



September 1, 2010

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Re: August 17, 2010 – Life Producer Exam Hearing

Dear Anne Marie:

We would like to thank you and the Producer Licensing (Ex) Task Force for holding the Producer Licensing Testing and Examinations Public Hearing in Seattle on August 17, 2010. In our view, little in our industry is more important than ensuring that there is an adequate agent population to meet the needs of our nation's underserved and disadvantaged communities. Just as we expected, you conducted the hearing with diligence and integrity, and it started the honest conversation essential for this difficult issue to be addressed.

As you requested at the hearing, we thought about the testimony, reviewed the written record and have pondered what the next steps should be. We thought it would be useful to share our thoughts on where we go from here. We would like to begin by summarizing what we believe the hearing has shown.

The Problem

The Industry Panel began its presentation by defining the issue. Our industry is recruiting fewer agents, licensing fewer agents, appointing fewer agents and serving fewer clients. Those agents who remain average 60 years of age and overwhelmingly are Caucasian. A Wall Street Journal article published August 30, 2010 stated nearly a third of U.S. households have no life insurance. This is the highest percent in more than 40 years according to the article. The article went on to state that the industry is grappling with a decline in the number of agents who sell to middle-class families. This downward trend began approximately 20 years ago when the states began outsourcing licensing examinations.¹ While there are many contributing factors, we believe one of the prevalent obstacles is the producer exam today has become an unreasonable and unfair barrier to entry. In most states, more than half the applicants fail even after required pre-licensing training.

As an industry, we need to make sure that we help families of every social strata and community. Even the Federal Government is focused on this issue. The Frank-Dodd house bill provides the Federal Insurance Office – [HR 4413, Section 313 (C) Functions – (B)] guidance *to monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate- income persons have access to affordable insurance product... ..*” We owe it to ourselves and to our fellow citizens to provide career opportunities regardless of race, gender or national origin. “Consumer protection,” in our view, includes making sure quality products and employment opportunities are available to all.

Analogies to real estate agents or even property and casualty agents are not appropriate. These occupations have built-in (indeed, statute-compelled) demand. The real estate and property and casualty industries license multiple times the number of life insurance agents. Life insurance often must be “sold” at the kitchen table and, without face-to-face distribution, we cannot assist the families who need our help now more than ever.

¹ Mr. Ellis made the point that, when he was an agent, he was able to get himself and his recruits to pass the state exam and get licensed. We have no doubt this is correct. Anecdotal evidence we have gathered, and Company data, show that the licensing exam has become considerably more difficult over time as the testing process has been outsourced to third-party vendors.

Exam Difficulty Levels

Dr. Shapiro – one of the preeminent experts in the area of life insurance testing, who has testified as an expert witness in over 100 cases – quoted from a Prometric document (copy attached) in which it was clear that the “difficulty level” of the exam is *not* tied to the applicable entry-level standard. Rather, the difficulty level can be – and apparently is – adjusted while keeping the cut-score static. He testified this is a violation of basic psychometric standards.

Importantly, the testing services never denied that the difficulty level of life exams fluctuates from state to state. In fact, Christopher Beer of Pearson Vue admitted that there are “significant” variations in the difficulty level of the state portion of exams (see Q&A of Mr. Beer), which, undoubtedly along with other factors, contribute to racial and national origin disparities. While the testing services use a similar process in crafting the exams, the difficulty level is a variable that impacts how many pass and is the subject of discussions with the State, as the Pearson Vue “LOFT” system reflects. We are not sure the national part is better, but there appeared to be more confidence and consistency in that aspect of the test. Again, though, we believe that the odds of passing the material vary in the states due to arbitrarily set test difficulty levels.

Finally, the testing services acknowledged that state-mandated cut-scores removed some of the flexibility necessary to achieve a fair pass rate. They suggested that a psychometric analysis replace the arbitrariness in the current approach. The suggestion strikes us as correct and worth considering.

Pass Rate Disparities

There is no question that substantial disparities exist in pass rates among states, demographics and testing vendors. No one disputed the industry’s figures and charts in this regard. States’ own data reflect that these disparities can be enormous – as high as 127 percent between the high/low state and 81 percent among ethnic groups in the same states.

