

**INDUSTRY ADVISORY COMMITTEE  
COMMENTS DATED JANUARY 23, 2007 RE:**

**INDIVIDUAL LIFE APPLICATION STANDARDS  
DATED OCTOBER 6, 2006**

**General Draft Comments**

To accommodate the right and obligations of *Fraternal Benefits Societies* (“*fraternals*”) in a manner similar to that which was done for the 5 universal life product standards, we are including recommendations for the specific sections of the application standards, as applicable.

To assist the IIPRC with its review of filings made by fraternals, we suggest the inclusion of an *Appendix B* to describe the legal structure, operation and obligations of fraternals. The suggested Appendix is included at the end of these comments.

**Specific Draft Comments**

**TITLE**

From comments we have heard regarding other product standards, we suggest that the title should be changed to say ‘INDIVIDUAL LIFE *INSURANCE* APPLICATION STANDARDS’.

**ADDITIONAL SUBMISSION REQUIREMENTS, Item (1), Page 1**

The first sentence of item (1) should also be changed to say “All forms to be filed for approval shall be included with the filing.”

**ADDITIONAL SUBMISSION REQUIREMENT, Item (6), Page 2**

We have been informed that the Product Standards Committee has decided for other product standards to change the end of the first sentence to say “the submission shall include the required Statement of Variability.” We agree with this change.

## PROPOSED INSURED, Page 5

The Product Standards Committee had previously recommended the deletion of “place of birth” based on a Maryland statute prohibiting the use of this identifier. We had objected to the deletion on the basis that this is an identifier used by various government agencies, federal and state. In addition, during the public meeting, we stated that MIB, Inc. relies on this information, and that this identifier is a critical factor in assisting companies to comply with the requirements of the U.S. Treasury’s Office of Foreign Assets (OFAC) and Section 356 of the U.S. Patriot Act. Unfortunately, the Product Standards Committee chose to continue to recommend the deletion of “place of birth”.

At this time, we request the IIPRC consider the reinstatement of this identifier.

This identifier, as well as others, are all critical to a company’s ability to match the identity of the applicant, especially in situations where people have common name and some common identifiers, and the place of birth may be the one identifier that distinguishes one person from another.

We are providing an excerpt of MIB Privacy Policy (this was accessed via [privacy@mib.com](mailto:privacy@mib.com)) which substantiates the use of this identifier in its database:

### **MIB Privacy Policy**

#### **Commitment**

For its nearly 100 years of existence, MIB has been committed to maintaining the confidentiality of the information entrusted to it and protecting the privacy of the individuals to whom it pertains. This commitment is as important to us today as it was when the organization was founded in 1902.

#### **Types of Information Collected**

1. *Medical/non-medical Information.* Limited information relating to the health and longevity of the proposed insured is reported to MIB by its member companies from a list of about 230 medical conditions and/or test results. The reports, if any, are brief résumés of one or more medical conditions or test results and reported by the company in a confidential coded format. MIB does not receive or collect information from doctors, hospitals, clinics or other medical or medically related facilities.
2. *Identifiers.* MIB uses the following personal identifiers to search its databases: name, date of birth, **place of birth**, and geographic region of residence at time of application.

3. *Sources of Information.* The information in MIB's fraud protection databases comes from our member life insurance companies. Only MIB members may report information to MIB, and only if the information was obtained directly from their applicant or, with their applicant's consent, from doctors, hospitals or other medical or medically related facilities that treated the applicant. Before sending information to MIB, the reporting member life insurance company first encodes the information using a confidential and proprietary coding system designed by MIB to protect the confidentiality of the information and the privacy of the individuals to whom it pertains.

MIB does not employ investigators to collect information. An MIB record does not indicate the amount of insurance being applied for whether or not a policy was issued. Members are not permitted to report information received in connection with a life, health, disability or long term care claim.

4. *Dissemination of Information.* MIB information that is personally identifiable is only available to a life insurance company that is a member of the association. Before a member may request information, it must have from a proposed insured a pending application for life, health or disability insurance and an authorization that names MIB as an information source. In addition, it must have delivered the MIB Pre-Notice to the proposed insured. A member company may also request information from MIB in consideration of a claim under an existing policy.

MIB information sent to a member company is encoded using MIB's confidential and proprietary coding system.

From time to time, MIB performs mortality and morbidity studies through the *Knowledge Services* division of its wholly owned subsidiary, *MIB Solutions, Inc.* Information published as a result of these studies has been aggregated so that none of the information is personally identifiable.

5. *Security.* Personally identifiable information held by MIB is only available to a member of the association, and then only in connection with a pending application for life, health, disability or long term care application or a claim under an existing policy. Before a member may request information from MIB, it must have the consent of the proposed insured and have provided the proposed insured the MIB Pre-Notice which describes MIB and how it operates, the circumstances under which information may be requested from and/or reported to MIB and the address and telephone number of MIB's Information Office for disclosure and/or correction.

