

**LONG TERM CARE EXAMINATION**

**OF**

**MUTUAL OF OMAHA INSURANCE COMPANY**

**AS OF**

**NOVEMBER 30, 2005**

I, Matthew Denn, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON MARKET CONDUCT EXAMINATION, made as of NOVEMBER 30, 2005 of the

**MUTUAL OF OMAHA INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.

ATTEST BY:

*Antoinette Handy*

DATE: 15 FEBRUARY 2007

*In Witness Whereof,* I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 15TH DAY OF FEBRUARY 2007.



*Matthew Denn*

*Insurance Commissioner*

**REPORT ON MARKET CONDUCT EXAMINATION**  
OF THE  
**MUTUAL OF OMAHA INSURANCE COMPANY**  
AS OF  
**NOVEMBER 30, 2005**

The above captioned Report was completed by examiners of the Delaware Insurance Department.

Consideration has duly been given to the comments, conclusions, and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted, and filed as an official record of this Department.

A handwritten signature in black ink, appearing to read "Matt Denn", written over a horizontal line.

MATTHEW DENN  
INSURANCE COMMISSIONER

DATED this 15TH day of FEBRUARY 2007.

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## **SALUTATION**

August 2, 2006

Honorable Matthew Denn  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Denn;

In compliance with the instructions contained in Certificate of Examination Authority Number 05.792, and pursuant to the statutory authority provided by 18 Del.C. §318-322, a target market conduct examination has been conducted of the affairs and practices of:

### **Mutual of Omaha Insurance Company**

hereinafter referred to as the "Company" or "MOO". MOO is incorporated under the laws of the State of Nebraska. This examination reviewed only the operations of MOO as they impact residents, policyholders, and claimants residing in the State of Delaware.

The examination is as of November 30, 2005.

Examination work was conducted off-site at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI."

This report of the examination thereon is respectfully submitted.

## **SCOPE OF EXAMINATION**

This examination was limited in scope. The examination conducted a review of long term care insurance subject to Delaware jurisdiction as issued by MOO. The specific focus of the examination was whether the Company provided and complied with the cost disclosure notice required by Delaware Regulation 1404 §6.1.4. A determination of compliance was made by reviewing contract language and premium rates on renewal of the Delaware policies.

This examination was conducted under the extraterritorial jurisdiction granted the State of Delaware over long term care insurance issued to citizens of this State by 18 Del.C. Chapter 71.

This examination report is a report by test.

Controls and management processes were not reviewed.

## **HISTORY AND PROFILE**

The Company was incorporated under the laws of the State of Nebraska on March 5, 1909, and commenced business January 10, 1910, on the mutual assessment plan under the name “Mutual Benefit Health and Accident Association”. On February 10, 1962, the Articles of Incorporation were amended, changing the corporate structure from a mutual assessment association to a mutual legal reserve company with no power to levy assessments. The Articles were also amended changing the Company name to “Mutual of Omaha Insurance Company”.

The Company has been authorized to write business in Canada since 1935. In 1966, the Company extended its operation in Canada to include life insurance. In 1998, the Company withdrew its operations in Canada. The Company has limited its operations in the United States to accident and health insurance since May 15, 1997.

## **METHODOLOGY**

As noted in the SCOPE, this examination is based on the requirement in Delaware Regulation 1404 §6.1.4. This section of the regulation demands mandatory compliance with an expressed premium rate increase limitation required on the face page of all long term care policies. The premium rate limitation is determined as a percentage of the prior year’s modal premium. The amount of the percentage limitation on the annual increase is determined by the issuing insurance company; however, once a policy is issued, the company is bound not to exceed this expressed percentage unless the insured voluntarily elects additional benefits. The scope of the examination involved testing premium rate increases between the years 2000 to 2005 in order to determine if the premium increases complied with the percentage increase limitation expressed by the mandatory disclosure language required on all contracts subject to Delaware jurisdiction. The test involved reviewing the percentage increases in premium, and determining whether or not increases exceeding the expressed limitation were permitted under Delaware law.

## STANDARDS FOR REVIEW

The evaluation of issues subject to this examination is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. A standard has been designed and applied to address the concerns of this examination. The standard appears below with comment and examination results.

### Standard 1

**Contracts contain appropriate cost disclosure on the cover page of the contract, or certificate of coverage and on the Outline of Coverage associated with the contract. The Company adhered to the disclosure during the period under review.**

18 Del. C. §318(a); 18 Del. C. §508(b); 18 Del. C. §7101 et seq.; 18 DE Reg 1404 §6.1.4

A review was conducted of the policies, applications, Outlines of Coverage and certificates utilized to provide Delaware residents with Long Term Care Coverage. Additional information sufficient to provide context was reviewed to support assertions made by the Company and observations and conclusions made by the examiners.

The basis for this Standard is found in Delaware Regulation 1404 §§6.1.4.1 and 6.1.4.2.

Regulation 1404 §6.1.4.1 states: “The following cost disclosure information shall appear in bold print on the cover page of every individual policy and Outline of Coverage issued or delivered in this state: ‘This policy provides only the following price protection, and no more. Your premiums may not increase by more than X% during any given calendar year and your benefits may not decrease. Any representations that these increases will not take place are unauthorized and shall not be relied upon.’” **This section applies to individual long term care policies.**

Regulation 1404 §6.1.4.2 states: “The following cost disclosure information shall appear in bold print on the cover page of every certificate and Outline of Coverage issued or delivered in this state: ‘This policy provides only the following price protection, and no more. Your premiums are guaranteed to remain the same for the first three (3) years this policy is in force. Your premiums may not increase by more than X% during any three year rating period. Insurers will be allowed a carry forward of the initially disclosed maximum premium increase, but said carry forward is lost within twenty-four (24) months if not utilized.’” **This section applies to insurance issued under a group long term care policy.**

*Results: Pass.*

*Observations:* The language required by the Regulation imposes through contract law, a limitation on the percentage increase the Company can impose annually. The Company is permitted to place any percentage increase amount on the policy form, however, once the form is purchased, the Company is bound by the percentage limitation stated.

The Company provided its rate history from 2000 through November 2005 for policies or group contracts subject to Delaware jurisdiction. The rates were reviewed for each insured to determine whether there were any increases exceeding the expressed contract percentage limitation increase. All exceptions (i.e., price changes between years exceeding the expressed percentage amount) were reviewed to determine whether the insured voluntarily increased benefit levels, thereby nullifying the percentage limitation through novation. Price changes were reviewed, and all specific policies affected by price change were determined to have changed in accordance with statute and contractual terms.

*Recommendations:* None.

## **SUMMARY**

Mutual of Omaha Insurance Company is incorporated under the laws of the State of Nebraska. This examination reviewed the compliance of MOO's long term care business with Delaware Regulation 1404 §§6.1.4.1 and 6.1.4.2

## **LIST OF RECOMMENDATIONS**

No recommendations made.

**CONCLUSION**

The examination conducted by Peter K. Schaeffer, Jr., Esq., CFE and Keith S. Perry, CIE, AFE, CISA, AES, is respectfully submitted,



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Peter K. Schaeffer, Jr., Esq., CFE  
Market Conduct Examiner-in-Charge.  
Insurance Department  
State of Delaware



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Keith S. Perry, CIE, AFE, CISA, AES  
Market Conduct Examiner  
Insurance Department  
State of Delaware