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October 8, 2021

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

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

Re: Long-term Care Insurance (LTCI) Multistate Rate Review Framework Operational and Actuarial Sections, September 2021 Exposures

Dear Commissioners White and Conway:

On behalf of the American Academy of Actuaries¹ LTC Reform Subcommittee, I appreciate the opportunity to offer comments on the exposure drafts of the [operational](#) and [actuarial](#) sections of the *Long-Term Care Insurance Multi-State Rate Review Framework* (“Framework”) released September 10, 2021, and September 15, 2021, respectively. This letter provides our comments on both the operational and actuarial aspects of the exposed Framework.

We previously provided comments on the operational aspects of the prior version of the Framework in our [letter](#) dated May 24, 2021, and comments on the actuarial aspects in our [letter](#) dated July 26, 2021. We appreciate the NAIC Long-Term Care Insurance (EX) Task Force’s consideration of our previous comments and the opportunity to discuss them with the Long-Term Care Insurance Multistate Rate Review (EX) Subgroup.

Actuarial Qualifications and Professional Judgment

We appreciate the revisions and additions to the Framework reflecting our previous comments on actuarial qualifications and professional judgment.

Future Updates

Section IV.E. of the Framework calls for regulatory feedback on the Multi-State Actuarial (MSA) Review process. We recommend that interested parties continue to be invited to review and comment on future changes to the Framework. In particular, if any formalized actuarial and/or policy approaches beyond the Minnesota and Texas approaches are considered for

¹ 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.

frequent use by the MSA Team in evaluating rate proposals (as contemplated in Section V.A.), we suggest that those new approaches should be similarly vetted through the NAIC's Multistate Rate Review (EX) Subgroup or the Long-Term Care Pricing (B) Subgroup, with opportunity for feedback from the Academy and others.

Future Non-Actuarial Considerations

Section V.F.2. of the Framework discusses the potential for additional non-actuarial considerations to be incorporated into the MSA Review process. This introduces—or continues—a potentially open-ended and inconsistent decision-making process with respect to future rate increase proposals. Insurers and their pricing actuaries should be able to anticipate a stable regulatory framework when introducing new long-term care (LTC) policies into the market. We recognize that individual states' use of non-actuarial considerations may be outside the scope of the MSA Framework.

Loss Ratio Approach

Section V.A. of the Framework specifies that the MSA Team will “apply both the Minnesota and Texas approaches for each rate proposal submitted.” This implies that the rate stabilization methodology is not sufficient. The rate stabilization approach is used by many state insurance departments. To not include this baseline approach would be contrary to the intent of the MSA Team proposal, which seeks uniformity across states and reduces the implied subsidization that currently exists. The MSA Team should also apply the appropriate loss ratio approach and provide an opinion on the assumptions underlying the calculation if it seeks to have greater state participation.

Section V.B.4. states that

“The loss ratio approach, one of the minimum standards in many states' statutes, is evaluated by the MSA Team. However, there is general recognition that this approach produces rate increases that are too high and do not recognize other typical statutory standards such as fair and reasonable rates.”

We suggest that the opinion in the preceding sentence be properly attributed to either the members of the MSA Team and/or a decision of an appropriate committee.

Section V.B.5. discusses an application of the 58% / 85% standard to rate-stabilized business. Not all states have adopted rate stability regulations, and effective dates vary across states that have adopted regulations based on policy issue date. Therefore, it is not entirely clear when a rate proposal will be considered to cover a “relevant block” of rate-stabilized business. Given that this test would impose, by regulation, a restriction on rate increases for policies initially issued under rate stability regulation, the MSA Framework's statement that “if this standard produced lower increases than the Minnesota and Texas approaches, it would produce the recommended rate increase,” may not be justified in all jurisdictions. If the 58% / 85% standard is analyzed by the MSA team, we suggest that the resulting rate increase be reported in comparison with the Minnesota and Texas results. This will allow individual Participating States to consider whether the 58/85 limit applies under their own regulations. Otherwise, the MSA Team's use of the 58/85

standard may have the effect of layering on a limit that was never applicable to some of the policies in a nationwide block.

Minnesota and Texas Approaches

In sections V.D. and VII.A, the Minnesota and Texas approaches are described as actuarially justified approaches. As mentioned in our July 26 letter, these approaches include decisions based on non-actuarial considerations. Two examples of non-actuarial considerations in these approaches are cost-sharing provisions and disallowing interest rate deviations as a reason for a rate increase. We suggest recognizing that these approaches include both actuarial and non-actuarial considerations.

We believe that the Minnesota approach embeds implied policy decisions that are not actuarial in nature. While the calculations themselves may require actuarial methods, as stated in Section V.C., the approach embeds non-actuarial considerations that seek a “fair and reasonableness consideration,” the level of which is not clearly defined. Also, as the approaches labeled “if-knew / makeup approach” and “cost-sharing formula” are public policy decisions that are not specified in adopted model law, *defining* them as “actuarially justified” seems inappropriate.

Appendix 3 of the sample MSA Advisory Report in Section VII.A. includes a reference to cost sharing and the Texas approach. This reference should be clarified or corrected, as cost sharing does not appear throughout the rest of the Framework in the description of the Texas approach. To our knowledge, cost sharing has never been included in prior documentation of the Texas approach.

Goals of MSA Review Process

The sample MSA Advisory Report in Section VII.A. mentions a goal of the MSA Team to attain the same resulting rate tables in each state for a given product. When products have had varied historical rate increase approvals, both in magnitude and timing across states, this goal conflicts, at least in part, with another stated goal of the MSA Review of eliminating cross-state subsidization. A goal of having the same resulting rate tables in each state has a potential adverse impact of creating less incentive for more appropriate rate increase approvals in states that were slow to approve (or did not approve at all) prior rate increase requests, before participating in an MSA review. Said another way, this could have the unintended effect of encouraging states to delay approving rate increases.

Additional Items

Insurers may want to file rate increase requests in non-participating states concurrently with the MSA Review filing so that the insurer does not needlessly delay the filing and review process in non-participating states. It is unclear if and how insurers will know which states are Participating States in the MSA Review, and whether states will decide on participation in the MSA review each time any rate increase request is submitted.

Average premiums may vary significantly based on policy characteristics and issue age distribution differences across jurisdictions, in addition to past rate increase approvals. Also, Section V.A. acknowledges that premium rates may be lower in lower-cost states based on coverage differences elected by insureds. In the sample MSA Advisory Report in Section VII.A., the reference to average annual premium rate variation by state should be clarified. We suggest that any comparison of average premium rates be carefully considered as it may be misleading.

Thank you for the opportunity to provide input on the development of the operational and actuarial aspects of the Long-Term Care Insurance Multi-State Rate Review Framework. We 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 do have any questions or would like to discuss further, please contact Matthew Williams, the Academy's senior health policy analyst, at williams@actuary.org.

Sincerely,

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

CC: Eric King, Health Actuary, NAIC