

2020 Summer National Meeting
VIRTUAL

SENIOR ISSUES (B) TASK FORCE

Monday, August 3, 2020

12:30 – 2:00 p.m. Eastern

Marlene Caride, Chair	New Jersey	Anita G. Fox	Michigan
Lori K. Wing-Heier, VC	Alaska	Steve Kelley	Minnesota
Jim L. Ridling	Alabama	Chlora-Lindley-Myers	Missouri
Elizabeth Perri	American Samoa	Bruce R. Ramge	Nebraska
Alan McClain	Arkansas	Barbara D. Richardson	Nevada
Ricardo Lara	California	Chris Nicolopoulos	New Hampshire
Michael Conway	Colorado	Russell Toal	New Mexico
Andrew N. Mais	Connecticut	Mike Causey	North Carolina
Trinidad Navarro	Delaware	Jon Godfread	North Dakota
Karima Woods	District of Columbia	Jillian Froment	Ohio
David Altmaier	Florida	Glen Mulready	Oklahoma
John F. King	Georgia	Andrew Stolfi	Oregon
Colin M. Hayashida	Hawaii	Jessica Altman	Pennsylvania
Dean Cameron	Idaho	Larry Deiter	South Dakota
Stephen W. Robertson	Indiana	Hodgen Mainda	Tennessee
Doug Ommen	Iowa	Kent Sullivan	Texas
Vicki Schmidt	Kansas	Todd E. Kiser	Utah
Sharon P. Clark	Kentucky	Tregenza A. Roach	Virgin Islands
James J. Donelon	Louisiana	Scott A. White	Virginia
Eric A. Cioppa	Maine	Mike Kreidler	Washington
Kathleen A. Birrane	Maryland	James A. Dodrill	West Virginia
Gary Anderson	Massachusetts	Mark Afable	Wisconsin

NAIC Support Staff: David Torian

AGENDA

1. Consider Adoption of its March 3 and 2019 Fall National Meeting Minutes—
Commissioner Marlene Caride (NJ)
2. Hear a Federal Legislative Update—*David Torian (NAIC)*
3. Discuss Any Other Matters Brought Before the Task Force— *Commissioner Marlene Caride (NJ)*
4. Adjournment

Agenda Item #1

**Consider Adoption of the March 3 and 2019 Fall
National Meeting Minutes**

Draft: 3/10/20

Senior Issues (B) Task Force
Conference Call
March 3, 2020

The Senior Issues (B) Task Force met via conference call March 3, 2020. The following Task Force members participated: Marlene Caride, Chair (NJ); Lori K. Wing-Heier, Vice Chair (AK); Jim L. Ridling represented by Steve Ostlund (AL); Allen W. Kerr represented by William Lacy (AR); Ricardo Lara represented by Ryan Delatorre (CA); Michael Conway represented by Peg Brown (CO); Karima M. Woods represented by Howard Liebers (DC); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier represented by Chris Struk (FL); John F. King represented by Teresa Winer (GA); Colin M. Hayashida represented by Martha Im (HI); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Kathy McGill (ID); Stephen W. Robertson represented by Rebecca Vaughan (IN); Vicki Schmidt (KS); Sharon P. Clark represented by Stephanie McGaughey-Bowker (KY); James J. Donelon represented by Alecia Johnson (LA); Gary Anderson represented by Rebecca Butler (MA); Al Redmer Jr. represented by Adam Zimmerman (MD); Anita G. Fox represented by Renee Campbell (MI); Steve Kelley represented by Fred Andersen (MN); Chlora Lindley-Myers (MO); Mike Causey represented by David Yetter (NC); Jon Godfread represented by Yuri Venjohn (ND); Bruce R. Ramage represented by Martin Swanson (NE); Chris Nicolopoulos represented by Karen McAllister (NH); Barbara D. Richardson represented by Jack Childress (NV); Jillian Froment represented by Laura Miller (OH); Glen Mulready represented by Ron Kreiter (OK); Andrew R. Stolfi represented by Gayle L. Woods (OR); Jessica K. Altman (PA); Kent Sullivan represented by Doug Danzeiser (TX); Todd E. Kiser represented by Tomasz Serbinowski and Jaakob Sundberg (UT); Scott A. White represented by Craig Chupp (VA); Mike Kreidler represented by Michael Bryant (WA); Mark Afable represented by Jennifer Stegall (WI); and James A. Dodrill represented by Dena Wildman (WV). Also participating were: Vincent Gosz (AZ); Eric Anderson (IL); Bob Williams (MS); Troy Smith (MT); Martin Wojcik (NY); and Andrew Dvorine (SC).

