



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Sean Dilweg, Commissioner

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

JOHN HANCOCK LIFE INSURANCE COMPANY  
197 CLARENDON ST C-04-16  
BOSTON MA 02116-5010

dated MAY 21, 2009, and served upon the company on JULY 3, 2009, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 26TH day of OCTOBER, 2010.

Sean Dilweg  
Commissioner of Insurance

**STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**MARKET CONDUCT EXAMINATION**

**OF**

**JOHN HANCOCK LIFE INSURANCE COMPANY  
BOSTON, MASSACHUSETTS**

**MAY 11-21, 2009**

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July 3, 2009

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Honorable Sean Dilweg  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted May 11 to May 21, 2009 of:

JOHN HANCOCK LIFE INSURANCE COMPANY  
Boston, Massachusetts

and the following report of the examination is respectfully submitted.

## I. INTRODUCTION

John Hancock Life Insurance Company is domiciled in Massachusetts and is a member of the Manulife Financial Group. Effective February 1, 2000, the company changed from a mutual to a stock life insurance company, and changed its name from John Hancock Mutual Life Insurance Company to John Hancock Life Insurance Company. At the same time it became a wholly-owned subsidiary of John Hancock Financial Services, Inc. a holding company.

John Hancock Financial Services merged with Manulife, Canada's largest life insurer effective April 28, 2004. All business in the United States is written by the John Hancock family of companies. Business is further divided into insurance or wealth management. Both of these areas have grown as Manulife has acquired more companies and distribution systems. The insurance division focuses on the sale of life and long-term care insurance products. John

Hancock Life writes long-term care insurance, annuity and life insurance products. In Wisconsin it offers individual long-term care insurance products that are tax qualified or non-tax-qualified. The company did not market long-term care insurance partnership plans during the period of review. John Hancock Life Insurance Company does not write life policies with long-term care riders. The company uses a multi-channel distribution network of agents including the John Hancock Financial Network, a career agency system, managing general agents (MGA's), independent advisors and investment dealers accessed through wholesalers. The company has been licensed in Wisconsin since 1928. The 2007 financial statement shows that the company is in good financial standing with capital and surplus at \$4.4 billion.

In 2000, the company became the administrator for the Fortis Insurance Company and Fortis Benefits Insurance Company (now known as Union Security Insurance Company) long-term care insurance business. It also acts as the administrator for long-term care insurance business written by American Republic Insurance Company.

John Hancock Life has a contract with the Wisconsin Department of Employee Trust Funds to write individual long-term care insurance policies for state of Wisconsin employees. John Hancock Life and MetLife were picked by the U.S. Office of Personnel Management to be the insurance companies for the Federal long-term care insurance program (FLTCIP) following the signing of the Long Term Care Security Act on September 19, 2000. The two companies created Long-Term Care Partners, LLC as a jointly held subsidiary of the two companies to administer the Federal program.

In 2007, John Hancock Life attained number one market share of individual (retail) long-term care insurance nation wide and maintained its number one position in group long-term care insurance. It maintained that ranking in 2008.

John Hancock Life filed in September, 2008, a rate increase for nine long-term insurance policy forms approved in Wisconsin between 1991 and 1994 and between 1996 and

2003. The policy forms included policies marketed to Wisconsin state employees and Union Security/Fortis policy forms. The 13% rate increases took effect with 2009 renewals.

The company filed LTCI partnership certifications in Wisconsin effective February 16, 2009, for individual long-term care insurance and nursing home insurance policies.

The company is licensed in all 50 states, as well as Puerto Rico and the U.S. Virgin Islands.

The following table summarizes the total direct national premium written in 2006 and 2007 as compared it to the total direct premium written in Wisconsin.

**National Direct Business to Wisconsin Direct Business Summary**

<b>2007</b>				
	<b>Life Insurance Premiums</b>	<b>Annuity Considerations</b>	<b>A&amp;H Insurance Premiums</b>	<b>Deposit Type Funds</b>
Wisconsin	\$6,459,942	\$21,639,889	\$24,198,889	\$0
National	\$400,837,376	\$993,515,926	\$969,429,712	\$0

  

<b>2006</b>				
	<b>Life Insurance Premiums</b>	<b>Annuity Considerations</b>	<b>A&amp;H Insurance Premiums</b>	<b>Deposit Type Funds</b>
Wisconsin	\$5,361,108	\$1,170,791	\$21,093,050	\$0
National	-\$141,959,503	\$1,009,694,055	\$913,911,651	\$237,941,520

The majority of the premium written by the company in 2007 was accident and health while in 2006, the majority of the premium was annuities.

The following tables summarize the premium written and benefits paid in Wisconsin for 2007 and 2006:

**Wisconsin Premium and Benefits Paid Summary**

<b>Actual Earned Premiums</b>		
<b>Type of Business</b>	<b>2007</b>	<b>2006</b>
Individual	\$20,318,444	\$18,632,828
Group	\$1,984,347	\$1,768,781
Other Individual	\$132,871	\$130,996
<b>Total</b>	<b>\$20,451,315</b>	<b>\$18,763,824</b>

  

<b>Actual Incurred Claims</b>		
<b>Type of Business</b>	<b>2007</b>	<b>2006</b>
Individual	\$4,923,762	\$4,602,183
Group	\$636,509	-\$32,616
Other Individual	\$147,200	\$123,726

<b>Total</b>	\$5,070,962	\$4,725,909
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The majority of the premium written by the company in both 2006 and 2007 was individual.

