Plans (AHIP) (Attachment One-E and One-F) during the second exposure, using a marked-up version of the draft (Attachment One-G).

Mr. Conway said the combined draft of the MSA Framework discussed during the meeting will be exposed for a third public comment period ending Dec. 6. He said the Subgroup plans to discuss any comments received and consider adoption of the MSA Framework during its Dec. 12 meeting, and then forward it to the Long-Term Care Insurance (EX) Task Force for its consideration.

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

Draft: 10/26/21

Long-Term Care Insurance Multistate Rate Review (EX) Subgroup
Virtual Meeting
September 28, 2021

The Long-Term Care Insurance Multistate Rate Review (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Sept. 28, 2021. The following Subgroup members participated: Michael Conway, Chair (CO); Paul Lombardo (CT); David Altmaier (FL); Andria Seip (IA); Stephen Chamblee (IN); Rich Piazza (LA); Karen Dennis (MI); Fred Andersen (MN); Russel Toal (NM); Jessica K. Altman (PA); Matt Gendron (RI); Michael Wise (SC); Barbara Snyder (TX); Tomasz Serbinowski (UT); Bob Grissom (VA); Anna Van Fleet (VT); Lichiou Lee (WA); and Joylynn Fix (WV). Also participating was: Barbara D. Richardson (NV).

1. Discussed Comments on an MSA Framework Draft

Mr. Conway said the purpose of today's meeting is to review the changes that have been made to the Actuarial sections of the draft Long-Term Care Insurance (LTCI) Multi-State Rate Review Framework (MSA Framework) in response to the comments received from their first exposure. He said the Actuarial sections have been exposed for a second public comment period ending Oct. 28.

Mr. Andersen gave a summary of the changes to the Actuarial sections of the draft MSA Framework, using a marked-up version of the draft (Attachment One-H) and a summary of received comments (Attachment One-I) as references. He said comments were received from the Washington State Office of the Insurance Commissioner (Attachment One-J), the Vermont Department of Financial Regulation (DFR) (Attachment One-K), the American Academy of Actuaries (Academy) (Attachment One-L), the American Council of Life Insurers (ACLI) and the America's Health Insurance Plans (AHIP) (Attachment One-M), and FinancialMedic LLC (Attachment One-N).

Mr. Conway said several comments were received requesting more specificity on how the Multistate Actuarial LTCI Rate Review Team (MSA Team) will apply either the Minnesota or Texas approach and other technical details of the process. He said the MSA Framework is intended to be a framework for the MSA Team's rate review process, and it will not include every detail of every aspect the MSA Team will consider as it conducts its reviews. He said the MSA Team will apply actuarial judgement in its reviews that is not able to be captured in its entirety in the MSA Framework.

Mr. Conway said the MSA Framework is intended to be a tool for states to use in determining the rate increase each state will ultimately approve, and each state will reserve the right to make a rate increase decision that is not the one recommended in any given MSA Team Advisory Report. He said he hopes the MSA Team Advisory Reports can be used by states to arrive at rate increase approval determinations more expeditiously.

Ms. Richardson asked whether the MSA Team considers the number of policyholders in each state when making its recommendations. Mr. Andersen said this is a non-actuarial issue, and the MSA Team strives to achieve rate equity among all states, irrespective of the number of policyholders in a given state.

Mr. Toal said he supports the concept of rate equity among policyholders in different states. He said this also needs to be balanced with the concepts of reasonableness and affordability. He said rate increases of 150% to 200% are not affordable to policyholders in New Mexico, and the issues of reasonableness and affordability need to be part of the MSA Framework's review process. Mr. Conway said these concerns fall into the non-actuarial considerations category, and he agreed that these issues need to be discussed. Mr. Andersen said the Minnesota method attempts to address reasonableness in that it produces rate increase recommendations lower than those using a loss ratio approach. He said it is important to note that even in light of large rate increases, given the expected increase in claims costs, reasonableness is part of the review process.

Jan Graeber (American Council of Life Insurers—ACLI) said there could be more clarity on how the Minnesota and Texas rate review methodologies will be applied, such as commentary on which methodology better addresses issues such as small remaining blocks of policies and other high-level issues. She suggested that a walk-through of the MSA review process using a sample rate increase filing may be helpful. Mr. Andersen said the MSA Team has researched including more clarity as requested, but it has found that the differences in filings make stating which methodology is preferred for various categories difficult. He said the MSA Team will continue to research these issues. Mr. Lombardo said the MSA Team has not reviewed

many filings at this point, and he noted that the MSA Framework will be updated as needed as more filings have been reviewed. He said at this time, the MSA Team does not have enough information to provide the level of detail that Ms. Graeber requested. Ms. Graeber suggested that the Long-Term Care Pricing (B) Subgroup revisit its document that outlines the Minnesota and Texas methodologies and determine if it can be used to add clarity to the MSA Framework. Mr. Andersen said he agrees with this approach, and he suggested developing some case studies to apply the MSA Framework process to. Mr. Conway said any methodology used in the MSA Framework will be required to produce an actuarially justified result.

Birny Birnbaum (Center for Economic Justice—CEJ) said there is no requirement that insurers return excess premiums collected if experience proves to be better than expected. He said he considers this to be a violation of the principle of reasonableness. He said for the MSA Framework process to be transparent, MSA Team Advisory Reports need to be made publicly available. Mr. Conway said the level of detail for each report that is publicly available will be dependent on a given state's confidentiality requirements.

Mr. Conway said the Operational sections of the MSA Framework have been exposed for a second public comment period, and comments are due Oct. 11. He said after the Oct. 28 comment deadline for Actuarial sections, the Subgroup will meet to discuss comments received on both the Actuarial and Operational sections. He said the Subgroup's ultimate goal is to adopt the final version of the MSA Framework prior to the Fall National Meeting, where it will be presented to the Long-Term Care Insurance (EX) Task Force for its consideration.