1. Discussed the Task Force's 2020 Agenda

Commissioner Caride said the Task Force should consider establishing a working group with the purpose of examining whether the *Long-Term Care Insurance Model Act* (#640) and *Long-Term Care Insurance Model Regulation* (#641) should be updated. She asked David Torian (NAIC) to explain this in greater detail.

Mr. Torian said one of the goals of the NAIC is for its committees to periodically review and update its models, as necessary. He said the Task Force's own charge also states that purpose. He said the model was last reviewed and updated over a decade ago, except for the consumer disclosure sections, which were updated in 2016. He said the Working Group, to be tentatively named the LTCI Model Update (B) Working Group, would be charged with reviewing whether Model #640 and Model #641 should be updated. He said the Working Group would then report its findings to the Task Force and, if updates are necessary, the Working Group would then be charged with making those updates.

Mr. Torian also said that should the Long-Term Care Insurance (EX) Task Force adopt any provisions or suggestions that require a change to Model #640 and Model #641, the Working Group would be operational and prepared to make such changes.

Commissioner Caride asked if anyone had any questions or comments. Mr. Swanson said he supports the establishment of this Working Group. Bonnie Burns (California Health Advocates—CHA) asked about the format of the Working Group. Commissioner Caride asked Mr. Torian to respond, and he said that the Working Group would review the model, section-by-section if it so chooses, to determine what may need to be updated.

Mr. Andersen asked if one of the reasons for the creation of the Working Group was to examine and address innovation in long-term care (LTC). Commissioner Caride asked Mr. Torian to respond, and he said that was not the intent behind the Working Group, but rather that the models had not been updated in over a decade, other than the consumer disclosure portions, and the main purpose was to do what the Task Force should do, periodically review its models. Director Wing-Heier said that she, Commissioner Caride and Mr. Torian had discussed that a model review would be a good item for the Task Force to embark on in 2020.

Ms. Burns asked who the members would be and whether the interested parties would be able to participate. Mr. Torian said that state insurance regulators should email him with their interest to become members of the new Working Group and to limit the number of members to a manageable number of 12; members would be selected on a “first email-first selected” basis. He said all interested parties would be part of the new Working Group and receive all notifications of open conference calls and other notifications.

2. Established the LTCI Model Update (B) Working Group

Director Wing-Heier made a motion, seconded by Mr. Swanson, to establish the LTCI Model Update (B) Working Group with the charge to examine whether Model #640 and Model #641 should be updated. The motion passed.

Having no further business, the Senior Issues (B) Task Force adjourned.