The following table summarizes the company's Wisconsin long-term care insurance business for the last two years.

**Wisconsin Long-Term Care Summary**

<b>Actual Earned Premiums</b>		
<b>Type of Business</b>	2007	2006
Individual	\$127,606,392	\$102,943,233
Group Direct Response	\$0	\$0
Other Group*	\$0	\$0
<b>Total</b>	<b>\$127,606,392</b>	<b>\$102,943,233</b>

  

<b>Actual Incurred Claims</b>		
<b>Type of Business</b>	2007	2006
Individual	\$34,446,492	\$28,629,970
Group Direct Response	\$0	\$0
Other Group*	\$0	\$0
<b>Total</b>	<b>\$34,446,492</b>	<b>\$28,629,970</b>

John Hancock Life ranked 3<sup>rd</sup> in long-term care insurance premiums earned in Wisconsin in 2007 and 4<sup>th</sup> in 2006.

The Long Term Care Experience Report Form C filed by the company for the last two years contains only individual information, no group data was reported.

The Office of the Commissioner of Insurance (OCI) received 14 complaints against the company between July 1, 2007 through March 31, 2009. A complaint is defined as 'a written communication received by the commissioner's office that indicates dissatisfaction with an insurance company or agent.' The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

2008						
	Total	Underwriting	Marketing and Sales	Claims	Policyholder Services	Other
Long-term Care	8		1	1	6	
Life & Annuities	6		1	3	2	
Total	14		2	4	8	

2007						
	Total	Underwriting	Marketing and Sales	Claims	Policyholder Services	Other
Long-term Care	5	1			4	
Life & Annuities	5		1	1	3	
Total	10	1	1	1	7	

The majority of complaints in both 2007 and 2008 involved long-term care insurance. The primary reason for complaints in 2007 and 2008 involved policyholder service, including premium and billing issues and policyholder services delays.

## II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from July 1, 2007 through March 31, 2009. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of the company's operations and practices in the areas of claims; company operations/management; electronic commerce; marketing, sales and advertising; policyholder service and complaints; privacy; producer licensing; rates and policy forms; long-term care partnership implementation and long-term care insurance agent training; terminations, cancellations and nonrenewals; underwriting, rating and replacements.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

### III. CURRENT EXAMINATION FINDINGS

#### **Company Operations/Management**

The examiners reviewed the company's response to the OCI's company operations and management interrogatory, including administrative service agreements. The examiners reviewed the company's contracts for management services, data management and processing, administrative services and case management. No exceptions were noted.

The examiners requested that the company provide copies of audit reports regarding the company's business functions. The company indicated it had not conducted internal audits and had not been subject to external audits of its Wisconsin business during the period of review. The company also indicated it had not conducted agent audits.

#### **Policyholder Service & Complaints**

The examiners reviewed the company's response to the OCI's policyholder service and complaints interrogatory, its complaint handling policies and procedures, its complaint log and OCI complaints. The company's new business department processed policy changes and questions during the first six months of a policy. The company's policyholder services department (PHS) was responsible for processing changes or updates to a policy starting after the initial six months until a claim was filed. PHS handled the policy change processing for the claim department.

The company defined a complaint as a written expression of grievance against the company, agent, office or agency in connection with the solicitation, sale or service of any product. The company generally required that complaints be submitted in writing. It handled verbal complaints on an exception basis when a policyholder refused to file a written complaint.

The examiners reviewed a random sample of 25 complaints from the company's internal complaint log. The examiners found two files did not contain documentation that the company had acknowledged receipt of the complaint to the complainant. The two files were

complaints received from the OCI. The initial letter to the company from the OCI requested that the company contact the complainant within 10 days of receipt of the complaint.

The company tracked all complaints in its complaint lawsuit tracking system (COLTS) maintained by its customer relations department. The department was responsible for all functions associated with managing the complaint handling process for all U.S. insurance products. The company categorized complaints as regulatory, executive or consumer. Depending on the nature of the complaint, complaint responses were processed by customer relations or the business unit.

The examiners found three of the complaint files reviewed did not include a stamped date of receipt. The company stated that due to a high volume of correspondence regarding increase of premiums in Wisconsin, some of the letters were sent directly to the image unit and were not stamped with the date of receipt. The examiners found the company had a procedure in place whereby incoming complaint correspondence was date stamp upon receipt but it had not consistently followed its procedure.

1. **Recommendation:** It is recommended that the company follow its standard date stamping procedure and also establish a procedure to handle high volume of complaints to accurately reflect the date a complaint is received.

## Claims

The examiners reviewed the company's response to the OCI's claims interrogatory, its claims administration processes and procedures, internal audit reports. The company did not contract with any vendor to settle claims. The examiners verified that the company had annually filed the required long-term care insurance benefit appeals reports as required by s. 632.84, Wis. Stat.

