# *Legal, Compliance & Regulatory*

# Navigating Paradoxes in Law


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# Session Overview

- Soft Skills for Handing Tough Situations
- Decision Tree Tool
- Anonymous Live Polling
- Perspectives on Paradoxes

# Live Poling Getting to Know You

Which most closely describes your role:

1. Legal, Compliance, Regulatory, Risk Mgmt
2. Operations, Claims, Underwriting
3. Actuarial, Finance
4. Care Provider
5. Marketing and Distribution

# Soft Skills for Handing Tough Situations

Harmonious vs. Contentious Interactions

- Influence and Persuasion
- Coercion or Oppression

Ethics and Integrity

- Personal Beliefs
- Social Standards
- Deciding What's Practical vs. What's Unethical

Due Diligence

- Informed Decisions
- Elements of an Effective Compliance Program

# Decision Tree – Death with Dignity Scenario

Seek Guidance

Weigh the Impact

Consider the Risk

Self Check, if it doesn't feel right, it probably isn't

Is it Legal? — No → Stop – or contemplate the consequences if proceeding

Yes / Unsure

Does it align with code of conduct, policy/procedure? — No → Stop – consider any reporting obligations, or whether an exception should be made

Yes / Unsure

Does it feel right? — No → Stop - or decide if you can live with yourself if you don't fight it

Yes / Unsure

Is it a good idea? — No → Stop – or own any blame as a result

Unsure

Yes

**Carry On**

# Non-LTCI Graffiti Scenario

If you saw someone vandalize public property with graffiti, would you report it to proper authorities?

1. Yes, I have a civic duty
2. Probably, but only anonymously
3. No, it's not my problem

# Social Paradox Backstory

What if you knew the back story first?
Does it change your mind?
If yes, does the same thing happen with regulators?

# Live Poling Decision Making Authority

Who should have the final authority to decide to pay a deniable claim?

1. Only the Head of Claims
2. Only the Legal Department
3. Consensus by Committee after an appeal
4. No one. It’s discriminatory, sets a bad precedence, it brings too much risk.

# Live Poling Paying a Deniable Claim

In order to be eligible for benefits, the insured must be certified as chronically ill, and be receiving LTC recommended by a physician, and the care must be consistent with accepted standards for the insured's particular illness or injury. The insured was in a facility, receiving assistance with meds, but was not ADL dependent or certified CI. A benefit eligibility review showed the insured was not receiving care for any of his documented medical conditions and his claim was denied. After reviewing all of the information provided, the DOI "requested" that the claim be paid.

Should you approve the deniable claim for facility benefits based on the DOI's request?

1. Yes
2. No

# Live Polling Paying a Deniable Claim

An insured purchased a facility-only LTCi policy. In the past, the insured requested rate quotes to include Home Health coverage under his policy, but he never added it. Months later he filed a claim for HHC benefits, which was denied under his facility-only policy. His family is threatening litigation if you don't cover the less expensive HHC benefits. Should you:

1. Pay the claim to avoid the time and expense of a lawsuit
2. Cover HHC under an Alternative Plan of Care, although the benefit was not designed to cover HHC
3. Deny the claim, because the insured did not want to purchase HHC coverage
4. Deny the claim, approving it may set a precedent

# Decision Tree – Deniable Claim Scenario

Seek Guidance

Weigh the Impact

Consider the Risk

Self Check, if it doesn't feel right, it probably isn't

Is it Legal? — No → Stop – or contemplate the consequences if proceeding

Yes ↓ (Unsure → Seek Guidance / Weigh the Impact)

Does it align with code of conduct, policy/procedure? — No → Stop – consider any reporting obligations, or whether an exception should be made

Yes ↓ (Unsure → Weigh the Impact / Consider the Risk)

Does it feel right? — No → Stop - or decide if you can live with yourself if you don't fight it

Yes ↓ (Unsure → Consider the Risk / Self Check)

Is it a good idea? — No → Stop – or own any blame as a result

Yes ↓ (Unsure → Self Check)

**Carry On**

# Paying a Deniable Claim Backstories

- Scenario tied to a legal threat
- Insured is soon to be eligible based on documented declining condition
- Regulator asked for it to be paid based on his consideration of “medical necessity” (without regard for benefit or facility eligibility, no certification of being chronically ill)
    - What if you knew the backstory first?
    - Does it change your mind?
    - If yes, does the same thing happen with regulators?

