



National Association of Insurance Commissioners

TO: Commissioners, Directors and Superintendents
Interested Parties

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This memorandum describes NAIC action on model laws and guidelines at the 2009 Fall National Meeting. For further information, including current drafts and staff support contacts for each item, please consult the NAIC web site (www.naic.org), Committees and Activities page.

I. Actions by Joint Executive Committee/Plenary

A. Model Laws and Regulations Adopted by the joint Executive Committee/Plenary

1. Amendments to Actuarial Opinion and Memorandum Regulation (# 822)

The Life and Health Actuarial Task Force and the Life Insurance and Annuities (A) Committee adopted this model during the 2009 Summer National Meeting. 51 states and U.S. territories have adopted this model. The Executive (EX) Committee approved the development of amendments to this model during the 2009 Commissioners Conference. These amendments were approved as part of a larger Capital and Surplus relief plan. This revised model includes the details of a condition that requires the Regulatory Asset Adequacy Issues Summary to include a discussion of the X factor development process and the resulting changes in X factors as to the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves. The joint Executive Committee/Plenary adopted the amendments to this model by a 2/3 vote.

2. Amendments to Long-Term Care Insurance Model Act (# 640)

This Scope section of this model was amended to coincide with approved changes to the Long-Term Care Insurance Model Regulation. The Health Insurance and Managed Care (B) Committee adopted these amendments during the 2009 Summer National Meeting. The Executive Committee approved a Request for Model Law Development during the 2009 Fall National Meeting. The joint Executive Committee/Plenary adopted amendments to this model by a 2/3 vote.

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3. Amendments to Long-Term Care Insurance Model Regulation (# 641)

The Health Insurance and Managed Care (B) Committee adopted amendments to this model during the 2009 Summer National Meeting. The B Committee did not adopt the changes to the Appendix E Claims Denial Reporting Form. The Senior Issues (B) Task Force requested an extension to postpone these revisions until a later date. The Executive (EX) Committee adopted the model law development request for amendments to this model regulation during the 2008 Fall National Meeting. These amendments will add an external review process for long-term care insurance claim denials. Nearly all jurisdictions have adopted the model or something similar. The joint Executive Committee/Plenary adopted amendments to this model by a 2/3 vote.

4. Amendments to Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities (# 815)

The Life Insurance and Annuities (A) Committee adopted this model during a conference call held on September 9, 2009. 31 states and U.S. territories have adopted this model. The Executive (EX) Committee approved the development of amendments to this model during the 2009 Commissioners Conference. These amendments were approved as part of a larger Capital and Surplus plan. The Capital and Surplus Relief Working Group's Life 1a recommendation included restrictive language saying that the use of the 2001 CSO Preferred Mortality Tables should not be allowed for contracts prior to January 1, 2007, if those contracts utilized questionable reinsurance accounting practices to offset the overly conservative reserves required. The joint Executive Committee/Plenary adopted the amendments to this model by a 2/3 vote.

5. Amendments to Risk Based Capital (RBC) for Health Organizations Model Act (# 315)

The Financial Condition (E) Committee adopted this model during the Summer National Meeting. This model sets standards for minimum capital requirements for health insurers and is currently adopted by 31 states and U.S. territories. The proposed amendment to this model adds a trend test to Section 3: Company Action Level Event. The regulation of insurers' capital requirements is becoming increasingly relevant on a national as well as international basis. This trend test should provide an earlier warning and identify those companies that may experience financial distress. The joint Executive Committee/Plenary adopted this model by a 2/3 vote.

6. Amendments to Standard Valuation Law (# 820)

The Life Insurance and Annuities (A) Committee adopted the amendments to this model during a conference call held on September 9, 2009. The Executive (EX) Committee approved the development of amendments to this model during the 2007 Fall National Meeting. These amendments are intended to enable a principles-based methodology. Specifically, the modifications include adding: (1) sections for the valuation manual; (2)

a section listing the requirements of a principles-based valuation; (3) a section to require companies to require companies to submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual; and (4) a section concerning confidentiality. There is also an optional section exempting specific product forms or product lines from the principles-based valuation requirements. Approximately 52 states and U.S. territories have adopted this model. After extensive discussion, the joint Executive Committee/Plenary adopted this model by a 2/3 vote.

7. Amendments to Valuation of Life Insurance Policies Model Regulation (# 830)

The Life and Health Actuarial Task Force and the Life Insurance and Annuities (A) Committee adopted this model during the Summer National Meeting. The Executive (EX) Committee approved the development of amendments to this model during the 2009 Commissioners Conference. 40 states and U.S. territories have adopted this model. These amendments were approved as part of a larger Capital and Surplus plan. The Capital and Surplus Relief Working Group's Life Actuarial Guideline 2 recommendation proposed to eliminate the constraints in Regulation Triple-X for the calculation of X factors. An X factor is an experience factor that allows companies to reflect their actual anticipated mortality experience in developing the anticipated valuation premiums. The X factor is restricted to be no less than 20% and nondecreasing, and this revised model removes those restrictions on the X factors. The joint Executive Committee/Plenary adopted amendments to this model by a 2/3 vote.