The company accepted telephonically potential claims for long-term care insurance benefits. The company's intake specialists handled the telephone calls, which included verifying coverage, and explaining claim procedures and benefits. The company assigned each claim to

an internal care manager who was a licensed health care practitioner. The internal care manager determined benefit eligibility and if necessary, ordered an on-site claim assessment by one of the company vendors. The company had vendor agreements with LifePlans and Nations Care Link to provide claim assessment and care coordination after a claim for benefits was filed.

The examiners reviewed the company's long-term care quality assurance audit guide and a sample of claim aging reports. The reports included weekly listings of new and pending claims by reviewer; daily claim activity; overdue clinical reviews; in-take call center productivity and a monthly quality audit of company vendors. The company produced reports for claims that were over 30 days old and claims between 40-90 days old that showed no claim activity. The company closed new claims at 60 days of being entered in the claim system if requested information was not received.

The company's long-term care insurance policies provided a care advisory services benefit. The care advisory services benefit covered assessment and care planning, coordination and monitoring of services provided by a home health agency, care management organization or independent care manager. The examiners reviewed the company process for paying this benefit and found that the benefit was not captured in the claim system. The company stated that the benefit was rarely utilized due to the fact that it offered care coordination by the claim intake specialist at the time the initial claim was opened. The internal care manager provided support to the policyholder and family members throughout the claim process by creating a plan of care, identifying community resources and updating the plan of care as needed. The expense of the service was a claims administration expense and did not reduce the policy limit of benefits.

The examiners reviewed a random sample of 43 long-term care insurance claims that were not paid. The review included documenting prompt investigation of the claims, and that claim denial was consistent with policy provisions such as elimination periods and activity of

daily living (ADL) and provider eligibility requirements. No exceptions were noted regarding claims not paid sample.

The examiners reviewed a random sample of 50 paid long-term care insurance claims. The examiners found four claims that were not paid within 30 days of receipt. The company stated that for two of the claims, it could not release payments until after the last day of the month to ensure that the service had been provided for the entire month. The invoice for services provided was not considered late for reimbursement until 30 days after the last date of service listed on the provider billing invoice. The examiners found that the company did not pay the other two claims within 30 days and that it failed to pay interest on these delayed claim payments. Section 628.46, Wis. Stat., provides that a claim shall be overdue if not paid within 30 days after the insured is furnished written notice of the fact of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at a rate of 12% per year.

2. **Recommendation:** It is recommended that the company pay interest on claims not paid within 30 days of receipt of proof of loss to ensure compliance with s. 628.46, Wis. Stat.

## UNDERWRITING AND RATING

The examiners reviewed the company's response to the OCI's underwriting and rating interrogatory, field sales underwriting guide and rating and underwriting procedure manuals.

The examiners found that the company required face to face interviews on all applicants age 70 years and older, which met the requirements of s. Ins 3.46 (10), Wis. Adm. Code, regarding an insurers responsibility for applicants age 75 or age or older to obtain a copy of a physical examination, an assessment of functional capacity, an attending physician statement or copies of medical records. The company contracted with Nations CareLink to conduct the interviews.

The examiners found that the personal worksheets the company provided to applicants included current information on the company's rate increase history, and were

compliant with s. Ins 3.46 (16) (c), Wis. Adm. Code. The examiners found that the company had established minimum financial suitability standards that provided:

- An applicant must have an annual income of \$20,000 or greater.
- An applicant must have assets (savings and investments) which equal at least \$30,000.
- The couple's combined assets must equal at least \$50,000.
- The combined income for a couple must be at least \$40,000.
- The premium needed for the purchase of the policy should not exceed 7% of the applicant's income.

The examiners verified that the company filed suitability reports with the OCI for the period of review that indicated for 2008 a total of 1737 applications written with six applicants not meeting the company's suitability standards.

The examiners verified that the company filed annual rescission reports for its long-term care insurance business with the OCI as required by s. Ins 3.46 (10) (c), Wis. Adm. Code. The company reported no rescissions during the period of review.

Wisconsin amended its long-term care insurance regulations effective January 1, 2009, to allow insurance companies to file for approval and to provide certification for long-term care insurance partnership policies in order to market partnership policies in Wisconsin. The company filed for approval and provided certification for a long-term care insurance partnership policy effective February 16, 2009. The examiners found that the company's system included 160 policies issued between January 1, 2009, and March 31, 2009, that it identified in its system as long-term care insurance partnership policies. The company stated that it planned to issue automatic exchanges in the fourth quarter of 2009 for policies sold between January 1, 2009, and March 31, 2009. It stated it believed the policies were correctly recorded as long-term care partnership policies. The examiners found that the company had not provided certification to the OCI, had not given to insureds qualifying partnership policy notices, or the Wisconsin Long-term Care Program guide at the time of solicitation, as required by s. Ins 3.465 (6), Wis. Adm. Code.

- 3. Recommendation:** It is recommended that the company verify that its systems do not include incorrect information regarding long-term care partnership status designation for policies until the company exchange is completed to show compliance with s. Ins. 3.465 (6), Wis. Adm. Code.

