



March 19, 2011

James W. Harris
Legal Unit-OCI Rule Comment Form
Office of the Commissioner of Insurance
125 South Webster St-2nd Floor
Madison, WI 53703-3474

To the Commissioner:

On behalf of Life Care Funding Group, I thank you for the opportunity to offer these written comments in regarding **the act to amend Ins 7.02, 7.04 and 28.06 to create 2.18, Wis. Admin. Code, relating to life settlements and affecting small business.**

The U.S. and the state of Wisconsin is experiencing a massive influx of seniors and Baby Boomers hitting the long term care system at the worst possible time from an economic perspective. This economic crisis now well into its third year is translating into less tax dollars for Medicare and Medicaid to pick up the costs of long term care which is forcing more emphasis back on the consumer to cover costs out of their own pocket. Seniors and their families are uninformed and unprepared to handle the costs and navigate the LTC industrial complex. Studies show the majority of people don't save or plan for LTC until they are hit with a health crisis.

A way that seniors could help pay for the costs of long term care is through the conversion of a life insurance policy into a long term care benefit plan. Life insurance is legally recognized as an asset and it is the personal property of the owner with guaranteed rights. Among these recognized rights is converting a policy for any legal purpose that best suits the owner. According to the NAIC, there are 3,175,000 in-force life insurance policies in Wisconsin. A huge percentage of these policies will never pay out a death benefit because they will either expire, be surrendered for any remaining cash value or the owner will allow it to lapse. Seniors are particularly vulnerable to abandoning a policy because the cost of keeping it in force can become too much when confronted with the costs of long term care. They do not know they have other options to consider instead of abandonment and the life insurance industry has no incentive to notify seniors otherwise.

In addition, life insurance is an unqualified asset when applying for Medicaid and seniors typically surrender or lapse a policy as they apply for eligibility. If a senior were to convert a policy instead to a long term care benefit plan they could extend the spend down period of the insurance asset and remain private pay longer and in the process save Wisconsin's Medicaid program considerable money.

We often times encounter seniors with a life insurance policy that they have been carrying for years. They are now in a crisis mode and will most likely lapse the policy because there is little to no cash value and they can no longer afford the premiums. When they reach out to the insurance company for options they are told they have two: pay up or lapse/surrender.

LCFG's solution is to convert a life insurance policy's death benefit into a long term care benefit that will help pay the costs of care and/or housing. Our program, called the Assurance Benefit, has helped people pay for the costs of nursing home, assisted living and home based health care. Each family we have helped were owners of a life insurance policy they no longer could afford to keep in force. They were planning to either lapse the policy or surrender it for minimal cash value. After they learned that there were alternative options to realize value for an asset they were prepared to abandon, they quickly acted on our program and were able to move forward securing the best possible long term care for their needs.

We encourage you to include the eight options passed by the National Conference of Insurance Legislators (NCOIL) found in the *Life Insurance Consumer Disclosure Model Law*. Wisconsin was one of the states on NCOIL's Executive Committee that unanimously passed the Model Law in November, 2010. The law requires that life insurance companies inform policy holders above the age of 60, or with a terminal or chronic condition, that there are eight approved alternatives to the lapse or surrender of a life insurance policy. The eight options for consumers to be made aware of in the Model Law include:

- Accelerated death benefit
- Assignment of policy as a gift
- Life Settlement
- Policy replacement
- Maintenance pursuant to terms or riders
- Maintenance of policy through a loan
- Conversion from term to a permanent policy
- Conversion to LTCI or a Long Term Care Benefit Plan

The law's intent is to make sure that insurance carriers disclose to their policy owners that they have multiple options to consider beyond lapse or surrender. It also emphasizes that "policy owners should contact their financial advisor, insurance agent, broker or attorney to obtain further advice and assistance." Violation of the law is considered an unfair trade practice and subject to penalties established by state law.

NCOIL declared that final passage of the *Life Insurance Consumer Disclosure Model Law* is intended to be "a strong stand for life insurance policy owners and would empower consumers through education about their options." Former NCOIL President Rob Damron (KY), upon unanimous passage said, "It is imperative that policy holders understand that they have alternatives to merely lapsing or surrendering their policy. The model would require a clear notice to consumers, listing eight available options, including accelerated death benefits, conversion to long term care, and the possibility of a life settlement."

