State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, *Governor*
Sean Dilweg, *Commissioner*

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ociinformation@wisconsin.gov
Web Address: oci.wi.gov

Office of the Commissioner of Insurance
Life Advisory Council

Minutes
Tuesday, October, 30, 2007
10:00 a.m. – 12:00 p.m.
125 South Webster Street
Room 227
Madison, WI 53707

Council Members: Steve Stribling (Chair, Northwestern Mutual Life); Sarah Orr (Coalition of Wisconsin Aging Groups); Sharon Brosnan (Thrivent Financial for Lutherans); Brad Bodden (American Family Insurance); Jill Shilbauer (WEA Trust); Martin O'Brien (Principal Financial Group); and Lee Cunningham (Dane County- UW Extension).

OCI Attendees: Commissioner Dilweg, Deputy Commissioner Shaul, Eileen Mallow, Jennifer Stegall, Jim Harris, John Kitslaar, and Mary Reines.

Other Attendees: Connie O'Connell (Parrett & O'Connell); Ellen Alwin (GHC-SCW); Vaughn Vance (WEA Trust); Susan Callanan (NML); Kathy Amblang (WPS); Louie Schubert (American Family Insurance); and Susan Linck (NAIFA).

I. Opening Remarks

Sean Dilweg

Thanked the council for their efforts.

II. Introductions

Steve Stribling

III. Long Term Care Partnership

Guenther Ruch, OCI

LTC Partnership –

In September 2007 the federal law became more fluid to allow expansion of LTC plans. Currently 6 states have LTC partnership plans, 11 states have federal approval, 5 states are pending their plan requirements, and 10 states are in development. WI. Act 20, the budget bill, includes the Partnership Plan.

Issues:

Agent training – State law requires that agents get 8 hours of initial training and 4 hours of additional training every 2 years. Agent training is going to be designed to certify that agents understand the law. Agent training materials will be developed by DHFS (Dept. of Health & Family Services). OCI is going to work with agent groups on the specific requirements related to training.

NAIC LTC Model Act – State statutes will need to be updated to include provisions from the NAIC LTC Model Act.

Reciprocity – OCI is holding bi-weekly conference calls with other Partnership states.

Inflation Protection – the federal law has different requirements for different age groups.

Exchange Issue- asset protection only on partnership exchange from a non-partnership rate. There is the issue of age at the time the policy is issued and then at the time of the exchange.

The Commissioner has formed a Long Term Care Subgroup including agent representatives, the Department of Health and Family Services and a Consumer representative to look at these issues and make recommendations regarding an administrative rule.

From a regulatory standpoint, an issue is the suitability of sales –these products are not for everyone.

Theoretically, if properly used, these policies should save Medicaid dollars down the road and consumers benefit. The life council will be updated on the progress of this subgroup and the issues OCI is working with.

Additionally, any input that can be provided from the life council is appreciated

IV. Terrorism Risk Insurance Revision and Extension Act of 2007
Eileen Mallow, OCI

This bill was developed in response to the September 11th, 2001 bombing and is due to expire December 31, 2007. This bill has been extended several times and is up for Congress to extend again.

This bill is a backstop for Property and Casualty companies. It does not give any money to companies, but what it does is gives insurance companies an opportunity to reinsurance their damage over a period of years through the federal government.

The hard thing is that Insurers are required to give 60 days notice of reduction in benefits prior to a loss.

The Senate Banking Committee has developed revisions to help extend the program for 7 years. The house wants to extend the program for 15 years.

The trigger is $100 million, if there are losses greater then $100 million, then that is when TRIREA becomes in effect.

There is no distinction between foreign and domestic terrorism in the bill. No coverage for nuclear or bio-radio types of damage currently, but they want to include.

There is no group life coverage included in the bill currently.

It is expected that the Senate will take up Dodd's bill before the conference committee. The issue for the council is that this impacts commercial insurance, in regards to group life.

This bill does not include disability.

V. NAIC Viatical Settlement Model Act

Jim Harris – provided handouts to the council and attendees

Background:

This is the sale of third party insurance. The sale includes life insurance from the original policy holder. In 1993 the NAIC adopted a Viatical Settlement Model Act. Wisconsin did adopt Act 371 in 1995.

Typically these policies are for the terminally ill, have a relatively small cash value. Viatical policies typically are willing to give cash value, continue to pay premiums, and purchase the death benefit for terminal patients/ consumers with less then 24 months. Required by the company for the viatical policy to submit details showing medical records of the viator (consumer) to determine life expectancy.

No financial minimum or reserves are required for these policies.
Licenses are renewed annually to demonstrate the agent has the education and training to sell these types of policies.