The examiners reviewed the company's long-term care insurance rate increases filed during the period of review and found that the company had filed and implemented a 13% rate increase effective September 17, 2008, for policyholders with policy anniversary dates on and after February 1, 2009. The examiners also found that the company implemented the 13% rate increase for 1316 policyholders who based on issue age and number of years their policy was in force should have been subject to no more than a 10% premium increase. Section Ins 3.455 (9) (b), Wis. Adm. Code, regarding long-term care rate increase standards provides that for policies issued from August 1, 1996 and December 31, 2001, for those insureds age 75 or above and whose policy had been in force for at least 10 years, no rate increase shall exceed 10%. The company noted that it would take corrective action, including premium refund and premium reduction for those affected policyholders to comply with s. Ins 3.455 (9) (b), Wis. Adm. Code.

- 4. Recommendation:** It is recommended that the company develop and implement a process to ensure that insureds over age 75, whose policy was written between August 1, 1996 and December 31, 2007, and whose policy has been in force at least 10 years, do not receive rate increases that exceed 10% to ensure compliance with s. Ins. 3.455 (9) (b), Wis. Adm. Code.

The examiners reviewed a random sample of 63 long-term care insurance applications involving replacement. The examiners found two applications in which the replacement questions indicated "yes" in one part of the application and "no" in another. The company stated that it did not contact the writing agent regarding one application so it could not determine whether replacement was involved. It incorrectly processed the second application as an internal replacement and did not send a replacement letter to the company listed on the application. The company's procedures stated that if an application indicated that the applicant had an existing policy with another carrier, the company would verify the information and send a letter to the carrier listed on the application. Section Ins 3.46 (14) (c) 5, Wis. Adm. Code,

provides that where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. Notice shall be made within 5 working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

5. **Recommendation:** It is recommended that the company follow its procedures and verify replacement of applications to ensure compliance with s. Ins. 3.46 (14) (c) 5, Wis. Adm. Code.

The examiners found two applications in which the insurance history section of the application was not completed sufficiently to provide adequate suitability analysis. The company's suitability guidelines required that the company request clarification regarding missing information. Section Ins. 3.46 (16), Wis. Adm. Code, provides that every insurer marketing long-term care insurance policies develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant.

6. **Recommendation:** It is recommended that the company develop an audit process requiring periodic audits to ensure that its suitability procedures are followed to ensure compliance with s. Ins. 3.46 (16), Wis. Adm. Code.

The examiners reviewed a random sample of 50 not issued long-term care insurance applications. The examiners found eight applications in which the agreement and acknowledgement section of the applications was not signed by the prospective insured. The company stated that the applications were submitted through the company EZ LTC online tool, which submits a 'ticket' to the home office to start the new business process. The online tool showed that the prospective insured had been provided an outline of coverage, shoppers guide, and illustration. The company stated that the agent also provided any state mandated forms, which the prospective insured keeps. The applications were declined due to health history. The examiners found that the follow-up medical questions had not been completed by the company service vendor as automatic declines were not forwarded to the vendor for follow-up. The examiners also found that the applications were not returned to the prospective insured for

signature to document that the prospective insured had received the required disclosure forms. Section Ins 3.46 (9), Wis. Adm. Code, provides that an insurer or intermediary at the time the insurer or intermediary contacts a person to solicit the sale of a long-term care policy shall deliver to the person: a copy of the current edition of the guide to long-term care, an outline of coverage, potential rate increase disclosure, and personal worksheet.

7. **Recommendation:** It is recommended that the company obtain signatures from all prospective insureds who submit an application for consideration to ensure compliance with s. Ins. 3.46 (9), Wis. Adm. Code.

## Privacy

The examiners reviewed the company response to the OCI's privacy of consumer Financial and health information interrogatory, training manuals and procedures regarding the handing of personal information, privacy notices and authorizations. The examiners interviewed company personnel including the long-term care business unit privacy coordinator, the application security architect and the company privacy office coordinator.

The company required that new employees complete privacy training within 14 days of hire. The company provided employee training through online training modules, brochures, and newsletters titled *Privacy Matters*, class room training, email reminders and tips on the company intranet privacy calendar. The company required employees to sign a code of business conduct and ethics certificate on an annual basis that stated the employee had completed the ethics training. The company enforced a clean desk policy and provided bins to dispose of documents.

The company had detailed procedures regarding privacy guidelines for telecommuters, blackberry and laptop users. It had developed a form to report incidents of possible privacy breaches. The company had a yearly privacy campaign sponsored by the company U.S. Privacy Office. The company utilized encryption when sending personal information on the internet.

The company indicated it was revising its internal LTC HIPPA procedures manual to comply with the Economic Recovery Act effective February 1, 2010. The company did not disclose nonpublic personal or financial information with nonaffiliated third parties nor did it share such information with affiliates for marketing purposes.

The company provided an initial privacy notice to its consumers. It did not send an opt out notice to consumers as the company did not disclose nonpublic personal information or financial information.

The examiners verified that the company's agent contracts included the required privacy language used in business associate agreements, which required that agents comply with company privacy requirements, as well as, federal and state insurance laws.

No exceptions were noted regarding the privacy review.

### **Marketing, Sales & Advertising**

The examiners reviewed the company's response to the OCI's marketing, sales and advertising interrogatory, its marketing, sales and advertising activities and its advertising files. The examiners also reviewed the company marketing goals and agent compensation schedules.