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

Draft: 10/29/21

Long-Term Care Insurance (EX) Task Force
E-Vote
October 29, 2021

The Long-Term Care Insurance (EX) Task Force conducted an e-vote that concluded Oct. 29, 2021. The following Task Force members participated: Michael Conway, Vice Chair (CO); Jim L. Ridling represented by Mark Fowler (AL); Alan McClain (AR); Ricardo Lara represented by Tyler McKinney (CA); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Frank Pyle (DE); David Altmaier represented by Christina Huff (FL); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Andria Seip (IA); Dana Popish Severinghaus represented by Shannon Whalen (IL); Amy L. Beard represented by Dawn Bopp (IN); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold (MN); Chlora Lindley-Myers (MO); Mike Chaney represented by Bob Williams (MS); Troy Downing represented by Bob Biskupiak (MT); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Chrystal Bartuska (ND); Eric Dunning (NE); Russell Toal (NM); Barbara D. Richardson represented by Jack Childress (NV); Glen Mulready represented by Andrew Schallhorn (OK); Andrew Stolfi (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Larry D. Deiter (SD); Mike Kreidler represented by Molly Nollette (WA); Mark Afable (WI); Allan L. McVey (WV); and Jeff Rude (WY).

1. Adopted the 2022 Proposed Charges

The Task Force conducted an e-vote to consider adoption of the 2022 proposed charges of the Task Force and its Subgroups. A majority of the members voted in favor of adopting the 2022 proposed charges (Attachment Four-A). The motion passed.

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

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Draft: 8/19/21

Long-Term Care Insurance (EX) Task Force and the
Long-Term Care Insurance Multistate Rate Review (EX) Subgroup
Columbus, Ohio
August 13, 2021

The Long-Term Care Insurance (EX) Task Force met Aug. 13, 2021, immediately followed by a meeting of the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup.

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 (AR); Evan G. Daniels (AZ); Ricardo Lara represented by Perry Kupferman (CA); Andrew N. Mais (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier (FL); Colin M. Hayashida represented by Martha Im (HI); Doug Ommen (IA); Dean L. Cameron (ID); Dana Popish Severinghaus represented by Shannon Whalen (IL); Amy L. Beard and Scott Shover (IN); Vicki Schmidt (KS); James J. Donelon (LA); Gary D. Anderson (MA); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold represented by Fred Andersen (MN); Chlora Lindley-Myers (MO); Mike Chaney (MS); Troy Downing (MT); Mike Causey (NC); Jon Godfread (ND); Eric Dunning and Rhonda Ahrens (NE); Marlene Caride (NJ); Russell Toal (NM); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready (OK); Andrew Stolfi (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Doug Slape (TX); Jonathan T. Pike and Tomasz Serbinowski (UT); Michael S. Pieciak represented by Anna Van Fleet (VT); Mike Kreidler and Lichiou Lee (WA); Mark Afable (WI); James A. Dodrill (WV); and Jeff Rude (WY).

The following Subgroup members participated: Michael Conway, Chair (CO); Alan McClain (AR); Andrew N. Mais (CT); Philip Barlow (DC); David Altmaier (FL); Doug Ommen (IA); Dean L. Cameron (ID); Amy L. Beard (IN); James J. Donelon (LA); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold represented by Fred Andersen (MN); Eric Dunning and Rhonda Ahrens (NE); Marlene Caride (NJ); Russell Toal (NM); Barbara D. Richardson (NV); Andrew Stolfi (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer (SC); Doug Slape (TX); Tomasz Serbinowski (UT); Scott A. White (VA); Michael S. Pieciak represented by Anna Van Fleet (VT); Mike Kreidler and Lichiou Lee (WA); and James A. Dodrill (WV).

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

a. Adopted its July 6 Minutes

The Task Force met July 6 and took the following action: 1) adopted its Spring National Meeting minutes; and 2) received the reports of the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup and the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup.

Commissioner Altman made a motion, seconded by Commissioner Caride, to adopt the Task Force's July 6 minutes (Attachment One). The motion passed unanimously.

b. Heard an Update on Industry Trends

Mr. Andersen said the Valuation Analysis (E) Working Group oversees reserve valuation and related solvency of companies with large long-term care insurance (LTCI) blocks of business. It has reviewed *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51) filings this past year. The Working Group interacts with companies and domestic state insurance departments on such matters. In past years, the areas of focus included evaluation of investment return and morbidity incidence improvement assumptions. Mr. Andersen said the key area of focus this year has been on studying the variation of cost-of-care and trends due to the impact of COVID-19 and the aging baby boomer generation. Cost-of-care trends affect companies with policies that include 5% compound inflation protection where often the actual daily cost-of-care assumption is less than the inflation-protected daily maximum benefit stated in the policy. The Working Group plans to monitor trends for that issue over the next several months and years. The Working Group is working with the California Department of Insurance (DOI), which has a team of LTCI actuaries that assist in the AG 51 reviews.

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Commissioner Ridling asked if the Task Force should be monitoring for possible future solvency concerns and what should be looked at during insolvency. Commissioner White said that solvency analysis is ongoing. It is being conducted by the actuarial group through its annual review of insurers' AG 51 filings, and through having discussions with the company and its domestic state insurance regulator if reserves need to be strengthened. Mr. Andersen said the Valuation Analysis (E) Working Group has been performing targeted and broad-based reviews for three to four years and has been engaged with the companies and the NAIC on their work. He invited any of the state insurance regulators who would like to discuss these activities or any ideas for enhancements to this work to contact him or Commissioner White.

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

Commissioner Conway said the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup met June 22 to hear verbal comments on the exposure draft of the operational sections of the LTCI Multi-State Rate Review Framework (MSA Framework). The drafting group has met several times discuss those comments and has identified some key issues yet to be decided. The Subgroup also exposed the actuarial sections of the MSA Framework for a public comment period. Five comment letters were received. The drafting group will continue working on edits to both the operational and actuarial sections in response to the comments to finalize the MSA Framework. Commissioner Conway said the Subgroup anticipates a second exposure draft of both the operational and actuarial aspects of the MSA Framework by the middle of September and will be conducting several meetings this fall.