B. Guidelines Adopted by joint Executive Committee/Plenary

The joint Executive Committee/Plenary did not adopt any guidelines during the 2009 Fall National Meeting.

C. Actuarial Guidelines Adopted by joint Executive Committee/Plenary

1. Actuarial Guideline 1c: Interpretation of the Calculation of the Segment Length with Respect to the Life Insurance Policies Model Regulation Upon a Change in the Valuation Mortality Rates Subsequent to Issue

The joint Executive Committee/Plenary adopted this actuarial guideline during the 2009 Fall National Meeting. The purpose of this guideline is to clarify that when a company elects to use the 2001 CSO Preferred Class Structure Table to determine minimum valuation requirements that it is permissible to use distinct versions of the table for determination of contract segments as defined in the Valuation of Life Insurance Policies Model Regulation.

D. Bulletins Adopted by Executive/Plenary

The joint Executive Committee/Plenary did not adopt any bulletins during the 2009 Fall National Meeting.

E. White Papers Adopted by Executive/Plenary

1. Natural Catastrophe Risk: Creating a Comprehensive National Plan

The Property and Casualty (C) Committee adopted this white paper during the 2009 Summer National Meeting. The white paper describes the approaches and issues in managing catastrophic risk and is intended to identify a means of implementing common ground solutions. Some areas of agreement outlined in the white paper include: support of loss mitigation efforts, improvements to building codes and rigorous enforcement of the improved building codes. The joint Executive Committee/Plenary adopted this white paper by a majority vote.

II. Actions by Executive (EX) Committee

A. Model Law and Regulation Requests Approved for Development by the Executive Committee

1. Amendments to Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (# 450)

The Executive Committee approved a request to amend this model. This model sets standards for regulating transactions between insurance legal entities and other affiliated entities. The proposed changes will address issues that exist within insurer groups, particularly issues identified during this most recent economic downturn. Currently forty-eight states have adopted this model or similar legislation.

2. Amendments to Insurance Holding Company System Regulatory Act (# 440)

The Executive Committee approved a request to amend this model. This model sets standards for regulating transactions between insurance legal entities and other affiliated entities. The proposed changes will address issues that exist within insurer groups, particularly issues identified during this most recent economic downturn. Currently forty-nine states have adopted this model or similar legislation.

3. Amendments to Long-Term Care Insurance Model Act (# 640)

The Executive Committee approved a request to amend this model. The amendment adds language to Section 10 – Authority to Promulgate Regulations in order to be consistent with revisions to the Long-Term Care Insurance Model Regulation. Currently, thirteen states have adopted this model or similar legislation. The joint Executive Committee/Plenary also adopted the amendments to this model by a 2/3 vote during the 2009 Fall National Meeting.

III. Actions by Other Committees, Task Forces and Working Groups

A. Life Insurance (A) Committee

1. Amendments to Annuity Disclosure Model Regulation (# 245)

The Executive (EX) Committee adopted the model law development request for this model regulation during the 2008 Fall National Meeting. 15 states and U.S. territories have adopted this model. The Annuity Disclosure (A) Working Group distributed three buyer's guides that will be appendices to this model. The Working Group is accepting comments on these buyer's guides. The Group also discussed whether to make a draft Annuity Illustration Guidelines part of the model. The Working Group anticipates holding a conference call in the beginning of November to discuss a new draft of the Annuity Illustration Guidelines.

2. Amendments to Standard Nonforfeiture Law for Individual Deferred Annuities (# 805)

The Life and Health Actuarial Task Force will begin reviewing this model in 2010. The Task Force is particularly interested in reviewing the definitions of maturity value, maturity date and net considerations.

3. Amendments to Standard Nonforfeiture Law for Life Insurance (# 808)

The Executive (EX) Committee approved the development of amendments to this model during the 2007 Fall National Meeting. These amendments are intended to ensure that the nonforfeiture interest rate is defined for policies whose reserves are calculated using a principles-based methodology. Approximately 53 states and U.S. territories have adopted this model. The Life and Health Actuarial Task Force deferred consideration of these amendments until the principles-based reserving system authorized by the Standard Valuation Law (# 820) is authorized. These amendments involve delinking the interest rates from the valuation interest rate and linking them to the formula currently used.

