

## **LONG-TERM CARE (EX) TASK FORCE**

Long-Term Care (EX) Task Force, Dec. 6, 2009, Minutes

Long-Term Care (EX) Task Force  
San Francisco, CA  
December 6, 2009

The Long-Term Care (EX) Task Force met in San Francisco, CA, Dec. 6, 2009. The following Task Force members participated: Christina Urias, Chair (AZ); Steve Poizner represented by Perry Kupferman and Denise Yuponce (CA); Kevin M. McCarty represented by Mary Beth Senkewicz (FL); Sandy Praeger represented by Larry Bruning and Linda Sheppard (KS); James J. Wrynn represented by Lou Felice (NY); Mike Geeslin represented by Ana Smith-Daley (TX); Joel Ario (PA); and Sean Dilweg represented by Guenther Ruch (WI). Also participating were: Steve Ostlund (AL); Steve Ferguson (AZ); Bill McAndrew (IL); John Kissling (IN); John Rink (NE); Scott Kipper (NV); Peg Brown (CO); Richard Marks (CT); Randy Moses (SD); and Beth Berendt (WA).

1. Task Force Charges and Agenda

Director Urias welcomed participants to the first open meeting of the Task Force, which was created by the Executive (EX) Committee at the Fall National Meeting. Director Urias asked individuals interested in joining an e-mail list for interested parties or interested regulators to contact Jane Sung (NAIC).

Director Urias reviewed the Task Force's charges. Mr. Felice inquired about the first charge: "Whether there is anything the NAIC can or should do to address possible reserve deficiencies and rating issues, such as mitigation against rate increases and death spirals," and asked whether the Task Force intended to simply respond "yes" or "no" and hand off the charge to another NAIC group, or whether the Task Force planned to develop this work directly. Director Urias responded that she believed the Executive (EX) Committee expected the Task Force to do more than simply respond "yes" or "no," but that the Task Force would determine the extent to which the Task Force would develop the work directly. She explained that the Task Force intended to interact appropriately with the existing groups at the NAIC that work on long-term care issues, such as the Senior Issues (B) Task Force and the Accident and Health Working Group of the Life and Health Actuarial Task Force.

Mr. Felice stated that the IIPRC was also doing work on long-term care insurance. Ms. Senkewicz expressed skepticism that a national rate would be appropriate, given the differences she has seen in prices between nursing home care in various parts of Florida. Commissioner Ario stated that he believed the goal of the Task Force should be to first look broadly at whether existing pricing models are appropriate, and then the IIPRC should address rates afterward. Mr. Felice agreed and expressed preference for a broad-based group, such as this Task Force, to first develop overarching principles. Ms. Smith-Daley responded that the IIPRC would be addressing IIPRC products only, which would be nationally priced, and would not affect long-term care products already in the states. Ms. Berendt reported that the IIPRC was also considering whether there should be geographical factors included in the national rate. Mr. Rink stated that regional differences would have to be taken into account.

Mr. Ruch asked for clarification regarding how the Task Force would interact with other NAIC groups. Director Urias responded that it was the intent of the NAIC officers that the Long-Term Care (EX) Task Force would take the overall lead on long-term care issues under its charges, but that the Task Force needed to refine exactly what this would entail and how they would interact with other groups. If appropriate, the Task Force might only provide overall guidance on an issue and then hand off the issue to the another group to discuss the details; however, in other instances, it might be possible that the Task Force would find it appropriate to complete further work themselves. Director Urias noted that it has become evident that the Task Force will need to confer with even more groups than originally contemplated, including the IIPRC. Commissioner Ario agreed that the Executive (EX) Committee intends that the Task Force take the lead and identify the overarching principles that the states need to deal with and provide overall direction — but, at the same time, the Executive (EX) Committee does not intend for the Task Force to supplant the work of the other groups. He said it was up to the Task Force to find the appropriate balance, depending on the issue at hand. Director Urias agreed, and added that she was willing to seek further direction from either the Executive (EX) Committee or the NAIC officers to make sure the Task Force was fulfilling its intent and that the Task Force's work was appropriately coordinating with the other groups.