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

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

Commissioner Altman said the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup met July 28, July 22 and May 4. During its May 4 meeting, the Subgroup heard four industry presentations on LTCI innovation and wellness programs. The presenters were invited to assist the Subgroup with identifying potential issues with offering wellness programs to policyholders with in-force LTCI policies. The presentations touched on things insurers need to consider before implementing a wellness program; experiences with and lessons learned from a pilot program offered by an insurer; a hypothetical view of what the future state of in-home long-term care (LTC) services might look like; and issues related to unfair discrimination concerns, rebating concerns, and wellness programs as they relate to tax qualified LTCI policies.

Commissioner Altman said after its July 22 meeting, the Subgroup exposed a document titled *Issues Related to LTC Wellness Benefits* for a public comment period ending Sept. 5. She encouraged state insurance regulators and interested parties to review the document and provide feedback to the Subgroup. The document outlines issues, observations, and next steps for various topics, including:

- Effectiveness of LTC wellness programs.
- Preventions of unfair discrimination related to extra-contractual benefits and costs.
- Consumer confusion over wellness programs.
- Rebating and 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 Subgroup received comments on the draft "RBO Consumer Notices Checklist" in July. This checklist is intended to establish a consistent approach to drafting and reviewing LTCI reduced benefit options (RBO) policyholder communications, and to provide an optional tool to use. The checklist can be used by states for guidance and is not required to be used for the review of insurer communications with policyholders. The Subgroup met July 28 to work through the comments received and to make edits to the checklist. The Subgroup plans to meet Aug. 23 to finalize the checklist.

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

e. Released the LTCG Actuarial Consulting Group Report

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Commissioner White said the NAIC engaged LTCG Actuarial Consulting Group to conduct a data call of certain insurers to assist the Task Force in evaluating the extent to which state rate review policies and practices have led to cross-state rate subsidization. The public LTCG report (Attachment Four) includes key points in the executive summary and data in different frames. The data call and analysis does show such cross-state rate subsidization does exist. The report took time to deliver as the original work product of LTCG was considered confidential because the information was gathered under Virginia confidentiality statutes. Steps had to be taken to allow it to be shared publicly and to work through some contractual issues with LTCG regarding its scope of work and deliverables. This report is being released to the public for informational purposes only, and the Task Force does not expect further discussion on the matter.

f. Discussed the MSA Framework Timeline and Next Steps

Commissioner White said a timeline for completing the MSA Framework has been developed, which includes processes to receive feedback from both state insurance regulators and interested parties. He said the following timeline is anticipated for the operational aspects of the MSA Framework:

- Discuss pending revisions during today's meeting.
- Aim to complete the next version of the operational aspects of the MSA Framework by Aug. 30.
- Assuming the next draft is completed by Aug. 30, then hold a Long-Term Care Insurance Multistate Rate Review (EX) Subgroup regulator-to-regulator meeting the week of Sept. 6, which will be scheduled soon.
- Pending further edits from the Subgroup, the operational aspects would be re-exposed for a 30-day public comment period the week of Sept. 22, with comments due prior to a Subgroup meeting the week of Oct. 25.
- Hold a Subgroup open meeting the week of Oct. 25 to discuss comments received.
- The drafting group will consider near final comments and produce a third draft version by Nov. 8.

Commissioner White said the following timeline is anticipated for the actuarial aspects of the MSA Framework:

- The Subgroup will hear oral summary comments during today's meeting.
- The drafting group plans to analyze and produce a second draft version and expose it for a 30-day public comment period by the week of Sept. 13, with comments due prior to a Subgroup meeting the week of Oct. 25.

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

2. Long-Term Care Insurance Multistate Rate Review (EX) Subgroup

a. Discussed Revisions to the Operational Section of the Draft Multistate Rate Review Framework

Commissioner Conway said the drafting group has met several times over the past two months to work through the comment letters and has made progress. There are a couple key points that the drafting group thinks the Subgroup still needs to evaluate and discuss further, specifically what information in the MSA process and MSA filing should be confidential vs. public. The answer may depend partly on how states' insurance laws and protections apply in general, or specifically to rate filings. Another key issue yet to be finalized is the type and level of detail of information that should be included in a report that is shared with the insurer. Commissioner Conway said he recognizes the value in good communication with the insurer during the review process but still need to address the level of detail that is needed. He said this will be an iterative process with insurers to strike the right balance between transparency and the protection of sensitive information.

Commissioner Conway said the current draft will change, as there needs to be more discussion on these issues. Based on that discussion, further decisions can be made on administrative and logistical questions that were raised in the comments, specifically, the use of the Interstate Insurance Product Regulation Compact (Compact) staff and the System for Electronic Rate and Form Filings (SERFF) to assist in the administration of rate proposals and the process of finalizing the review and approval of the reports. The Subgroup is aiming to produce the next version of the draft by Aug. 30 and meet in regulator-to-regulator session during the week of Sept. 6.

Ms. Ahrens said there were several comments received on the operational aspects of the MSA Framework regarding the need for both insurers and state insurance regulators to participate in the MSA process for it to achieve its goal of more consistency in approving actuarially justified rate requests in a timely fashion. The MSA process is novel concept and through the pilot project, she said the Subgroup is learning with each review how to improve the process for the next review. It is anticipated that this process will evolve rapidly over time. The hope is that both industry and the state insurance departments will also find the benefits of the process and that relying on this process and its reports will become more compelling as experience is gained.

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She said that evolution is something the Task Force and this Subgroup will be closely monitoring and reevaluating to help ensure they are moving towards their goal.