The examiners reviewed a sample of 19 long-term care insurance advertisements used by the company after January 1, 2009. The examiners found that one advertisement were not filed with the OCI prior to use. Section Ins 3.46 (22), Wis. Adm. Code, provides that effective January 1, 2009, every insurer providing long-term care insurance or benefits in Wisconsin shall provide a copy of any long-term care insurance advertisement whether through written, radio or television medium to the commissioner as required by s. Ins 3.27, Wis. Adm. Code. In addition, all advertisements shall be retained by the insurer for at least 3 years from the date the advertisement was first used

The examiners reviewed the company's direct brokerage LTCI 2009 bonus schedule. The company indicated that it paid bonus compensation to MGA's if the MGA's agency met a certain production level in 2009. It did not pay the bonus to individual producers under the MGA. The company stated that where the MGA was not involved in the selling of insurance by his/her producers, it believed its bonus program complied with Wisconsin insurance law. The examiners were not able to verify that the company had a process or written procedures to verify that with the addition of the bonus, the first year compensation did not exceed 400% of the compensation paid in the second year or period for the sale or for servicing the policy. Section Ins 3.46 (13) (a) 1, Wis. Adm. Code, regarding commission limits for long-term care, nursing home and home health care policies, provides that an insurer may provide compensation to an intermediary and an intermediary may accept compensation for the sale of a long-term care policy only if the first year compensation for the sale does not exceed 400% of the compensation paid in the 2nd year or period for the sale or for servicing the policy or certificate.

The examiners reviewed the company's long-term care insurance commission data provided as part of the OCI data call. The examiners found 31 records in which the first year compensation for the sale of long-term care insurance exceeded more than 400% of the compensation paid in the second year. The company stated that commissions were paid to either the licensed producer who actually sold the policy, to the firm/agency (i.e. not directly to a producer), or to the MGA/GA. The policies that exceeded 400% commission in the second year were amounts paid that included an EAP (expense allowance premium). The company indicated the EAP applied only to John Hancock Financial Network (JHFN) agents only and that it did not consider the EAP to be compensation, but a reimbursement for expenses incurred by the JHFN Managing Partner (i.e. GA) in building and promoting business. Section Ins 3.46 (3) (c), Wis. Adm. Code, defines compensation as remuneration of any kind, including, but not limited to, pecuniary or non-pecuniary remuneration, commissions, bonuses, gifts, prizes,

awards, finder's fee, and policy fees. The examiners found six of the 31 records that indicated the company paid commissions to individuals not licensed in Wisconsin for policies sold in Wisconsin. The 31 records included two records that indicated the commission was paid to an agency. The examiners were not able to verify the name of the writing agents.

The examiners found five applications submitted to the company by agents who were not appointed within 15 days of submission of the application. Section Ins. 6.57 (6), Wis. Adm. Code, provides that no intermediary shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer or enter into an agency contract unless the agent is appointed with that insurer.

8. **Recommendation:** It is recommended that the company revise its definition of compensation to include EAP payments and bonus payments and conduct an internal audit of its commission system including adjustments of commission payments and report to the commissioner within 90 days of adoption of the examination report to ensure compliance with s. Ins 3.46 (13) (a) 1, Wis. Adm. Code.
9. **Recommendation:** It is recommended that the company develop a process and written procedures to accurately verify that an agent is licensed and appointed with the company prior to the sale of long-term care insurance to ensure compliance with s. 628.03 (1), Wis. Stat., and s. Ins 6.57 (6), Wis. Adm. Code.

## Producer Licensing

The examiners reviewed the company response to the OCI's producer licensing interrogatory, agency agreements, and producer appointment and termination procedures for agents. The company used managing general agents (MGA), general agents (GA) and brokers to market its products. General agents and managing general agents recruited all independent agents and recommended appointment of the agent to the company.

The examiners requested the company describe the procedures it used to verify that quotes, applications and premiums were promptly returned if received from an unlicensed or non-appointed agent. The examiners also requested a copy of the correspondence sent to the agent. The company stated that if the agent did not meet licensing requirements in its system,

its licensing department checked the National Insurance Producer Registry (NIPR) to ensure the producer had an active license in the state. If the agent did have an active license, the company would add the agent to its system and send the necessary appointment to the state. If the agent was non-compliant with continuing education (CE) or long-term care training, the company would request a copy of the long-term care insurance training certificate. The examiners found that the company procedure was limited to agents with no active appointment or with suspended license due to non-CE compliance, but not individuals that did not have a Wisconsin license. The company did not provide a copy of correspondence used in the process. The examiners were not able to verify that the company had a process and procedure to return quotes, applications and premiums if received from an unlicensed agent. Section 628.11, Wis. Stat., provides that an insurer shall report to the commissioner all appointments, including renewals of appointments and all terminations of appointments of insurance agents to do business in Wisconsin. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

**10. Recommendation:** It is recommended that the company follow its licensing and appointment procedures to ensure that the company does not accept business from agents not appointed to represent the company in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.

