

Draft: 9/21/09

2009 Fall National Meeting
Washington, DC

EXECUTIVE (EX) COMMITTEE

Tuesday, September 22, 2009

1:00 – 2:00 p.m.

Gaylord Convention Center—Potomac Ballroom A & B—Ballroom Level

Written Summary Report on Model Law Development Efforts

Amendments to Standard Nonforfeiture Law for Life Insurance (#808)—The Executive Committee approved the request to work on this model law at the 2007 Summer National Meeting. This is a simple change that will be needed when the principle-based reserving system is authorized. It delinks the interest rates from the valuation interest rate and links them to the formula currently used. This law is not currently being advanced for two reasons: 1) there is no immediate need for the delinking without the principle-based reserving system authorized via the Standard Valuation Law (#820); and 2) the Life and Health Actuarial Task Force decided it would be better to incorporate all of the proposed nonforfeiture changes into one new model law, rather than piecemeal them into the existing law.

On a Nov. 14, 2008, conference call, the American Council of Life Insurers said the method of introducing new mortality tables for determining the minimum nonforfeiture values would have to be reviewed. Otherwise, the nonforfeiture mortality standard might not be comparable with the valuation mortality. At the Spring National Meeting, the Task Force decided to defer consideration of this model law until more work is done on the Standard Valuation Law and the Valuation Manual.

Standard Valuation Law (#820)—The Executive Committee approved the request to work on this model law at the 2007 Summer National Meeting. The Task Force adopted the Standard Valuation Law at the 2009 Summer National Meeting and it is expected to be adopted during the Jt. Executive (EX) Committee/Plenary session at the 2009 Fall National Meeting. Meetings to date:

- Conference calls were held in 2008 on Feb. 5, Feb. 27, April 23, April 29, May 5, July 18, Aug. 5, Aug. 19, Aug. 21, Nov. 7 and Nov. 13 by the Life and Health Actuarial Task Force to discuss changes to the law to authorize a principle-based reserving system and to authorize a Valuation Manual to specify reserve requirements.
- The Task Force spent part of its meetings at the 2008 Spring, Summer, Fall and Winter National Meetings discussing the changes.
- Prior to the 2008 Fall National Meeting, three major issues remained: 1) the inclusion of a minimum reserve basis in the law; 2) the confidentiality of the required experience data and actuarial memorandum; and 3) the principles defining a principle-based reserving system. At the Fall National Meeting these items were resolved, although the Task Force delayed several amendment proposals on the confidentiality issue until they were reviewed by the NAIC Legal Division.
- At the 2008 Winter National Meeting, most of the confidentiality issues were resolved, and the current draft of the law was released for public comment.
- At the 2009 Spring National Meeting, there was discussion of the definitions of life insurance, accident and health insurance, and deposit-type insurance. Several commentators felt that the proposed definitions expanded the scope of the law. In addition, there was a request by the Corporate Governance (EX) Subgroup to add a paragraph; the request was later changed to add a sentence to proposed Section 12. The Principles-Based Reserving (EX) Working Group adopted that sentence May 21, 2009.
- The Task Force considered the definitions on conference calls held April 4 and May 11, and resolved the issue of the definitions of major products.
- The Task Force adopted the law at the 2009 Summer National Meeting.

Amendments to Suitability in Annuity Transactions Model Regulation (#275)—At the 2009 Summer National Meeting, the Suitability in Annuity Sales (A) Working Group reviewed a third discussion draft of proposed revisions to the Suitability in Annuity Transactions Model Regulation and, upon completion of its review, voted to distribute an official exposure draft. This draft was distributed for comment July 2, 2009. Based on the comments received, a subgroup of the Working Group developed a new draft of revisions, which was distributed for comment Sept. 4, 2009. The Working Group will discuss the comments received on this subgroup proposal at the 2009 Fall National Meeting.

The Executive Committee approved the model law request for revising the Suitability of Annuity Transactions Model Regulation at the 2008 Summer National Meeting. Due to a number of issues that have arisen related to the proposed

revisions to the model, the Working Group did not meet the deadline to complete the revisions by the 2009 Fall National Meeting. As such, it will be seeking an extension from the Life Insurance and Annuities (A) Committee to complete its work by year-end 2009.

Amendments to Annuity Disclosure Model Regulation (#245)—At the 2008 Fall National Meeting, the Executive Committee approved a model law development request to work on revisions to the Annuity Disclosure Model Regulation. The Annuity Disclosure Working Group has nearly completed its work and expects to finish by the 2009 Winter National Meeting. The Working Group is focusing on two issues: 1) whether to recommend an updated guaranty fund coverage disclosure notice to the Life and Health Insurance Guaranty Association Model Act (#520); and 2) whether to add annuity illustration guidelines to the model. The Working Group held conference calls in July and September to continue its discussions of these issues. The Working Group also exposed for comment drafts of three buyer's guides (fixed-deferred annuities, fixed-indexed annuities and variable annuities). It is anticipated that the Working Group will continue to discuss these issues at and following the Fall National Meeting and adopt any revisions to the model by the end of the year.

