

LONG-TERM CARE INSURANCE (EX) TASK FORCE

Long-Term Care Insurance (EX) Task Force April 9, 2021, Spring National Meeting Minutes

Long-Term Care Insurance (EX) Task Force March 1, 2021, E-Vote Minutes (Attachment One)

Draft Pending Adoption

Draft: 4/13/21

Long-Term Care Insurance (EX) Task Force
Virtual 2021 Spring National Meeting
April 9, 2020

The Long-Term Care Insurance (EX) Task Force met April 9, 2021. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair, represented by Eric Unger (CO); Lori K. Wing-Heier represented by Sarah Bailey (AK); Jim L. Ridling (AL); Alan McClain represented by Jimmy Harris (AR); Evan G. Daniels represented by Jon Savary (AZ); Ricardo Lara represented by Perry Kupferman (CA); Andrew N. Mais (CT); Karima M. Woods represented by Philip Barlow (DC); David Altmaier represented by John Reilly (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Dean L. Cameron (ID); Dana Popish Severinghaus represented by Leigh Strode (IL); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt (KS); James J. Donelon (LA); Gary D. Anderson (MA); Eric A. Cioppa (ME); Anita G. Fox represented by Stephanie Francis (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 Godfread represented by Matt Fischer (ND); Bruce R. Ramage and Rhonda Ahrens (NE); Marlene Caride represented by Dave Wolf (NJ); Russell Toal (NM); Barbara D. Richardson represented by Jack Childress (NV); Judith L. French (OH); Glen Mulready (OK); Andrew R. Stolfi represented by Tashia Sizemore (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer represented by Andrew Dvorine (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Doug Slape (TX); Johnathan T. Pike (UT); Michael S. Picciak represented by Emily Brown (VT); Mike Kreidler (WA); Mark Afable (WI); James A. Dodrill (WV); and Jeff Rude (WY).

1. Adopted its March 1, 2021, and 2020 Fall National Meeting Minutes

Commissioner White said the Task Force conducted an e-vote that concluded March 1 to adopt the 2021 proposed charges of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup.

Superintendent Toal made a motion, seconded by Commissioner Altman, to adopt the Task Force's March 1, 2021 (Attachment One) and Dec. 4, 2020 (see *NAIC Proceedings – Fall 2020, Long-Term Care Insurance (EX) Task Force*) minutes. The motion passed unanimously.

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

Commissioner White said the Subgroup met March 9 and Feb. 25 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 Meetings, to give direction on the plan to draft a long-term care insurance (LTCI) multistate rate review framework and form a drafting group.

Commissioner White said the draft of the framework is divided between operational and actuarial aspects. The first draft that has been completed is the operational section. The drafting group will work on drafting the actuarial sections following today's meeting. Ms. Ahrens summarized the operational sections of the draft framework.

- a. Section I describes the purpose of the framework document, which relates to the goals of the Task Force; describes the multistate actuarial (MSA) rate review process, which is not an official rate filing; outlines states' participation in the MSA review process; identifies the benefits of participating for both insurers and state insurance departments; describes the role of the Task Force; and outlines disclaimers and legal limitations of the review process and the MSA advisory report to address states' legal concerns.
- b. Section II describes the composition, qualifications, duties and commitment expectations for participation of MSA team members, as well as the authority and confidentiality of team members.
- c. Section III describes the scope and size limits on rate proposals to be reviewed, as well as the process for how an insurer would make a request for a review of a rate proposal.
- d. Section IV describes the MSA review process, which will use the infrastructure and support staff of the Interstate Insurance Product Regulation Commission (Compact). The section also describes an expected timeline for the MSA team members to follow in preparing and distributing an MSA advisory report to states.
- e. The appendices provide for a template of the MSA advisory report for state insurance department regulators and a list of information that would be provided by the insurer for a complete rate proposal request.