2. NAIC Rate Stabilization Provisions

Ms. Senkewicz, as chair of the Senior Issues (B) Task Force, provided a historical review of a prior NAIC effort on long-term care insurance rate stabilization. Due to problems in the long-term care insurance market in the 1990s, the NAIC began a dual-track process to address this issue. The Life and Health Actuarial Task Force worked on one track to address the rate

increases, while the Senior Issues (B) Task Force worked on another track to address consumer disclosures. The result of this process was the adoption of revisions to the NAIC long-term care insurance models in 2000.

The rate stabilization revisions were intended to encourage companies to price policies more appropriately at the outset, rather than charge an initial lower price and then subject the policyholder to large rate increases. The provisions eliminated the loss-ratio requirement at the time (60%). Nothing happened if a company priced appropriately and did not need to seek a rate increase; however, if a company sought regulatory approval for a rate increase, then they would be subject to a series of penalties, beginning with an 85% loss-ratio requirement.

These revisions also included the adoption of new consumer disclosures requiring companies to disclose a 10-year rate history. In addition, at the time of purchase, a consumer must check a box to acknowledge their understanding that the rate may go up. Ms. Senkewicz noted that these consumer disclosures were the focus of her recent testimony before a joint hearing of the U.S. Senate Special Committee on Aging and the U.S. Senate Committee on Homeland Security and Government Affairs—Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. The focus of the hearing was a pending 25% premium increase for participants in the Federal Long-Term Care Insurance Program (FLTCIP), subject to federal Office of Personnel Management (OPM) regulation.

Ms. Senkewicz noted that Florida had not seen any rate increase requests since adoption of the NAIC rate stabilization provisions and consumer disclosures from companies subject to the new provisions. She noted that there were two types of issues in the marketplace: 1) legacy issues for companies not subject to the rate stabilization provisions; and 2) pricing issues moving forward after rate stabilization adoption.

Commissioner Ario said he was encouraged that Florida had not seen any rate increase requests on new business and asked for the experience of other states. California, Kansas, New York and Texas responded that they had seen some rate increase requests on new business. Mr. Felice reported that, although New York had seen some rate increase requests from new business, he felt that many of the pricing problems and faulty assumptions that occurred in the 1990s had gone away. Ms. Smith-Daley reported that, although Texas had received some rate increase requests, upon further scrutiny, they believed that some companies were not requesting enough of an increase.

Mr. Ruch reported that most of Wisconsin's rate increases had been for policies issued prior to the adoption of the rate stabilization provisions. He noted that, as part of the rate stabilization provisions, the NAIC model language requires that the company certify that there will be no increase under "moderately adverse conditions," but the NAIC has never defined that term. He suggested that this might be an issue for the Task Force to examine. He also noted that the rate stabilization provisions were not adopted as part of the Long-Term Care Partnerships.

Mr. Bruning agreed that, although companies based earlier policies on faulty assumptions, he believes companies have since largely corrected many of these issues, particularly as they gained experience on lapse rates for this product. Nonetheless, he believes that long-term care policies are still fundamentally difficult to price because they have such a long tail. As such, it is difficult for an actuary to know what medical inflation will be 20 years in the future. An actuary might attempt to be conservative, but then the result might be a product that is too expensive. Mr. Bruning stated that he is not opposed to defining "moderately adverse" as Mr. Ruch proposed; however, he maintained that it is difficult for an actuary to have a "crystal ball" to anticipate the rate of inflation in the long-term care industry.

Director Urias agreed that the long-tail on this product makes it difficult to price. Commissioner Ario agreed that it is difficult to predict medical costs, as well as the landscape of the marketplace. As an example, he pointed to the current national health reform debate and that the U.S. Congress is considering the creation of a new national long-term care insurance fund — the Community Living Assistance Services and Support (CLASS) Act — which could dramatically affect the long-term care landscape. Thus, it would be impossible for an actuary to address such potential future changes and make an accurate prediction about this market.

