Fields of Opportunities

STATE OF IOWA

CHESTER J. CULVER
GOVERNOR

PATTY JUDGE
LT. GOVERNOR

SUSAN E. VOSS
COMMISSIONER OF INSURANCE

September 17, 2007

The Honorable Chester J. Culver
Governor of Iowa
Iowa State Capitol
Des Moines, Iowa 50319

The Honorable Patty Judge
Lt. Governor of Iowa
Iowa State Capitol
Des Moines, Iowa 50319

Re: Long-Term Care Insurance Report

Dear Governor Culver and Lt. Governor Judge:

I am pleased to present you the Report on Long-Term Care Insurance. This report represents a three-month review by the Iowa Insurance Division that included three public meetings, a survey of insurance carriers and an in-depth review of Iowa insurance regulation. As you will observe, the Report includes a series of Findings and Recommendations that focus on the complexity of the issues surrounding long-term care insurance and a need for additional consumer protection and oversight.

During the three-month study, the Commissioner received and reviewed a variety of issues regarding long-term care insurance. The issues included premium rate increases, denial of benefit claims, poor customer service by insurance carriers and lack of response to filed complaints by the Insurance Division. The Division investigated and reviewed all issues raised during the study.

Insurance premium costs and benefit eligibility appear to be the two main areas of concern that were addressed by consumers. Understanding insurance pricing and the expectations of the product have led to frustration and anxiety about the overall benefit of long-term care insurance. Because the benefit derived may occur many years in the future, the value received from premiums is not immediately recognized. In addition, the pricing of insurance premiums is highly technical and does not always lend itself to easy explanation or understanding when a consumer has received an unexpected premium rate increase.

There is also a perception by some that illness and infirmity equals eligibility for benefits. This is not always the case. While there may be some relationship in many cases, in others it will not. The difference is whether or not specific human abilities used in everyday life have been lost and this loss is covered by the long-term care policy the individual owns.

The Report provides an overview of the work of the Division, general background explaining long-term care insurance and Iowa-specific data. The Findings are based upon the testimony received, studies and reports gathered and reviewed and other information provided to the Commissioner and Division. And, finally, the Report provides a series of 27 Recommendations. Many of the recommendations are currently being implemented by the Division. Several of the recommendations have not been implemented. And still other recommendations will require legislation.

The Commissioner is grateful for the opportunity to meet with Iowans, state agency officials, insurance carriers and other stakeholders to determine what changes can be made to provide greater consumer protection for Iowans while maintaining a strong and solvent industry. The set of Recommendations presented in this report will strengthen consumer protection and provide more opportunities for consumer outreach and education.

Thank you for your support on this important issue. I look forward to working with you on these Recommendations.

Sincerely,

Susan

Susan E. Voss
Commissioner

Long-Term Care Insurance Study

A Report to the Governor and Lt. Governor

September 17, 2007

Prepared By:

The Iowa Insurance Division

Executive Summary

On June 19, 2007, Governor Culver directed the Iowa Insurance Division to conduct a study on issues relating to long-term care insurance. Further he instructed the Division to provide the Culver-Judge Administration with a report and recommendations to address any concerns raised throughout the study.

The Study was requested following concerns at both the state and national level concerning long-term care insurance policies. Alleged improper denials of claim payments, frequent and unusually high premium rate increases, questionable marketing practices and overall stability of the long-term care insurance market have led to concerns, studies and hearings throughout the country.

The Iowa Insurance Division commenced a series of public meetings to gather information from consumers, interested parties and stakeholders regarding long-term care insurance. The Division gathered information and data from a variety of state and national resources focused upon long-term care insurance. Closed complaint files were reviewed. A survey was sent to the top 20 insurance company writers of long-term care insurance requesting information in regard to specific long-term care insurance policy experience in Iowa. Insurance Division staff met with a variety of state governmental agencies and private trade associations to discuss long-term care and long-term care insurance. Consumers were contacted in regard to their concerns and issues.

After a three-month review process, the Iowa Insurance Division issues the following report including a series of Findings and Recommendations for consideration.

Background

Iowa's population is aging. There are over 554,000 persons 60 years or older living in Iowa. Iowa has the highest rate of older citizens living in nursing homes and assisted living facilities in the United States.

The costs associated with long-term care continue to increase. Medicaid, Medicare and out-of-pocket payment are the most prevalent methods of funding. Long-term care insurance is the newest form of payment mechanism and also pays the least amount of dollars-about four percent.

Long-term care insurance was created in the 1970s to cover nursing home care. Assisted living facilities were not widely established. Home healthcare was in its infancy. Today, long-term care insurance contracts offer for sale a wide range of services and facilities including assisted living facilities, in-home health care services, adult day care and, of course, nursing home care.

The cost of a policy is determined by the type of benefits and services covered by the contract. Policy provisions can include the type of facility covered, daily payment amounts, length of time the policy will pay benefits and length of elimination periods (or when policy benefits will begin to be paid following admission to the facility.) The policy also specifies when benefits will be paid. Policies provide certain "triggers" that must occur before benefits will be paid. The premium rate of a long-term care insurance policy is based upon the benefits of the plan, the age and health of the policyholder at the time of issue. Rates will not increase due to changes in the age or health conditions of the policyholder but can increase for an entire class of individual based upon the overall experience of the group. Rate stabilization rules that were implemented in 2003 have minimized the large rate increases incurred by older policy forms.

Before benefits are paid, the policyholder must meet the level of need specified in the policy, be in qualified facility as defined it the policy, receive care from a qualified person as required by the policy and meet the elimination period set forth in the policy. A policyholder cannot collect benefits until the criteria within the policy have been met. The Division has received complaints that policyholders have been denied benefits by insurance carriers based upon a difference of opinion on whether the policyholder has met the qualifications to receive benefits.

Eighty insurance carriers are licensed to sell long-term care insurance in Iowa. Yet, only about six carriers are currently writing new policies. There are currently 124,594 long-term care insurance policies in force in Iowa with about four to five percent of costs in facilities paid by long-term care insurance.

The Insurance Division receives approximately 2200 consumer complaints a year. About 5.5% of the annual written consumer complaints received by the Division concern long-term care insurance. There are a number of issues raised through these complaints including but not limited to premium rates, agent issues, delay in benefit payments, denials of claims and refunds.

Findings

Concerns relative to both external issues regarding long-term care insurance and internal issues regarding the operations of the Insurance Division were reviewed. Based upon the information gathered and reviewed by the Division, the Commissioner makes the following Findings:

1. Long-term care insurance is a new product that is not fully stabilized and developed.
2. Long-term care insurance carriers have done a poor job of making assumptions in regard to pricing long-term care insurance.

3. Long-term care insurance carriers have in many cases provided poor customer service.
4. The Iowa Insurance Division has increased its authority to provide assistance to consumers but still lacks authority to resolve some factual disputes.
5. The Division has missed opportunities to provide more assistance to consumers in the area of long-term care insurance.
6. There is a clear lack of understanding by consumers about long-term care insurance.
7. Survey results indicate low lapse rates and claim denials and rate increases in double digits.

Recommendations

The Iowa Insurance Division, upon studying all the information presented during the course of the long-term care insurance review, makes the following recommendations. Some of these recommendations are currently being implemented by the Division. Others will require legislative action. The Division believes, however, that these recommendations will strengthen the authority of the Division to protect consumers, enhance regulatory oversight and increase the overall education of interested parties and consumers. These recommendations will significantly change the way long-term care insurance is sold, administered, and regulated in Iowa.

1. Standardize long-term care insurance policy terminology and definitions.
   This recommendation requires legislation.

2. Institute an additional premium rate review mechanism including consumer-initiated rate hearings.
   The first part of this recommendation is being implemented. The rate hearing section will require legislation.

3. Implement the amendments to the 2006 NAIC Long-Term Care Insurance Model Act.
   The Division is currently implementing this recommendation in part but some of the Model Act elements will require legislation.

4. Implement a prompt pay law for long-term care insurance claims.
   This recommendation will require legislation.

5. Facilitate a meeting of insurance industry and the long-term care industry to discuss insurance claim issues.
   No work has commenced on this recommendation.

