MARKET CONDUCT EXAMINATION REPORT

COMPANION LIFE INSURANCE COMPANY
NAIC # 77828
7909 Parklane Road Suite 200
Columbia, SC 29223

MATS # KS-KS182-3

As of

December 31, 2015

KANSAS INSURANCE DEPARTMENT

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The Honorable Ken Selzer
Insurance Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612

Dear Commissioner Selzer:

In accordance with your respective authorization, and pursuant to K.S.A. 40-222, a market conduct examination has been conducted on the business affairs of:

Companion Life Insurance Company
NAIC # 77828
7909 Parklane Road Suite 200
Columbia, SC 29223

hereafter referred to as "Companion," "CLife" or the "Company", the following report of such examination is respectfully submitted,

Tate Flott, AIE, MCM, ALMI, AIRC, ACS
Examiner, Market Regulation
Examiner-in-Charge

PURPOSE AND SCOPE OF REVIEW

A targeted market conduct examination of Companion Life Insurance Company was conducted pursuant to, but not limited to K.S.A. 40-222.

There were concerns regarding an increase in the Company's complaints, specifically related to misrepresentation of medical policies, thus the Kansas Insurance Department ("KID") examiners performed a review of certain business processes for the Company's short-term medical and limited benefit policies. The Company utilized Health Insurance Innovations ("HII") for distribution of its short-term medical and limited benefit products. HII also provided third party administrator ("TPA") services, including premium and policy administration. Coordinated Benefit Plans and Allied National provided TPA services for claims and medical management services. The review was performed at KID on electronic files provided by the Company and was conducted according to the guidelines and procedures recommended in the 2016 NAIC Market Regulation Handbook (MRH). The exam team utilized the standards and tests recommended in the Handbook which allows for an error tolerance of 7% on claim handling and 10% on all other categories. Silence on any NAIC standard or Company practice does not imply KID acceptance or endorsement of such practices. Applicable statutes and regulations cited throughout the report may be found in the Appendix.

The examination included a review of complaints, marketing and sales, producer licensing, and underwriting and rating during the exam period of January 1, 2013 through December 31, 2015. Interrogatories were submitted to the Company prior to the file review segment of the examination, and written responses were provided. The examination also included, but was not limited to, company operations and management, history and profile, prior market conduct examination reports, fines and penalties, Certificate of Authority, internal audit procedures, and policy forms.

EXECUTIVE SUMMARY

A targeted market conduct examination of Companion Life Insurance Company was conducted pursuant to, but not limited to K.S.A. 40-222. The examination period was from January 1, 2013 through December 31, 2015. The exam focused on short-term medical and limited benefit medical business issued to Kansas residents, with a review of complaint handling, producer licensing, marketing and sales, and operations and management as it relates to the issuance of policies. This included a review of the product distribution and TPA functions handled by HII.

There were various findings related to misrepresentation of the medical products, including the failure of the Company to ensure consumers were aware what the health premiums would be, or the fact that numerous additional "benefits" were added and charged for in addition to the insurance. The lack of oversight of HII was apparent, with the use of unfiled rates, unappointed producers, as well as lack of documentation on more than half of the files reviewed. There were also multiple instances of late and/or incomplete responses by the Company to inquiries, violations, and data requests during the examination.

Recommendations:

OPERATIONS AND MANAGEMENT

1. The Company must develop and implement procedures to both conduct periodic internal audits as well as review the activities of third-party entities contracted to perform various business functions.

2. The Company shall ensure it is adequately monitoring the activities of all entities assuming a business function or acting on its behalf.

3. The Company shall ensure all entities selling its products retain complete documentation so that the files can be reconstructed.

4. When receiving communications from the Kansas Insurance Department (KID), timely responses from the Company are expected. If additional time is needed, the Company shall contact KID (prior to the deadline) to request an extension.

COMPLAINT HANDLING

1. The complaint register must be maintained containing accurate fields as required.

2. While there is no statutory requirement for physically date-stamping all incoming complaint files, a recommendation will be made for process changes to ensure documentation is available to determine when correspondence is received.

MARKETING AND SALES

1. The Company shall ensure that membership applications state that the applicant will be purchasing both association membership and insurance coverage. There must also be a separate application for insurance.

2. The Company shall ensure the Schedule of Benefits includes the correct premium amount. The Outline of Coverage shall include a reference to the premium amount.

PRODUCER LICENSING

1. The Company shall ensure that all producers selling its products are properly licensed and appointed.

UNDERWRITING AND RATING

1. The Company shall ensure that it uses only rates as filed with KID.

2. The Company must implement procedures to ensure prospective consumers are fully aware at time of sale and receipt of the policy what the actual premiums are for the insurance product, and the cost and detail of all products being offered. The Company must also ensure documentation is available containing such information.