ONLY
NO LEFT
TURN

GARBAGE ONLY
NO TRASH

WELCOME
TO
99¢ PLAZA
EVERYTING
99¢
OR LESS
& UP

NO
PETS
ALLOWED
ALL PETS MUST
BE ON LEASH

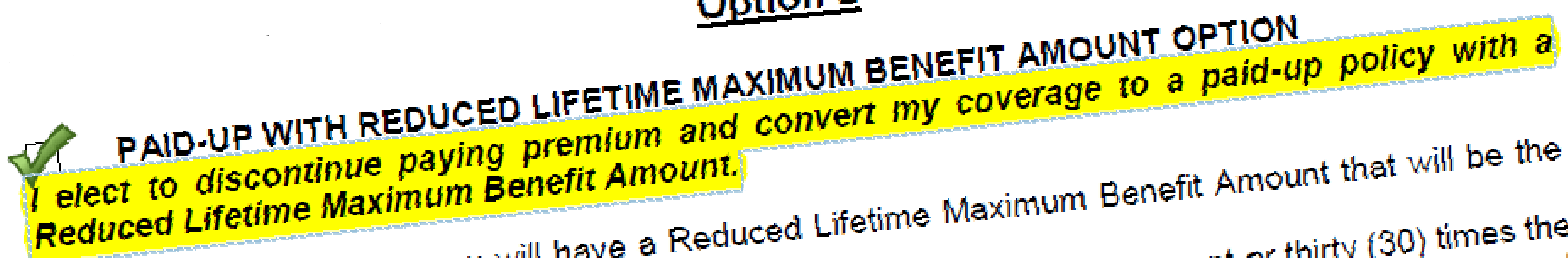
This rate increase has been filed and acknowledged by the insurance regulatory authority in your state. The following represents the premium change for your particular policy:

| Current Premium | New Premium | Amount of Change | % Your Rates Will Increase | Effective Date |
|---|---|---|---|---|
| $ 385.50 Annually | $ 616.80 Annually | $ 231.30 | 60.00% | February 1, 2017 |

Please keep this premium adjustment notification with your other important insurance documents. Send no money now. Your new premium will be reflected in the premium due on or after the effective date of February 1, 2017. If your premium payment automatically goes through a bank, it may be necessary to notify the bank for payment of new premiums.

If you prefer not to pay the increased premium, you may have other options. Within a period of sixty (60) days after the date of this letter you may elect to *reduce your policy benefits so that your required premium payments are not increased* or to *convert your coverage to a paid-up insurance with a shortened benefit period.*

## Option 2



**PAID-UP WITH REDUCED LIFETIME MAXIMUM BENEFIT AMOUNT OPTION**

***I elect to discontinue paying premium and convert my coverage to a paid-up policy with a Reduced Lifetime Maximum Benefit Amount.***

If you choose this option, you will have a Reduced Lifetime Maximum Benefit Amount that will be the greater of:

A. Thirty (30) times the Nonconfined Care Maximum Daily Benefit Amount or thirty (30) times the Confined Care Maximum Daily Benefit Amount (if applicable), whichever amount is greater at the time of lapse; or

B. The sum of the total premiums paid for the policy and all attached riders as of the date of lapse.

# Live Poling Complicated RI Notices

An insured whose annual premium was due on 1/1/17 received a 60% Rate Increase Notice on 12/1/16, giving 60 days to respond. She immediately elected reduced-paid-up coverage before her annual premium was due. She doesn't want to pay the new increased annual premium and thinks that notice indicates that she does not have to pay any premium. What do you do:

1. Terminate for non-payment
2. Require the full annual premium in order to provide paid-up coverage
3. Convert the bill mode from annual to monthly, and bill for January before providing paid-up coverage, then terminate for non-payment if she doesn't pay
4. Waive the premium, and provide the paid up coverage

# Live Poling What's on Your Mind?

We're taking requests for paradox topics of discussion. You may shout them out, or pick from these on your poling device:

1. Issues not addressed contractually, rules without logical regs
2. Risks of Over Compliance
3. Exclusions for Intoxication and Legal Medicinal Marijuana
4. Risks in Stockholder Transparency, unpredictability in future costs
5. Dealing with claimants' representatives
6. Gender based rates – all things equal, except gender

# Closing Perspectives

Questions and Comments