The examiners requested that the company describe the procedures it followed when it terminated agents or when it was notified by the OCI that an agent license had been revoked or suspended, and to provide copies of the documents that set out such procedures. The company stated that it immediately terminated an agent's appointment following notice from the OCI. The company sent the notice of termination with the corresponding reason to the address of record for the agent. The examiners found that the letter sent by the company did not contain a statement demanding for return of all indicia of agency. The company stated that as brokers and GA's were not company employees but were contracted with MGA's, the MGA

was responsible for requesting return of all indicia of agency. The examiners found that if the company did not notify a MGA/GA of the termination of an agent's license, the request to return all indicia of agency was not sent by the MGA/GA. The examiners found that the MGA contract did not include language stating that the MGA was responsible for sending any correspondence to terminated agents. The contract did state that MGA's notify the company of the termination of any broker the MGA terminated and that the MGA was responsible to the company for the acts of the broker.

The examiners found that the company's agent database included multiple agent records by either license or social security number that did not appear in the OCI agent database as ever being appointed to represent the company. The company attributed the mismatch to various keying errors and a failure to update its system but maintained that no business was accepted from the agents. Section 628.11, Wis. Stat., requires an insurer to report to the commissioner all appointments, including renewals of appointments, and all terminations of appointments of insurance agents to do business in Wisconsin. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

**11. Recommendation:** It is recommended that the company revise its producer licensing procedures to include periodic audits of its agent data base for accuracy of information and to annually reconcile its agent appointment records with the annual renewal billing statement received from the OCI to ensure that the company does not accept business from agents not appointed to represent the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (5) Wis. Adm. Code.

The examiners compared active agent data provided by the company with agents appointed as representing the company in the OCI database. The examiners found 466 agents that had a terminated Wisconsin license but the company database showed as active. The examiners were not able to verify that the company had a process to terminate agents in the system. The examiners found that the company did not reconcile all agent records completely

in its system with the records obtained from NIPR's producer database and the OCI data. The company stated that the agents had not submitted any business. The examiners were not able to verify compliance with s. Ins 6.57 (2) and (3), Wis. Adm. Code, regarding the notice of termination of appointment being filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance.

**12. Recommendation:** It is recommended that the company develop and implement a process and written procedures for terminating agents in the company system and notifying the OCI to ensure compliance with. Ins 6.57 (2) and (3), Wis. Adm. Code.

The examiners reviewed a random sample of 50 active agent files. The examiners found 15 agents that had an active Wisconsin license but were not appointed by the company. The company stated that the agents were noted in the company system as licensed, which meant an agent contract had been received and approved but no business had been submitted. At the time an application would be submitted, the company completed the appointment process and noted the agent as appointed in the company system. The company did not separate the two designations when providing the data to the OCI.

The examiners reviewed a random sample of 50 terminated agent files. The company stated that due to a recent file server move, it was not able to regenerate copies of 38 terminations letters sent to agents. The examiners found that the agent termination letters reviewed did not include a formal demand for return of all indicia of agency. Section Ins 6.57 (2), Wis. Adm. Code, provides that the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency.

**13. Recommendation:** It is recommended that the company edit its agent termination letter to include a formal demand for return of all indicia of agency as required by s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found 13 terminated agent files involved agents either still actively appointed with the company or never appointed to write accident and health coverage. One of the agents was appointed in the company system but the appointment was not sent to the OCI. The agent sold three long-term care insurance policies and was paid \$1,649.10 in commissions. Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

**14. Recommendation:** It is recommended that the company verify agent appointments before accepting new business from an agent to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.

The examiners found three agents that had been terminated by the OCI for failure to pay the license fee, but that the company system indicated the agents were terminated 68 days, 70 days and 378 days after the OCI termination date. The company stated its procedure was to terminate the appointment immediately and send a notice of termination to the address of record for the agent. The company did not notify the MGA/GA of the agent termination. The company stated that it would amend its procedures, and would notify the MGA/GA of agent terminations. Section Ins 6.57, Wis. Adm. Code, provides that notice of termination of appointment is to be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance.

**15. Recommendation:** It is recommended that the company amend its procedures and terminate agents immediately when notified of failure to pay for a license to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code and s. 628.10, Wis. Stat. It is further recommended that the company amend its procedures to notify the MGA/GA of the termination.

### **Long-Term Care Agent Training**

The examiners reviewed the company's response to the OCI's agent long-term care training interrogatory. The examiners also reviewed a sample of the company's training classes

and agent bulletins regarding the training requirements. The examiners verified that agents were notified by the company that Wisconsin was not a reciprocity state.

2007 Wisconsin Act 20 required that the Department of Health Services (DHS) and the OCI approve a training program for individuals who sell any long-term care insurance policies in Wisconsin. Section 628.348 (1), Wis. Stat., regarding the sale of long-term care insurance training requirement, provides that on and after January 1, 2009, no person may solicit, negotiate or sell long-term care insurance unless the person is a licensed intermediary and he or she has completed the initial training portion of the training program and completes the ongoing training every 24 months after completing the initial training. Section 628.348 (2), Wis. Stat., regarding insurer verification provides that beginning January 1, 2009, insurers providing long-term care insurance shall obtain from intermediaries selling long-term care insurance on behalf of the insurer verification that the intermediary is in compliance with the training requirements. Insurers also shall maintain records related to the verification of training and make the records available to the commissioner upon request.