6. Create an independent review system for claim denial.
   This recommendation will require legislation.

7. Require insurance carriers to make a one-time offer of other types of long-term care benefits to policyholders who have only nursing home coverage. *This recommendation will require legislation.*

8. Initiate a market conduct review of long-term care insurance carriers to determine the rate of compliance with Iowa's suitability and disclosure standards. *This recommendation has already been commenced. A letter has been sent to 55 carriers reporting long-term care insurance premium in 2006. The initial responses are due to the Division on September 19, 2007.*

9. Encourage innovative long-term care products. *This recommendation has not been commenced.*

10. Create a separate Enforcement Bureau within the Iowa Insurance Division. *This recommendation is currently being implemented.*

11. Establish a statutory consumer protection requirement and create a separate consumer protection unit. *This recommendation will require legislation.*

12. Require long-term care insurance carriers to provide policyholders with a clear and concise policy summary. *This recommendation has not been commenced.*

13. Improve the consumer protection procedures of the Division to provide more thorough responses to consumers in explaining insurance issues and complaints. *This recommendation is currently being implemented.*

14. Create a senior health insurance specialist to review health issues and trends of concern to Iowa's older population and make recommendations to the Commissioner. *This recommendation is being implemented. A staff member has been appointed to this position.*

15. Implement continuing education training for insurance agents selling long-term care insurance. *This recommendation is currently being implemented through administrative rule.*

16. Review the use of designations and titles by insurance agents especially in the area of sales to older Iowans and provide guidelines for their use. *This recommendation was implemented on September 7, 2007 through an Administrative Bulletin, 07-05.*

17. Coordinate efforts with other state agencies to educate consumers about financial and long-term care issues concerning older Iowans.
This recommendation is already being implemented.

18. Adopt the "Own Your Future" Campaign for Iowa.
This recommendation is currently being implemented.

19. Adopt an in-house review system of complaints for more thorough analysis of issues including review of ongoing complaint files closed and completed complaints and enforcement actions.
This recommendation will be implemented with the establishment of the Enforcement Bureau and other internal Division changes.

20. Revise the method used to determine the conclusion of a complaint file and the documentation of funds retrieved or saved for the consumers.
This recommendation is currently being implemented.

21. Hire an additional SHIIP staff member to assist with outreach and education.
This recommendation will require legislation.

22. Establish regular meetings at least yearly with older Iowans and their families to seek input on insurance issues.
This recommendation has not been commenced.

23. Create a quarterly newsletter for consumers, agents, carriers and other interested parties.
This recommendation has not been implemented.

24. Create a consumer webpage dedicated to older Iowans.
This recommendation has not been implemented.

25. Review all marketing materials on long-term care insurance products prior to use by carriers and agents.
This recommendation may require legislation.

26. Establish regular meetings with other state agencies to share information concerning older Iowans.
This recommendation has not been implemented.

27. Commence a state-wide discussion on long-term care and its impact on Iowa's future.
This recommendation will require action by the Governor or Legislature.

Conclusion

The Division has reviewed a wide variety of issues in regard to long-term care insurance. While some of the early focus was on particular issues of claim denials and premium rates, other concerns arose throughout the three-month study. Long-term care insurance is a relatively new product in the insurance market. It is not an appropriate purchase for all Iowans. Iowa consumers should seek the advice from their insurance agents, financial advisors or family members and loved one before making any decisions involving long-term care insurance.

The combination of the adoption of several of thee recommendations, particularly the statutory consumer protection requirement, establishment of a dedicated Enforcement Bureau, the implementation of an Independent Review process for long-term care insurance, the additional rate review processes, the application of Prompt Pay requirements to long-term care insurance, combined with the already-passed legislation permitting restitution and corrective actions by the Division will make the agency well-equipped to take strong positions and actions in defense of consumers.

While many of the recommendations are in the process of implementation, the Division believes that those recommendations requiring legislation or further action should be enacted. The Division stands ready to assist the Governor, Legislature and most importantly, Iowa consumers to move forward on these recommendations to maintain and enhance strong consumer protection.

A. Introduction

America's population is aging. There are more than 45 million Americans age 60 or older. By 2040, the U.S. population 65 or older is projected to exceed 77 million. In Iowa there are over 554,000 persons 60 years or older. Approximately 15% of Iowa's population is over 65. Iowa ranks second in the nation in population over 85, third in the nation in population over 75, and fourth in the nation in population over 65. Iowa has the highest rate of older citizens living in nursing homes and assisted living facilities in the U.S. So, it is no surprise that the cost of caring for older Iowans should be of major importance to everyone.

The costs associated with long-term care continue to increase. According to a recent market survey by Metropolitan Life Insurance Company, the average cost of a nursing home stay is over $67,000 per year (in some urban areas it can exceed $100,000.) The base rate for assisted living facilities is over $35,000 per year. Home health care agency rates can range from $19 to $37 per hour.

The nation spent $135 billion on long-term care for the aged in 2004 according to a 2004 Congressional Budget Office study. Medicaid paid for 35% of all long-term care spending on older Americans. Medicare covered 25% of the costs. Care recipients and their families paid out of pocket for about 36% of the costs, and private long-term care insurance paid another 4 percent. Iowans fund long-term care through the same payment mechanisms.

Long-term care insurance is the newest form of payment mechanism and also pays the least amount of dollars. Newly developed in the past 35 years, long-term care insurance is an evolving product that has seen great changes. What began as a nursing home-only policy is now a comprehensive policy providing benefits for nursing homes, assisted living facilities and home health care services. With changes in the living arrangements for older Iowans over the past decades, long-term care insurance carriers have been challenged to meet those changes as well. It has not always been successful.

Issues have been raised concerning problems with long-term care insurance policies. Alleged improper denials of claim payments, frequent and unusually high premium rate increases, questionable marketing practices and overall stability of the long-term care insurance market have led to a number of studies and hearings. Across the country, states as well as the federal government are struggling with these issues and seeking ways to protect consumers and ensure that they have the appropriate payment mechanisms to fund their retirement living.

The National Association of Insurance Commissioners (NAIC) is currently surveying insurance carriers on a variety of long-term care insurance issues. The National Conference of Insurance Legislators (NCOIL) is also in the process of studying issues surrounding long term care insurance. The U.S. Congress is conducting a study as well. And on September 5, 2007, the U.S. Senate Special Committee on Aging held a hearing to examine some of the questionable practices used by so-called senior financial investment specialists.

On June 19, 2007, Governor Culver directed the Iowa Insurance Division to conduct a study on issues relating to long-term care insurance. Further he instructed the Division to provide the Culver-Judge Administration with a report and recommendations to address any concerns raised throughout the study.

The Iowa Insurance Division began its review by scheduling a series of three public meetings. Consumers, interested parties and stakeholders were invited to present information, concerns, thoughts, and suggested recommendations to the Commissioner regarding long-term care insurance. (The agendas, notes and transcripts of these meetings are made a part of the Appendix of this report.) In addition, the Commissioner reviewed all complaints filed by consumers since January 2005. The Commissioner gathered information from other studies and data from a variety of state and national resources focused upon long-term care insurance.

A survey was sent to the top 20 insurance company writers of long-term care insurance requesting information in regard to specific long-term care insurance policy experience in Iowa. (A copy of the findings is made a part of the Appendix.) The Division staff met with a variety of state governmental agencies and private trade associations to discuss long-term care and long-term care insurance. The Commissioner contacted many consumers to discuss their concerns and determine issues of long-term care insurance most important to the consumers. This Report and its recommendations are a culmination of these activities outlined above.

B. Long-Term Care Insurance-General Information

Long-term care insurance is a financial contract to provide certain benefits in exchange for a premium payment. It is an agreement to spread the risk of the benefits over a larger group of individuals. This is similar to other types of insurance whereby a large group in a class can pool their experience, costs and premium and provide benefits for everyone.

Long-term care insurance was created in the 1970s to cover nursing home care. At the time, little focus was made on home health care or other types of living arrangements. Assisted living facilities were not widely established and regulations were not in place. Today, long-term care insurance contracts offered for sale cover a wide range of services and facilities including assisted living facilities, in-home health care services, adult day care and, of course, nursing home care.

1. Contract Provisions.

The cost of a policy is determined by the type of benefits and services covered by the contract. Policy provisions can include the type of facility covered, daily payment amounts, length of time the policy will pay benefits and length of elimination periods (or when policy benefits will begin to be paid following admission to the facility.)

The policy also specifies when benefits will be paid. This is often known as a "trigger." Policies sold after 1996 generally use triggers set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA.) In order for benefits to be paid, plans usually require either that the policyholder needs substantial aid for at least two of the six activities of daily living (ADL) which are bathing, continence, dressing, eating, toileting and transferring or they have cognitive impairment and need regular supervision.

It is important to note that most long-term care insurance does not pay the entire amount of health care costs in a facility. Most policies provide for a specific dollar amount per day. Because a policyholder probably will not access the policy benefits for many years after the purchase, the cost of daily care in a facility will certainly increase during this time. Thus the original daily benefit amount purchased may not cover the increased cost of services provided.

Since 2003, Iowa law requires that a policyholder be offered at the time of sale an inflation rider that will provide a fixed percentage increase each year (usually up to five percent) for the daily benefit amount. This mandatory offer allows policyholders to increase their daily coverage rate each year but this will increase the cost of the policy.