Ms. Ahrens said an important change is the addition of what will be referred to as an “MSA Associate Program,” which is aimed at addressing the concerns of state insurance regulators that more states need to be actively involved in participating in the actual MSA review rather than being limited or that the MSA team may be too small of a group of regulatory actuaries. While there would still be a core team, the proposed mentorship program recognizes that some state insurance departments may lack LTCI actuarial expertise and need involvement in a process like this to help staff to gain LTCI experience. It also recognizes limitations on state insurance departments’ resources but allows for meaningful participation with less time dedication, such as serving as a peer reviewer.

Ms. Ahrens said another key change is the addition of a sample MSA Advisory Report that reflects in more detail the type of information that will be included, understanding that each report will be customized to the filing and that the report may be refined over time.

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

Commissioner Conway said the actuarial section of the MSA Framework was exposed for a public comment period ending July 26. Five comment letters were received. Each commentator was asked to summarize key points from their letter.

Andrew Dalton (American Academy of Actuaries—Academy) summarized the Academy’s comment letter (Attachment Five) by outlining key areas of comments:

- Regarding “actuarial judgement,” the Academy recommends the use of the term “professional judgement.”
- Regarding the decision-making process of the MSA team, the Academy recommends additional information on: 1) how the three actuarial approaches are aggregated; 2) what happens if the Minnesota and Texas approaches conflict; 3) what mechanisms exist for dealing with “catch-up” and “transition” provisions in the Texas approach; 4) how differences in historical rate increases are handled; and 5) how long the MSA recommendation lasts.
- Regarding industry standards and benchmarking, the Academy recommends: 1) consultation with the filing actuary before determinations of “unreasonable or unsupported” assumptions are made; 2) consideration that some insurers use the same assumptions for rate increase and asset adequacy testing, as this may have implications for asset adequacy testing; 3) clarification on “industry average assumptions at the time of original pricing”; and 4) future explanation of the 58/85 test.
- Regarding non-actuarial considerations, these issues can have actuarial implications.
- The Academy’s comment letter includes several editorial points for consideration.

Mr. Dalton said the Academy appreciates the effort in developing the MSA Framework but has concerns that there may be little value if state insurance departments do not follow the MSA recommendations. The Academy recommends ongoing monitoring of state insurance departments’ use of the MSA recommendations.

Mr. Andersen said the letter was helpful and that many of the items for which the Academy is seeking clarification will be addressed in the MSA Framework. Regarding the need for state insurance department participation, he said he hopes that upon implementation of the MSA Framework, that over time, insurers and state insurance regulators will have a greater comfort level with the MSA process and that there will be more interaction with those insurers and state insurance regulators.

Ms. Ahrens said regarding the Academy’s comment that the lowest result would always be the recommendation, in Nebraska, they use elements of both the Texas and Minnesota approach. The intent to having two methods is not to choose the lowest or highest number or to have a prevailing method, but rather to choose the one that makes the most sense for the unique aspects of each rate filing.

Jan Graeber (American Council of Life Insurers—ACLI) summarized the joint comment letter from the ACLI and America’s Health Insurance Plans (AHIP) (Attachment Six). She said the ACLI and AHIP strongly support the work to achieve the Task Force’s charge. She said they view the actuarial section to be at the core of achieving the Task Force charge and that it deserves robust discussion through several rounds of exposure. Ms. Graeber said the ACLI and AHIP comments are high-level, and they look forward to providing more detailed comments in the future.

Ms. Graeber said the comments include a list of questions and issues. She said the MSA Framework should include transparency and consistency. The MSA Framework should include the rationale or criteria that determines the method the MSA team will

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apply. She said carriers need to understand the methodology to be used by the MSA team before the carriers prepare and make rate filings. She highlighted comments in the letter that note that certain provisions of the Texas method were not clearly included.

Ms. Graeber said the 2018 NAIC Long-Term Care (B) Pricing Subgroup's paper, *Long-Term Care Insurance Approaches to Reviewing Premium Rate Increases* was result of deliberate and collaborative effort, where each method was fully vetted. She said any clarifications or modifications to the methodologies in that paper should only be made after the same type of robust discussion and vetting occurs as 2018. She encouraged the Task Force to charge the Long-Term Care Pricing (B) Subgroup or other actuarial group with re-vetting these methods before they are included in the MSA Framework.

Ms. Graeber said within the Minnesota approach, the term "anti-bait and switch adjustment" draws a legal conclusion and recommends the term "original assumption adjustment."

Commissioner Conway said there are issues that remain to be addressed. He said there will be further opportunities for state insurance regulators and interested parties to comment on the MSA Framework and engage in solutions to issues. He said the MSA process will be evolving and the MSA team expects to learn and make improvements over time. He said it is important that the Subgroup keep moving this project forward as Commissioner White described in his discussion of the timeline.

Superintendent Toal said he supports the MSA effort. He said however, that there needs to be a reasonableness test beyond the actuarial assessment. He said a request for rate increases of 157%, 189% and 226% are not reasonable or sustainable to him or for policyholders. He said state insurance regulators need to have discussions with insurers to understand the rate increase and, if necessary, perform multistate examinations.

Commissioner Conway said the reasonableness aspect is in direct response to the fact that the focus cannot only be on the actuarial aspects. He said that some state laws require a reasonableness approach and that other states have caps that need to be considered.

Commissioner White said he believes many members of the Task Force are focused on making sure consumers are not absorbing high rate increases. The Task Force is working on ways to balance that priority with ensuring that insurers are able to pay claims in the future by receiving actuarially appropriate rate increases. He said one of the benefits of the MSA Framework are the methodologies that consider the types of concerns that Superintendent Toal raised. He said, however, that how we address these rate increases for consumers must be consistent from state-to-state. The Texas and Minnesota methods are designed so that insurers cannot recoup past losses. The methods are focused on ensuring the increases are prospective in nature. The Minnesota method also has a cost-sharing element that starts when a rate increase exceeds a certain amount. He said state insurance regulators need to scrutinize the insurers. The Valuation Analysis (E) Working Group is monitoring these insurers and ensuring they hold proper reserves. The data state insurance regulators have available is better than five years ago. Results may reflect that some insurers must adjust reserves for rising costs. When that happens, it is a reasonable consideration for the insurer to request to recoup part of that through rate increases.