The company stated it had a dedicated partnership and training section on its producer website that was password protected for registered producers only. The examiners reviewed the company website and found that anyone could register to use it. The registration form asked if the registrant was appointed with John Hancock, however, the examiners found that if the registrant responded "no", the website allowed the ability to obtain a quote. The company stated that given the large number of producers appointed to sell its long-term care insurance products, it had not been able to implement a process to prevent individuals without an agent license, agents without appointments, and agents that had not completed agent long-term care insurance training from registering and accessing the website. It further explained that it relied upon supervising MGA's and GA's, as well as the agent contracts, to help ensure that agents that had not completed agent long-term care insurance training from selling, soliciting or negotiating company products. The company stated it was evaluating options to

amend the system to include validation of training prior to an agent obtaining access to the website. Section. Ins 3.46 (26) (a), Wis. Adm. Code, provides that no insurance intermediary may sell, solicit or negotiate long-term care insurance in this state unless the intermediary is duly licensed and appointed by an insurer and has completed the initial training as specified in s. 628.348 (1), Wis. Stat.

**16. Recommendation:** It is recommended that the company establish a secure agent website so that only licensed, appointed and trained agents are able to obtain a long-term care product quotes to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code.

The company had an agreement with Compliance Certification Clearinghouse, LLC (ClearCert) to assist the company with training compliance responsibilities under state and federal long-term care regulation. The company indicated that it only accepted those training courses approved by ClearCert. The examiners verified that the Wisconsin approved courses in the ClearCert system were also approved courses in the state approved SIRCON system.

The company's contract with ClearCert stated that on or before the 5th of each month, ClearCert would furnish to the company an electronic report documenting the compliance status of agents whose training completions had been reported to ClearCert by training providers. The examiners requested a copy of the most recent electronic report from ClearCert. The company stated that although the contract with ClearCert indicated that ClearCert would provide routine reports to the insurers, it had not received any such reports. The examiners found that ClearCert assisted the company only in validating content in long-term care insurance courses, and in offering a clearinghouse database of course providers.

The examiners requested that the company describe its process for verifying that agents had taken the required long-term care agent training prior to soliciting long-term care business on its behalf. The company stated that given its large and varied distribution channels, it could not ensure that agents had taken the required training. The examiners reviewed the agent contracts and found that the market conduct manual included as part of the contract

stated that the agent must be appropriately licensed, appointed with the company, and where required, trained prior to soliciting applications. The examiners found that the company did not verify an agent's compliance with the long-term care insurance training requirements prior to solicitation.

The examiners requested the company provide a list of agents that had reported completion of the required initial long-term care agent training. Resident agents are required to complete eight hours of initial long-term care agent training, two hours of which is Wisconsin specific Medicaid and long-term care information training. Non-resident agents who have completed the training requirements in their state of residence are required to complete the two hours of Wisconsin specific Medicaid and long-term care information training.

The examiners requested from the company a listing of all Wisconsin agents that had completed the long-term care agent training. The examiners compared these records with the agent long-term care continuing education credits maintained by Sircon. Based on the agent training data match, the examiners found that nine of the agents the company initially reported as having completed the initial long-term care agent training had not provided documentation to the company. The examiners found four agents had submitted business to the company and that the company could not document that the agents had completed the initial long-term care training required by s. Ins 3.46 (26) (a), Wis. Adm. Code.

The examiners requested that the company explain how it verified compliance with the long-term care agent training requirements when an agent submitted a rider for additional benefits or requested a change to an existing long-term care policy. The company stated that it did not allow the addition of riders or policy changes after 6 months post-issue. The company required a new application to be submitted for approval. The examiners were not able to verify that the company had a process to confirm that agents had completed the long-term care insurance training if the agent submitted a rider or requested any policy changes.

The examiners reviewed a random sample of 22 agent files that the company identified as having completed the initial long-term care agent training. The examiners found four agent files where the company's record of appointment dates differed from the OCI records, and one file that indicated the agent was not appointed with the company. The examiners found that 12 files did not contain a training record. The examiners found that six agent files for non-resident agents documented two hours of Wisconsin training but did not document that the agents had completed six hours of training in another state. The examiners were not able to verify that the company followed its procedures to confirm agent training requirements to show compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code. Section Ins. 3.46 (26) (a), Wis. Adm. Code, provides that no insurance intermediary may sell, solicit or negotiate long-term care insurance in this state unless the intermediary is duly licensed and appointed by an insurer and has completed the initial training and ongoing training every 24 months as specified in s. 628.348 (1), Wis. Stat. The insurer shall be able to verify compliance with the training requirements.

**17. Recommendation:** It is recommended that the company review and modify its long-term care agent training verification process for initial and ongoing training to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code.

**18. Recommendation:** It is recommended that the company develop and implement an annual audit of its initial and ongoing long-term care agent training verification process and report to the commissioner within 90 days of adoption of the examination report to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code, and s. 628.348 (2), Wis. Stat.

## **Electronic Commerce**

The examiners reviewed the company's response to the OCI's electronic commerce interrogatory, its website, and security process. The company's main website (johnhancock.com) allowed visitors to view product types such as an individual or group, or as a financial professional or a benefit manager.