Dr. Shapiro testified these gaps are legally indefensible. Significantly, the testing services concede that there is additional data analysis that can be performed, but they fail to do so in the majority of states because it's not "legally required."² In the states where complete data is gathered, the data shows reason for concern. For many years Illinois has been a leader in assuring that its test is both entry-level and has minimal disparity among test takers. Data suggests that out of all states that collect complete student data, Illinois has the smallest margin of student passage disparity between ethnic groups.

The testing services attempted to explain away such disparities with reference to the Scholastic Aptitude Test (SAT) used for college admissions. They testified that "SAT pass rates"³ also differ from state to state and among student demographics. This reference only highlights the underlying problem. A state licensure exam should not be turned into an "aptitude test" where the purpose is to rank applicants' *academic* performance against one another. The life producer exam is intended to test knowledge on a pass/fail basis. We believe that too often state insurance exams measure one's academic background, not an applicant's knowledge of entry level, insurance concepts. In this regard, we believe the configuration of the question can become as important as the information being tested. *See* the question below from Florida's guidebook for an example of how answering a basic insurance question can be made hard merely because of how the question is phrased:

As written on page 104, question #6 of the Florida Guidebook – 24th edition

All of the following statements regarding basic forms of whole life insurance are correct EXCEPT

- A) generally, straight life premiums are payable, at least annually, for the duration of the insured's life.
- B) the owner of a 30-pay life policy will owe no more premiums after the 30th year the policy is in force.
- C) limited payment provides protection only for the years during which premiums are paid
- D) a single-premium life policy is purchased with a large one-time only premium

Issues with the question/answer choices

² Only 8 states require the collation of demographic data by statute.

³ We did not understand what the testing services meant by the phrase "SAT pass rate." There is no such thing as a SAT pass rate. The SAT is an aptitude test that allows colleges to rank applicants. It is not a pass/fail exam.

- “Correct” or “Except” questions or combination of “Correct/Except” questions measure a student’s reading level and not their knowledge of the content.
- Questions need to be worded in the positive
- Answer choice A- “generally” is not a specific determiner
- The question should tell the test-taker exactly what they are being asked; the test taker should not be forced to read all the responses in order to focus their attention properly on the question. For example, the above question does not state a clear question. What is the question asking? How premiums are paid, which premium payment would cost the insured the most or the length of protection?

Rewrite of the question

Which policy is designed to mature at age 100?

- a) term policy
- b) Whole life policy
- c) Annuity
- d) Endowment policy

Education Providers

The discussion around education providers was useful. More communication between the providers and testing services seems essential for improving testing results. We all should want an applicant to know what he will be tested on, as this furthers the goal of producing qualified agents. As you know, the industry believes a national study guide, from which the exam is configured, is the best means to achieve this outcome. One education provider said this would be difficult to create. We disagree and are willing to devote our resources to help prepare an initial draft.

Testimony seemed divided on whether it made sense to publish pass rates by education provider, but a consensus seemed to emerge around the idea of giving the education providers pass rate information for their *own* schools. Our view is that the exam needs to be fair before pass rate information by school is published, if it ever should be. Otherwise, schools that cater to more diverse students will be unfairly singled out, thereby perpetuating, and even magnifying, the injustice of a potentially discriminatory test. We also question what is gained by publication. Florida said it publishes data by schools and its pass rate still ranks in the lower tier of states. Our opinion is that making the state tests fair is a necessary prerequisite to any effort to rank schools by exam outcomes. Further, if such rankings ever are entertained, it must be

done in coordination with the collection of demographic data and they should take into account the demographic configuration and size of the school's student population.

Frankly, state policing of pre-licensing education schools strikes us as a potential waste of scarce resources. Our guess is that, at the end of the day, few "bad" schools will be eliminated while the time and expense to the state of the vetting process will be high and will strain tight budgets. Moreover, the chart displayed during the industry panel discussion showed, unequivocally, that no correlation exists between pre-licensing hours and exam results.

