

APPENDIX A

REQUEST FOR MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new Model Law or amendment to an existing Model Law. Prior to development of a new or amended Model Law, approval of the responsible Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for Model Law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please circle whether this is

New Model Law

Amendment to Existing Model

1. **Name of Group To Be Responsible for Drafting the Model:** Statistical Information (C) Task Force
2. **NAIC Staff Support Contact Information:** Joe Bieniek, 816.783.8226, JBieniek@NAIC.org
3. **Please provide a description and proposed title of the new Model Law. If an Existing Law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.**

The *Medical Malpractice Closed Claim Reporting Model Law* would help ensure the availability of closed claim data necessary for thorough analysis and understanding of issues associated with medical malpractice claims, in order to support the establishment and maintenance of sound public policy.

The need for better medical malpractice data has been documented in studies by the GAO and the NAIC. In response to those studies, the NAIC has given the Statistical Information (C) Task Force the following charge:

Identify the types of data that are necessary to properly evaluate the medical liability insurance market, including the frequency, severity and causes of loss in order to evaluate regulatory and legislative proposals. Identify the sources of this data and the steps necessary to capture it, including changes needed in the NAIC *Statistical Handbook of Data Available to Insurance Regulators*, and the need to develop claims databases, or other appropriate means of capturing the necessary information.

This Model Law is proposed as one of the steps necessary to capture data. It would require annual reporting of medical malpractice closed claim data to the commissioner. So that the reported data would be as complete as possible, reporting would be required from authorized insurers, captive insurers, joint underwriting associations, patient compensation funds, risk retention groups, and unauthorized insurers that provide surplus lines coverage.

This proposed Model Law includes a detailed list of required data elements. The Statistical Information (C) Task Force is aware of issues relating to confidentiality or public availability of data, and those issues will be addressed as the drafting proceeds.

4. Is this Model Law referenced in the Accreditation Standards? If so, does the standard require the Model Law to be adopted in a substantially similar manner?

No.

5. Is this Model Law in response to or impacted by federal laws or regulations? If so, please explain.

This Model Law is not directly in response to or impacted by federal laws or regulations. However, it is anticipated that states' efforts toward uniformity in their medical malpractice data collection will be viewed favorably by the U.S. Congress.

6. Does the Model Law meet the Model Law Criteria?

Yes or No (Check one)

(If answered no to any of these questions, please reevaluate Charge and proceed with developing Guidelines to address issues).

a. Does the subject of the Model Law necessitate a national standard and requires uniformity amongst all states?

Yes or No (Check one)

If yes, please explain why:

It is important to have a national standard to ensure uniformity of medical malpractice data collection, to the greatest extent possible. Uniformity benefits insuring entities that may have to report data in more than one state. It also enables the states to produce studies of similar data, which can be compared from one state to another. The national standard should be a Model Law, not just Guidelines, because, in the absence of a law like this, in most states the commissioner does not have the authority to collect medical malpractice closed claim data from entities that the commissioner does not regulate.

b. Does the Committee believe NAIC Members should devote significant regulator and association resources to educate, communicate and support this Model Law?

Yes or No (Check one)