

## Memo to Compact PSC from ACLI

We will be glad to discuss Individual Disability Buy-Sell and Key Person Replacement insurance products and the need for related standards, and address the list of questions.

Attached are charts that address the list of additions, deletions and modifications that were made to the DBOE standards and incorporated into our proposed standards. Below is an outline of our presentation for the March 1 PSC call.

- Welcome and Introductions
- Types of Individual Disability Insurance Policies
  - Disability Income
  - Business Overhead Expense (BOE)
  - Buy-Sell
  - Key Person Replacement (KPR)
- Buy-Sell Insurance Policies
  - Unique/Niche Product
  - Ensures the Continuity of Businesses
  - Relationship to Buy-Sell Agreements
  - Funding Mechanisms
- KPR Insurance Policies
  - Unique/Niche Product
  - Ensures the Continuity of Businesses
- New Uniform Standards are Needed for Buy-Sell and KPR Insurance Policies
  - Inefficient to File These Products in Individual States
- Overview of our Proposed Standards
  - Extension of Existing BOE Standards
  - Address the Differences from the BOE Standards

Wayne Mehlman  
ACLI

**ACLI Responses to the PSC Questions**

2/22/22

**Buy-Sell – ACLI draft compared to DBOE uniform standard**

<b>Added definitions</b>	<b>Meaning</b>	<b>Why is this different from the DBOE uniform standard and necessary for this uniform standard?</b>
Buy-sell agreement	The Buy-Sell Agreement sets forth the terms under which a disabled insured owner’s interest in the business entity is to be purchased by the entity/other owners. The Buy-Sell Agreement also ensures that the owner of the Disability Buy-Out policy is obligated to purchase the disabled insured owner’s interest in the business. The Disability Buy-Out policy provides funding for the purchase of a business owner’s interest under a buy-sell agreement, by one or more other owners in the same firm, in the event of a long-term total disability.	The DBOE policy provide benefits for the operating expenses of an insured while disabled. In contrast, this buy-sell coverage allows for the same disabled person to receive funds for their ownership interest from the other owner(s) of the business in the event of a long-term disability.
Continuable with Guaranteed Premiums	The policy may be terminated only as stated in the termination provision and premiums are guaranteed.	As there are several persons considered in a Buy-Sell Agreement, and several, different triggers for termination, this definition is necessary for this unique coverage.
Fair Market Value	The price the business would sell for under normal market conditions as of the date the Insured is Totally Disabled.	This type of business insurance allows the insured to receive their ownership interest in the firm in the event of disability. This definition allows for the determination of this value.
Insured	The person named as such on the application.	As the Buy-Sell product necessarily involves one or more persons, this distinction is important.

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Maximum benefit amount	The amount payable to the Owner(s). This amount is the lesser of the Aggregate Benefit Amount stated in the policy specifications; and Fair Market Value; and Purchase Price.	This Buy-Sell coverage provide a lump sum and/or equivalent monthly installments, which is different from the DBOE product, which provides a maximum monthly amount while the insured is disabled.
Owner	The person(s) or Business/Company named as the Owner(s) on the application.	There may be several owner(s) of the business entity and the Buy-Sell Agreement.
Purchase Price	The amount the Insured is to be paid for their ownership interest in the Business/Company if they become disabled. This amount may also include other fees incurred in the execution of the Buy-Sell Agreement.	The unique nature of the Buy-Sell Agreement requires this definition to ensure the proper amount is paid in the event of disability.

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Deleted definitions	Meaning	Why is this different from the DBOE uniform standard and necessary for this uniform standard?
<p>Business income</p> <hr/> <p>Cost of Living Index</p> <hr/> <p>Cost of sales or services</p> <hr/> <p>Covered disability overhead expense</p> <hr/> <p>Maximum covered Monthly Expense benefits</p> <hr/> <p>Prior business income or pre-disability business income</p>		<p>These provisions are important in the DBOE policy as the insurance reimburses key business expenses during a disability, and these terms are relevant and defined to determine the reimbursable amount. In contrast, the Buy-Sell benefit provides for payment of the purchase of the disabled business owner's interest, and this amount is determined by the added definitions on the previous page.</p>
<p>Partial or residual disability</p>	<p>Due to an Injury or Sickness, the insured is unable to perform one or more, but not all of the Substantial and Material Duties of an Occupation or is able to perform all duties but not for as long as usually required.</p>	<p>Only Total Disability is covered under this unique coverage.</p>
<p>Presumptive disability</p>		<p>Not applicable in disability buy-sell coverage.</p>

