



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Sean Dilweg, Commissioner

Wisconsin.gov

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Office of the Commissioner of Insurance Life Advisory Council

Minutes

Tuesday February 5, 2008

10:00 a.m. - 12:30 p.m.

125 South Webster Street

Room 349

Madison, WI 53703

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); and Martin O'Brien (Principal Financial Group).

OCI Attendees: Commissioner Dilweg, Deputy Commissioner Shaul, Eileen Mallow, Jennifer Stegall, Diane Dambach, Kevin Zwart, Linda Low, Mike Honeck, Guenther Ruch, and Mary Reines.

Other Attendees: Connie O'Connell (Parrett & O'Connell); John Gerni (ACLI); Ron Kuehn; Susan Callanan (NML); Kathy Ambelang (WPS); and Christian Golino (Quarles & Brady).

I. Introductions

Steve Stribling, Chair

II. Approval of October 30, 2007 Meeting Minutes

Steve Stribling, Chair

These minutes will be emailed to council members and reviewed at a later date.

III. Stranger Oriented Life Insurance (STOLI) Amendments to the NAIC Viatical Settlements Model Act: Comparison with Current State Law

John Gerni, ACLI Regional Vice President of State Relations

Mr. Gerni provided a power point presentation entitled: "Premium Financing, Life Settlements and Insurable Interest Law." Highlights from the presentation include:

- The Life Insurance industry is served when people live longer, alternatively, the Life Settlement industry benefits when a person passes away quickly.
- Life expectancy models have changed since the 1980s (due to drugs, etc.). As a result, some companies providing viatical life insurance policies became insolvent in the 1990s. The Viatical settlement companies pursued life settlements as a means to get money. Life settlements are really life insurance on secondary markets.
- There are legitimate uses of Life Settlements:
 - Premium financing.

- A person has had their policy for years, is getting older and finds they no longer need the policy.
- STOLI (Stranger Originated Life Insurance): An individual is assisted in obtaining life insurance on his or her own life through a non-recourse loan from the 3rd party investor to the insured.
- STOLI is an agreement from an individual to have an investment firm or other corporate entities carry their life insurance policy.
- There has to be insurable interest for the transaction to occur and consent from the insured to allow corporate ownership.
- A 3rd party investor may approach people to have them purchase a life insurance policy and after a 2 year timeframe (generally), sell it in a secondary market. The investor pays a lump sum to the policyholder and then is the beneficiary of the plan.
- If a person passes away before the 2 year timeframe expires, the insurer may contest, point to the plan as STOLI and refuse to pay the claim. Insurers may look to who has paid the premium. If a 3rd party has, the insurer may contest and decide not to pay the claim. Sometimes, in a case like this, the policyholders' beneficiary does get the money.
- This is now a \$15 billion dollar business. By 2015 could grow to \$125 billion.
- NAIC Viatical Settlement Model Act
 - Deters STOLI by prohibiting settlement of life insurance policies for 5 years from policy issuance when the policy is purchased for the purpose of selling into the secondary market.
 - Exempts legitimate life settlement transactions based on insurable interest.
 - "Pervasive Fraud" that address settlement broker conflicts of interest and require settlement broker compensation disclosure.
 - Requires disclosures to insured, insurers and insurance regulator.
 - Expands regulatory discretion beyond settlements involving terminally or chronically ill individuals to invalidate transactions.
- NCOIL Life Settlements Model Act
 - Does NOT have a 5 year prohibition language
 - Definition of "life settlement contract" also captures trust arrangements where STOLI has been masked
 - Definition of "Stranger Originated Life Insurance"
 - Violation of STOLI is a fraudulent settlement act
 - Disclosures to consumer, insurer and insurance regulator
- Some states have issued bulletins however, Wisconsin would need to make a statutory change.

Council members and agency staff asked questions and offered input:

- Marty O'Brien: Is there anything in the models that protects agents who do not do life settlements? For example, a person wants to sell their life insurance policy and the agent then moves forward with this only to have the client return to the agent to say, "I could have received \$60,000 more through

a life settlement and you did not make me aware of this.” John Gerni, ACLI, agreed to look into this issue.

- Sue Ezalarab indicated OCI has received complaints from investors but not from consumers.
- Sarah Orr asked how companies get information from people in an effort to then target them. An Appleton Post Crescent article was used to explain the tactics that are out there. A point was made that the NAIC model has a section dedicated to advertising. The NCOIL model does as well. John Gerni suggested Sarah contact her counterpart in California because they are seeing people faced with the issue of being a target.
- It was agreed by Steve Stribling, Chair, and Deputy Commissioner Kim Shaul that more time would be dedicated to Life Settlements at the next meeting.
- Marty O'Brien indicated that NAIFA has a subgroup working on developing a position of support for one of the two models. He will report back at the next Council meeting.

