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May 24, 2021

Scott A. White, Chair  
Michael Conway, Vice Chair  
Long-Term Care (EX) Task Force  
National Association of Insurance Commissioners (NAIC)

Attn: Jane Koenigsman, Senior Manager, Life and Health Financial Analysis

Re: Exposure Draft: Long-Term Care Insurance (LTCI) Multistate Rate Review Framework

Dear Commissioners White and Conway:

The American Academy of Actuaries (Academy)<sup>1</sup> Long-Term Care Reform Subcommittee appreciates the opportunity to offer comments on the [exposure draft Long-Term Care Insurance Multi-State Rate Review Framework](#) (“Framework”) released April 9, 2021.

We would first like to emphasize the importance of actuarial input from the beginning of any process involving the consideration, design, and evaluation of a potential long-term care (LTC) policy approach. Actuaries are uniquely qualified according to their professional standards and play a crucial role in the financing and design of LTC financing systems—from private long-term care insurance (LTCI) to public programs that provide LTC benefits. Actuaries have specialized expertise in managing the risk of adverse selection in insurance coverages, the ability to recognize and incorporate uncertainty into cost projections and premiums, and experience in evaluating the long-term solvency and sustainability of public and private insurance programs.

An actuarial perspective can provide a basis for exploration of new and innovative review frameworks. We would refer the task force to two specific publications for examples of such perspective. One is an October 2018 Academy issue brief on considerations for treatment of past losses in rate increase requests for long-term care insurance.<sup>2</sup> The second is a June 2016 Academy issue brief to enhance understanding of what is leading to significant rate increases, examine how the need for a rate increase is determined, discuss the effects of increases on various stakeholders, and explore alternatives to premium rate increases.<sup>3</sup>

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<sup>1</sup> The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

<sup>2</sup> American Academy of Actuaries, [Long-Term Care Insurance: Considerations for Treatment of Past Losses in Rate Increase Requests](#), October 2018.

<sup>3</sup> American Academy of Actuaries, [Understanding Premium Rate Increases on Private Long-Term Care Insurance Policyholders](#), June 2016.

The remainder of this letter provides our comments on the Framework, grouped into four categories.

### **Objectives of Multi-State Actuarial (MSA) Review**

The Long-Term Care Reform Subcommittee appreciates the NAIC's objective of "developing a consistent national approach for reviewing current LTCI rates that results in actuarially appropriate increases being granted by the states in a timely manner."

The multi-state actuarial LTCI rate review ("MSA Review") proposed in the Framework has the potential to create a robust actuarial review, independent of state-specific considerations, to advance the stated objective. However, it will be critical to consider detailed proposals for Actuarial Review, Reduced Benefit Options, and Non-Actuarial Considerations, which appear only as "placeholders" in the draft Framework. The subcommittee is reserving comment on Appendix B of the draft until its information requirements can be considered in context with exposure drafts of the placeholder sections.

We suggest that the Framework include a description of the Minnesota and Texas approaches applied by the MSA Review team, or a citation to specific documents.

It would be helpful for future evaluation if the NAIC could release an analysis or summary of the pilot program referenced in the draft Framework. In particular, what criteria have been or will be used to evaluate the success of the MSA Review process? If an MSA Review process is adopted, will there be future provision for feedback from industry participants, consumers, and other stakeholders, in addition to regulators?

### **Actuarial Qualifications**

The subcommittee recognizes the potential benefit to state insurance regulators of the MSA Review process in developing and expanding specific LTCI actuarial expertise among the regulatory community. Having one or more suitably experienced and qualified actuaries participate in and supervise the work of the MSA Team will be important to the current and future viability of the process, providing opportunities for additional actuaries to meet the requirements of the U.S. Qualification Standards applicable to members of the American Academy of Actuaries and other U.S. actuarial organizations as they relate to LTCI. We recommend that at least one of the qualified actuaries signing off on an MSA Review be a member of the American Academy of Actuaries, in addition to the requirements currently proposed in the Framework for membership on the MSA Team.