Commissioner Richardson asked Ms. Graeber if "transparency" refers to the method specific to a company's review. Ms. Graeber said she is referring to transparency of when the Texas or Minnesota methods are used in the MSA review. In 2018, examples under the two methods had similar results. She said that may not be true now. She said the insurer needs to know which method and criteria will be used to review their filing before they make their rate filing. She said Mr. Ahrens said Nebraska uses aspects of both methods based on the characteristics of the filing. She said insurers are looking for transparency on those criteria. Commissioner Richardson said that if the results of the methods ultimately are different, upfront transparency may not give insurers the results they are looking for. Commissioner Conway said the MSA team is going to apply aspects and consideration of both the Texas and Minnesota approaches, as each will have different characteristics. He said the MSA team will not be able to inform an insurer which approach is applied to an insurer before the filing is made. He said the MSA process is transparent in that it outlines the two approaches that will be used, as opposed to 56 jurisdictions using 56 different approaches. He said both state insurance regulators and insurers will continue to learn and improve this process over time.

Mr. Slape said significant rate increases are difficult, but state insurance regulators need to look at what led up to that rate increase request. If the reason is that insurers delayed making the request, the Texas and Minnesota methodologies require the company to subsidize that. If the reason for the rate increase is because prior rate increases were not approved, state insurance regulators need to reconcile that also. Perpetuating the problem will make it worse. He said this needs to be reconciled in a way that consumers still get the value they purchased and that they are in the best position to make their own decision. Cancellation rates are still low, which indicates consumers still value the product. Both industry and state insurance regulators own some of

Draft Pending Adoption

the problem, and hopefully state insurance regulators can find a solution so that regulators are not exacerbating the problem. Commissioner Conway said there is also good work being accomplished around RBOs, which is an additional component to finding a solution.

Superintendent Toal asked Ms. Graeber why an insurer would need to know which methodology the state insurance department would use. The insurer would include in their rate filing what the insurer has determined independently what is a sound and reasonable request. He asked why it would make a difference if the Texas or Minnesota methodology was used on a rate increase review. Ms. Graeber said it adds clarity to the process. Knowing the criteria and considerations will make for a more timely and efficient process if the insurer knows how the MSA team is going to review their filing. Superintendent Toal said he does not agree.

Commissioner Donelon asked if funded consumer representatives have provided comments. Commissioner Conway said no comment letters were received from funded consumer representatives.

Bonnie Burns (California Health Advocates—CHA) said she had comment on the RBO topics, but she does not have the skills to comment on the actuarial topics. She said she is counselling consumers who are receiving the rate increase who are upset over the high rate increase they are asked to pay. The consumers must make the decision to either pay the rate increase or to reduce benefits because they have no other choice. She said the state insurance regulators should keep this in mind when considering the actuarial issues. She said there is no reason an insurer should raise rates on the cost of care because they do not pay claims based on the cost of care; rather, it is a fixed amount. If they have 5% inflation protection, the insurer should have already calculated the cost of that protection. She said another actuarial group indicated cost of care is not driving the increase in premiums. Commissioner Conway said state insurance regulators are concerned about the consumer and have had similar difficult conversations with consumers who are facing rate increases.

Samuel Cuscovitch (FinancialMedic LLC) summarized his comment letter (Attachment Seven). He said his consumer group is a grassroots group looking at LTCI as part of financial independence and retirement issues. He said FinancialMedic reviewed an actuarial paper on “phantom premium” and approximately 250 filings in Connecticut. Based on this, his group determined that what takes place is essentially a “charge back.” FinancialMedic ran models to determine the extent of the charge backs, approximately 40%. He said his group’s comment letter includes an example of such. He said a problem is that the source of the real premium and the rate adjudication method is not disclosed by the insurers. He said his group considers these rate increases to be elder abuse. Without nailing down the rate adjudication method, he is unsure how the NAIC can embark on RBO initiatives or determine that there is cross-state subsidization. He said he thinks the rate adjudication method needs to be solidified and vetted before assuming RBOs or cross-state subsidization are high priorities.

Mr. Andersen said the issue of past losses was a key topic of the public actuarial meetings that spanned four to five years, so he thinks there is a good understanding of that issue, which is reflected in the Texas and Minnesota methodologies. He said when these policies were originally sold, the estimate of benefits was much lower than the actual benefits and the question has been how much of the gap is the responsibility of the insurer vs. passing it on to the consumer. He said even though premiums are higher, the value proposition still works in favor of the consumer. There is still value to the consumer, but now it is more expensive.

Ms. VanFleet summarized the Vermont comment letter (Attachment Eight). She said the comments address the wellness section of Appendix D of the MSA Framework. She said any offer associated with a rate action that involves the collection of data using artificial intelligence (AI) should clearly explain how information will be collected and used to avoid profiting and potential discriminatory actions on behalf of the insurer. Any offer to an insured tied to a rate increase should be supported with data showing why and how the rate impact is directly correlated to the offer. Rate increases add thousands of dollars to the consumer and are often a hardship for elderly consumers on fixed incomes and may not be able to consider their own best interest. The comment letter recommends keeping the wellness program offers separate from implementation of large rate increases (e.g., 10%–15%). Then, there would be no question that the consumer was coerced, rather than persuaded, to the part in the wellness program.

