FLORIDA OFFICE OF INSURANCE REGULATION COMMENTS

Jolie –

As requested, below are the comments from Florida concerning Model Act #170.

1) Section 2C (5) needs to be updated as CHAMPUS insurance has been replaced by Tricare.

2) Section 5B. – The Task Force should consider adding a drafting note that Federal Law requires that any person that purchases a supplemental policy must also have a comprehensive medical policy.

3) Section 6 – Disclosure Requirements – This section should be updated to take into account updated methods of application and enrollment such as the use of electronic enrollment and the use of exchanges. However, we are concerned that the use of exchanges may make it difficult to comply with the requirement (paragraph B below) that an agent provide the outline at the time of application or enrollment.

In particular, the following paragraphs under Section 6 may need to be updated (current language is in black, our comments are in red):

Section 6. Disclosure Requirement
A. An insurer shall deliver an outline of coverage to an applicant or enrollee in the sale of individual accident and sickness insurance, group supplemental health insurance, dental plans and vision plans delivered or issued for delivery in this state. In some states, the outline may end up being provided by an exchange rather than by an insurer. Therefore, we suggest adding something similar to: “The commissioner may prescribe the method or methods of delivery of the outline which may include electronic delivery or delivery through an exchange.”

B. If the sale of a policy described in Subsection A occurs through an agent, the outline of coverage shall be delivered to the applicant at the time of application or to the certificateholder at the time of enrollment. If an applicant or certificate holder enrolls through an exchange, it may not be practical to deliver a paper copy of the outline at the time of application/enrollment as the agent may not be physically present with the applicant or certificate holder. In cases where the agent and consumer are not physically together, the delivery may need to be done using electronic methods such as email which may cause acknowledgement issues (see paragraph E).

E. If the outline of coverage is delivered to the applicant or enrollee at the time of application or enrollment, the insurer shall collect an acknowledgment of receipt or certificate of delivery of the outline of coverage and the insurer shall maintain evidence of the delivery. We are unsure what may constitute an acknowledgement of delivery if the outline is delivered electronically. Ideally, the application could contain a blank to acknowledge receipt. However, the current application for the federal exchange does not contain an acknowledgement blank for the outline.

One possible way to resolve the acknowledgement issues would be to classify all exchange sales as direct response advertising which is subject to the requirement below. However, we are concerned that this may unintentionally result in issuers delaying delivery of the outline of coverage to the consumer when it could be delivered sooner through the electronic means or at the exchange.

C. If the sale of a policy described in Subsection A occurs through direct response advertising or if the consumer applies or enrolls using an exchange, the outline of coverage shall be delivered no later than in conjunction with the issuance of the policy or delivery of the certificate.

Chris Struk,
Deputy Director - Life & Specialty Forms
Life and Health Product Review
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399-0328
(850) 413-2480
(850) 922-3866 (fax)