Ted Nickel asked if states hire outside consultants for rate review, would the consultant be allowed to participate in the MSA rate review process. Ms. Ahrens said that regarding participation as an MSA team member performing the review, the

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framework currently contemplates the team to be comprised of state insurance department staff that hold a senior position. Mr. Andersen said that regarding participation by other states, the process is intended to be open to all states. Mr. Andersen recommended submitting the comment on the exposure of the framework so that participation by a state's hired consultant can be addressed in the framework.

Birny Birnbaum (Center for Economic Justice—CEJ) asked why the Compact could not be used for all LTCI rate filings. Superintendent Dwyer said the Compact only reviews LTCI rate increase filings that were originally filed with the Compact, which would exclude older blocks of business. The Compact only began accepting LTCI rates in 2011. She said inclusion of these older blocks would require a change to the Compact. Commissioner White said this framework for an MSA review process provides a mechanism to work through issues at this time. He said consideration of changes to the Compact would require discussion at a future time.

Mr. Andersen said the Subgroup's pilot program review team has completed the review of several rate proposals from volunteer insurers. The review team is nearing completion of its review of the remaining rate proposals under the pilot program. He said the review team has made improvements with each review, which will help to transition to an MSA rate review process. An example of improvements is that the pilot program review team is providing volunteer companies with templates and supplementary documents to assist in them making an initial, complete rate proposal, which enhances timeliness and efficiency. The improvements will be formalized within the framework. He said companies that have interest in participating in the MSA rate review process can reach out to him or Ms. Ahrens but should note that resources may be limited at this time because the current focus is on drafting the framework.

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

3. Exposed the Operational Section of the Multistate Rate Review Framework

Commissioner White said the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup formed a drafting group to develop the multistate rate review framework. The drafting group includes actuarial and legal state insurance department regulators and NAIC staff. The drafting of the framework was divided into two sections: 1) operational; and 2) actuarial. The drafting group has completed a draft of the operational topics, which will be exposed for a 45-day public comment period ending May 24. The drafting group will continue work on the actuarial portion of the framework, which is anticipated to be exposed for public comment by June 1.

4. 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 March 24 and March 11 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 Meetings, to discuss plans to address its charges for this year. Commissioner Altman summarized the 2021 charges of the Subgroup. She said the Subgroup plans to meet in open session in early May to hear from industry members on current innovative long-term care (LTC) wellness pilot programs and hear stakeholder views of related regulatory issues that need to be addressed. The Subgroup will consider any efforts to address potential issues later in the year.

Commissioner Altman said regarding the charge to explore more uniformity in consumer notices of reduced benefit options (RBOs), the Subgroup will reevaluate a draft checklist for notices to consumers as it relates to the RBO Consumer Notices Principles that the Subgroup adopted in 2020.

Bonnie Burns (California Health Advocates—CHA) asked if state insurance regulators have looked at the timing of notices to policyholders. She said policyholders receive two notices—one with the rate increase and a second with RBOs—at different times, which creates confusion and difficulty for a consumer to make decisions. Commissioner Altman said this topic can be brought to the Subgroup during a future meeting.

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

Commissioner White said that with the exposure of the first draft of the multistate rate review framework and the expectation for the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup to begin addressing its charges in the near term, there will be more opportunity for input from interested parties.

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5. Heard a Presentation on LTCI Industry Trends

Mr. Andersen said that through the work of the Valuation Analysis (E) Working Group and the review of *Actuarial Guideline LI—The Application of Asset Adequacy Testing to Long-Term Care Insurance Reserves* (AG 51) filings, industry trends have been identified that may affect LTCI reserve levels and rates. These factors include lower lapses, lower mortality, longer duration claims caused in part by a higher incidence of Alzheimer’s disease and dementia, as well as falling market interest rates, causing lower investment income opportunities on incoming premiums.

Mr. Andersen said some factors vary by company or are generally uncertain—for example, future benefit utilization. For companies with a lot of the 5% inflation protected business on the books, when cost of care inflation is lower than 5%, it tends to lead to benefit utilization less than 100% if the maximum daily benefit is increasing by 5%.