3. The Company shall ensure that consumers are able to purchase its insurance policies without being required to buy non-insurance benefits.

4. The Company shall ensure it uses forms as they have been filed with KID.

5. Prior to issuing group coverage to association members, the Company should conduct due diligence to ensure it is an active group with members organized and maintained for purposes other than the purchase of insurance.

DESK EXAMINATION

OPERATIONS AND MANAGEMENT

I. History and Profile

[Based on Company response to interrogatories:]
Companion Life Insurance Company ("CLife") was incorporated on June 2, 1970, as a South Carolina corporation and a South Carolina domestic insurer. It is currently licensed in forty-six (46) states and the District of Columbia. CLife was formed for the purpose of offering nationally two (2) product lines categorized as the core products line and the specialty products line.

The core product line includes employer group insurance products designed to complement an employer's group health benefit plan issued by other carriers. These core products include both employer group term life insurance and employer group health insurance products. In the marketplace, these coverages are generally referred to as "ancillary plans".

CLife's core products include employer group term life insurance, employer group short term disability insurance, employer group long term disability insurance, employer group dental insurance, and employer group vision insurance. These coverages require employer contributions and minimum participation levels are enforced. These coverages are also available on a voluntary basis whereby the insured employee contributes the majority, if not all, of the premium through payroll deduction. In this instance, coverage could include the use of a cafeteria plan.

CLife's specialty products include employer medical excess of loss (stop loss) coverage, group non-coordinated limited benefit health paying fixed indemnity, blanket student medical, short term medical, association group limited benefit health, employer group critical illness insurance, and group prescription supplemental coverage. CLife no longer underwrites small group health insurance or individual association health benefit plans, and is in a final run-off period for these programs.

II. Prior Market Conduct Examination Reports

There were no market conduct examinations to review during the period requested.

III. Fines and/or Penalties

In the last three years, the company has paid administrative fines to Delaware, Virginia and Nevada. Delaware fined the company $487,000 in 2016 for misrepresenting its limited benefit and short-term health insurance plans as complaint with the Affordable Care Act. Violations were also noted for failing to provide consumers with pertinent information relating to plan coverage and failure to conduct periodic audits of the operations of two third-party administrators employed by the company. Virginia fined the company $44,220 in 2016 for the issuance of unfiled and unapproved student health policy forms. Nevada fined the company $250 in 2015 for failure to pay an annual appointment invoice.

Tests for Company Operations and Management

Standard 1
The regulated entity has an up-to-date, valid internal or external audit program.

The Company provided all the internal audits conducted on its behalf. However, no audit procedures were provided. An audit of HII was conducted in October, 2016, well after the examination had begun. Coordinated Benefit Plans served as the TPA for claims and medical management services on behalf of the Company through May of 2014. Claims audits were conducted on Coordinated Benefit Plans in October, 2012 and May, 2014. Effective March 1, 2014, Allied National assumed claims TPA responsibilities from Coordinated Benefit Plans on the short-term medical business. The March 15, 2016 audit report of Allied National acknowledged a delay in claim payments due in part to staffing issues. The audit also noted that for the claims reviewed in the sample, interest payments were not made but appeared to be due in several instances. The Company had ceased issuing short-term policies in Kansas by the time Allied was used for the claims processing, therefore no Kansas claims were affected by the delays or nonpayment of interest.

Recommendation: The Company must develop and implement procedures to both conduct periodic internal audits as well as review the activities of third-party entities contracted to perform various business functions.

Standard 6
The regulated entity is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the regulated entity.

No audits of Health Insurance Innovations were conducted by the Company during the examination period. As a result it is unclear as to how the Company monitored their activities. This is of significant concern, given how much responsibility was delegated by the Company to Health insurance Innovations. As noted previously the Company conducted a compliance audit of Health Insurance Innovations in October 2016, after many of the market conduct examination findings had already been presented to the Company.

Recommendation: The Company shall ensure it is adequately monitoring the activities of all entities assuming a business function or acting on its behalf.

Standard 7
Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

The documentation provided by the Company varied significantly within the policy samples. Sales verification calls were provided in only 41 of the 100 policy files

reviewed. One agency, Lands Health, advised that it lost all verification calls from August 25, 2010 through March 26, 2014. Some of the files contained a breakdown of the various non-insurance fees added to the policies, while others lacked this information. Additionally, some of the files from Health Insurance Innovations did not contain records of emails sent to the member. While the Company advised it would follow-up, no additional information was provided. As a result there is no way to determine what information members received. K.S.A. 40-222 (c) indicates that the examiners should have free access to books and papers of companies as well as agents during the course of an examination.