The families our company works with are middle class and typically have owned a small face value life insurance policy for many years that was originally taken out to protect their families. As they are now aged with adult children, the reason for owning the policy is no longer relevant to them and for the most part they can no longer afford their premium payments. They are faced with financial decisions about how they are going to pay for long term care needs and look at the cost of keeping their policy as unaffordable and unnecessary.

They are preparing to allow their policy to lapse, or possibly surrender it for minimal cash value, and when they consult with their life insurance company they are given no other options. For those that learn there are actually a number of alternative options available to them, the policy can potentially become part of the financial solution they and their family are looking for while they are still alive.

For example, we recently helped a family with a \$95,000 life insurance policy entering its grace period. Their mother was in the process of making the move into long term care and they could not afford the monthly expenses. They called their insurance company to ask what they could do with their policy and they were told their only option was to pay the premiums or let it lapse. Then they contacted us. And now instead of allowing the policy to lapse, we converted it into a long term care benefit plan that will help cover her costs of care and keep her off of Medicaid for at least the next two years.

It is in the better interest of the senior and their family to convert a death benefit into a long term care benefit and then apply the maximum private market value of the policy towards their health care needs. It is a private sector solution that addresses the financial needs of the senior and can also help stressed state budgets by extending the spend down period for a senior before they would go onto Medicaid.

Life Care Funding Group converts the life insurance policy into a long term care benefit that helps defray the expensive costs of long term care—and keeps them off of Medicaid as their spend down period as a private pay patient can be extended for many months. When faced with the choice of allowing a policy for which they have paid premiums for years to lapse or be surrendered, or converting it into a significant long term care benefit, the choice for those families we have helped is obvious.

We are living in a time when we must be doing all we can to get as much information as possible into the hands of seniors. I understand insurance companies would rather see someone in their 80's and in the process of moving towards long term care lapse a policy they have been paying premiums on for 20 years. But, if the policy can be converted into the means to cover the costs of long term care for an extended period, and keep them off of Medicaid that much longer, it is in the best interest of the insured and their home state. People need to be informed of their options even if that means entities such as insurance companies are compelled to give the consumer information that is not in the best interest of their profit margins.

Our belief is that the consumer is best served by making informed decisions based on access to all available information. When a senior and their family is informed that an asset they are about to throw away has unrealized value for them, and by converting the policy into a long term care benefit they have found a solution to a health care crisis they are confronting, the consumer wins when they are able to access the most appropriate form of long term care and the state wins when a citizen is able to extend their ability to cover the costs of long term care for as long as possible before accessing Medicaid.

We urge Wisconsin and every state in the Union to adopt the model consumer disclosure legislation so people have the benefit of as much information as possible about their policy options. The opportunity to help families in need and States facing Medicaid budget problems is too big to ignore.

With this Consumer Disclosure law, policy owners will not make decisions based on a lack of information and instead will be informed that they have a number of options to consider first that could make a significant difference in their lives, and at a time when they need it most.

Attached with our comment letter is the testimony I delivered at NCOIL's meeting in November prior to unanimous passage of the Model Law. Also, attached is a testimonial letter from one of the families we recently helped through our program attesting to the fact that a policy they did not plan to keep ended up making all the difference in their lives when they converted it to a long term care benefit.

I thank you again for this opportunity to provide comments, and look forward to being a resource to Wisconsin's efforts to ensure the consumer has access to more, and not less, information and options.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Orestis". The signature is fluid and cursive, with a long horizontal stroke at the end.

Chris Orestis
CEO
Life Care Funding Group

Founded in 2007, Life Care Funding Group (LCFG) is the leading provider of “Funding Solutions for Senior Living” to the senior housing and long term care industry. Our company specializes in converting the death benefit of an in-force life insurance policy into a long term care benefit to cover the costs of skilled nursing home care, assisted living, home health care, and hospice. We are members of the Assisted Living Federation of America (ALFA) and the American Health Care Association (AHCA).

Attachments:

- 1- Testimony of Chris Orestis before the National Council of Insurance Legislators (NCOIL), November, 2010
- 2- Customer testimonial letter sent to Life Care Funding Group
- 3- NCOIL Statement upon unanimous passage of the *Life Insurance Consumer Disclosure Model Law*