



Steven Clayburn

Senior Director & Actuary

(202) 624-2197 t (202) 572-4842 f

steveclayburn@accli.com

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Ms. Mila Kofman, Chair
NAIC Consumer Protections & Innovations Working Group
Maine Bureau of Insurance
34 State House Station
Augusta, Maine 04333-0034

RE: Proposed “Best Practices” in Disability Insurance

Dear Superintendent Kofman:

The American Council of Life Insurers (ACLI) is following up from its initial comments with this letter to the NAIC Consumer Protections & Innovations Working Group regarding its work on the DI “best practices” list. ACLI is the principal trade association of life insurance companies, representing 353 member companies that account for 93 percent of total assets, 93 percent of the life insurance premiums, and 94 percent of annuity considerations in the United States. ACLI member companies provide the majority of disability income insurance coverage in the United States.

ACLI is very concerned with the direction the Working Group appears to be headed regarding this proposed list of “best practices.” We believe that the Working Group is operating outside of its authority under the D Committee’s 2008 charges. In addition, the Working Group appears ready to circumvent the NAIC’s processes concerning the creation of model acts/regulations by instead creating a *de facto* regulation via this list which is intended to apply immediately to a company’s actions in the market place.

The NAIC is not a regulatory body, and therefore, it is not the role of this Working Group, nor the NAIC, to be developing a list of “best practices” for the industry. Any regulatory standards that the NAIC recommends must first be developed according to the NAIC’s own model-creation process, and then must be adopted by individual states before any such provisions can be applied to an insurer. Moving forward with the creation and adoption of this “best practice” list gives it an imprimatur of rule without proper process, at the NAIC or in the individual states.

We have additional concerns with the fact that none of the 2008 charges adopted by Plenary for the Market Regulation and Consumer Affairs (D) Committee, the parent Committee of this Working Group, direct this Working Group to create and adopt a “best practices” list for the DI industry. The only 2008 charge that appears to apply to this Working Group is the following, “Appoint a Consumer Protections Working Group to (1) review and consider additional complaint handling and reporting standards for incorporation into the NAIC’s Consumer Complaint White Paper, (2) provide policy oversight for the NAIC’s Consumer Information Source, (3) develop standards for the effectiveness of consumer disclosures and (4) develop uniform standards for consumer services.” None of these fit the current efforts of the Working Group to adopt this current DI “best practices” list. It is imperative that NAIC Working Groups follow the charges given to them by parent committees, and not deviate from those charges without permission of the parent committees. This ensures that Working Groups are truly doing the work of the Executive/Plenary Committees, and focusing resources properly.

After review of NAIC meeting reports and minutes, we are unable to discern any thorough analysis by this Working Group of complaint handling and reporting standards, or any public discussion of this analysis. It does not appear that the focus has been on complaint handling and reporting, but rather on complaint elimination, which while a worthy goal appears to require a different solution than is outlined in the charges given to the Working Group.

As we mentioned in our August 22, 2008 letter and continue in this letter, the original proposed list of "best practices" appeared to have been the remedial measures agreed to by one carrier in order to settle its market conduct examination findings, and not the appropriate starting point for the development of any "best practices" list. In addition, many of the "best practices" in the September 8, 2008 draft document are overly prescriptive in nature. It is problematic to develop a prescriptive list of practices to apply to an entire industry, especially when each company's facts and circumstances vary widely. Moreover, even within a company, every claim is different, and there is no singular approach on what must be absolutely done on every claim. We have previously conveyed that message, and we reiterate the message in this letter.

In summary, we agree that a covered insured's claim should be handled promptly and properly. The ACLI and its members continue to welcome a working relationship and open communication with the NAIC's Consumer Protections & Innovations Working Group. In order to do so, we need to understand the goals of this Working Group. If it is indeed improvement in claims handling, we believe that the Unfair Claims Settlement Practices Act reflects and addresses this issue. Please call upon us to help with your review.

Sincerely,



Steven Clayburn

cc: Tim Mullen, NAIC Staff
Consumer Protections & Innovations Working Group Members
Andrew Beal, Acting Executive Vice-President and CEO
NAIC Executive Leadership