Recommendation: The Company shall ensure all entities selling its products retain complete documentation so that the file can be reconstructed.

Standard 8
The regulated entity is licensed for the lines of business that are being written.

The Kansas Certificate of Authority was reviewed and was found to be in compliance with Kansas law.

Recommendation: None

Standard 9
The regulated entity cooperates on a timely basis with examiners performing the examinations.

There were ten instances of late and/or incomplete responses to inquiries, violations, and data requests during the examination by the Company.

Recommendation: When receiving communications from the Kansas Insurance Department (KID), timely responses from the Company are expected. If additional time is needed, the Company shall contact KID (prior to the deadline) to request an extension.

COMPLAINT HANDLING

The examiners reviewed the Company's procedures for handling various types of complaints. Also, a register containing 55 total complaint files was provided for the exam period, which included both complaints received from the Department of Insurance and one from the Better Business Bureau. However, two of these complaints concerned other jurisdictions so the examiners reviewed 53 files. The "Number of Errors" included in the samples below are defined as the total number of complaints in the sample which contained errors.

Standard 1
All complaints are recorded in the required format on the regulated entity's complaint register.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	53	9	83%

There were 9 instances where the complaint register did not accurately reflect the date of final disposition. This is a violation of K.S.A. 40-2404(10).

Result: Fail

Recommendation: The complaint register must be maintained containing accurate fields as required.

Standard 2
The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	53	0	100%

Result: Pass

Recommendation: None

Standard 3
The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	53	0	100%

Some of the complaint files lacked documentation to fully recreate the file and ensure accuracy of the complaint register.

Result: Pass

Recommendation: While there is no statutory requirement for physically date-stamping all incoming complaint files, a recommendation will be made for process changes to ensure documentation is available to determine when correspondence is received.

Standard 4
The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	53	0	100%

Result: Pass

Recommendation: None

MARKETING AND SALES

Standard 1
All advertising and sales materials are in compliance with applicable statues, rules and regulations.

For the USA+ membership application, there is no language that states the applicant will be purchasing both membership in the association and insurance coverage. There also does not appear to be a separate application for the insurance. This is a violation of K.A.R. 40-9-100(15)(D).

Recommendation: The Company shall ensure that membership applications state that the applicant will be purchasing both association membership and insurance coverage. There must also be a separate application for insurance.

Standard 2
Outline of coverages is in compliance with all applicable statues, rules and regulations.

A non-insurance Chiropractic and Podiatry benefit of $8.50 was incorrectly included in the premium listed on the Schedule of Benefits on the short-term medical policies. The Outlines of Coverage being used do not contain a location for premium amount. However the Outline of Coverage was updated in SERFF to include a reference to the premium amount as requested by KID. It should be noted that the Company was initially advised of this violation in 2009. As a result the documentation received by the insureds with delivery of the contacts does not contain actual policy premiums. This is in violation of K.A.R. 40-4-23(b)(3)(E).

Recommendation: The Company shall ensure the Schedule of Benefits includes the correct premium amount. The Outline of Coverage shall include a reference to the premium amount.

PRODUCER LICENSING

Standard 2
The producers are properly licensed and appointed and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken.

There were a total of 8 producers that sold policies during the examination period without an insurance license. A total of 118 policies were sold by these unlicensed producers. Additionally there were 71 producers that were not appointed at the time of sale. This is a violation of K.S.A. 40-4905(a) and K.S.A. 40-4912(a).

Recommendation: The Company shall ensure that all producers selling its products are properly licensed and appointed.

UNDERWRITING AND RATING

Standard 1
The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the regulated entity's rating plan.

The rate tables being used for the individual short-term medical products were not the rates that were filed in SERFF with KID. From November 2011 through February 2014, a total of 3,244 short-term medical policies were issued in Kansas. This is in violation of K.S.A. 40-2215(a).

Recommendation: The Company shall ensure that it uses only rates as filed with KID.

Standard 2
All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations.

None of the verification calls presented to the Examiners that contained any reference to the cost of coverage include the actual premium, only the total charge which includes various benefits that were added on at the time of sale. The verification representatives refer to the total cost of the "plan" as well as an enrollment fee. The calls also appear to indicate to the applicant that some of the added benefits are part of the plan, which they are not. It does not appear that applicants are aware of the actual breakdown of premium or coverages until they purchase the product and log into the HII website to see all of the various fees that were included. Evidence indicates that misrepresentations were made as to the cost of the products sold. This appears to be a violation of K.A.R. 40-4-23 (c)(1)(2).

