



American Insurance Association

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Sent via Electronic Mail

Statistical Information Task Force
c/o Mr. Joe Bieniek, Statistical Information Manager
National Association of Insurance Commissioners
JBieniek@NAIC.org

Re: Proposed Medical Malpractice Closed Claim Reporting Model Law

Dear Mr. Bieniek:

We write on behalf of the American Insurance Association in response to the request for comments on the proposed NAIC Medical Malpractice Closed Claim Reporting Model Law.

Our first concern focuses on the scope of the proposed model. The model requires insuring entities to report every closed claim, regardless of specialty or the type of provider involved. One can't predict everything about the medical malpractice marketplace, but past experiences indicate that the reporting of *every* claim is not necessary. There should be a directed focus on the types of claims to be reported so as to avoid the inefficiencies and costs associated with the unnecessary capture, reporting and maintenance of information with little or no concrete benefit.

In addition, AIA reiterates earlier objections to including surplus lines insurers within the definition of "insuring entity." Model data collection law should not undermine or disregard a fundamental of the surplus lines market--that the insurer is outside of the state. Our feelings are especially strong about this point, given that the reporting in this model is routine, and not implicated in a one shot, highly exigent or distressed circumstance.

In addition, several of the "Required Data Elements" are problematic and questionable. One example is the reporting of the county in which an incident occurred. We are at a loss in understanding why this information is relevant to the data collection. We would also note that trying to capture an injured person's age is a problem. Age is often

immaterial to the claim and therefore may not be captured. In any event, medical malpractice claimants are third parties, who do not fill out applications, and cannot be forced to disclose their age. In addition, we question why there is a requirement that the date of notice to the insuring entity be captured.

We look forward to a discussion of these matters.

Sincerely,

Pamela Young
Assistant General Counsel

Kenneth A. Stoller
Senior Counsel

cc: Pamela K. Simpson