2. Premium Rates.

The premium rate of a long-term care insurance policy is based upon the benefits of the plan as described above. In addition, insurance companies price policies based upon the age and the health of the policyholder at the time of issue. Most policies provide that the premium will not increase due to changes in the age or health conditions of the policyholder. The average annual premium can vary depending upon the issue age of the policyholder. Studies differ somewhat on this amount. Attached to the Report as part of the Appendix are two tables providing information on annual premium rates.

Insurance carriers can increase rates, however, for an entire class of individuals (all policyholders of a certain policy) based upon the overall experience of that group. Therefore, when more policyholders access benefits sooner than expected and for longer periods of time, the carrier may raise rates. This is especially true for carriers that no longer actively write new business. With no new lives entering the policy pool or book of business, the experience of the group will need to be spread over a smaller population of policyholders.

Rate increases have been a major topic especially for some of the earlier-issued policies. In 2000, the NAIC adopted standards to help protect consumers whose premiums increased beyond a certain threshold. These rate stability standards were adopted in Iowa for policies sold after February 1, 2003. The purpose of stabilization is to greatly increase the probability that premiums will remain essentially level throughout the life of the policy. These standards provide a set of formulas that carriers are required to adopt and also require that reports must be filed with the Division.

Rate stability standards essentially force carriers to use conservative pricing assumptions so that future rate increases are minimized. Policy forms developed under the rate stability standards include certification from the carrier that the premiums are expected to be adequate for the life of the policy under moderately adverse experience. As a result, it will be much more difficult for the carrier to obtain rate relief from the states in the future. In the event a rate increase is requested under rate stability standards, they are required to report the actual and projected results with the various state insurance departments via annual filings.

These annual filings will be reviewed by the Division and if previously approved rate increases for these policies appear not to be justified based upon reports filed by the carrier; the rate increase will be rescinded. The Division can also place marketing limits on carriers that continually file inadequate premium rates under these rules. This could result in the carrier being forced to stop writing new business. However, the rate stability protection does not assist policyholders who purchased policies before 2003. Rates on policies issued prior to 2003 could continue to increase at larger percentages than the new standard allow, if actuarially justified.

In Iowa, long-term care insurance rate increases must be pre-approved by the Insurance Division. Insurance carriers are required to file information with the Division documenting the actuarial justification for the rate increase. If they are not actuarially justified, the Division will deny the proposed rate increase. (This is similar to other states.) Upon a denial of the rate filing, the insurance carrier may request an administrative hearing. It has been the practice of the Division to seek rate reductions through negotiations rather than through a denial and lengthy administrative hearing procedure. Actuarial staffs from both the Division and the insurance carrier meet to discuss the rate filing and supportive documentation. In approximately 75% of the rate increase filing requests, a lower rate increase is negotiated. In 2006, the Division negotiated 15 out of 16 filings to a lower level than proposed.

3. Benefit Qualification.

Before benefits are paid, the policyholder must meet the level of need specified in the policy, be in a qualified facility as defined in the policy, receive care from a qualified person as required by the policy and meet the elimination period set forth in the policy. A policyholder cannot collect benefits until the criteria within the policy have been met. Generally a qualified medical professional must certify to the insurance carrier that a policyholder needs the long-term care insurance benefits by meeting the policy triggers. The medical professional will certify that the policyholder is unable to perform at least two of the ADLs cited above or certify that the policyholder has cognitive impairment. In most cases, the benefits can only be paid to a qualified caregiver. For example, home health care benefits cannot be paid to the daughter of a policyholder (who prepares meals or assists the policyholder) unless the daughter is a trained professional.

If there is an elimination period in the policy contract, the policyholder must complete that waiting period before the benefits can be paid. The elimination period can be up to 100 days. During this elimination period, the policyholder is required to pay the long-term care expenses of the facility or home health care. A longer waiting period will be reflected in a lower premium rate for the policyholder.

The insurance carrier can require a medical review to determine whether the policyholder has met the level of needs stated in the policy prior to paying benefits. This form of preauthorization may lead to a denial of benefit payments. Case management may also be used to determine appropriate coverage and eligibility. These reviews have become an area of multiple complaints to the Division in those cases in which the carrier has taken the position the policyholder does not meet the trigger requirements of the policy.

4. Benefit Payment.

There are two methods of paying benefits: a per-day amount or an expense-incurred amount. A policy may pay up to a set amount per day for a set length of time, both of which are chosen by the policyholder at the time of purchase. Or a policy may pay the expenses incurred by the policyholder at the facility or through home health care up to a total maximum amount, chosen by the policyholder at the time of purchase.

Policies do not always pay benefits for care received at all facilities. If the policy coverage pertains only to benefits in a nursing home setting, then the policy will not pay for benefits in an assisted living facility even though they may be somewhat similar in the services provided. While terminology for licensing the facilities may vary, there are distinct differences between nursing homes and assisted care facilities in the license requirements. Carriers are allowed to make the distinction in coverage and base their premium pricing in part upon the care level.

Most policies provide a "waiver of premium" component. This addition to the policy provides that further payment of premium is not required once the policyholder receives care under the terms of the policy for a certain period of time.

5. Nonforfeiture and Contingent Benefits.

Iowa law requires that, upon application, all prospective long-term care insurance policyholders be offered a non-forfeiture benefit. The benefit allows the policyholder to receive back some of the policyholder's investment in the policy should the policyholder stop paying premium and allow the policy to lapse for any reason. This benefit provides some permanent coverage in the form of a paid-up policy with a shorter benefit period. The non-forfeiture benefit adds cost to the policy premium. But, it provides some protection and coverage should the policyholder decide at a later date to discontinue paying premium.

Beginning in 2003, Iowa law required that, if a policyholder rejects the above offer, a "contingent benefit on lapse of the policy automatically applies to the policy." The provision could be triggered anytime the policyholder receives a notice of a substantial increase in premium. The amount of premium increase which triggers this event is based upon a policyholder's age. When this occurs, the insurance carrier must offer the following options to the policyholder: to keep the policy and pay the premium increase; reduce policy benefits and not pay the increase; or to convert the coverage to a shorter benefit period. Some carriers selling in Iowa are offering this benefit to all their policies, even those issued prior to 2003.

6. Hybrid Products.

Several new types of long-term care insurance products are being introduced that combine long-term care insurance with other insurance products such as life insurance, disability insurance or an annuity product. These combination products provide greater benefit options to a consumer. One example of a provision in a hybrid policy of a life insurance and long-term care insurance is an accelerated death benefit. It allows the policyholder to "accelerate" all or part of the death benefit payout when triggered by specified events such as a disability requiring long-term care services. At the time of acceleration, the death benefit under the policy is reduced. The Pension Protection Act of 2006 includes some tax provisions that may make these types of products more attractive for carriers and consumers. There are a limited number of these policies on the market. Iowa is just now reviewing some of these types of products for possible approval.

C. Iowa Long-Term Care Insurance Policy Information

Eighty insurance carriers are licensed to sell long-term care insurance in Iowa. However, only about six carriers are currently writing new policies in Iowa. This means that many policyholders who purchased long-term care insurance ten or more years may have coverage with a carrier who no longer actively writes long-term care insurance. Without adding new policies to the group, rates are restricted to that group of policyholders in the pool. Premium rates will be based upon this finite group of policies. There are currently 124,594 long-term care insurance policies in force in Iowa. A nursing home association states that about four to five percent of the total population in nursing homes and assisted living facilities in Iowa have a portion of their care paid through long-term care insurance.

The number of long-term care insurance policies in force in Iowa continues to increase from 114,513 policies in 2004, to 117,384 policies in 2005, to the current number of 124,594 policies in 2006. However, the number of long-term care insurance policies in force nationwide is decreasing from 3,723,231 in 2002 to 3,205,737 in 2006. There is no one reason for the decline. Some industry groups believe the decline is caused by rate increases, consolidation in the market or a lack of understanding of the policy.

D. Iowa Insurance Complaint Information

The Market Regulation Bureau of the Insurance Division receives all consumer complaints filed in the office including insurance and securities. A staff of 22 review complaints, investigate the issues, and bring enforcement actions, if warranted. The Division has the authority to commence market conduct and financial examinations, assess fines and penalties against insurance carriers and agents, withdraw licenses to do business in the state, and most recently through legislation in 2007, seek restitution or other corrective action that provides direct assistance to policyholders.

The Iowa Insurance Division receives approximately 2200 consumer complaints each year. Consumer complaints regarding long-term care insurance have fluctuated over the past three years. A comparison of complaints since 2005 comparing overall complaints versus specific types of insurance complaints shows that on average long-term care insurance complaints comprise 5.5% of annual written complaints received by the Division.