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<b>Modified definitions</b>		
Active full-time work		
Aggregate Benefit Amount	The aggregate amount of benefits for which the owner or assignee can be paid (usually monthly) for Disability Buy-Out.	This definition is key in Disability Buy-Sell coverage as the benefits may be paid in a lump sum and/or monthly installments.
Benefit Period – added Benefit Factor	The length of time which can be used to calculate periodic Disability Buy-Out payments under the policy.	This is a provision which is unique to the Disability Buy-Sell agreement, allowing for flexibility in the payment period.
Business – added /Company	The business or professional entity(ies) in which the insured has an ownership interest.	Due to the uniqueness of this coverage, the term was expanded to allow for both.
Total disability		This term is defined and utilized throughout the recommended insurance policy standards as it is key to this type of coverage.

<b>Deletions</b>		
Deleted Accumulation “carryover” benefit		There are no carry-over benefits in this coverage, as the full benefit is paid in the event of Total Disability.
Permissible limitations or exclusions – deleted normal pregnancy, workers compensation		The focus in this standard is on prohibited limitations or exclusions as opposed to permissible limitations or exclusions.
Benefit provisions – deleted cost of living index guarantee, Required total disability benefit		Not applicable provisions to this type of coverage.
Incidental Benefit provisions section deleted		As this coverage is intended to fund the ownership interest, incidental benefits are not applicable.

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<b>Modifications</b>		
Modified Payment of claims	?	
Permissible limitations or exclusions – benefit reduction on account of other coverage		This benefit reduction is necessary to ensure that the maximum benefit payable is the insured’s ownership interest in the Company.
Benefit provisions – added Exchange privilege	This optional provision allows the Insured to exchange the Disability Buy-Sell policy for a disability income policy if there is no longer an ownership interest.	This is a feature unique to Disability Buy-Out policies and is beneficial to the Insured.
Termination of policy – added provisions		By the very nature of the Disability Buy-sell Agreement, there are several triggers that could warrant a termination of the policy. As such these provisions were necessarily added.

## Summary of ACLI Responses to PSC Questions

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KPR Summary

### Key Person – ACLI draft compared to DBOE uniform standard

<b>Added definitions</b>	<b>Meaning</b>	<b>Why is this different from the DBOE uniform standard and necessary for this uniform standard?</b>
Benefit payment methods	Defines that there are 3 ways a Key Person benefit could be paid: In a lump sum, as a monthly benefit, or a combination of the two	DBOE only pays benefits on a monthly basis since it covers expenses that are incurred monthly. Key Person benefits can be structured several different ways and so those different methods are defined.
Continuable with Guaranteed Premiums	The Key Person policy may be terminated based on specific provisions outlined in the policy termination provision, but premiums are otherwise guaranteed .	The purpose of Key Person Replacement insurance is to protect the business against the loss of revenue due to the total disability of the individual, as a result, the policy should terminate when the individual is no longer working in their key person occupation, or no longer working for the employer. Because the policy should terminate in those circumstances it is filed as Continuable with Guaranteed Premiums rather than Non-Cancelable. DBOE policies do not contain similar provisions.
Key Person plus drafting note	Defines who is eligible to be covered as a Key Person, specifically that they are someone who directly contributes to the earnings of the company. The Drafting note also provides that the carrier may define specific guidelines around percentage of ownership. A sole owner or majority owner could use funds received from a Key Person policy as supplemental Disability Income benefits rather than the stated purpose	This concept does not apply to Overhead Expense products as the DBOE insured is someone who is responsible for Business expenses.

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	of replacing the Company's lost revenue and replacement expenses	
Insured	The person named as such on the application.	The policy is always owned by someone other than the insured, so it is important to distinguish who the Insured is.
Maximum benefit amount	Note – this term is not defined in the proposed standards for Key Person, only Buy-Sell	
Owner	The entity listed on the application as the Owner of the policy	Key Person policies are always owned by someone other than the insured, so it is important to distinguish the two

<b>Deleted definitions</b>	<b>Why is this different from the DBOE uniform standard and removed for this uniform standard?</b>	
Covered disability overhead expense	The purpose of Key Person Replacement insurance is to protect a business against the loss of income they experience in the event a key employee becomes totally disabled and can no longer generate revenue for the business. As such, the concept of covered overhead expenses does not apply.	
Maximum covered monthly expenses	For Key Person, there isn't a specified monthly expense, rather the coverage amount is generally determined by the amount of revenue the individual generates for the company and/or a multiple of the individual's salary.	
Presumptive Disability	This concept is not used in Key Person Replacement policies	