Recommendation: The Company must implement procedures to ensure prospective consumers are fully aware at time of sale and receipt of the policy what the actual premiums are for the insurance product, and the cost and detail of all products being offered. The Company must also ensure documentation is available containing such information.

Standard 3
The regulated entity does not permit illegal rebating, commission-cutting or inducements.

The Examiners reviewed a random sample of 50 short-term policies. Based upon this review, it was determined that every Company policy sold was marketed with various additional benefits included that were not part of the insurance contract. The "giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract… or anything of value whatsoever not specified in the contract" constitutes rebating per K.S.A. 40-2404 (8)(a). Every policy in the sample is in violation of said statute.

Recommendation: The Company shall ensure that consumers are able to purchase its insurance policies without being required to buy non-insurance benefits.

Standard 5
All forms, including policies, contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable.

The applications used by the Company are not the applications that were filed with KID. The sections for rate calculation and payment information were removed. Upon reviewing the filings in SERFF, it does not appear that the Company indicated any variability would apply to those sections. This is in violation of K.S.A. 40-2215(a). Additionally, individual rates and forms need to be filed when products are sold and marketed directly to individuals.

Recommendation: The Company shall ensure it uses forms as they have been filed with KID.

Standard 6
Policies, riders and endorsements are issued or renewed accurately, timely and completely.

During the examination period the Company issued certificates through Ameribenefit Plan Association (ABP), National Congress of Employers Association (NCE), Med-Sense Guaranteed Association (MSGA), Value Benefits of America (VBA), and United Service Association for Health Care (USA+). The Kansas Insurance Department had several communications prior to the calling of the examination as to the validity of MSGA, with no evidence presented that it was a proper group created for the purposes other than the sale of insurance. A review was also done of the organization of ABP and there was no incentive or mechanism to join, other than through the purchase of insurance. This is in violation of K.S.A. 40-2209(f)(5). The other three associations had minimal certificates during our examination period, and the Company had already ceased issuing new ones (2012 for VBA and 2013 for NCE and USA+).

Recommendation: Prior to issuing group coverage to association members, the Company should conduct due diligence to ensure it is an active group with members organized for purposes other than the purchase of insurance.

CONCLUSION

The following examiners from the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

Market Regulation Division

Stacy Rinehart	Tate Flott
Assistant Director,	Examiner,
Market Regulation	Market Regulation

Respectfully submitted,

Tate Flott, AIE, MCM, ALMI, AIRC, ACS
Examiner, Market Regulation
Examiner-In-Charge

APPENDIX

Related Kansas Insurance Statutes and Administrative Regulations

K.S.A. 40-222. Examinations

(a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

…

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

…

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

…

K.S.A. 40-2209 Uniform Policy Provisions

…

(f) Group accident and health insurance may be offered to a group under the following basis:

5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

. . .

K.S.A. 40-2215 Uniform Policy Provisions

(a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201, and amendments thereto, shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

. . .

K.S.A. 40-2404 Regulation of Certain Trade Practices

. . .

(a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

. . .

(10) Failure to maintain complaint handling procedures. Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

. . .

K.S.A. 40-4905 Same; insurance agent license required; application; powers of commissioner; hearing.

Same; insurance agent license required; application; powers of commissioner; hearing. (a) Subject to the provisions of K.S.A. 2014 Supp. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

…

K.S.A. 40-4912 Same; appointment of agents.

(a) Any company authorized to transact business in this state may, upon determining that the insurance agent is of good business reputation and, if an individual, has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent. A nonrefundable appointment or certification fee set forth in K.S.A. 40-252, and amendments thereto, shall be paid in accordance with the billing procedures established by the commissioner. Such procedures shall require payment of the fees annually, based on the number of insurance agents appointed during the calendar year preceding the return. The certification fees required by K.S.A. 40-252, and amendments thereto, shall be due for all insurance agents appointed by the company during the preceding calendar year, irrespective of the number of months the insurance agent was appointed for that year. The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than $25 per calendar day from the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

…

K.A.R. 40-4-23 Accident and sickness insurance; deceptive practices; requirements; prohibitions

…

(c) Unfair or deceptive acts or practices in the selling of the insurance subject to this regulation shall include:

(1) Making any misrepresentation or false, deceptive or misleading statement;

(2) using comparisons or analogies or manipulating amounts and numbers in a way that will mislead the prospective purchaser concerning the cost of the insurance protection to be provided by the insurance contract, or any other significant aspect of the contract;

…

K.A.R. 40-9-100 Accident and sickness insurance; advertising.Section 15. Group or Quasi-Group Implications

…

(D) An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as "enroll" or "join" to imply group or blanket insurance coverage when that is not the fact.