MIB has implemented polices and procedures to protect information in its possession. These range from providing a secure facility in which to store the data to state-of-the-art Public Key Infrastructure (PKI) software.

If companies can not provide the “place of birth”, the MIB search may not be as accurate.

When companies review the names of applicants for potential match with OFAC’s list of Specially Designated Nationals or sanctioned countries, the applicant’s place of birth is a critical identifier in determining if there is a match or a false positive.

Companies review applications to “red flag” suspicious money laundering activities as required by Section 356 of the Patriot Act and report this to the Financial Crimes Enforcement Network (FinCEN) of the U.S. Treasury. For example, if the company notes that an applicant had deposited substantial funds into an account via cashier’s check or money order and shortly thereafter withdraws the funds, the company has to investigate this activity. All available identifiers are needed to properly conduct the investigation, and the place of birth is a critical identifier that may determine whether or not it is necessary to file a report.

If any Compacting State has concerns about a company abusing the “place of birth” information, we wish to note that the Unfair Trade Practices Act forbids insurers and fraternal from “refusing to insure, refusing to continue to insure or limiting the amount of coverage available to an individual because of the sex, marital status, race, religion, or national origin.”

Currently, only Maryland prohibits the use of the identifier, so the impact of this prohibition may be insignificant to the industry. However, if the IIPRC were to extend the prohibition to all Compacting States, such prohibition would be very significant and would undermine the value of the MIB database and handicap the companies in meeting the requirements of OFAC and the U.S. Patriot Act. We believe that such consequences would not be in the best interest of the IIPRC.

## **OWNER, Page 6**

For consistency with the PROPOSED OWNER/ANNUITANT section of the Annuity Application standards, we suggest changing the last sentence to say “The section may accommodate joint, corporate, trustee, custodian, UTMA/UGMA applicants.”

At times, the owner is a minor and a custodian is designated as owner until the time that the minor attains the age of majority. For these situations, fraternal and companies need additional information to administer such designation. While it could be argued that the language shown would accommodate these needs, the fraternal and companies would be more comfortable if the language specified these situations.

## GENERAL BACKGROUND QUESTIONS, Item (e), Page 9

The current question only asks if the proposed insured is a member of the military, and companies want to expand that question to also ask if the proposed insured has entered into a written agreement to become a member of the military. Accordingly, we propose the following change:

- “(e) ***Military Service.*** Whether the proposed insured is a member of the military, military reserve, or National Guard, whether active or inactive, ***and whether the proposed insured has entered into a written agreement to become a member of the military, military reserve, or National Guard, whether active or inactive, at a future date.*** For a “yes” response, details may be requested such as: military duties and responsibilities, rank, dates and location of service; ***for agreement for future service: date, location and duties of anticipated service.*** Alternatively .....

## MEDICAL QUESTIONS, Item (c), Page 10

The current question only asks if the proposed insured is pregnant, and the companies want to expand the question to include past diagnosis or treatment for complications of pregnancy. Accordingly, we propose the following change:

- “(c) ***Pregnancy or Complications of Pregnancy.*** Whether the proposed insured is pregnant, ***or whether the proposed insured has ever been diagnosed or treated by a member of the medical profession for complications of pregnancy.*** For a “yes” response, details may be requested ***such as: anticipated date of delivery, date and type of complication, and whether a viable birth resulted.***”

## MEDICAL QUESTIONS, Item (i), Page 13

There is an “;or” at the end of the item which should be replaced with a “;”.

## MEDICAL QUESTIONS, Item (j), Page 13

The end of the item needs a “; or”.

## MEDICAL QUESTIONS, Item (k), Page 13

If the suggestion to add new item (l) is accepted, the item needs a “;” at the end. If the suggestion is not accepted, the item needs “; or” at the end.

## MEDICAL QUESTIONS, New Item (I), Page 13

We had previously suggested that a “symptoms” question be added to prevent someone with a health problem who *had not* sought diagnosis or treatment by a physician from easily securing insurance and/or using the absence of a symptoms question as an opportunity to secure insurance. The Product Standards Committee declined to do so and in an October 6, 2006 recommendation, stated that such a question not be added “because the proposed question may require self–diagnosis and may place an undesirable burden on the IIPRC reviewer to determine the appropriateness of symptom questions.”