<b>Modified definitions</b>	<b>Meaning</b>	<b>Why is this different from the DBOE uniform standard and necessary for this uniform standard?</b>
Active Full-Time Work	Specifies that the insured is working a specific occupation for the business, and may also require that they be working a specific number of hours in that occupation	Because Key Person Replacement is tied to the revenue an individual brings to the business in a specific capacity, the definition here is more particular to the insured's ability to work in a very specific capacity for the business
Benefit Period – Added Benefit Factor	Benefit Factor refers to a specific number of periodic payments that can be made	Because of the way Key Person is structured, there may be a set number of benefit payments made

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Occupation	The specific occupation the insured is doing for the business (or a subsequent comparable occupation) that warrants them being identified as a Key Person	More specific definition of occupation because the Key Person replacement is tied to the revenue generated from a specific occupation
Prior business income – deleted reference to cost of living adjustment		Key Person policies do not include cost of living adjustments because the benefit duration is not long enough to warrant it
Business – added /Company	Adds “Company” to the defined term of “Business”	Added for clarification that the term “Company” refers to the entity that owns the Key Person Replacement policy, and not the insurance carrier
Total disability – deleted references to 12 months, added other conditions	Defines Total Disability as the inability to perform the substantial and material duties of the specific Key Person Occupation.	References to 12 months are unnecessary. At no time should the Definition of Disability be more restrictive than the Insured’s inability to perform the Substantial and Material Duties of the Occupation.

	Meaning	Why is this different from the DBOE uniform standard and necessary for this uniform standard?
<b>Deleted sections</b>		
Accumulation “carryover” benefit	With OE it reimburses for expenses as they happen so one month’s benefit may be different than other months so it allows those excess benefits to carry forward to a month that might have greater expenses.	This does not apply to KPR as it is not a reimbursement policy and benefits that are issued are paid out as stated in the policy.
Permissible limitations - Deleted aggregate benefit amount will not be reduced because of other coverage	At the time of a payout we would want to make sure that an employer is not receiving multiple payouts that exceed the revenue the employee was bringing into the company.	We do not want an employer to receive more benefits
Incidental Benefit provisions section deleted	These provisions pay additional benefits for	This does not apply to KPR. The maximum benefit would be

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	accidental death or dismemberment.	paid from the base policy, no additional funds should be paid out.
<b>Modifications</b>		
Modified Notice of Claim and Payment of claims	Removed the section regarding minimum payout for a claim of 2 years.	KPR policies are paid out as a lump sum and/or a short time to help out the company until the aggregate benefit has been paid. This does not drag out over a long period (2 years may be the maximum time frame)
Modified provisions in Payment of Claims section	References to beneficiary	Since the owner of the policy is always a company benefits are paid directly to the company.
	Provision for allowance for a lump sum payout in lieu of monthly payments	This was removed as the monthly benefits are not paid out over a long period of time.
added statement on Required Total disability benefit		Defined that benefits shall at least be payable for Total Disability.
Ownership – deleted reference to insured is owner		The insured cannot own this policy as benefits are meant to provide the company with a way to help replace the insured if they become disabled and cannot work.
Total Disability – deleted reference to first 12 months	Defines Total Disability as the inability to perform the substantial and material duties of the specific Key Person Occupation.	References to 12 months are unnecessary. At no time should the Definition of Disability be more restrictive than the Insured's inability to perform the Substantial and Material Duties of the Occupation.
Permissible limitations – benefits excluded only if paid by Workers' compensation deleted		Should not impact or be impacted by workers compensation as benefits are paid to the employer.
Termination of insurance – added items to when insurance ends	Added to allow termination based on if the insured no longer works for the company, once the benefits have been paid out or if the insured is no longer working in their key occupation or not actively working full time.	If any of these are true then the employer no longer has an insurable interest and the policy should be terminated.
<b>Added provisions</b>		

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Benefit provisions – added Exchange privilege		Allows the insured to obtain a DI policy if they leave the employer or are no longer considered to be a key employee.
Termination of benefits – added provision		Allows the policy to be terminated if the insured dies as a key person life insurance policy would be assumed to payout if purchased. The disability has ended.