Attachments:

[Viatical Settlement NAIC Model and WI Comparison ACLI](#)
[Life Settlement and STOLI Articles](#)
[December STOLI Alert](#)
[ACLI STOLI](#)

IV. NAIC Informational Presentation on Principals Based Reserving.

Randall Stevenson, NAIC - *Note: due to travel cancellations, this presentation is postponed until a later date. .*

V. Long-Term Care Subgroup/Long-Term Care Partnership

Guenther Ruch, OCI

Mr. Ruch gave an update on the Long-Term Care Partnership Rule Subgroup. Both OCI and DHFS (Department of Health & Family Services) will be working together on the rule as a result of Act 20, signed into law October 2007. The main issues the subgroup is focusing on include:

- Implementation of a training program for agents. All agents who want to sell Long-Term Care Insurance on or after January 1, 2009 must complete the 8 hours of initial training required by Act 20.
- Policy exchanges for policies purchased prior to the effective date of the LTC Partnership Program (1-1-09).
 - Should there be a mandatory offer requirement?
 - Should there be standards applied to exchanges? For example, allow people to save age on an “like for like” exchanges?
- How to handle reciprocity issues so the insured can maintain their assets. (i.e. Insured moves from Wisconsin to Florida and bought the policy in Wisconsin.)
- Inflation protection.
- Another issue is group insurance policies versus individual policies for exchanges where the policies are eligible for the Partnership Program.

The expected timeline includes a March meeting to review the latest draft rule. The goal is to get training requirements ready for agents by May/ June of 2008. Following a hearing on the rule, an emergency rule will be issued.

Attachments:

[Application of State Laws to Long-Term Care Insurance](#)

VI. NAIC Senior Issues Task Force Long-Term Care Data Call and Survey

Guenther Ruch, OCI

Mr. Ruch spoke on the claims handling practices that are currently occurring with Long-Term Care products. While the product is not that old, some companies are experiencing claims and did not plan for reserves properly. An article published in the New York Times raised the attention of a few members of Congress who requested a GAO report on claims practices for LTC products. The NAIC also was asked to draft a response to the issues raised in the New York Times and as a result conducted a survey in November 2007. Issues raised in pursuing the data call include the development of best practices in the area of Long-Term Care Insurance and whether an independent/external review may be beneficial. The survey responses will be discussed with the NAIC Senior Issues Task Force and the B Committee at the March 2008 meeting.

VII. Annuity Sales Supervision Advisory Committee Update

Kim Shaul, Deputy Commissioner

Deputy Shaul updated the council on the Annuity Suitability Advisory Committee on the January 2008 meeting. The committee's focus is on gathering information on annuity products and sales practices. Both John Wheeler and Allianz gave presentations to the committee. The meeting on April 22, 2008 will include presentations from: FINRA, Iowa Regulators, and IMSA. The committee is hoping to move forward after the April meeting to start drafting a rule.

VIII. Legislative Update

State

Bills:

Eileen Mallow, OCI

AB 542; Interstate compact. This bill passed both in the Assembly and in the Senate.

The OCI is working to get a hearing to finish the bill and have the Governor sign.

Rules:

Mike Honeck

INS 2.81 relating to the use of the 2001 CSO Preferred Class Structure Mortality Table in determining reserve liabilities. This rule allows insurers to use preferred mortality tables versus using standard mortality tables.

INS 2.07 relating to replacement of life insurance or annuity contracts: Disclosure requirements. This rule is over 20 years old and the NAIC model has changed in the

last couple of years. The NAIC model is more favorable for consumers. Companies are also asking OCI if they can use the new model in Wisconsin.

Guenther Ruch

INS 3.455 and 3.46 relating to long-term care plans including the Long-Term Care Partnership Program and Affecting Small Business.

Federal

Jim Guidry, OCI

Terrorism Risk Insurance Revision and Extension Act of 2007. Congress passed the act on December 31, 2007. This act will expire in 7 years (12/31/2014). This act was revised to include domestic acts of terrorism.

Links:

AB 542 (print bill history, bill and amendment memo available at this link

<http://www.legis.state.wi.us/2007/data/AB542hst.html>)

INS 2.81 (<http://www.oci.wi.gov/rules/0281fn07.pdf>)

INS 2.07 (<http://www.oci.wi.gov/rules/0207sc03.pdf>)

INS 3.455 and 3.46 (<http://www.oci.wi.gov/rules/0346sc07.pdf>)

IX. Other Business

Steve Stribling, Chair

X. Next Meeting Date

Tuesday May 6, 2008

The meeting will start at 10:00 a.m.

The next agenda items will tentatively include:

Long-Term Care Partnership update

STOLI

Life Replacements

Annuity Committee update