Qualified actuaries will be able to assure that the work of the MSA Team complies with appropriate actuarial standards of practice (ASOPs). We believe it will be important for the MSA Team's report to discuss the reasonableness of actuarial projections and to disclose the impacts of any non-actuarial factors that were considered.

## **State Participation and Block Eligibility**

The Framework defines states as either “impacted” or “participating.” The Framework allows states to choose to be a Participating State in the MSA Review. Further, states that choose to participate can choose whether to follow the recommendation of the MSA Review. This maintains the states’ authority over rate filings. However, it means that the MSA Review does not create finality in the filing process. The Framework may not encourage insurers to use the MSA Review process if it is believed to add an additional layer of filing review without shortening the approval process on a state-by-state basis.

Several criteria are provided for a rate proposal to be eligible for an MSA Review. It is unclear whether insurers would be allowed to pool the experience of similar policy forms within or across legal entities when submitting a filing for an LTCI product. The subcommittee suggests that pooling be allowed where there is adequate homogeneity across the pooled policies. This approach would be consistent with current approaches taken by most state regulators and would allow for blocks with prior rate increases to be pooled in a similar manner as the prior filings.

It is unclear whether rate increases on group LTCI blocks would be reviewed under the MSA Review. The subcommittee believes that this should be clarified. Adjustments to the definitions of Impacted State and Participating State may be needed because group certificates can be issued in a state where the state does not have jurisdiction over the rates.

## **MSA Review Process**

One of the stated goals of the MSA Review is to provide timely rate decisions. To the extent that there are any duplicative or redundant steps in the process, we recommend that they be removed or combined. For example, if several Participating States require a certain piece of information that the MSA Review team believes is valuable, that information should be added to the list of information required for an MSA Review. Additionally, if Participating States agree that the listing of information for an MSA Review (as outlined in Appendix B) is exhaustive and no further requests for information are needed as part of the state review, the filing process could be streamlined.

The Framework implies that insurers will have access to the final results of the MSA Review, which will be outlined in an MSA Advisory Report. It does not appear that insurers will have access to the draft report. Prior to the final report being provided to the insurer, the draft report will be shared with Participating States. We believe it is important that insurers have an opportunity to review the draft results of the MSA Review in order to provide clarifications, correct any misunderstandings, or dispute the recommendation of the MSA Review. The subcommittee believes it would be beneficial for the process for the Framework to include discussion of an appeal process that would be available to insurers to dispute the findings of the MSA Review. Insurers would retain the right to withdraw a filing from the MSA Review process, without prejudice to a rate filing in any individual state.

Section III.C of the Framework describes a required certification by an officer of the insurer requesting an MSA Review to abide by certain conditions. The subcommittee suggests that the second sentence of the first paragraph be deleted.

The Framework describes MSA Review team members maintaining confidentiality of MSA Advisory Reports and other information. However, if the MSA Advisory Report is to be included in the filing record, or filed by the insurer with Participating States, we believe the report would become public based on limited confidentiality allowed by some states.

## **Conclusion**

Thank you for the opportunity to provide input on the development of the MSA Review process. The Academy's LTC Reform Subcommittee looks forward to providing comments on the complete Framework document when it becomes available. The Subcommittee thanks members who participated in the drafting of this comment letter, including J. Patrick Kinney, MAAA, FSA; Mike Bergerson, MAAA, FSA; Steve Schoonveld, MAAA, FSA; Mark Billingsley, MAAA, FSA; Jim Glickman, MAAA, FSA, FCA; Zenaida Samaniego, MAAA, FSA; and Perry Kupferman, MAAA, FSA.

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We would welcome the opportunity to speak with you in more detail and answer any questions you have regarding these comments or on other topics. If you have any questions or would like to discuss further, please contact Matthew Williams, the Academy's senior health policy analyst, at [williams@actuary.org](mailto:williams@actuary.org).

Sincerely,

Andrew H. Dalton, MAAA, FSA  
Vice Chairperson, LTC Reform Subcommittee  
American Academy of Actuaries

CC: Eric King, Health Actuary, NAIC