Amendments to Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities (#815)—The Life and Health Actuarial Task Force and the Life Insurance and Annuities (A) Committee adopted amendments to Model Regulation 815 during conference calls after the Summer National Meeting. The original model regulation was adopted in 2004, with an effective date of Jan. 1, 2007. The purpose of the amendments is to allow policies written between 2004 and 2007 to utilize the preferred mortality tables established by the original model. The joint Executive Committee/Plenary will consider adopting this guideline at the 2009 Fall National Meeting.

Amendments to Nondiscrimination of Health Insurance Coverage in the Group Market Model Regulation (#107)—The Regulatory Framework (B) Task Force is amending the Nondiscrimination in Health Insurance Coverage in the Group Market Model Regulation for consistency with the federal Genetic Information and Nondiscrimination Act of 2008 (GINA). GINA prohibits denial, conditioning or discrimination in the pricing of a group or individual health plan on the basis of genetic information. GINA also limits the ability of group health plans and group and individual health plan issuers to request or require genetic testing, and prohibits the collection of genetic information for underwriting or other purposes prior to enrollment.

A draft of the proposed revisions was distributed for comment June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revision after the regulations currently being drafted by the federal agencies charged with administering GINA are promulgated. It should be noted that possible provisions in any federal health care reform legislation could impact these revisions, as well.

Amendments to Small Employer Health Insurance Availability Model Act (Prospective Reinsurance with or without and Opt-out) (#118)—The Regulatory Framework (B) Task Force is amending the Small Employer Health Insurance Availability Model Act (Prospective Reinsurance with or without and Opt-out) for consistency with the special enrollment provisions under the federal State Children's Health Insurance Program (SCHIP) reauthorization bill. These provisions add a new special enrollment provision for individuals whose coverage under Medicaid or the Children's Health Insurance Program (CHIP) terminates.

A draft of the proposed revisions was distributed for comment June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revision after any regulations currently being drafted by the federal agencies charged with administering the provisions of this law are promulgated. It should be noted that possible provisions in any federal health care reform legislation could impact these revisions, as well.

Amendments to Individual Health Insurance Portability Model Act (#37)—The Regulatory Framework (B) Task Force is amending the Individual Health Insurance Portability Model Act for consistency with the federal Genetic Information and Nondiscrimination Act of 2008 (GINA). GINA prohibits denial, conditioning or discrimination in the pricing of a group or individual health plan on the basis of genetic information. GINA also limits the ability of group health plans and group and individual health plan issuers to request or require genetic testing, and prohibits the collection of genetic information for underwriting or other purposes prior to enrollment.

A draft of the proposed revisions was distributed for comment on June 5, with a July 17 comment deadline. No comments were received. The Task Force will hold this draft for possible additional revision after the regulations currently being drafted

by the federal agencies charged with administering GINA are promulgated. It should be noted that possible provisions in any federal health care reform legislation could impact these revisions, as well.

Amendments to Long-Term Care Insurance Model Regulation (#641)—The Executive Committee approved the model law development classification request for the Long-Term Care Insurance Model Regulation (#641) at the 2008 Fall National Meeting. The request was to revise the model to include an external review process for benefit triggers in long-term care insurance policies and to revise Appendix E to provide for consistent definitions.

The Senior Issues (B) Task Force formed a subgroup to work on the revisions. The subgroup completed its work prior to the Summer National Meeting, which included revising the Long-Term Care Insurance Model Act (#640) to reflect the addition of the external review process in the model regulation. The Senior Issues Task Force and the Health Insurance and Managed Care (B) Committee adopted the revisions at the Summer National Meeting. These revisions will be considered for adoption at the Sept. 22 meeting of the Jt. Executive Committee/Plenary.

At the 2009 Summer National Meeting, the Senior Issues Task Force formed a new subgroup to work on the revisions to Appendix E. This subgroup finished its work just prior to the Fall National Meeting and presented its work to the Task Force for consideration. Following a 30-day comment period, it is anticipated that the Senior Issues Task Force will adopt these revisions during a conference call prior the Winter National Meeting. Because this will be after the one-year deadline for completion, the Task Force requested and received an extension to complete its work from the Health Insurance and Managed Care Committee.

Amendments to Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (#651)— The Executive Committee approved the request to work on this model law at the 2007 Summer National Meeting. A conference call was held Aug. 14, 2007, by a subgroup of the Accident and Health Working Group to discuss changes to Section 1882(r) of Social Security Act. At the 2007 Fall National Meeting, the Working Group approved a letter to the Senior Issues (B) Task Force recommending changes to Section 1882(r). At the 2008 Fall National Meeting, the Working Group sent a letter to the American Academy of Actuaries requesting assistance in the redesign of the Medicare supplement insurance refund formula. There were several conference calls in 2008 and 2009 to discuss the response by the American Academy of Actuaries.

Amendments to Risk-Based Capital (RBC) for Health Organizations Model Act (#315)—The Executive Committee approved the model law request for revising the Risk-Based Capital (RBC) for Health Organizations Model Act at the 2009 Spring National Meeting. On March 31, the Health Risk-Based Capital (E) Working Group held a conference call and released for a 30-day comment period a revised draft of the model, which incorporated the changes contemplated in the model law request form. On a May 7 conference call, the Working Group adopted the revised model, which was subsequently adopted by the Capital Adequacy (E) Task Force and the Financial Condition (E) Committee on June 14 and June 16, respectively. The revised model will be considered by Joint Executive Committee/Plenary at their Sept. 22 meeting.