Ms. Lee said summarized the Washington comment letter (Attachment Nine). She said a few key criteria need to be addressed to achieve the maximum value of the MSA process. If the MSA process is not binding, it may affect the goal of nationwide uniformity and defeat the purposes of the MSA process. To minimize the differences across states, more states need to participate in the MSA rate review, and the use of the results should be mandatory. She asked if the rate changes recommended by the MSA team can be implemented by all states and meet existing state laws and rules. If not, she asked if this invalidates the actuarial work of the MSA team. Some states have capped an LTCI rate increase regardless of actuarial justification. If the

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MSA team recommends a higher rate increase than a particular state's capped rate increase, the actuarial assumptions may no longer be valid. Also, those states without a rate cap will be continuing to subsidize the states with a rate cap. She said a key issue to address is if the MSA review can meet the proprietary or confidentiality requirements of the participating states. MSA rate reviews will be done by drawing on staff support from various state insurance departments. She asked if the MSA team can effectively maintain confidentiality and meet individual state's proprietary information law. She highlighted other comments in the letter regarding the actuarial considerations, specifically that the MSA report should not conflict with various states' laws, rules, and procedures, and that the NAIC should conduct a study to determine whether the Minnesota and Texas approaches are consistent with states' laws and rules. She said the methods in the MSA Framework are somewhat different from the review performed in Washington.

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

Draft: 11/22/21

Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup
Virtual Meeting
November 19, 2021

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Nov. 19, 2021. The following Subgroup members participated: Jessica K. Altman, Chair, and Shannen Logue (PA); Jimmy Harris (AR); Emily Smith (CA); Susan Jennette (DE); Doug Ommen (IA); Stewart Guerin (LA); Kevin Dyke (MI); Carter Lawrence (TN); R. Michael Markham (TX); Tomasz Serbinowski (UT); Elsie Andy (VA); Anna Van Fleet (VT); and Sharon Daniel (WA).

1. Adopted the RBO Consumer Notices Checklist.

Ms. Van Fleet and Ms. Logue presented a version of a draft Reduced Benefit Options (RBO) Consumer Notices Checklist (Checklist) (Attachment Five-x) that incorporates comments received on the draft, with notes on the proposed treatment of each comment. The Subgroup, interested state insurance regulators, and interested parties discussed and agreed to changes to items 16, 18, and 42. These changes were incorporated into a final version of the Checklist (Attachment Five-x).

Mr. Serbinowski made a motion, seconded by Ms. Van Fleet, to adopt the final version of the Checklist. The motion passed unanimously.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

Draft: 10/29/21

Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup
Virtual Meeting
October 19, 2021

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Oct. 19, 2021. The following Subgroup members participated: Jessica K. Altman, Chair, and Shannen Logue (PA); Emily Smith (CA); Frank Pyle (DE); Doug Ommen (IA); Eric Anderson (IL); Karen Dennis (MI); Fred Andersen (MN); Gretchen Brodkorb (SD); Carter Lawrence (TN); Tomasz Serbinowski (UT); Bob Grissom (VA); Anna Van Fleet (VT); and Melanie Anderson (WA).

1. Discussed Comments Received on a Draft RBO Consumer Notices Checklist.

Ms. Van Fleet presented a version of a draft Reduced Benefit Options (RBO) Consumer Notices Checklist (Checklist) (Attachment Five-x) that incorporates comments received on the draft, with notes on the proposed treatment of each comment.

Ms. Van Fleet said discussion at the next meeting will focus on questions 16 and 42. Commissioner Altman said the Subgroup will schedule another meeting to continue discussion of the comments on the Checklist using the version that reflects revisions made today.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

Draft: 10/28/21

Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup
Virtual Meeting
October 4, 2021

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Oct. 4, 2021. The following Subgroup members participated: Jessica K. Altman, Chair, and Shannen Logue (PA); Emily Smith (CA); Frank Pyle (DE); Doug Ommen (IA); Eric Anderson (IL); Rich Piazza (LA); Karen Dennis (MI); Fred Andersen (MN); Carter Lawrence (TN); Barbara Snyder (TX); Tomasz Serbinowski (UT); Scott A. White (VA); Anna Van Fleet (VT); Melanie Anderson (WA); and Joylynn Fix (WV).

1. Discussed Comments Received on a Draft LTC Wellness Program Issues Document

Commissioner Altman presented a version of a draft Long-Term Care (LTC) Wellness Program Issues document (Attachment Five-x) that reflects edits made in response to comments received (Attachment Five-x) during its public exposure for comment. She also presented a summary (Attachment Five-x) of the comments received. Mr. Andersen gave an overview of the document and the summary of comments.

Bonnie Burns (California Health Advocates—CHA) asked how wellness program benefits will be offered to policyholders. Mr. Andersen said the benefits are likely not included in the original policy contract, and they will likely be offered through a mutual agreement between the insurer and policyholder to new contract terms. He said this will be like how reduced benefit options (RBO) are made available to policyholders.

Birny Birnbaum (Center for Economic Justice—CEJ) suggested that a standardized template be used for collection of data needed for wellness program implementation and the data collection be facilitated using a national statistical agent.

Anitha Rao (Neurocern) said she is concerned that the standards of care used by insurers offering wellness programs for providing care to policyholders may not be the same as those used by the medical community.

Commissioner Altman said the document will be re-exposed for an additional public comment ending Nov.4.

2. Responded to a Referral from the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup

Mr. Andersen presented a comment (Attachment Five-x) submitted by the Vermont Department of Financial Regulation in response to an exposure for public comment by the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup of Operational sections of a Long-Term Care Insurance (LTCI) Multi-State Rate Review Framework (MSA Framework). He said the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup referred the comment to the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup for a recommendation on whether to include the additional language proposed in the MSA Framework.