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Draft: 12/10/19

Senior Issues (B) Task Force
Austin, Texas
December 7, 2019

The Senior Issues (B) Task Force met in Austin, TX, Dec. 7, 2019. The following Task Force members participated: Lori K. Wing-Heier, Chair (AK); Marlene Caride, Vice Chair (NJ); Jim L. Ridling represented by Steven Ostlund (AL); Allen W. Kerr represented by Bill Lacy (AR); Andrew N. Mais represented by Paul Lombardo (CT); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier represented by James Dunn (FL); John F. King (GA); Colin M. Hayashida represented by Kathleen Nakasone (HI); Doug Ommen represented by Andria Seip (IA); Dean L. Cameron represented by Wes Trexler (ID); Robert H. Muriel represented by Mike Chrysler (IL); Stephen W. Robertson represented by Alex Peck (IN); Vicki Schmidt (KS); James J. Donelon represented by Ron Henderson (LA); Gary Anderson represented by Kevin Beagan (MA); Al Redmer Jr. represented by Paula Keen (MD); Eric A. Cioppa represented by Marti Hooper (ME); Anita G. Fox represented by Kevin Dyke (MI); Steve Kelley represented by Grace Arnold (MN); Chlora Lindley-Myers represented by Angela Nelson (MO); Mike Chaney represented by Daniel Bradshaw (MS); Mike Causey represented by Ted Hamby (NC); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramage represented by Martin Swanson (NE); John G. Franchini represented by Margaret Pena (NM); Barbara D. Richardson represented by Dave Cassetty (NV); Jillian Froment represented by Laura Miller (OH); Glen Mulready represented by Ron Kreiter (OK); Andrew Stolfi represented by Tashia Sizemore (OR); Jessica Altman (PA); Larry Deiter represented by Jill Kruger (SD); Hodgen Mainda represented by Brian Hoffmeister (TN); Kent Sullivan represented by Raja Malkani (TX); Todd E. Kiser represented by Shelley Wiseman (UT); Scott A. White represented by Julie Blauvelt (VA); Mike Kreidler represented by Mike Bryant (WA); Mark Afable represented by Jennifer Stegall (WI); and James A. Dodrill represented by Ellen Potter (WV).

1. Adopted its Oct. 16, Sept. 24 and Summer National Meeting Minutes

Mr. Ostlund made a motion, seconded by Commissioner Caride, to adopt the Task Force's Oct. 16 (Attachment One), Sept. 24 (Attachment Two) and Summer National Minutes (*see NAIC Proceedings – Summer 2019, Senior Issues (B) Task Force*) minutes. The motion passed.

2. Heard a Federal Legislative Update

David Torian (NAIC) provided an update on federal funding for the State Health Insurance Assistance Program (SHIP) and informed the Task Force about a draft legislative proposal by U.S. Sen. Pat Toomey (R-PA) based on one of the policy option recommendations adopted by the Task Force. Mr. Torian said the draft legislation would allow for retirement account dollars to be used to buy long-term care insurance (LTCI) so families can better plan for long-term services and supports (LTSS) needs. Mr. Torian said Sen. Toomey's office would be happy to receive recommendations and comments to the draft proposal from Task Force members and stakeholders.

3. Discussed Other Matters

Bonnie Burns (California Health Advocates—CHA) discussed conflicts between Medicare, the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and the *Coordination of Benefits Model Regulation* (#120) (Attachment Three).

Ms. Burns pointed out that too many workers do not know that they must enroll in Medicare even if they are continuing to work past the age 65. She said these conflicts have left some Medicare-eligible individuals subject to Medicare premium penalties and delays in coverage, mistakes in benefit payment and claims for recovery of mistakenly paid COBRA benefits.

Ms. Burns cited an example of a woman receiving a demand from her COBRA carrier for repayment of \$150,000 for health care expenses the carrier had paid after she stopped working. The carrier alleged that while she was still working, she became eligible for Medicare on her 65th birthday and should have enrolled for Medicare benefits. The carrier alleged that Medicare should have been her primary health coverage once she

stopped working and COBRA should have paid secondary benefits, not the \$150,000 the carrier had paid for primary coverage. This demand for repayment of primary benefits was based on her eligibility to enroll in Medicare or “implied coverage.”

Director Wing-Heier asked Ms. Burns what the path would be for the state insurance regulator in this matter, as it seems that this an issue at the federal level. Ms. Burns replied that insurers follow Model #120, noting that the language in the model needs to be made clearer.

Ms. Nelson said not all states have adopted the newest version of Model #120, noting that she shares Director Wing-Heier’s sentiment that this may be more of a federal matter.

Ms. Sizemore said Oregon is having trouble with this issue, noting that insurers cannot assume people are on Medicare; they must know and ask.

Director Wing-Heier said each state should check its own laws and suggested the Task Force look at this matter in the new year.

Having no further business, the Senior Issues (B) Task Force adjourned.

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