The State Part

Testimony at the hearing indicated there is a "national" part of the exam, which draws from a large question bank. Separately, states have a "state part" that focuses on nuances of state insurance law. In some states, both parts must be passed separately. This "state part" appears to contribute to lower than necessary pass rates. Outcomes on the state part seem worse overall, undoubtedly because the question bank is smaller and, therefore, more vulnerable to the swings caused by poorly worded or out-of-date questions. There was some testimony by the education providers, for example, that information about changes in state statutes are not timely incorporated into the exams. Since just a few erroneous questions can change pass rate outcomes, it is essential that the education providers and testing services incorporate current statutes into their curricula. We view improvements in the state part as a way to enhance applicant performance. Also, forcing an applicant to pass both parts separately diminishes the overall chances of obtaining a license. Our guess is that combining the two parts will raise pass rates without reducing quality.

Entry Level

Pains must be taken to achieve an entry-level exam. No one disagreed. The problem is that what is "entry level" is somewhat dependent on subject matter experts' views ("SMEs"), who often are veteran agents long removed from the needs of a

beginning agent. In this regard, the industry should supply SMEs to help craft suitable questions and the SMEs should include newly licensed agents.

Consumer Protection

Everyone agreed that the goal of consumer protection must be rigidly defended. Significantly, though, no one testified that lower pass rates somehow enhance consumer protection. The record is fairly clear that consumer complaints are not any higher in states where more applicants pass the exam. Moreover, as Collis Temple testified, consumer protection should include ensuring access to quality life insurance products. We do not “help” the public by reducing arbitrarily the number of licensed agents.

Next Steps

We accept that improvements in the test will occur over time. Fortunately, the hearing process has supplied us with some useful next steps that could go a long way toward eliminating the concerns we have identified. Here are our views of what can be done now to address the concerns raised at the hearing:

1. **Adopt an Accreditation standard for the NAIC Producer Licensing Handbook.**
2. **Combine the national and state parts for cut-score purposes.** We should not force applicants to pass the state and national parts separately.
3. **Use the “Illinois Method” to diminish the disparity between ethnic group pass rates.** Illinois should share what it does to reduce the demographic gap seen in other states. Indeed, we think the Task Force could simply ask the testing services to reduce the disparity in pass rates to the levels seen in Illinois.
4. **Replace mandated cut-scores with a psychometric analysis.** This was an excellent suggestion by the testing services. Currently 5 states have cut scores

in excess of 70 percent (D.C., HI, MT, NV, WA). Hawaii currently has the lowest pass rate in the nation.

5. **Improve transparency.** Publish pass rate information in every state, broken down by first-time pass rates and average number of retakes per applicant, as well as ultimate success rate. Information about how various demographic groups fare also should be included.
6. **Share pass rate information for schools with education providers.** Letting schools know how well their students perform on the exam will give schools a basis for evaluation of their programs.
7. **Use independent psychometricians.** When a states' pass rate falls below 70%, the handbook threshold, we feel it is appropriate and necessary for the state to employ its own expert. Testing vendors have profit motives and it is naïve for the states to rely on them when a legal question about exam validity emerges.
8. **Do not mandate inordinately high difficulty levels.** Setting a difficulty level to achieve a certain pass rate is wrong. The exam should be entry level.
9. **Improve communication between testing vendors and education providers.** Questions should *not* be shared; however, we should make certain that education providers and testing vendors coordinate so study materials are meaningful.
10. **Prepare and publish a national study guide.** The industry thinks this will substantially improve outcomes, as long as the test is based on the information contained in the study guide.
11. **Conduct more frequent exam reviews.** The 2-4 year exam review cycle is not sufficiently frequent. Until the exam process is improved, we suggest the state conduct an annual assessment of the exam, even if the contract is not up for renewal.

12. **The industry must supply SMEs.** As stated at the hearing, the industry has a role to play. Supplying SMEs for exam question analysis is important. The SMEs should include younger agents.

Anne Marie, we applaud the courageous work you are doing on this critical issue. We remain committed to helping you in this process and to working amicably with the NAIC as it addresses the concerns that have been raised.

Sincerely,



David Leifer
ACLI

Bill Anderson
NAIFA

Attachments

cc (w/attachments): Linda Hall, Chair, NAIC Producer Licensing Working Group,
Director, Alaska Dept of Community & Economic Development
Thomas Harris, CLU, ChFC, FLMI
Peter Schneider, Esq.
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