In addition, complaints are further designated by the "nature of the complaint." For the years 2005, 2006 and 2007, the various types of long-term care insurance complaints are provided in the Appendix along with information about the disposition of the complaint. As noted from the information, there are a number of issues raised through the complaint process including but not limited to premium rates, agent issues, delay in benefit payments, denial of claims, and refunds.

E. Long-Term Care Insurance Review--Overview of Work

In response to the Governor's letter dated June 19, 2007, the Division commenced a review of long-term care insurance. The Division held three public meetings seeking input regarding long-term care insurance. These meetings were held in July, August, and September. The Commissioner chaired all three meetings. Notes were taken at the first public meeting. A court reporter was hired to provide transcripts for meetings two and three. All agendas, the notes and transcripts were posted on the Division website and are made a part of this report in the Appendix.

During the public meetings, the Commissioner received oral testimony and information from consumers, Insurance Division personnel, members of the Attorney General's office, the Department of Elder Affairs, the Department of Inspections and Appeals, the insurance industry, nursing home and assisted living facility associations, AARP, the Independent Insurance Agents of Iowa, National Association of Insurance and Financial Advisors in Iowa and other concerned individuals. Letters were sent to all consumers who attended the meetings urging them to contact the Division if they had additional issues, questions or complaints. A time for public comment was scheduled at each meeting. The public was invited to ask questions, provide input and seek information. At the final meeting on September 10, 2007, an open forum time was provided to ask persons to provide the Division with recommendations regarding long-term care issues that were raised during the three meetings.

The Division conducted a survey of the top 20 long-term care insurance carriers with premium in Iowa. Carriers were asked to provide information concerning their rate of denial of claims, lapse rates and the types of long-term care policies purchased by Iowans including specific policy provisions, and the frequency. The survey results are a part of the Appendix.

The Division reviewed materials from other states regarding long-term care insurance. Studies by private entities regarding long-term care insurance were also gathered and reviewed. These studies included information from the Kaiser Family Foundation, America's Health Insurance Plans, the New York Department of Insurance, AARP, and the Center for Retirement Research.

Websites containing long-term care insurance information for seniors and their families were reviewed including websites for state insurance departments, trade associations and private insurance carriers. Division staff contacted other state insurance departments to determine the scope of their long-term care insurance issues and their respective state concerns. In addition, the Division informed the Governor's office and Iowa legislative members as to the progress of the meetings and invited them to contact the Division as well with concerns or issues.

The Commissioner reviewed all closed long-term care insurance complaints for the years 2005-2007. In addition, during the course of the Division's review of long-term care insurance, the Commissioner received 48 letters, E-mails and phone calls concerning long-term care insurance concerns. All of the correspondence was answered with detailed information concerning the complaint issue raised. The majority of these were complaints concerning recent premium rate increases. Rate increases were explained in detail and consumers were provided information on ways to reduce rates through benefit design changes. In addition, consumers were encouraged to contact their agent, financial planner, or close relative or loved one before making any major changes to their policy benefits.

F. Findings

Following the final public meeting, the Commissioner reviewed all the testimony received, studies and reports gathered and information from public and private sources to discern common themes or issues. Concerns relative to both external issues regarding long-term care insurance and internal issues regarding the operations of the Division were reviewed. Based upon all the information gathered and reviewed by the Division, the Commissioner makes the following Findings:

1. Long-term care insurance is a new product that is not fully stabilized and developed.

Long-term care insurance carriers have not always adequately assessed the changes in policyholder needs and appropriately priced the products. The long-term care insurance policies of the 1970s did not contemplate a variety of living arrangements for consumers. While newer policies have integrated these changes, many Iowa consumers maintain policies without the benefit of these changes although some carriers did offer consumers the opportunity to purchase inflation rider protection. Older products provided different benefit guidelines and restrictions on which the premiums are based. The newer policies issued after 1997 provide benefit triggers and regulations pursuant to federal guidelines. Changes continue to take place in the long-term care industry along with the needs and desires of the consumers purchasing them. It appears that these policies will continue to evolve in the years to come as the overall long-term care industry changes.

2. Long-term care insurance carriers have done a poor job of making assumptions in regard to pricing long-term care insurance.

Long-term care insurance policies have frequency and severity components. "Frequency" means the number of claims made for long-term care benefits and "severity" means the length of time for which benefits are paid. For an insurance company to properly forecast the premiums needed to fund long-term care, it must accurately estimate both frequency and severity for its policies. Unfortunately, some insurance carriers appear to have underestimated these pricing components. Not only did more insured people enter facilities than anticipated, but the people who entered stayed longer, partly because of medical advances. Increased frequency and severity led rates to rise.

Other factors that are applied to pricing are assumptions about future events for expected claims, policy persistency, expenses, investment income, and statutory loss ratio objectives. In the early days of long-term care insurance, carriers had little or no long-term care insurance history to use for pricing. Instead, they relied on claim assumptions based on the experience of other types of insurance, such as medical and disability. The longer the product existed, the more available and credible the assumptions became, and it became clear that the assumptions made earlier were inaccurate, sometimes to a large extent.

Policy persistency affects rates because if more policies stay in force longer, there is a greater likelihood that claims will be submitted and, therefore, that more benefits will be paid. In other words, if an insured person allows a policy to lapse before making a claim, the insurance company collects premium but does not have to pay out benefits, but if an insured person maintains a policy longer, the chances that an event will occur that will qualify for benefits becomes greater.

For example, when long-term care insurance first was developed, some insurance carriers assumed that up to ten percent of policyholders would let their policies lapse. Some carriers assumed even higher lapse rates. Recent studies by major long-term care insurance carriers suggest that lapse rates began at between four to six percent and ultimately have leveled out to between one and three percent.

As a result, more claims are being filed within carriers' pools of insureds because more people are maintaining their policies. Since long-term care insurance has a lengthy pricing horizon relative to other lines of business, the lapse factor assumption has a substantial impact on the future loss ratios and needed premiums. Long-term care rates of older policies have been increasing to reflect the effects of the revised assumptions.

So, there is a three-pronged attack (frequency, severity, and persistency) on long-term care insurance premiums. These factors have exerted upward pressure on insurance premiums, especially on the older generation of policies. The newer generation of policies developed in the last year or so is not affected as much because carriers have learned from their experience. It appears that long-term care carriers are getting better at pricing, especially with the newer products.

The rate stabilization guidelines adopted by the Division beginning in 2003 should provide better assistance to consumers in regard to rate increases. It should be noted that all rate increase complaints received by the Commissioner during this study were for policy forms issued prior to 2003 with most of the policies issued in the mid-1990s. In addition, a majority of those complaints were in regard to carriers no longer actively selling long-term care insurance and thus not expanding the pool of new policyholders.

3. Long-term care insurance carriers have in many cases provided poor customer service.

The Division heard from many consumers at the first public hearing in July that long-term care insurance carriers were not helpful when they called with questions or concerns. Written complaints to the Division support this finding. Policyholders or their family members were kept on hold during telephone calls for inordinately long periods of time. Consumers were required to send and resend documentation to carriers for benefit payments. (Carriers often claimed documents were lost or they did not receive them.) The lengthy and frustrating process caused payment delays to facilities. Policyholders and their families felt pressured to make payments when carriers did not timely pay benefits. And, while the Division was able to assist them with many of these delays, the Division expects that companies should correct sloppy internal practices and pay claims promptly and correctly without the intervention of the Division.

4. The Iowa Insurance Division has increased its authority to provide assistance to consumers but still lacks authority to resolve some factual disputes.

Iowa law provides for the Division to regulate and supervise the conducting of insurance in the state. Iowa Code sections 505.1, 505.7A, 505.8 and Iowa Code Chapters 507A and 507B provide specific regulatory oversight to the Division for certain insurance regulatory violations. While there is no specific language in the Iowa Code requiring the Division to provide consumer protection, the Division has used the above Code sections to maintain an effective market regulation bureau with consumer protection oversight.

The Division has historically been unable to seek restitution for consumers. When a pattern or practice by a carrier or agent was in violation of Iowa law, the Division could only assess a fine, penalty or withdraw the license to do business in Iowa. Recent legislation passed in 2007, new Code section 505.8, subsection 8, broadens the authority of the Division to "assess fines or penalties, order restitution, or take other corrective action as commissioner deems necessary and appropriate to accomplish compliance with the laws of the state relating to all insurance business transacted in the state." This broad power strengthens the ability of the Division to assist consumers. While it only went into effect on July 1, 2007, this authority will provide for more aggressive actions by the Division to assist consumers in receiving appropriate compensation from carriers and agents.

However, certain factual disputes are not within the purview of the Division's expertise or authority. A common example is a dispute over whether an individual has met the trigger for payment of benefits. This is not within the Division's purview. Nor is the Division staffed with medical personnel to determine if the information submitted by either the policyholder's medical professional or the carrier's medical professional is correct.

