NATIONAL CONFERENCE OF INSURANCE LEGISLATORS
LIFE INSURANCE COMMITTEE
NEWPORT, RHODE ISLAND
JULY 7, 2005
DRAFT MINUTES

The Life Insurance Committee of the National Conference of Insurance Legislators (NCOIL) met at the Hotel Viking in Newport, Rhode Island, on Thursday, July 7, at 10:00 a.m.

Sen. Joe Crisco of Connecticut, Vice Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Steve Geller, FL
Rep. Ronald Crimm, KY
Sen. Alan Sanborn, MI
Rep. Greg Davids, MN
Sen. Carroll Leavell, NM
Sen. James Seward, NY
Rep. George Keiser, ND
Rep. Virginia Milkey, VT
Rep. Mark Young, VT

Other legislators present were:

Rep. Pat Patterson, FL
Rep. Terry Parke, IL
Rep. Shirley Bowler, LA
Sen. Pam Redfield, NE
Assem. William Barclay, NY
Sen. George Onorato, NY
Sen. Duane Mutch, ND
Rep. Francis Wald, ND
Rep. Brian Kennedy, RI
Del. Harvey Morgan, VA

Also in attendance were:

Susan Nolan, Nolan Associates, NCOIL Executive Director
Erik Olson, NCOIL Director of Legislative Affairs & Education, Health, Life, and Workers' Compensation Insurance

MINUTES

Upon a motion moved and seconded, the Committee voted unanimously to approve, as submitted, the minutes of its March 3, 2005, Committee meeting in Hilton Head, South Carolina.

PROPOSED MODEL ACTS ENABLING STATES TO CREATE AND IMPLEMENT LONG-TERM CARE PARTNERSHIP PROGRAMS

Ms. Nolan reminded the Committee that consideration of two model acts, one to implement long-term care partnership programs and the other to create them, was postponed at the last meeting because of pending federal legislation.

Sam Morgante of Genworth Financial provided an update on the progress of federal legislation since the March meeting in Hilton Head, South Carolina. He said that Genworth Financial, America's Health Insurance Plans (AHIP), and the American Council of Life Insurers (ACLI) presented an industry proposal to the Energy and Commerce Committee of the US House of Representatives, the Senate Finance Committee, and the Senate Special Committee on Aging. Mr. Morgante reported that the group expects to see at least one legislative proposal in the next month, if not one from both houses of Congress.

Mr. Morgante described the difference between earlier industry positions and the current proposal. He noted that previous proposals contained only two sentences that would remove the so-called "Waxman restriction," which prohibits long-term care partnership programs in states other than New York, California, Indiana, and Connecticut. He said the current approach acknowledges that partnerships in those four states had funding from the Robert Wood Johnson Foundation for staff, money for studies, and public relations campaigns. Mr. Morgante noted that other states would probably not have such funding, and the current approach would permit other states to opt-in to existing partnership programs by filing a Medicaid plan amendment. He explained that these plan amendments would utilize existing tax-qualified long-term care insurance total assets and dollar-for-dollar models. Mr. Morgante said that by creating partnership programs through Medicaid, participating states would not have to "reinvent the wheel" but could join an existing program. He said that this approach would lead to a uniform system of reporting requirements from the US Department of Health and Human Services, thereby simplifying the process for insurers.

Megan Mamarella of the National Association of Health Underwriters (NAHU) added that it would be beneficial for NCOIL to wait before passing a model act for the uniform implementation of long-term care partnership programs. She explained that it remains unknown what a model act should contain, given the current evolution of federal legislation. Ms. Mamarella said that while NCOIL legislators may hesitate to rely on federal legislation, the simple and uniform implementation of partnership programs would require clear federal rules.

Eric DuPont of MetLife and Nancy Davenport of ACLI stated their support for deferring action on the proposed model acts until the November meeting.

After the motion to defer action was seconded and approved, a motion for discussion was raised and seconded. Rep. Keiser noted that he did not oppose a deferral, but he did oppose the principle of uniformity offered as a rationale for deferring action. He observed that North Dakota has already passed partnership legislation that is contingent upon the repeal or change of the Waxman amendment. Rep. Keiser also said that the North Dakota plan reflects its own public policy choices. He reiterated that he did not oppose deferring action but expressed concern that a generic bill establishing a uniform federal policy would not best serve his constituency.

LIMITED TERM LIFE INSURANCE LICENSURE ISSUES

Rep. Bowler offered a substitute resolution to the limited term life insurance licensure resolution she sponsored, which was up for consideration by the Committee. She referred to a contentious debate at the last NAIC meeting on the suitability of limited term life insurance licenses. She characterized the substitute resolution as acknowledging that an underserved market exists for life insurance. She stressed that the resolution did not endorse any particular solution to the problem. Instead, Rep. Bowler continued, it states that a lack of life insurance agents has resulted in an underserved life insurance market. She noted that the resolution calls on legislators to join the NAIC, industry, and consumer representatives to investigate the problem and propose solutions.

Rep. Crimm moved to withdraw the original resolution from consideration, and the motion was seconded. A voice vote confirmed the motion.

Sen. Geller asked for clarification on an NAIC resolution relating to the issues. Rep. Bowler answered that a resolution discouraging the creation of limited term life insurance licenses passed the Consumer Affairs (D) Committee of the NAIC at their June 2005 meeting in Boston. She described her proposal as an opportunity to slow the debate in favor of an investigation into potential solutions, given the contentious debate at the NAIC and the continued existence of an underserved market.

