California Department of Insurance Comments on Model Act

1. Section 3, subsection d and Section 5, subsection a: The insurer has the ability to choose to provide information on governance activities at the structure level at which decisions are made, oversight is provided and governance accountability is assessed in relation to the insurance activities of the insurer or in the alternative, those levels at which the organization determines its risk appetitive or that level which senior supervision is exercised. I think for consistency purposes, the Model should delineate which criteria the insurer should identify and then report the activities at that level. I also recommend in the first filing the insurer identify at which level it is reporting, and then if that level changes in the future, the insurer needs to set forth in an amendment filing or annual filing why the reporting level has changed.

2. I am concerned with Sections 6 and 7 and the Confidentiality requirements for third party consultants. I think the language should be changed or strengthen somehow so that the disclosure of these confidential documents does not become public because of disclosure to third party consultants. I think if we frame the review of the governance documents as an examination, then the examinations sections of each state would apply and probably cover the hiring of these assistants and then the sections on retention and the requirement of written consent of the insurer could be eliminated.