We do not believe such a question would require “self-diagnosis”. If someone has blood in the urine, rectal bleeding, bloody stool, fainting spells, etc., that person knows that this is occurring, even though they may not know what these symptoms mean.. We believe that this is the equivalent type of information that is being requested in item (1)(k) about inability to work, attend school, or perform normal activities of like age and gender. If a person with blood in the urine seeks medical attention and applies for insurance, such person will be required to disclose that he has blood in the urine, whether the diagnosis turns out to be something significant or not. So why should a person who has the same symptom but has not sought medical attention *not be* required to disclose that he has blood in the urine? Both of these persons are potentially in the same class of risk, and a company should be allowed to ask this type of question to help determine the class of risk. This information, along with the responses to the other questions in the application, will ensure that both applicants are treated equitably. If companies are not permitted to request symptoms information, persons with obvious symptoms may select against the company, with the result that all insureds would share the additional cost of the anti-selection.

To eliminate the “undesirable burden on the Commission reviewer to determine the appropriateness of symptom questions,” we propose to borrow an approach used in the Exclusions section of the Accidental Death Benefit standards, whereby the symptoms would be limited to those listed, and if others need to be added these would have to be approved by the IIPRC.

Accordingly, we suggest the following:

- (1) ***Symptoms of Potential Ill Health.*** Whether the proposed insured, within a specified period of time (not to exceed 2 years) has had any of the symptoms listed below for which they have not sought the advice of a medical professional:

- recurrent chest pain or pressure;
- blood in urine;
- rectal bleeding;
- blood in stool;
- loss of consciousness;
- recurrent shortness of breath;

- persistent cough;
- unexplained weight loss;
- swollen glands;
- fainting spells;
- persistent headache; and
- persistent fever.

For any “yes” answer, details may be requested such as date of onset of symptoms, frequency of occurrence.

The application may include any other symptoms that may be approved by the IIPRC.”

We believe that a symptoms question is a reasonable complement to the other questions that are included in an application to ensure that all applicants that are potentially in the same class of risk are underwritten in a fair and equitable manner.

We also believe that the suggested language does not conflict with FAIRNESS item (3) since that language prohibits asking if the applicant has any symptoms of specific diseases, disorders or conditions.

## **AGREEMENTS, Page 15**

Fraternal need to add language pertaining to the agreement to be bound by all obligations of membership set forth in the fraternal’s specific articles and bylaws and acknowledge the fraternal’s common bonds and purpose.

To accommodate these needs, we suggest that the following be added to the end of this section:

**“Drafting Note:** These standards are modified, as required or permitted by law, to enable fraternal to implement their respective articles and bylaws. See Appendix B.”

## **NEW SECTION:**

### **ADDITIONAL STANDARDS FOR FRATERNAL BENEFITS SOCIETIES (to follow SIGNATURE REQUIREMENTS on page 15)**

Fraternal use the application form to also request membership in the societies, so we suggest adding the heading and the following:

“The application may include the following:

## MEMBERSHIP

The application may require the membership information that a fraternal determines that it needs to administer the insurance plan, such as membership status (new or existing), lodge number, term of membership, state of membership, etc.”

## **NEW APPENDIX:**

### **APPENDIX B: FRATERNAL BENEFIT SOCIETIES**

Fraternal Benefit Societies (“fraternals”) are subject to separate fraternal codes in all jurisdictions due to their unique structure, operations and legal obligations. The Drafting Note included at the end of the **AGREEMENTS** standards, the new section entitled **ADDITIONAL STANDARDS FOR FRATERNAL BENEFIT SOCIETIES**, and **Appendix B** are included in the standards to allow fraternals to experience the benefits of participating in the single point of filing and review process that the IIPRC offers, without jeopardizing their ability to meet their unique obligations and to operate as required or permitted by law.

By law, a fraternal is defined by five basic elements:

1. one without capital stock;
2. one conducted solely for the benefit of its members and their beneficiaries by providing life, health and annuity benefits and by operating one or more social, educational, charitable, patriotic, or religious purposes for the benefit of members and others;
3. one that is a benevolent and charitable institution and not for profit;
4. one operated on a lodge system that may carry out charitable and other activities; and
5. one that has a representative form of government with a governing body and direct election of its members.

The laws governing fraternals impact the standards in several ways. Fraternals are required by law to issue insurance contracts that incorporate the laws of the Society and the application for membership. Thus, the contract must consist not only of the policy or certificate issued, and the application for insurance, but also the application for membership and the articles and bylaws. Further, the laws governing fraternals require or permit that the articles and bylaws address the structure of lodges, membership



requirements, form of governance, grievance procedures, and eligible beneficiaries. Any amendments to the articles or bylaws made after issuance of a certificate must be applied consistently to all members retroactively. However, no amendment shall eliminate or reduce contractual benefits.

By law, fraternal organizations are membership organizations. Because of this, the law refers to the insurance forms issued to members of a fraternal as “certificates” or “certificates of membership and insurance”. And, due to the membership requirements, fraternal certificates often include a provision stating that the insured and/or owner is a member and that the form that has been issued to evidence coverage is a certificate of membership and insurance. In addition, fraternal certificates may include a Maintenance of Solvency provision setting forth the legal rights and obligations in the case of a fraternal’s financial impairment.