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Buy-sell agreement	The Buy-Sell Agreement sets forth the terms under which a disabled insured owner’s interest in the business entity is to be purchased by the entity/other owners. The Buy-Sell Agreement also ensures that the owner of the Disability Buy-Out policy is obligated to purchase the disabled insured owner’s interest in the business. The Disability Buy-Out policy provides funding for the purchase of a business owner’s interest under a buy-sell agreement, by one or more other owners in the same firm, in the event of a long-term total disability.	The DBOE policy provide benefits for the operating expenses of an insured while disabled. In contrast, this buy-sell coverage allows for the same disabled person to receive funds for their ownership interest from the other owner(s) of the business in the event of a long-term disability.
Continuable with Guaranteed Premiums	The policy may be terminated only as stated in the termination provision and premiums are guaranteed.	As there are several persons considered in a Buy-Sell Agreement, and several, different triggers for termination, this definition is necessary for this unique coverage.
Fair Market Value	The price the business would sell for under normal market conditions as of the date the Insured is Totally Disabled.	This type of business insurance allows the insured to receive their ownership interest in the firm in the event of disability. This definition allows for the determination of this value.
Insured	The person named as such on the application.	As the Buy-Sell product necessarily involves one or more persons, this distinction is important.

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Maximum benefit amount	The amount payable to the Owner(s). This amount is the lesser of the Aggregate Benefit Amount stated in the policy specifications; and Fair Market Value; and Purchase Price.	This Buy-Sell coverage provide a lump sum and/or equivalent monthly installments, which is different from the DBOE product, which provides a maximum monthly amount while the insured is disabled.
Owner	The person(s) or Business/Company named as the Owner(s) on the application.	There may be several owner(s) of the business entity and the Buy-Sell Agreement.
Purchase Price	The amount the Insured is to be paid for their ownership interest in the Business/Company if they become disabled. This amount may also include other fees incurred in the execution of the Buy-Sell Agreement.	The unique nature of the Buy-Sell Agreement requires this definition to ensure the proper amount is paid in the event of disability.

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<p>Partial or residual disability</p>	<p>Due to an Injury or Sickness, the insured is unable to perform one or more, but not all of the Substantial and Material Duties of an Occupation or is able to perform all duties but not for as long as usually required.</p>	<p>Only Total Disability is covered under this unique coverage.</p>
<p>Presumptive disability</p>		<p>Not applicable in disability buy-sell coverage.</p>

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<b>Modified definitions</b>		
Active full-time work		
Aggregate Benefit Amount	The aggregate amount of benefits for which the owner or assignee can be paid (usually monthly) for Disability Buy-Out.	This definition is key in Disability Buy-Sell coverage as the benefits may be paid in a lump sum and/or monthly installments.
Benefit Period – added Benefit Factor	The length of time which can be used to calculate periodic Disability Buy-Out payments under the policy.	This is a provision which is unique to the Disability Buy-Sell agreement, allowing for flexibility in the payment period.
Business – added /Company	The business or professional entity(ies) in which the insured has an ownership interest.	Due to the uniqueness of this coverage, the term was expanded to allow for both.
Total disability		This term is defined and utilized throughout the recommended insurance policy standards as it is key to this type of coverage.

<b>Deletions</b>		
Deleted Accumulation “carryover” benefit		There are no carry-over benefits in this coverage, as the full benefit is paid in the event of Total Disability.
Permissible limitations or exclusions – deleted normal pregnancy, workers compensation		The focus in this standard is on prohibited limitations or exclusions as opposed to permissible limitations or exclusions.
Benefit provisions – deleted cost of living index guarantee, Required total disability benefit		Not applicable provisions to this type of coverage.
Incidental Benefit provisions section deleted		As this coverage is intended to fund the ownership interest, incidental benefits are not applicable.

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<b>Modifications</b>		
Modified Payment of claims	?	
Permissible limitations or exclusions – benefit reduction on account of other coverage		This benefit reduction is necessary to ensure that the maximum benefit payable is the insured’s ownership interest in the Company.
Benefit provisions – added Exchange privilege	This optional provision allows the Insured to exchange the Disability Buy-Sell policy for a disability income policy if there is no longer an ownership interest.	This is a feature unique to Disability Buy-Out policies and is beneficial to the Insured.
Termination of policy – added provisions		By the very nature of the Disability Buy-sell Agreement, there are several triggers that could warrant a termination of the policy. As such these provisions were necessarily added.

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KPR Summary

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	of replacing the Company's lost revenue and replacement expenses	
Insured	The person named as such on the application.	The policy is always owned by someone other than the insured, so it is important to distinguish who the Insured is.
Maximum benefit amount	Note – this term is not defined in the proposed standards for Key Person, only Buy-Sell	
Owner	The entity listed on the application as the Owner of the policy	Key Person policies are always owned by someone other than the insured, so it is important to distinguish the two

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Maximum covered monthly expenses	For Key Person, there isn't a specified monthly expense, rather the coverage amount is generally determined by the amount of revenue the individual generates for the company and/or a multiple of the individual's salary.	
Presumptive Disability	This concept is not used in Key Person Replacement policies	

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	accidental death or dismemberment.	paid from the base policy, no additional funds should be paid out.
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