<u>5. The Division has missed opportunities to provide more assistance to consumers in the area of long-term care insurance.</u>

The Iowa Insurance Division houses a Market Regulation Bureau that includes rate and form approval, agent licensing and consumer affairs. A staff of 22 handles most routine consumer inquiries and complaints. Personnel from other bureaus including Company Regulation and Administration also provide review and oversight. In 2006, the Division received 2,214 written complaints and 17,673 inquiries.

Because of the number of complaints and complexity of some issues, the review of patterns or trends has not been given adequate attention. In some instances, the need to complete reviews or inquiries within the agency performance standards has caused complaint files to have less than a thorough review. Letters to complainants sometimes have not adequately explained Iowa law or the basis for the carrier's decision or what action the Division can or cannot take regarding the complaint.

During the study the Commissioner reviewed all closed long-term care insurance complaints for the years 2005-2007. The Commissioner believed that some closed complaints had not received a thorough review. Staff was asked to provide additional analysis and examination regarding some of the closed complaints to determine if the files required further action. The Commissioner expects to receive an update on those files by the end of the month.

6. There is a clear lack of understanding by consumers about long-term care insurance.

Throughout the Division's review of long-term care insurance, the point became clear that policyholders and their families do not always fully understand long-term care and long-term care insurance. In a recent survey by the federal government, 65% of Americans admit to having no long-term care plans for themselves or a spouse. The U. S Department of Health and Human Services estimates that nine million Americans who are now 65 or older will require long-term care and that number is expected to increase to 12 million by 2020. While consumers recognize the need to plan, many believe they have insurance protection, have adequate savings to cover long-term care costs or incorrectly believe Medicare will cover long-term care costs.

Long-term care insurance is a unique insurance product. Unlike health insurance or even homeowner or auto insurance, consumers do not anticipate accessing long-term care insurance for many years. Policyholders do not regularly review their policy. They do not often share information about the policy and what it covers with family. The insurance agent who sold the policy often has moved or exited the business. This leaves the policyholder without a regular contact in the community to assist with their insurance.

The policyholder may not know who to turn to for advice when they receive rate increase notices or other information regarding their policy. The Division has learned after many conversations, letters, e-mail and testimony, that the main concern of consumers is confusion over policy provisions, limitations, exclusions and premium rating. Despite the many public and private agencies that provide information and assistance to our Iowa senior population and their families, many people continue to lack general let alone specific information about long-term care insurance.

7. Survey results indicate low lapse rates and claim denials and rate increases in the double digits.

A survey was sent to the top 20 carriers of long-term care insurance premium in Iowa requesting information on the lapse rates of policies, percentage of claim denials and average rate increases. 16 carriers with 85% of the market responded to the survey. (A 17th carrier responded but the data was not meaningful with only two claims and none were denied.) The survey responses indicate that lapse rates are not consistent between the carriers. The general finding is that actual lapse rates are much lower than originally priced. Lapses are not the only reason for premium increases, but they are part of the equation.

Claim denial rates generally appear to be low. i.e. 0%, <1%, and single digits in general. There were a few that seemed quite high. However, the credibility of the data must be discussed. For example, the rate of claim denials for one carrier was 16%. However, there were only 25 claims received for the carrier and four were denied.

A significant portion of the Iowa long-term care insurance market has not had rate increases. For example, (in 2006,) the average approved rate increase was about 21% as can be seen from the Table found in the Appendix. However, this only affected 29% of the market. This means that 71% of the Iowa long-term care insurance market did not have a premium increase in 2006. A weighted average (by policies affected) for calendar year 2006 reveals that the overall premium increase in Iowa was just over 7%.

For 2005, the average approved rate increase was about 25.86% as can be seen from the same table. However, this only affected 30% of the market. This means that 70% of the Iowa long-term care insurance market did not have a premium increase. A weighted average (by policies affected) for calendar year 2005 reveals that the overall premium increase in Iowa was just over 9.9%.

G. Recommendations

The Iowa Insurance Division, upon studying all the information presented during the course of this long-term care insurance review, makes the following series of recommendations. Some of these recommendations are currently being implemented by the Division. Others will require legislative action. The Division believes, however, that these recommendations will strengthen the authority of the Division to protect consumers, enhance regulatory oversight and increase the overall education of interested parties and consumers. These recommendations will significantly change the way long-term care insurance is sold, administered, and regulated in Iowa.

1. Standardize long-term care insurance policy terminology and definitions.

While it is true that long-term care insurance is a relatively new insurance product, it is important that terminology used in products and all marketing materials be consistent and understandable. The evolution of long-term care insurance coupled with changes in nursing homes and assisted living facilities has caused great confusion. Just as the Medicare Supplement policies contain standardized language, long-term care insurance policy definitions and terminology should also be standardized. By doing so, policyholders and consumers as well as regulators and the insurance industry would have a level playing field for understanding the product.

This recommendation requires legislation.

2. Institute an additional premium rate review mechanism including consumer-initiated rate hearings.

As noted in this report, consumers have experienced frequent and often times dramatically high premium rate increases. And while the Division's actuarial staff does an excellent job of reviewing all filings, additional actuarial expertise could be beneficial when reviewing some rate filings. The proposal for a consumer advocate was raised by several attendees at the meetings as a mechanism to review and approve rates. The

Division is aware of one state at this time that uses a consumer advocate for insurance rates.

While many states maintain a consumer advocate for utilities, the monopoly-like quality of utilities would be difficult to translate to an open market industry such as insurance. The number of utility rate hearings is relatively small. General statistics from the Iowa Utilities Board (IUB) show that the number of rate hearings continues to decrease from 18 in 2002 to 1 in 2006. In addition, phone companies are not regulated. Information provided the Division by the IUB indicates that in general a rate increase is allowed but not at the originally requested amount. Further, the IUB reports that many of the rate cases are resolved through negotiations (similar to how the Insurance Division handles rate requests.) The cost of operation of the Office of Consumer Advocate is passed on to the companies regulated and then directly on to the companies' ratepayers and customers.

Many state insurance departments have formal rate hearings on a regular basis. Iowa law provides for rate hearings as well. However, the Division has historically attempted to negotiate rates to provide for a more efficient system. That is not to say that the Division would not provide for rate hearings in the future. (The Division recently denied a rate filing which would allow the insurance carrier to request a hearing.)

The Division is aware that other states have contracted with outside actuarial consultants to review certain rate filings. The cost of this additional review is born by the insurance carrier. With long-term care insurance rates increasing throughout the country, additional actuarial staff could not only assist on Iowa state-specific rate issues but also assist the Division in reviewing national trends as they affect Iowa. This would allow the Division to be better prepared for upcoming changes.

Some lines of insurance may have limited market competition. Medical malpractice and long-term care insurance are examples where Iowa has a limited number of carriers actively writing in these markets. Consumers have limited choices and may feel that the rate filed by the carrier is not justified either actuarially or under state law. In order to provide consumers with an avenue to review a rate filing, the Division could determine that certain lines of insurance are non-competitive and subject to a formal rate hearing if requested under administrative guidelines.

This first part of this recommendation is being implemented. The rate hearing section will require legislation.

<u>3. Implement the amendments to the 2006 NAIC Long-Term Care Insurance Model Act.</u>

In 2006, the NAIC made several changes to the Long-Term Care Insurance Model Act for adoption by states. These amendments include definition changes, new claim payment provisions, availability of new services or providers, and consumer rights to reduced coverage and lower premiums. These amendments provide safeguards and protections to consumers in regard to coverage issues.

The Division is currently implementing this recommendation in part. However, some of the Model Act elements will require legislation.

4. Implement a prompt pay law for long-term care insurance claims.

Many consumers and several nursing homes and assisted living facilities representatives raised concerns regarding late benefit payments by long-term care insurance carriers. Policy benefit payments are made after the service has been provided. Therefore, it is important that facilities provide accurate and timely documentation for payment. But, it is also important that carriers timely pay benefit claims that have been submitted accurately. Iowa already has a prompt pay law requirement for health insurance carriers under Iowa Code section 507B.4A, and currently, rules are being implemented for a prompt pay provision for payments to pharmacists. Therefore, it seems appropriate that a similar provision be available to consumers and to long-term care providers. A prompt pay law will ensure that carriers maintain appropriate internal controls for proper claim payments.

This recommendation will require legislation.

5. Facilitate a meeting of insurance industry and the long-term care industry to discuss insurance claim issues.

As noted above, both long-term care insurance and long-term care are evolving. Products and services offered even ten to fifteen years ago have changed. Terminology used in the long-term care industry may be different from insurance policy language. By meeting together, benefit payments and other issues could be fully discussed and procedures reviewed and possibly improved. Necessary legislation or administrative rule changes could be facilitated by the Division annually and proposed in a collaborative manner.