The Subgroup determined that it will recommend that the proposed language not be added to the MSA Framework at this time. However, if the Multistate Actuarial LTCI Rate Review Team (MSA Team) is presented with a rate increase filing that includes the issue addressed in the comment, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup requests that the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup make a referral that includes details of the offering's connection to the rate increase request.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

Draft: 10/8/21

Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup
Virtual Meeting
September 27, 2021

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Sept. 27, 2021. The following Subgroup members participated: Jessica K. Altman, Chair, and Shannen Logue (PA); Emily Smith (CA); Frank Pyle (DE); Doug Ommen (IA); Eric Anderson (IL); Rich Piazza (LA); Karen Dennis (MI); Fred Andersen (MN); Carter Lawrence (TN); Barbara Snyder (TX); Tomasz Serbinowski (UT); Bob Grissom (VA); Anna Van Fleet (VT); Melanie Anderson (WA); and Joylynn Fix (WV).

1. Discussed Comments Received on a Draft RBO Consumer Notices Checklist.

Ms. Van Fleet presented a version of a draft Reduced Benefit Options (RBO) Consumer Notices Checklist (Checklist) (Attachment Five-x) that incorporates comments received on the draft, with notes on the proposed treatment of each comment.

Ms. Van Fleet said discussion at the next meeting will focus on questions 6, 7, 25, and 49. Commissioner Altman said the Subgroup will schedule another meeting to continue discussion of the comments on the Checklist using the version that reflects revisions made today.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

Draft: 9/8/21

Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup
Virtual Meeting
August 23, 2021

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup of the Long-Term Care Insurance (EX) Task Force met Aug. 23, 2021. The following Subgroup members participated: Jessica K. Altman, Chair, and Shannen Logue (PA); Perry Kupferman (CA); Susan Jennette (DE); Andria Seip (IA); Dana Popish Severinghaus (IL); Rich Piazza (LA); Karen Dennis (MI); Rhonda Ahrens (NE); Larry D. Deiter (SD); Brian Hoffmeister (TN); Tomasz Serbinowski (UT); Bob Grissom (VA); Anna Van Fleet (VT); Melanie Anderson (WA); and Joylynn Fix (WV).

1. Discussed Comments Received on a Draft RBO Consumer Notices Checklist.

Ms. Van Fleet presented a version of a draft Reduced Benefit Options (RBO) Consumer Notices Checklist (Checklist) (Attachment Five-x) that incorporates comments received on the draft, with notes on the proposed treatment of each comment.

Commissioner Altman said the Subgroup will schedule another meeting to finish discussion of comments on Checklist questions 6, 7, 25, and 49.

Having no further business, the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup adjourned.

Checklist for Premium Increase Communications

Adopted by the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup 11/19/21

AUTHORITY

The Long-Term Care Insurance Reduced Benefit Options (RBO) (EX) Subgroup 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 Long-Term Care Insurance (EX) Task Force (Task Force) adopted the Long-Term Care Insurance RBO Communication Principles. The Long-Term Care Insurance RBO EX Subgroup has been charged with developing a complementary checklist that can be leveraged by state regulators and Long-Term Care Insurance insurers.

INTRODUCTION

This checklist is intended to establish a consistent approach to drafting and reviewing Long-Term Care Insurance RBO policyholder communications. The checklist can be used as guidance and does not carry the weight of law or impose any legal liability.

State regulators who consider the checklist excessive, deficient, or not focused on issues specific to consumer experiences in their state are encouraged to modify the checklist to suit the needs of the Department.

Leveraging the checklist could enable insurers and state regulators to mitigate consumer confusion and complaints, improve the quality of consumer communications, and ensure that consumer communications:

- Read in a clear, logical, not overly complex manner.
- Present options fairly and without subtle coercion.
- Include appropriate referrals to external resources, definitions, disclosures, and visualization tools.

The Task Force RECOMMENDS that state regulators adapt the checklist to reflect their state regulations, laws, or statutes and use the checklist when reviewing filed Long-Term Care Insurance RBO Communications.

CALLS ON all insurance companies to consider the checklist when developing reduced benefit option policyholder communications in the event of a rate increase.

Checklist for Premium Increase Communications

Insurer name:	
Date of filing:	
Product form:	
Tracking number(s) SERFF <i>rate</i> filing:	
Tracking number(s) SERFF <i>form</i> filing:	

Yes	No	N/A	SERFF FILING	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Does the filing contain all required materials including: policyholder communication, supplemental FAQ, graphs, illustrations, website screenshots (expected if communication refers policyholder to website for more information)?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Has actuarial review of the rate increase been completed?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Will notice of the rate action be mailed at least 45 days prior to the policyholder anniversary date (or billing date if state law allows)?	

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Have all new innovative RBO options presented in the communication been clearly explained in the filing? Have they been vetted by policy and actuarial staff?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Do reviewers understand any variable information that appears in the communication?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Were state-specific or contract-specific pre-rate increase filing notification procedures followed? For example: VT has insurers notify consumers of rate increases when filed in addition to notification Y before effective date. PA posts filed rate increase details on their website.	
Yes	No	N/A	READABILITY AND ACCESSIBILITY	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Is the communication easy to follow? Does it flow logically? Does it display the essential information and/or the primary action first (followed by the nonessential information)? Is the primary message of the communication presented first and clearly worded?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. Are all technical insurance terms clearly explained in the communication?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. Are all technical terms used consistently throughout the communication?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. Is the communication in an easily readable font? For example: Is the type at least 11-pointtype?	

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. Does the communication use headings to help the reader find information easily?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12. Is white space (margins, lines spacing, and spacing between paragraphs) sufficient and consistent?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13. Are tables, charts, and other graphics, easy to read and understand? (See question 18 for reference).	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14. Are the grade level and reading ease scores appropriate according to state readability standards?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15. Are reduced benefit options clear and not misleading? For example: Are there side-by-side illustrations of options compared with current benefits?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>16. Does the communication include diminished contrast features that may make it harder to read? Examples include:</p> <ul style="list-style-type: none"> • Use of Italics • Narrow margins (top and bottom less than 1.5 inches) • All caps (all bold is acceptable) • Difficult to read text (fonts other than Sans Serif or Courier) • Different colors throughout • Small font <p>Reviewers should aim to review these communications in the size and contrast in which a consumer would see them; a print test may be beneficial.</p>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17. If FAQs are included, are they succinct and easy to understand?	