Most importantly, there is required to be a settlement contract to protect the viator.

As the market grew, how these policies are effective has changed due to the players in the secondary industry. Pressure for profits for the providers and commissions for brokers affects the premium.
The pricing can be determined by the exchange of information from the provider, the person who affects the contract each individual would want determine the profit margin of return and perhaps effect the commission, leading to less money to insured and not always aware of the how the relationship works between brokers and insurers. Not always a good provision, because consumers are not aware of how the market works, making it difficult for policy holders to review alternatives, because they are not always disclosed to the insured or other policy provisions

Market Issues:

Vitacial settlements affect the decisions of an insured because they change what traditional life companies need to maintain for their own reserves.
Sometimes, vitacial companies, with no vested interest, seek out individuals to purchase life policies and then finance premium payments through the contestability period of traditional life insurance policies and then turn the policy over to a viatical settlement.
Evolution of the market has changed marketing for this product. There is also a limited number of terminally ill patients.
Improved medical treatments are shifting the market as well.

Some providers had situations where they were taking medical records of the policy holders to display an urgent need for a viatical policy. They also were making a policy where conditions did not exist or fitting the requirements of the policy.
Some providers have manipulated the negotiation process between the broker and consumer.
Demographics of the baby boomers are influencing the market for this type of product.
WI sales have been by licensed insurance agents.

Perceived problems:

Individual agents have limited knowledge and don't always understand that it can be treated like a security.
Investors/ purchasers – are changing all the time. They do not have an understanding of the market, do not have bargaining parties and look out for their own interests.
They don't understand the returns of investment or what will occur if the policy does not mature, and that there is no recourse if the policy does not mature.
WI DFI – has taken the position that viaticals are investment contracts subject to licensing. There are prohibition orders to agents that market for viaticals
NAIC has had a revision draft in April 2007 adopted by the A committee.

Next Steps:

Develop a chart to compare the Wisconsin model with the NAIC model.
Explain the difference between viatical versus life settlements.

General Comments:

The viator is the owner of the policy.
Complaints are from the elderly who do not understand the process or how the policy works.
The policies are sold in groups.
The model act applies to notification and partly to STOLI's.
There is a conflict of interest if the agent is acting as a broker. The agent has a fiduciary responsibility to the insured.
Another option is the accelerated death benefit option on life insurance polices.
There are provisions for 60 cancel on these viatical policies.

VI. NAIC Military Sales Model Act

John Kisler

Background on the act was provided to the committee.
This act was passed by Congress requiring states to work with the Federal Government while troops are deployed. This rule provides standards to protect the military. The purpose is to ensure deceptive and unfair practices do not occur to anyone in the military. This law only applies to full time active military service personal on active military bases. The NAIC did discover solicitations on military bases that were unfair to military and their families. These actions were prompted by an article that was published in the New York Times from issues down south where military personnel were receiving commissions on the sales of life insurance. This law applies to pay grade E4. Wisconsin does not have any active bases, so this does not seem to be a high concern for our state.

VII. Interstate Compact: AB 542

Eileen Mallow - provided hand out on the bill and the bill language.

If the insurance company wants to market a product, then they need to file for policy form approval. This can take a long time with some states and put companies at a disadvantage.

If you file and get approval through the compact, then you do not need to file individually with the state.

Once Wisconsin joins, we would be one of the major states in the NAIC to have say over the product approval decision process. This would be positive for Wisconsin.

Once Wisconsin joins the compact, OCI would not lose its regulatory authority.

This will add to the workload at OCI administratively, but only for the short term.

Companies that join the compact will have an increase in costs but the trade off is quicker turn around and fewer filing requirements.

Smaller companies are not going to be required to join the compact and OCI is not inclined to force anyone at this point to join.

VIII. Annuity Sales Supervision Advisory Committee

Kim Shaul, Deputy Commissioner

Annuity committee held their first meeting.

They are going to develop a rule for standards that companies would use on sales for annuities.

This is needed to protect the consumer, especially seniors, as they do not understand all aspects of this product. Seniors also do not have the competency to understand products or may have illness that impairs their decision making.

The committee is a diverse group, representing companies, consumer groups, and agents.

In January, the committee will be gathering more information to draft a rule. The goal is to be proactive and give everyone a level playing field in the annuity market.

Everyone in the committee is very open on the issues and wants to give a rule that could be used by other states.

IX. Other Business

X. Next Meeting Date

Meeting will be February 5th

Agenda topics will include viatical settlements

Long term care partnership

Sarah – report on suitability issues

The meeting adjourned at 11:40am