No work has commenced on this recommendation.

6. Create an independent review system for claim denial.

Many of the complaints filed with the Division involved denial of claim benefits based upon the policyholder's alleged failure to meet the benefit triggers of the policy. Often the carrier presented a review from its medical staff that was in conflict with the policyholder's medical professional. If there was a difference of opinion between these two groups, there was little that could be done by either the Division or the policyholder short of legal action.

While some people voiced support for a consumer advocate or a private cause of action, the issues of speedy and fair review of a complaint would not necessarily be alleviated through either of those processes. In 1999, the Iowa Legislature enacted Iowa Code Chapter 514J External Review of Health Care Coverage Decisions. The chapter provides a mechanism for outside experts to determine the medical necessity of a requested treatment. The service is commenced with a $25 filing fee by the complainant/policyholder (which is refundable if the complainant prevails.) All other costs of the appeal are paid by the insurance carrier.

The outside experts review the information and make a determination within 30 days. Decisions in favor of the policyholder cannot be appealed by the carrier. This has become a very efficient, low-cost method to determine disputes regarding medical necessity. The enactment of this law caused carriers to strengthen their internal review mechanisms and has assisted consumers in receiving more prompt responses to claim review requests.

A similar system for long-term care insurance claims would provide an efficient and cost effective mechanism for consumers to have medical claim issues resolved. Policyholders would receive a decision in 30 days by the independent medical experts without the initial need to utilize the use of the court system. If the panel rules in favor of the insurance carrier, the policyholder could appeal the decision to district court.

This recommendation will require legislation.

7. Require insurance carriers to make a one-time offer of other types of long-term care benefits to policyholders who have only nursing home coverage.

Throughout the Division's review, a variety of complaints and concerns were raised by policyholders and their families about policies purchased many years ago that provide only nursing home coverage. At the time of these initial sales, assisted living facilities or home health care were in their infancy and long-term care insurance policies did not automatically provide coverage benefits for such types of arrangements. (The newer policy forms do offer an array of options for consumers if desired.)

Requiring insurance carriers to make a one-time offer to all policyholders with only nursing home coverage would provide consumers additional benefits, if desired and if the policyholders were willing to pay the additional cost of the additional coverage. It would need to be determined what enrollment time frame would be appropriate for inclusion in the mandatory offer. In addition, there would need to be additional discussion concerning inclusion of insurance carriers no longer actively writing coverage. These issues could be further reviewed by all interested parties and stakeholders. However, offering consumers this option could provide some policyholders better coverage for the future.

This recommendation will require legislation.

8. Initiate a market conduct review of long-term care insurance carriers to determine the rate of compliance with Iowa's suitability and disclosure standards.

Long-term care insurance carriers are required to provide information to consumers and long-term care insurance applicants in regard to long-term care insurance policies pursuant to 191 IAC Chapter 39. This includes a Long-Term Care Insurance Personal Worksheet, a disclosure statement, a Long-Term Care Insurance Shoppers Guide, a long-term care insurance suitability letter and a list of "Things You Should Know before You Buy Long-Term Care Insurance." These documents are found in the Appendix.

Consumers and policyholders often commented during the public meetings and in contacts with the Division that they were unaware of certain policy provisions. It is critical that consumers only be sold policies that are suitable for their needs. Certainly there are Iowans who should not be purchasing long-term care insurance for a variety of reasons.

Iowa law requires carriers to perform a suitability analysis and provide disclosure documents and informational documents and pamphlets to the policyholder. While the Division cannot require consumers and policyholders to read all these documents, it is important that they be available to them.

In addition, many people at the public meetings complained about the poor customer service they received by carriers. Delays in responses to questions, lost documents and delays in claim procedures could indicate other regulatory concerns. A market conduct examination could reveal internal operating problems. If substantiated, the Division could order the carrier to implement a process improvement plan to correct such errors and initiate benchmarks for review.

In order to determine compliance with the above administrative rule requirements and customer service issues, the Division needs to initiate a market conduct examination process. Even though only six carriers are actively selling long-term care insurance in the state, the Division should review all carriers with in-force business in Iowa to determine if appropriate sales practices are being used and company internal controls are in place.

This recommendation has already been commenced. A letter has been sent to 55 carriers reporting long-term care insurance premium in 2006. The initial responses are due to the Division on September 19, 2007.

9. Encourage innovative long-term care products.

Long-term care insurance is complicated. Not everyone should purchase it. The Division heard from several consumers that they were not sure they would keep the policy even though they made payments for several years. Like homeowners and auto insurance, policyholders often hope they will not have to access the policy benefits early in the life of the policy or on a regular basis. However, an insurance product that provides benefits in a variety of risk areas may make sense for some consumers. Hybrids of life insurance/long-term care insurance, disability/long-term care insurance or annuity/long- term care insurance could provide options for benefits to consumers regardless of whether they ever access the long-term care component.

There may be tax consequences for these types of hybrid policies. It would be important to assure consumers that these types of policies would not inadvertently cause taxable income issues. However, with other states approving such products, it is worth exploring the possibility of hybrid products in Iowa. More options for consumers can provide them better choices for their long-term care planning.

This recommendation has not been commenced.

10. Create a separate Enforcement Bureau within the Iowa Insurance Division.

It is important that consumers be able to rely on the Insurance Division to assist them with their issues and complaints. When appropriate, consumer complaints can lead to administrative actions against carriers or agents and, it is hoped, improved services and benefits for consumers. Currently, the Market Regulation Bureau houses the enforcement staff. The Market Regulation Bureau also oversees the areas of agent licensing, product review, the Senior Health Insurance Information (SHIIP) Unit, and consumer affairs. All of these areas of consumer issues are important to the regulation of insurance.

However, because of the nature of legal actions and administrative hearings, the enforcement staff should be independent of other consumer matters. A separate and distinct Enforcement Bureau could focus its energies accordingly. It is important that enforcement actions be the main focus of the Bureau. With the new expanded authority of the Division as to restitution and corrective action, there is an expectation of more regulatory actions being commenced by the Division.

The Market Regulation Bureau could be the bureau of initial contact, review, and investigation. The Enforcement Bureau consisting of a bureau chief, attorneys, paralegals and investigators realigned from within the Division could evaluate proposed legal challenges, settlements, administrative actions, determine a course of regulatory action, and carry it out.

The Enforcement Bureau would assist all other bureaus in the Division as to legal issues and actions. However, they would be an autonomous bureau for purposes of case management. In addition, the Enforcement Bureau could assist the Division and the Commissioner on policy issues affected by the enforcement actions. The Enforcement Bureau would also work with the Division's assigned Assistant Attorney Generals as necessary. The Enforcement Bureau Chief would be a member of the senior staff and report directly to the First Deputy and Commissioner.

This recommendation is currently being implemented.

11. Establish a statutory consumer protection requirement and create a separate consumer protection unit.

The Division has always handled consumer complaints. (For many years, the Market Regulation Bureau was called the Consumer Affairs Bureau.) Complaint and administrative actions against carriers and agents were administered though this Bureau. All violations of Iowa's insurance laws and regulations, unauthorized insurance transactions, unfair trade practices and other insurance violations have been enforced through this Bureau. However, there is no statutory language specifically creating a consumer protection requirement within the Insurance Division.

By statutorily requiring the Division to provide consumer protection and creating a distinct consumer protection unit, the Legislature and Governor would put the public and regulated entities on notice of their goal to protect consumers against violations of Iowa's insurance laws. The Consumer Protection Unit would handle all initial consumer complaints and would be separate and distinct from the proposed Enforcement Bureau. In addition, because the Division regulates other areas of Iowa law including securities, cemeteries, funeral homes and other regulated industries, statutory language should encompass all areas within the Division's authority.

This recommendation will require legislation.

12. Require long-term care insurance carriers to provide policyholders with a clear and concise policy summary.

Throughout this study, policyholders raised issues about the coverage benefits of their policy. Often times they had purchased policies many years ago and could not locate the policy or had difficulty understanding the policy language. For example, some policyholders and their families did not understand the difference between nursing homes and assisted living facilities, the licensing requirements and the services provided by each different facility.

While it is important that carriers provide a policy contract that accurately reflects the agreement, this language can often be quite detailed. The policy summary would be a one to two page document that would specifically relate the coverage to the policyholder. This summary would assist policyholders in understanding their benefits.

When benefits are changed, a revised explanation page should be provided to the policyholder. It is important that policyholders maintain current information for their records that is easy to read and understand. While policyholders are supposed to receive information when they purchase their policies that may be more general in nature, this information would pertain specifically to the coverage of their policies.

The Division should review and approve the policy summary provided to consumers to ensure it contains all necessary information in clear and understandable language.

This recommendation has not been commenced.