### 3. NAIC Long-Term Care Experience Report and Closed Blocks

Ms. Smith-Daley described Texas' analysis regarding closed blocks of business. For many years, Texas has examined the NAIC *Long-Term Care Experience Report* in studying the long-term care market. In reviewing the 2008 NAIC report, Texas made the assumption that if a company did not add covered lives in 2008, then that should be considered a closed block. Under this analysis, Texas found that a significant number of closed blocks existed in the state; 80 of those companies were currently marketing their policies, but 114 were actually closed.

Ms. Smith-Daley noted that, in addition to monitoring the companies currently marketing their long-term care policies, state insurance regulators also need to closely examine the closed blocks of business in their states that are no longer actively marketing their product. Ms. Smith-Daley reported that many of these closed blocks had not approached the state about a rate increase, and so she believed the state needed to investigate what was happening with these blocks of business.

Mr. Kissling pointed out that it is important to distinguish between “valued” vs. “indemnification” policies. If a company uses an indemnification form, then they will pay out the costs needed; however, he believes it is difficult to ask the company to bear the risk of inflation when it is hard for the company to predict future expenses and indemnity obligations. Commissioner Ario responded that, on the other hand, one cannot ask the buying consumer to bear that risk, because there is clearly not a “level playing field” between the two — as the company has access to greater, if not perfect, information than the consumer. Director Urias suggested that the Task Force find out the percentage of valued vs. indemnity policies in the market.

Mr. Ruch noted with interest the statement by Ms. Smith-Daley that closed blocks in Texas had not requested a rate increase. He stated that he would be interested in receiving a presentation regarding the characteristics of closed blocks of business and suggested that such a presentation would be informative for the Task Force. Director Urias agreed and stated that she would like to work with the industry to explore such a presentation at a future meeting.

Mr. Ostlund, as chair of the Accident and Health Working Group of the Life and Health Actuarial Task Force, reported that the Working Group had been preparing to conduct a survey of the states regarding closed blocks, but was asked to hold off on the study because this Task Force was being formed. He suggested that the Working Group could coordinate with the Task Force to proceed with the survey.

#### 4. Pricing Risk Factors

Mr. Kupferman described analysis made by California regarding pricing of long-term care policies. He reported that California used a statistical database containing rate increase requests from all of the other states so that they could model the information and compare rates for a company to all other companies in the market. He stated that, if a company’s rate is dramatically different than other similarly situated companies, then there is an issue that should be examined.

Mr. Kupferman reported that California has seen companies now doing a good job in making the first three pricing assumptions — expenses, mortality and morbidity — but California has seen problems in the last two assumptions — lapse and investment. He reported that companies have assumed too high of an investment return rate, and he questioned whether consumers should bear the responsibility of this faulty assumption.

Commissioner Ario inquired about the role of medical inflation. Mr. Kupferman responded that he did not think that inflation is as much of a problem as is widely believed, and that it was not nearly as much of a problem as the faulty lapse and investment assumptions. Mr. Bruning agreed that inflation might not be as big of an issue as is commonly stated; however, he said he continued to believe that it is still a significant issue for consideration.

Mr. Kupferman urged the Task Force to examine acquisition issues that occur when a company acquires another block of business — in particular, if one company acquires a block that is priced on different assumptions. He also urged the Task Force to address reinsurance, including the question of whether the states should mandate that certain companies purchase reinsurance to provide price protection.

Ms. Smith-Daley urged the Task Force to keep in mind that the IIPRC law always anticipated dealing with rating issues.

Director Urias concluded that the Task Force needed to prioritize the many issues before them and suggested that the Task Force hold an interim conference call in early 2010, probably in January. She also noted that the Task Force likely would need more time to meet at the 2010 Spring National Meeting.

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

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