May 1, 2022

Honorable Michael Conway
Colorado Division of Insurance (DOI)
1560 Broadway, Suite 850
Denver, CO 80202

Dear Commissioner Conway:

The Life Underwriting and Risk Classification Work Group of the American Academy of Actuaries[1] appreciates the opportunity to comment on the stakeholder engagement process to develop rules to implement SB21-169 regarding life insurance underwriting. Our comments address the request to respond to the two questions posed during the April 12, 2022, stakeholder hearing:

> What should the Division consider in developing definitions of "external consumer information and data sources" and "traditional underwriting practices" for life insurance companies in the context of unfair discrimination?
>
> What information or data is needed/would be useful to inform this decision and eventual rule-making?

Our work group had some difficulty addressing these questions directly. We would like to discuss the issues more generally and examine how those questions pertain to the rules under development by the DOI. The two questions focus on developing definitions and specific data elements. In our experience, it is easier to develop working definitions once a vision of the goal and the end product are more in focus.

We suggest not trying to classify the type of underwriting (traditional, accelerated, simplified). Over time these distinctions have been harder to make because of the evolving nature of underwriting tools. Focusing on defining the types of underwriting programs may not be as useful as focusing on the main objectives or principles of the underwriting process.

[1] The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

We encourage focusing the deliberations on the ultimate disclosure and/or certification that will be required of life insurers. Focusing on the main objectives or principles of the underwriting process will allow the rules to be more flexible, encompassing the inevitable evolution of underwriting.

While the basic purpose of life insurance underwriting has not changed, the data and processes used by life insurers to evaluate applicants has changed significantly over the past few decades. Some of these changes were made possible by the availability of certain data and more sophisticated modeling and computing tools. For example, blood samples were not widely used until the mid-’80s /early ’90s. Similarly, information from motor vehicle records was not widely available until the past couple of decades. The appendix to this letter includes a graphic showing major milestones in life insurance underwriting.

In the work group’s deliberations, it explored whether an insurer would be expected to test the possible bias of the data input, the algorithms and models that use the data, or the ultimate outcome of the complete underwriting process. None of these questions need to take into account definitions of “traditional underwriting” or “external data.” The ultimate risk classification—the result of the underwriting process—takes into consideration many factors, as it is an overall assessment of the risk. Therefore, testing the resulting underwriting decision is a more logical way to measure bias in life insurance underwriting.

The purpose of life insurance underwriting is to evaluate an individual applicant’s risks (e.g., mortality, morbidity, lapsation, and suitability) and determine whether the applicant’s risk profile is consistent with the risk pools used by the life insurer to manage its business. When thinking about life insurance, the more unique aspects need to be considered:

1. Life insurance in a voluntary, stand-alone purchase.
2. Life insurance is not mandated and has no direct bearing on other decisions such as the ability to acquire a mortgage or to drive a car.
3. A life insurance company must evaluate an applicant’s risk taking into consideration that the decision to issue the policy is a long-term contract containing guarantees with no ability to re-price or adjust after issue.

We suggest the stakeholder engagement process work through specific questions of concern relevant to life insurance underwriting:

1. Life insurance underwriting decisions are based on many data elements. Given the interaction of the risk factors, how can bias be measured in a way that considers interactions between various risk factors?
2. What measures or analytical framework should be used to evaluate the fairness of a process? A life insurance applicant’s risks are evaluated comprehensively, with some risk elements weighted more heavily than others. Demonstrating the impact of one risk factor in a decision process that can use dozens of risk factors is very complex.

3. What data is available to evaluate an underwriting process? Some data that could be used to measure bias is not collected.. If the data is not available, how can a life insurer demonstrate the fairness and lack of bias in its underwriting programs?

We encourage you to revisit the February 4, 2022, letter from the Academy, which references external data. We would also like to point regulators and other interested parties to an Academy monograph, *On Risk Classification*. This paper provides a comprehensive discussion of risk classification and would be a useful foundation for the relevant activities of the Colorado DOI in developing specific rules.

We continue to support regulatory efforts to strengthen consumer protections and ensure that advancements in technology are used responsibly by life insurers. We recognize that our comments do not directly answer the questions posed in the April 12, 2022, stakeholder engagement meeting, but think our comments will help shape more effective rules. We are happy to discuss our comments with you. Please contact Amanda Barry-Moilanen (barrymoilanen@actuary.org), the Academy's life policy analyst, with any questions.

Sincerely,

Sue Bartholf, MAAA, FSA
Chairperson, Life Underwriting and Risk Classification Work Group
American Academy of Actuaries

CC: Debra Judy

Appendix

The following graphic shows major milestones in the evolution of life insurance underwriting. The main takeaway is that the underwriting process continually changes, blurring the lines of distinction between what would be considered traditional vs. accelerated vs. simplified. As such, we think the Colorado rules should focus more on the different aspects of the underwriting process, and especially the ultimate outcome to accept, modify, or deny an application.