13. Improve the consumer protection procedures of the Division to provide more thorough responses to consumers in explaining insurance issues and complaints.

In a review of long-term care insurance consumer complaints, information provided to consumers by the Insurance Division was not always clearly and adequately explained. Some complaints were not thoroughly investigated. These are often complicated issues that may require additional review, follow-up and further explanation. Regular review of consumer complaint responses by Insurance Division staff for certain types of issues should occur regularly.

The Division's goal is to help consumers with their questions, issues and complaints and to require insurance carriers to honor and stand behind their promise to pay claims. Taking time to adequately address their concerns is critical. Simply attaching the carrier's response is not always helpful and may lead to additional confusion, questions, and at times, frustration. The Division has found that difficult caseloads have sometimes led staff to quickly provide information and responses that appears to have been inadequate or unsympathetic to some consumers. The goal of consumer protection should be at the forefront. Going the "extra mile" should not be the exception. It should be the norm.

This recommendation is currently being implemented.

14. Create a senior health insurance specialist to review health issues and trends of concern to Iowa's older population and make recommendations to the Commissioner.

In recent years, the Division has focused attention on the issue of sales of securities and insurance products to older Iowans especially in the areas of life insurance and annuities. Suitability standards were recently implemented for a variety of life and annuity products. The Division staff has attended sales seminars and free dinner seminars to determine whether inappropriate sales practices involving Iowans and particularly older Iowans have taken place. Regulatory actions against licensed securities and insurance agents have been initiated. A Division staff member with extensive life insurance and annuity expertise is now focusing his attention almost exclusively on sales issues regarding seniors. Along with the Division's SHIIP Unit, senior health care issues are a major component of consumer assistance and outreach.

Therefore, it is appropriate that the Division create a specialist for senior health insurance issues that encompasses long-term care insurance. This staff person would have expertise in all laws and regulations concerning long-term care insurance in addition to health insurance matters. The specialist would work closely with the SHIIP Unit, the proposed Consumer Protection Unit, Company Regulation Bureau and other Division staff to review and approve long-term care insurance products. The specialist would assist with complex consumer complaints, review trends and patterns and advise Division staff and the Commissioner on issues of concern and what areas may need further review or legislation. In addition, the specialist would follow long-term care insurance issues across the country and nationally and participate in senior issues at the NAIC meetings and forums and determine their impact on Iowa consumers.

This recommendation is being implemented. A staff member has been appointed to this position.

15. Implement continuing education training for insurance agents selling long-term care insurance.

During discussions at the NAIC in recent years, state regulators agreed that training for insurance agents was an important component of suitable sales of long-term care insurance. The NAIC Long-Term Care Insurance Model Act includes mandatory continuing education for an insurance agent selling long-term care insurance. With Iowa's large senior population, this training should be required. By requiring regular continuing education training, older Iowans and their families can know that the agent working with them has current information on long-term care insurance issues.

This recommendation is currently being implemented through administrative rule.

16. Review the use of designations and titles by insurance agents especially in the area of sales to older Iowans and provide guidelines for their use.

There has been an increase in the use of designations and titles by insurance agents in conjunction with marketing and sales activity directed to senior purchasers. Many of these designations represent that the agent, due to the attainment of the particular title, has expertise in dealing with older Iowa purchasers. Upon review, some of these titles appear to have no meaningful educational requirements.

Designations are a form of advertising as well that may lead a consumer to believe the agent has a certain level of expertise. Improper use of designations or titles would subject the user to penalties under the Unfair Trade Practices Act (Iowa Code Chapter 507B.) Guidelines should be formulated to outline proper use of designations.

This recommendation was implemented on September 7, 2007 through an Administrative Bulletin, 07-05. A copy is made part of the Appendix of this Report.

17. Coordinate efforts with other state agencies to educate consumers about financial and long-term care issues concerning older Iowans.

Iowa is fortunate to have several state agencies with a commitment to serving and protecting Iowa's older population. These agencies bring a wealth of knowledge and expertise to assist older Iowans on a wide range of issues.

The Iowa Attorney General maintains a Consumer Protection Division whose goal is to protect consumers from fraud and assure fair competition in the marketplace. This Division provides information and education to consumers through press releases, brochures, public speeches and monthly Consumer Advisory newsletter columns and the Attorney General's website.

The Iowa Department of Elder Affairs provides a wealth of advocacy initiatives for seniors and their families including conferences and workshops. The Department also maintains the Office of Long-Term Care Ombudsman. Of particular note is their Life Long Links program that provides a resource center for Iowa's aging and disabled populations at (www.lifelonglinks.org.)

Most recently, legislation was passed during the 2007 legislative session establishing a Single-Point of Entry Long-Term Living Resource Team. This group will study the ability to connect people to long-term supportive services through a single point. According to the Department's Legislative Update "Wrap Up" this team "will recommend an integrated system that helps Iowa's citizens navigate through a variety of private and public resources available. The goal is to empower Iowa's consumers in planning, evaluating, and making decisions to appropriately meet their individual long-term living needs."

The Department of Inspections and Appeals through its Health Facilities Division inspects and licenses nursing homes and assisted living facilities. They receive complaints concerning the facilities they regulate. Investigation activities, regulatory actions, and report cards for facilities are available from the Department on their website.

The Iowa Insurance Division provides consumer protection through its complaint handling process and help desk services. In addition, the federally funded SHIIP Unit is located in the Division. The SHIIP Unit provides free counseling to older Iowans and their families in regard to health insurance including long-term care insurance, Medicare, Medicare supplement plans, and Medicare Part D. SHIIP publishes a variety of insurance guides and brochures that provide useful information including the Long-Term Care Insurance Buyer's Guide. Counselors are located throughout the state and must participate in an extensive training program in order to assist Iowans. SHIIP maintains a toll-free number to provide easy access to Iowans with their issues along with their website (www.shiip.state.ia.us.)

The Division has also established a Seniors Against Investment Fraud (SAIF) program to educate older Iowans about financial scams and fraudulent securities activities. The

Insurance Division regularly issues educational press releases and consumer tips. A variety of brochures are available on different insurance and securities topics. The Division provides speakers for clubs and interested parties. And the Division maintains a website with information of specific interest to consumers.

With so many agencies with statutory duties relating to seniors and their families, coordination of outreach and education makes sense. Leveraging the dollars of each agency can allow the state to reach more consumers and help them make wise decisions. The Insurance Division, Attorney General's office, and Department of Elder Affairs have been meeting throughout 2007 to work on joint forums around the state to educate seniors on a variety of financial issues. One forum has already been presented in eastern Iowa. Along with more forums planned throughout the state, the agencies hope to coordinate an event for seniors with the Governor and Lt. Governor.

This recommendation is already being implemented.

18. Adopt the "Own Your Future" Campaign for Iowa.

The U.S. Department of Heath and Human Services Medicare and Medicaid Services, is in charge of an awareness campaign entitled "Own Your Future." The campaign is a joint federal-state initiative to increase awareness among the American public about the importance of planning for future long-term care needs. While not a direct program for seniors and long-term care insurance, the campaign targets consumers 45-65 years of age and describes a variety of ways for baby boomers to plan ahead for long-term care. The campaign's core activity is a direct-mail campaign supported by the state's governor. Additional awareness activities are developed by the state along with partners. The Department of Elder Affairs and the SHIIP Unit of the Insurance Division are applying for a program grant.

This recommendation is currently being implemented.

19. Adopt an in-house review system of complaints for more thorough analysis of issues including regular reviews of ongoing complaint files closed and completed complaints and enforcement actions.

As noted above, it is important for the Division to spot trends in consumer issues and complaints before they rise to a serious level. Staff from different bureaus as well as staff within a bureau must constantly be on the watch for patterns or practices that could be violations of Iowa law or those that simply raise a red flag. Regular meetings on consumer issues should be established. Staff should be provided Division statistics on a regular basis for review and analysis.

With the establishment of staff specialists in health insurance and life insurance and annuities along with an independent Enforcement Bureau, the Division could have several different groups reviewing similar data. This could provide for greater in-depth review, discussion and determination if further action is required by the Division or rules or legislation are needed.

This recommendation will be implemented with the establishment of the Enforcement Bureau and other internal Division changes.

<u>20. Revise the method used to determine the conclusion of a complaint file and the documentation of funds retrieved or saved for the consumers.</u>

During the course of this review, questions arose about the accuracy of Division reports on funds recovered for consumers. Most files contained little supportive documentation as to the calculation of funds recovered. These numbers are reported to the NAIC and the legislature annually. They are used to reflect overall performance of the Division and the effectiveness of assisting consumers. Legislators depend on the accuracy of these numbers to determine among other items, the Division's budget and whether additional staff and support is warranted. Consumers rely on the numbers as a sign of the Division's commitment to assisting them. However, if the numbers cannot be substantiated, they are open to question and disagreement and may be flawed. Accuracy and dependability go hand in hand.