The company indicated that it allowed its agents to create websites that included or provided information about the company and its products subject to the terms of the agent contract. The company maintained a list of agent websites that it had approved. The company used a third party vendor to monitor and report on internet websites and advertising that referred to the company name or products. No exceptions were noted regarding the electronic commerce review.

#### IV. CONCLUSION

This market conduct examination involved a targeted review of John Hancock Life Insurance Company's practices and procedures for the period July 1, 2007 to March 31, 2009. The examination report contains 18 recommendations as regards to the company's practices in policyholder service & complaints, claims, underwriting & rating, marketing, sales and advertising, producer licensing, and long-term care agent training.

The examiners found that the company did not have adequate controls in place regarding the appointment of agents. The examiners also found that the company could not consistently validate agents' participation in the required long-term care training. In addition, the company sent long-term care premium increases to its over age 75 insureds that exceeded the guidelines of Wisconsin's long-term care insurance regulation.

## V. SUMMARY OF RECOMMENDATIONS

### Policyholder Service & Complaints

- Page 8 1. It is recommended that the company follow its standard date stamping procedure and also establish a procedure to handle high volume of complaints to accurately reflect the date a complaint is received.

### Claims

- Page 10 2. It is recommended that the company pay interest on claims not paid within 30 days of receipt of proof of loss to ensure compliance with s. 628.46, Wis. Stat.

### Underwriting and Rating

- Page 12 3. It is recommended that the company verify that its systems do not include incorrect information regarding long-term care partnership status designation for policies issued until the company exchange is completed to show compliance with s. Ins. 3.465 (6), Wis. Adm. Code.

- Page 12 4. It is recommended that the company develop and implement a process to ensure that insureds over age 75, whose policy was written between August 1, 1996 and December 31, 2007, and whose policy has been in force at least 10 years, do not receive rate increases that exceed 10% to ensure compliance with s. Ins. 3.455 (9) (b), Wis. Adm. Code.

- Page 13 5. It is recommended that the company follow its procedures and verify replacement of applications to ensure compliance with s. Ins. 3.46 (14) (c) 5, Wis. Adm. Code.

- Page 13 6. It is recommended that the company develop an audit process requiring periodic audits to ensure that its suitability procedures are followed to ensure compliance with s. Ins. 3.46 (16), Wis. Adm. Code.

- Page 14 7. It is recommended that the company obtain signatures from all prospective insureds who submit an application for consideration to ensure compliance with s. Ins. 3.46 (9) (g), Wis. Adm. Code.

### Marketing, Sales and Advertising

- Page 17 8. It is recommended that the company revise its definition of compensation to include EAP payments and bonus payments and conduct an internal audit of its commission system including adjustments of commission payments and report to the commissioner within 90 days of adoption of the examination report to ensure compliance with s. Ins 3.46 (13) (1), Wis. Adm. Code.

- Page 17 9. It is recommended that the company develop a process and written procedures to accurately verify that an agent is licensed and appointed with the company

prior to the sale of long-term care insurance to ensure compliance with s. 628.03 (1), Wis. Stat., and s. Ins 6.57 (5)(6), Wis. Adm. Code.

### **Producer Licensing**

- Page 18 10. It is recommended that the company follow its licensing and appointment procedures to ensure that the company does not accept business from agents not appointed to represent the company in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (5), Wis. Adm. Code.
- Page 19 11. It is recommended that the company revise its producer licensing procedures to include periodic audits of its agent data base for accuracy of information and to annually reconcile its agent appointment records with the annual renewal billing statement received from the OCI to ensure that the company does not accept business from agents not appointed to represent the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (5) Wis. Adm. Code.
- Page 20 12. It is recommended that the company develop and implement a process and written procedures for terminating agents in the company system and notifying the OCI to ensure compliance with Ins 6.57 (2) and (3), Wis. Adm. Code.
- Page 20 13. It is recommended that the company edit its agent termination letter to include a formal demand for return of all indicia of agency as required by s. Ins 6.57 (2), Wis. Adm. Code.
- Page 21 14. It is recommended that the company verify agent appointments before accepting new business from an agent to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code.
- Page 21 15. It is recommended that the company amend its procedures and terminate agents immediately when notified of failure to pay for a license and to notify the MGA/GA of the termination to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code and s. 628.10, Wis. Stat.

### **Long-term Care Agent Training**

- Page 23 16. It is recommended that the company establish a secure agent website so that only licensed, appointed and trained agents are able to obtain a long-term care product quote to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code.
- Page 25 17. It is recommended that the company review and modify its long-term care agent training verification process for initial and ongoing training to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code.
- Page 25 18. It is recommended that the company develop and implement an annual audit of its initial and ongoing long-term care agent training verification process and report to the commissioner within 90 days of adoption of the examination report to ensure compliance with s. Ins 3.46 (26) (a), Wis. Adm. Code, and s. 628.348 (2), Wis. Stat.

## VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Brian Baird	Insurance Examiner
Nitza Pfaff	Insurance Examiner
Lynn Pink	Insurance Examiner
Kevin Zwart	Insurance Examiner

Respectfully submitted,

  
Linda R Low  
Examiner-in-Charge