Mr. Andersen said another area that varies by company is morbidity incidents improvements. There are trends observed, or, in some cases, expectations that some of the aging at home, wellness activities and technology advances will create safer, healthier environments for seniors and lower claims. While an area of uncertainty, it may lead to lower morbidity incidents in the future.

Mr. Andersen said in the past, there has been a trend of past interest rates falling. The area of uncertainty is what is going to happen going forward. Last year, U.S. Treasury rates were in some cases below 1%, but the rates have increased, so there is a little more optimism. However, it is still uncertain how feature premiums and bond maturities will affect attainable investment yields.

Mr. Andersen said the Valuation Analysis (E) Working Group has engaged with domiciliary state insurance regulators and companies on uncertain areas that could affect their companies’ finances. He added that the Valuation Analysis (E) Working Group and the Financial Analysis (E) Working Group also coordinate on financial analysis.

6. Discussed Other Matters

Commissioner White reported that the Executive (EX) Committee referred the proposed project regarding the engagement of an outside legal consultant to assist the NAIC on matters relating to restructuring LTCI policies to the Restructuring Mechanisms (E) Working Group. The Restructuring Mechanisms (E) Working Group has been requested to report back to the Executive (EX) Committee in the fall, at which time it is anticipated that a decision will be made on the next steps for this project. Commissioners have expressed various concerns over the prospect of an LTC insurer seeking to separate blocks of business for any reason.

Commissioner White reported that the Task Force continues to work with the consultant that captured a special data call of insurers to quantify and evaluate the extent to which rates differ among states, because of state approval processes, to prepare a report suitable for the public.

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

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Long-Term Care Insurance (EX) Task Force
E-Vote
March 1, 2021

The Long-Term Care Insurance (EX) Task Force conducted an e-vote that concluded March 1, 2021. The following Task Force members participated: Scott A. White, Chair (VA); Michael Conway, Vice Chair (CO); Lori K. Wing-Heier (AK); Jim L. Ridling represented by Steve Ostlund (AL); Andrew N. Mais represented by Paul Lombardo (CT); Karima M. Woods represented by Philip Barlow (DC); Trinidad Navarro represented by Frank Pyle (DE); Colin M. Hayashida (HI); Dana Popish Severinghaus represented by Jeff Varga (IL); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt (KS); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold (MN); Chlora Lindley-Myers (MO); Mike Causey represented by David Yetter (NC); Bruce R. Ramage represented by Rhonda Ahrens (NE); Russell Toal (NM); Judith L. French (OH); Elizabeth Kelleher Dwyer (RI); Raymond G. Farmer represented by Michael Wise (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Johnathan T. Pike represented by Tanji J. Northrup (UT); Mike Kreidler (WA); Mark Afable (WI); James A. Dodrill represented by Joylynn Fix (WV); and Jeff Rude (WY).

1. Adopted the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup's 2021 Proposed Charges

The Task Force conducted an e-vote to consider adoption of the Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup's 2021 proposed charges. The motion passed with a majority of members voting in favor of adopting the charges. The Subgroup's chair is Commissioner Jessica K. Altman (PA). The adopted charges are as follows:

The Long-Term Care Insurance Reduced Benefit Options (EX) Subgroup will:

- A. Further evaluate and/or recommend options to help consumers manage the impact of rate increases. This includes:
 1. The potential development of a process to evaluate innovative options that allow for insurers to offer benefits that lessen the likelihood of an insured needing LTC services, including the evaluation of the suitability of and regulatory barriers to proposed options.
 2. The potential development of mechanisms to help state insurance regulators and consumers objectively compare reduced benefit options (RBOs), including the comparison of accepting a rate increase and retaining current benefits to electing offered RBOs.
 3. The further exploration of pursuing more uniformity in consumer notices for RBOs.
- B. Support and provide expertise to the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup regarding the evaluation of RBOs.

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

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