The Division should enact a system of accurately reflecting the assistance provided and the dollar amount the Division assisted in securing for the consumer. All files should demonstrate how the amount was calculated.

This recommendation is currently being implemented.

<u>21. Hire an additional SHIIP staff member to assist with outreach and education.</u>

SHIIP has been in existence for over seventeen years. Yet many people around the state are unaware of its services. Site sponsors provide information and a place for volunteers to meet consumers and provide additional services. The volunteers are located throughout the state. Many of them donate their own resources. During the initial Medicare Part D enrollment period, many volunteers worked literally day and night counseling seniors and assisting them with their enrollment. During this enrollment time period, SHIIP had over 140,000 contacts.

SHIIP received a $37,000 CMS grant for long-term care insurance outreach. But, due to a three-year focus on Medicare Part D enrollment, long-term care insurance received little attention. With a staff person dedicated to outreach and education, SHIIP could reach more Iowans and help them with their long-term care options and decisions. The addition of one full-time employee with benefits and travel costs would be approximately $80,000.

This recommendation would require legislation.

22. Establish regular meetings at least yearly with older Iowans and their families to seek input on insurance issues.

Older Iowans and their families certainly have an interest in issues involving their health care and retirement. This interest goes beyond long-term care insurance. It includes a variety of issues. Older Iowans maintain homes, automobiles, life insurance, annuities and securities.

It is important that the Division be aware of the special issues or concerns they may have involving these products. Complaint intake may not sufficiently assist the Division in assessing the issues older Iowans have concerning their insurance and financial needs and seminars, brochures, public services announcements, and press releases alone may not be the only vehicles to improve dissemination of important information. These regular meetings and conversations could assist the Division in better enforcement, consumer protection and even planning for future legislation.

At each of the public meetings during this study, many attendees were unaware of the services of the Division and the SHIIP Unit. Regular dialogue with older Iowans and their families around the state would allow for the Division and SHIIP to more effectively assist Iowans with their issues and concerns. The Division could coordinate the meetings through SHIIP and their volunteers, Agencies on Aging, or the Department of Elder Affairs.

This recommendation has not been commenced.

23. Create a quarterly newsletter for consumers, agents, carriers and other interested parties.

An informed consumer and a well-regulated industry should help reduce the number of consumer complaints and regulatory actions. Consumers should have access to a wide variety of Insurance Division information including recent state and federal law changes affecting insurance, helpful consumer tips, major division personnel changes, studies and statistics compiled by the Division and administrative actions against agents and carriers. Relevant telephone numbers, fax numbers, E-mail and website addresses should be included on a regular basis.

Many state insurance departments maintain newsletters both in print and on their website. These newsletters also contain financial examination information for carriers. Proposed and filed administrative rules concerning agents, carriers and other Division regulated entities could also be included in the newsletter. Proposed legislation and a post-legislative update could be included as well.

While this recommendation is not specifically focused on older Iowans or long-term care insurance, it could be an important vehicle to disseminate information. Not all Iowans have access to a computer. It would be important to make sure a variety of outlets throughout the state receive copies of the newsletter including libraries, senior centers, community centers and other gathering places where the public can access such materials. There may be some costs associated with a quarterly newsletter. These costs have not been determined.

This recommendation has not been implemented.

24. Create a consumer webpage dedicated to older Iowan issues.

In reviewing methods of reaching out to older Iowans and their families and providing them important information, the Division researched a number of other states and the services they provide. Along with a newsletter of general information as noted above, a dedicated webpage would provide specific information regarding insurance and securities that could be a benefit to seniors and their families. A few years ago, the Division was provided funding for an outreach program regarding long-term financial planning. The outreach effort was called "Travel Wisely." A website was created (www.travelwisely.iowa.gov.) and remains active as an online source of information related to planning decisions and long-term care insurance. Brochures were also developed for the same purpose and continue to be distributed. The promotional media campaign related to raising awareness to the issue and these resources was a short-term program that has ended.

The California Department of Insurance has an excellent example of a specific portal on their website titled "Senior Issues" that provides a variety of topics, resources, links, and useful information and services for senior. The Division is in the process of updating its existing website. Dedicating a portion of the website to senior issues that includes SHIIP would be an enhancement to the Division's outreach efforts.

This recommendation has not been implemented.

25. Review all marketing materials on long-term care insurance products prior to use by carriers and agents.

Several complaints raised during the study related to information provided to policyholders prior to the purchase of the long-term care insurance product. Some policyholders felt that the materials might be misleading or not provide full disclosure of the policy benefits. While there is a requirement of a suitability analysis at the time of an application and when the policy is purchased, marketing and sales materials are not reviewed for approval prior to use. Obviously the marketing materials for these products should be clear and not misleading. Therefore, a prior approval system for advertising material would provide additional consumer protection.

This recommendation may require legislation.

26. Establish regular meetings with other state regulators to share information concerning older Iowans.

The Iowa Insurance Division has been meeting with personnel from several Iowa state government agencies concerning education and outreach efforts concerning older Iowans issues. It became apparent during our discussions with departments such as Elder Affairs, Inspections and Appeals and the Attorney General's office, that Iowans often contact multiple agencies regarding their concerns or issues. And while each state agency may have different areas of oversight, the constituencies may be quite similar.

Regular meetings between the above state agencies can provide greater protection to consumers through better coordination. Sharing information regarding consumer issues and concerns can help all the agencies coordinate their consumer protection efforts and strengthen their overall effectiveness.

This recommendation has not been implemented.

27. Commence a state-wide discussion on long-term care and its impact on Iowa's future.

Throughout the Division's review of long-term care insurance, it was apparent that many Iowans are concerned about their retirement. With the cost of long-term care increasing every year, Iowans who are retiring or beginning to plan for their retirement are concerned about the type of living arrangements that will be available and the costs. Iowans are proud people who have worked hard and, in many instances, desire to provide some inheritance to their families. They are not eager to accept assistance through state and federal programs. But, they are unsure of the best way to plan for their retirement years and protect their assets for future generations.

Iowa should be in the forefront of discussions on assisting our older Iowans on how to live in dignity and security. This is not an insurance issue only but one that encompasses a variety of issues including health care, housing needs, consumer protection, government programs for the elderly and the funding for those programs. The Governor could commence a state-wide effort to discuss how Iowa should plan for the future and what role government can play in assuring a safe and secure retirement for all Iowans.

This recommendation will require action by the Governor or Legislature.

H. Conclusion

The Division has reviewed a wide variety of issues in regard to long-term care insurance. While some of the early focus was on particular issues of claim denials and premium rates, other concerns arose throughout the three-month study. Long-term care insurance is a relatively new product in the insurance market. It is not an appropriate purchase for is a relatively new product in the insurance market. It is not an appropriate purchase for all Iowans. Iowa consumers should seek advice from their insurance agents, financial advisors or family members and loved ones before making any decisions involving long-term care insurance.

Many public and private agencies provide excellent unbiased information concerning long-term care planning that includes long-term care insurance as an option. Rating agencies, the Insurance Division, and a number of insurance associations can provide data and statistics regarding insurance companies' financial strength, complaint statistics and other valuable information to use in making an appropriate decision on purchasing long-term care insurance. One size does not fit all. The new products provide greater flexibility of benefits but at a cost. It is important that consumers have as many tools as possible before they make any significant financial purchases.

Having stated the above, there are ways that the system can and should be changed. The role of the Division is to protect consumers and maintain a solvent industry. It is a balancing act. It is acknowledged through the Findings and Recommendations that the Insurance Division can improve its overall system of consumer protection and oversight.

It is also important to have insurance carriers that strictly comply with the rules and regulations. Agents must be educated in the products they sell and be compliant with suitability and disclosure requirements. And consumers must do their part by taking time to ask questions and read the materials provided them. When they have concerns, they should not hesitate to contact their agents, financial advisers, family members, or the Insurance Division for assistance.

The combination of the adoption of several of these recommendations, particularly the statutory consumer protection requirement, the establishment of a dedicated Enforcement Bureau, the implementation of an Independent Review process for long-term care insurance, the additional rate review processes, the application of Prompt Pay requirements to long-term care insurance, combined with the already-passed legislation permitting restitution and corrective actions by the Division will make the agency well-equipped to take strong positions and actions in defense of consumers.

The recommendations contained in this Report reflect the variety of concerns voiced to the Division during the study. They address specific programs or policies within the purview of the Insurance Division. While many of the recommendations are in the process of implementation, the Division believes that those recommendations requiring legislation or further action should be enacted. The Division stands ready to assist the Governor, Legislature and most importantly, Iowa consumers to move forward on these recommendations to maintain and enhance strong consumer protection.

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