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Re: House Bill 2810 - Support

Dear Chairman Sutton:

The American Council of Life Insurers (ACLI) appreciates the opportunity to offer comments in support of House Bill 2810, which would enact into law the 2017 revisions to the National Association of Insurance Commissioners' (NAIC) Life and Health Insurance Guaranty Association Model Act. These changes would help ensure that the Kansas Life and Health Insurance Guaranty Association, which was created to protect consumers and act as a safety net in the event of an insurer insolvency, remains stable, fair, and sustainable through sufficient assessment capacity.

Regulators, life insurers, health insurers, consumer representatives, and experts in the insurance receivership community worked together for over a year to make these revisions to the Model Act deemed critical in the wake of a significant long-term care insurance (LTCI) related insolvency that occurred in 2017. The revisions were designed to give consumers confidence when purchasing LTCI products so they know their LTCI benefits will be protected in the unlikely event of an insurer insolvency. To date, 40 states and the District of Columbia have updated their guaranty association statutes to reflect the revisions made to the Model Act¹.

First, a brief explanation of the state life and health insurance guaranty system:

As you know, insurance companies are regulated and licensed in each state in which they do business. State insurance departments monitor insurers' financial stability and oversee the guaranty association safety net that protects residents if a life or health insurance company fails. Life and health insurers are required to be members of each state's life and health insurance guaranty association as a condition of doing business in the state.

If an insurance company becomes financially unstable, the insurance department in its home state steps in and takes control of the company. This begins the receivership process, the goal of which is to rehabilitate the troubled insurer. If the company's financial difficulties are too great to overcome, the insurance department will then ask the court to declare the company insolvent and place it into liquidation. The appointed receiver then attempts to maximize the insurer's estate assets in order to pay off its creditors and policyholders.

¹ Florida exempts from LTC assessments any non-profit HMO that operates only in FL and has capital and surplus of less than \$200 million as of December 31, preceding the year in which the assessment is made. South Dakota excludes HMOs from the definition of "member insurer." Utah allocates LTC assessments 75% to the life/annuity account and 25% to the health account.

If the estate assets cannot fully cover the financial obligations of the policyholders, each state guaranty association then assesses its member insurers to pay the remaining claims of its resident policyholders, up to certain statutory limits. The assessments are based on the amount of premiums that each member insurer collects in that state on the type of business for which the benefits relate (e.g., life insurance, annuities, health insurance).

Needed changes to protect the life and health insurance guaranty association safety net:

Under Kansas's current guaranty association law, only the health account is assessed for LTCI related insolvencies. As a result, health insurers shoulder about 80 percent of LTCI related assessments, while life insurers that hold a health insurance license absorb the remaining 20 percent. This approach is unsustainable because:

- It is inequitable for health insurers to shoulder the majority of the guaranty association assessment liabilities for LTCI related insolvencies when most health insurers have never sold the product.
- There is insufficient assessment capacity in the guaranty association's health account to absorb another significant LTCI related insolvency like the one that occurred in 2017.
- Premiums received by HMOs are not included in the assessment base because HMOs are not currently members of the Kansas Life and Health Insurance Guaranty Association.

House Bill 2810 would add HMOs as members of the Kansas Life and Health Insurance Guaranty Association, thus expanding the assessment base in the guaranty association's health account. It would also provide guaranty association protection for the policyholders of HMOs that does not exist today. The significant differences between commercial health insurers and HMOs that led to HMOs being excluded from guaranty association statutes decades ago no longer exist. HMOs now compete actively in the health coverage marketplace; in fact, most commercial health insurers now have HMO platforms. Consumers deserve the same coverage protections regardless of which health plan they or their employers choose.

The bill would also split assessments for future LTCI related equally between the guaranty association's life and health insurance accounts. The 50/50 split of LTCI related assessments is a critical element of this legislation.

The vast majority of life and health insurers have never sold standalone LTCI. In addition, the number of life and health insurer groups that once sold standalone LTCI—approximately 100—has dwindled to less than 15 today. Instead, there has been a significant shift in LTCI sales from standalone products to hybrid products. Most outstanding LTCI today—24 percent of existing products and 85 percent of new sales—is written as part of a life or annuity hybrid product (e.g., a life insurance policy with a LTCI rider). Based on this market transformation, it appears that LTCI related assessments will be migrating from the health account to the life account.

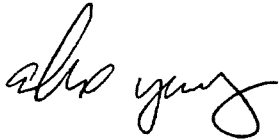
Legacy blocks of standalone LTCI, however, continue to pose risks to the guaranty association system. To address those risks, ACLI supports the revisions to the guaranty association system

that require all life insurers (not just those selling LTCI or other health insurance) to assume a greater share of the assessment burden of a failed carrier that writes LTCI.

Why are life insurers stepping up to assume more of the burden? Our member companies recognize how critically important the stability of the state guaranty association system and its protections are to consumers, the overall confidence in our industry, and to the future of the state-based system of insurance regulation. There simply is not enough capacity in the system to absorb another significant LTCI related insolvency if the entire life and health insurance industry does not share the burden. The revisions to the Model Act reflected in HB 2810 will protect consumers who purchase LTCI and help prevent undue financial burdens on health insurance companies.

Thank you for your consideration of our comments. We hope you will **support** HB. 2810.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Young", written in a cursive style.

ALEX YOUNG

Cc: Members of the House Committee on Insurance