Because the substitute proposal was made after NCOIL's 30-day deadline, Sen. Geller moved for a two-thirds committee vote to waive the 30-day requirement for proposals. A voice vote confirmed the motion, and the resolution proceeded to approval. Rep. Bowler then offered industry representatives the opportunity to address the issue.

Peter Schneider of Primerica characterized the lack of life insurance agents as a barrier to addressing the problem of an underserved life insurance market, a market primarily composed of middle-income and minority persons. He attributed the lack of agents to declines in recruitment and retention. These declines have given rise to an increased reliance by the life insurance industry on selling annuities, he said.

Mr. Schneider noted a broad consensus on the existence of a problem, but not for a solution. He analyzed the Primerica proposal discussed at the Summer NAIC meeting in terms of federal securities licenses. He observed that the government issues federal securities licenses based upon the type of product sold. In contrast, Mr. Schneider continued, states offer only one type of life insurance license, regardless of what life insurance product will be sold. He reiterated that the insurance industry does not widely support Primerica's proposal and that Rep. Bowler's resolution calls for a study, not for support of any proposal.

Rep. Crimm asked whether Primerica has a field force and whether there is a training program for newly recruited persons. Mr. Schneider clarified that Primerica does train new recruits, but that they find it increasingly difficult to license insurance sellers. He expressed Primerica's hope that the proposed study would define the barriers to entry for insurance sellers and recommend solutions to remove those barriers.

Rep. Milkey asked for clarification of the term "industry consensus" in the substitute resolution. Mr. Schneider explained that the industry consensus meant agreement as to the existence of a problem but not to any particular solution. Rep. Milkey then asked whether he would object to a characterization of the proposed resolution as rescuing life insurance agents through a study. She expressed interest in researching whether an unfulfilled consumer demand for life insurance products exists but noted her concern that the resolution calls for research that the industry could conduct itself.

Commissioner Diane Koken, President of the NAIC, expressed her support for the substitute resolution as Commissioner of Pennsylvania and observed that the NAIC would likely view it favorably.

Rep. Bowler asked whether the substitute resolution would affect the future NAIC Executive Committee vote on an NAIC resolution supporting uniformity in licensing to the detriment of limited term life licensing. Commissioner Koken said that she could not speculate on future NAIC votes.

Commissioner Walter Bell of Alabama distinguished Primerica's proposed solution of limited term life insurance licenses from a proposal under consideration in Alabama. He observed that the Alabama proposal would allow "life only" licenses that permit an agent to sell only life insurance. Commissioner Bell noted that Alabama currently requires 40 hours of instruction for a life license, in which 20 hours are reserved for health insurance. He explained that the proposed "life only" license would require 20 hours of life insurance instruction, plus a continuing education requirement. Commissioner Bell noted that an NAIC model already permits "life only" licenses and that nine states had already passed such legislation. He contrasted the Alabama proposed "life only" license with Primerica's proposal that would subdivide "life only" licenses into the sale of only term life insurance. Commissioner Bell expressed his support for changes in licensing procedures to keep up with the market and stressed that his office agreed with changes in principle, so long as his office could still regulate them.

Both Bruce Ferguson of ACLI and Bill Anderson of the National Association of Investment and Financial Advisors (NAIFA) stated their support for the substitute resolution and acknowledged that the insurance industry agreed that an underserved life insurance market exists.

Michael White of Michael White Associates also expressed support for the substitute resolution. He referred to a white paper he wrote in 1995 that documented that "most Americans were in fact dangerously underinsured and indeed neglected by the life insurance industry." He commented that group life insurance does not adequately address this problem, because, as a general rule, group life insurance is not portable.

Mr. White also expressed concern with the trend towards uniformity in insurance regulation and questioned whether this trend results from an attempt to forestall federal encroachment. He observed that the Gramm-Leach-Bliley Act offered states the option of uniformity or reciprocity. He doubted that it would be better to have uniform regulation across all states, rather than a system of reciprocity. Mr. White called for efforts to promote uniform access for consumers to life insurance products, rather than uniform regulation.

Scott Cipinko of the Life Insurers Council (LIC) expressed support for the substitute resolution and observed that the LIC had made a similar proposal to the NAIC.

Rep. Gooch of Kentucky noted that the Committee would need to clarify whether, in using the term "uninsured," it meant uninsured today or uninsured at death.

After a motion made and seconded, the substitute resolution passed by a vote of seven to one.

Those in favor were:

Sen. Joe Crisco, CT
Sen. Steve Geller, FL
Rep. Ronald Crimm, KY
Sen. Alan Sanborn, MI
Sen. Carroll Leavell, NM
Rep. George Keiser, ND
Rep. Virginia Milkey, VT

Those opposed were:

Rep. Mark Young, VT

UPDATE ON THE LIFE AND VIATICAL SETTLEMENTS MARKET

Doug Head of the Viatical Life Settlements Association of America provided an update on the status of industry regulation among the states. He noted that New York, Massachusetts, and California were actively considering regulation. Mr. Head observed that New Jersey, Georgia, and Colorado had passed legislation that will take effect later this year.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:15 a.m.

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