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>18. Does the communication include notice that policyholders with disabilities and policyholders for whom English is not a first language can request ongoing accommodations that will enable them to read online and written materials and notices?</p> <p>For example, accessibility of its online and written material to all interested parties, including those with disabilities such as blindness or macular degeneration deafness and hearing loss, learning disabilities, cognitive limitations, limited movement, speech disabilities, photosensitivity, and combinations of these.</p>	
Yes	No	N/A	IDENTIFICATION	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19. Does the communication answer what is happening?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	20. Does the communication answer why the consumer is receiving a rate increase?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	21. Does the communication reflect negatively on the Department of Insurance?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	22. Does the communication indicate when the rate increase will be effective?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	23. Does the communication clearly indicate the policyholder has options?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	24. Does the communication clearly indicate how the consumer may elect an option? Does the election documentation allow the consumer to clearly indicate his or her choice? Does the election form description	

			of options match the description of options found earlier in the communication, such that consumers will not be confused looking at the election form?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	25. Does the communication clearly explain that the consumer is not being singled out for the increase?	
Yes	No	N/A	COMMUNICATION TOUCH AND TONE	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	26. Does the communication remind consumers to reflect on the original reason they bought the policy?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	27. Does the communication express an understanding of the difficulty of evaluating choices?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	28. Is there a statement telling consumers how to contact the insurer for more information or help understanding their options?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	29. Are the options represented fairly? Options are not presented fairly if one option is emphasized, mentioned multiple times or bolded when the other options are not.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	30. Are words used that could influence a policyholder's decision, such as <i>must</i> or <i>avoid</i> ? For instance, consider demonstrating immediacy by using the word "now and avoiding words like "must." Consider "manage an increase" instead of "avoid an increase."	
Yes	No	N/A	CONSULTATION AND CONTACT INFORMATION	Page Reference and Filing Notes

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	31. Is the insurer's consumer service number easy to find? Is it clear what hours and days consumer service is open? Regulators may consider testing the phone number to ensure it connects easily to live company representatives without long wait times.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	32. Are website links accurate and functional?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	33. Does the Insurer encourage consumers to consult with multiple sources to include any of the following: Financial advisor, producer, state SHIP program (where applicable) with the state-specific name of the program or trusted family member?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	34. Does the Insurer encourage consumers to consult the Department of Insurance?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	35. Does the communication encourage consumers to consult with a tax advisor if the reduction options include a cash buy out or could cause loss of Partnership status?	
Yes	No	N/A	UNDERSTANDING OPTIONS - PRESENTATION	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	36. Does the communication have a clearly worded, descriptive title or subject line? For example: Your Long-Term Care Premiums Are Increasing.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	37. Are the options included with the rate increase notification communication? Is it clear that the policyholder can ask for additional options?	

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	38. Are the number of options presented reasonable? If there are more than 5, engage with insurer to understand what is being presented	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	39. Is the right to reduce coverage at any time of a policyholder's choosing clear? Are the instructions about how to do that clear?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	40. Is there enough information to make a decision? If other sources are referenced like videos, websites, etc. are they supplemental education materials or are they required sources to choose an option?	
Yes	No	N/A	UNDERSTANDING OPTIONS – PAST RATE ACTIONS	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	41. Does the communication include a statement that premiums may increase in the future? Is it clear that any future increase will include RBOs? Is the plan for filing future rate increases disclosed and clear?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	42. Does the communication include a 10-year nationwide rate increase history for this and similar forms?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	43. Does the communication disclose the policy is guaranteed renewable and clearly explain guaranteed renewable?	
Yes	No	N/A	UNDERSTANDING OPTIONS – WINDOW OF TIME TO ACT	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	44. Does the communication indicate what the reader must do to elect an option and provide a deadline to do it?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	45. If options are only available during the decision window, is that limitation clear to consumers?	

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	46. Does the communication indicate what happens if the policyholder does not send payment? For example, if the policy lapses within 120 days, does it advise Contingent Benefit Upon Lapse will apply, if applicable?	
Yes	No	N/A	UNDERSTANDING OPTIONS – CURRENT BENEFITS	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	47. Does the communication include all the following applicable information? Current policy benefits (daily benefit, elimination period, current lifetime maximum benefit in dollars, inflation option, partnership status)?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	48. If current benefits have an inflation option, does the communication clearly explain the impact that changes to this inflation option may have on benefits now and in the future?	
Yes	No	N/A	UNDERSTANDING OPTIONS – PERSONAL DECISION	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	49. Can the insurer confirm policyholders will see only those options that are available to them (and not be shown options that are not available to them)?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	50. Does the communication prompt the policyholder to consider their personal situation, such as: current age, health conditions, financial position, availability of caregivers, spouse or partner impacts, and potential need for and cost of care?	

Yes	No	N/A	UNDERSTANDING OPTIONS – VALUE OF OPTIONS	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	51. Is the narrative describing the Contingent Nonforfeiture (CNF) and other limited benefit options clear that there is a reduction in the current policy's LTC benefits? The narrative does not have to include the dollar value for CNF.	
Yes	No	N/A	UNDERSTANDING OPTIONS – IMPACT OF DECISION	Page Reference and Filing Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	52. Is there a prominent statement telling policyholders they can maintain their current benefits by paying the increased premium?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	53. Do the options reflect the impact of removing or reducing the inflation option on the growth or reduction of future benefits?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	54. If dropping inflation protection results in the loss of accumulated benefit amount, is that clearly explained?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	55. For phased-in increases: Is there a table with all phase-in dates and premium amounts if no RBO is selected? Does the communication clearly state if RBO(s) are limited to only the first rate increase or will be available during each phase of the rate increase?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	56. For phased-in increases, are there communications sent at least 45 days before each phase of the increase?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	57. Does the communication disclose that all reduction options require careful consideration and may not be equal in value?	