4. Amendments to Suitability in Annuity Transactions Model Regulation (# 275)

The Executive (EX) Committee approved the development of amendments to this model during the 2008 Summer National Meeting. Amendments are intended to address problems related to the adequacy of current insurer producer training, supervision and monitoring standards. Approximately 35 states have adopted this model or something similar. The Suitability in Annuity Sales (A) Working Group discussed a new draft of the model regulation and began considering whether to develop a model bulletin to be distributed in tandem with the regulation. The Working Group decided to focus on the time being on revising the model regulation. The Group agreed to request a one-year extension from the Life Insurance and Annuities (A) Committee but anticipated that work would be completed by the end of 2009.

5. Actuarial Guideline XXXIII – Determining CARVM Reserves for Annuity contracts with Elective Benefits

The Life Insurance and Annuities (A) Committee and the Life and Health Actuarial Task Force adopted this guideline at the 2009 Fall National Meeting. Prior to adoption, the Task Force reconciled language in the Introduction section with language in the Purpose section. The joint Executive Committee/Plenary will consider adopting this actuarial guideline at the 2009 Winter National Meeting.

C. Health Insurance and Managed Care (B) Committee

1. Amendments to Guidelines for Filing of Rates for Individual Health Insurance Forms (# 134)

The Filing Rate Guideline (B) Subgroup of the Accident and Health (B) Working Group held a conference call prior to the 2009 Fall National Meeting. The Subgroup developed twenty-six subjects to be considered in developing changes to this model. The Life and Health Actuarial Task Force anticipates that this model will eventually be converted into a guideline.

2. Amendments to Individual Health Insurance Portability Model Act (# 37)

The Regulatory Framework (B) Task Force did not meet at the 2009 Fall National Meeting. This model is being amended for consistency with the Genetic Information Nondisclosure Act (GINA) and the special enrollment provisions under the State Children's Health Insurance Program (SCHIP) Reauthorization bill. 29 states and U.S. territories have adopted this model or something similar. The Task Force is holding its draft for possible revision pending the issuance of federal regulations. Federal health care reform legislation could impact amendments to this model.

3. Amendments to Long-Term Care Insurance Model Regulation (# 641)

The Senior Issues (B) Task Force adopted and exposed a new draft of revisions to this model. The revisions clarify claims denial reporting in order to make reporting more useful to state insurance regulators. This includes changes to the Claims Denial Reporting Form (Appendix E) as well as the deletion of a drafting note. The Life Insurance and Annuities (A) Committee intends to adopt the revisions on a conference call to be held prior to the Winter National Meeting.

4. Amendments to Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act (# 651)

The Accident and Health (B) Working Group continued its discussions to update the refund calculation in Appendix A. The Executive (EX) Committee adopted the model law development request for amendments to this model regulation during the 2007 Fall National Meeting. Nearly all jurisdictions have adopted either the current or a previous version of this model. The Accident and Health (B) Working Group requested a one-year extension to work on these amendments at the 2009 Summer National Meeting.

5. Amendments to Nondiscrimination in Health Insurance Coverage in the Group Market Model Regulation (# 107)

The Regulatory Framework (B) Task Force did not meet at the 2009 Fall National Meeting. This model is being amended for consistency with GINA and SCHIP. 17 states and U.S. territories have adopted this model or something similar. The Task Force is holding its draft for possible revision pending the issuance of federal regulations. Federal health care reform legislation could impact amendments to this model

6. Amendments to Small Employer and Individual Health Insurance Availability Model Act (# 35)

The Regulatory Framework (B) Task Force did not meet at the 2009 Fall National Meeting. This model is being amended for consistency with GINA and SCHIP. Nearly all jurisdictions have adopted this model or something similar. The Task Force is holding its draft for possible revision pending the issuance of federal regulations. Federal health care reform legislation may impact amendments to this model.

7. Amendments to Small Employer Health Insurance Availability Model Act (Prospective Reinsurance With or Without an Opt-Out) (# 118)

The Regulatory Framework (B) Task Force did not meet at the 2009 Fall National Meeting. This model is being amended for consistency with GINA and SCHIP. Nearly all jurisdictions have adopted this model or something similar. The Task Force is holding its draft for possible revisions pending the issuance of federal regulations. Federal health care reform legislation could impact amendments to this model.

8. Guideline Amendments to Uniform Health Carrier External Review Model Act (# 76)

The Regulatory Framework (B) Task Force did not meet at the 2009 Fall National Meeting. The Task Force is developing several notices that will be attached to the existing model as appendices.

C. Property and Casualty Insurance (C) Committee

1. Guideline Amendments to Property and Casualty Rate and Form Model Law (# 775)

The Property and Casualty (C) Committee did not discuss this model during the 2009 Fall National Meeting. The Speed to Market (EX) Task Force approved converting the 2000 draft of this model to a guideline during an April, 2009 conference call. This action was one part of the recommendations found in the Personal Lines Regulatory Framework White Paper. The 2000 draft was adopted by the C Committee but not adopted by the Plenary at that time. Due to the length of time that has passed since this draft was last considered, the C Committee will review this draft prior to the joint Executive/Plenary considering it for adoption as a guideline.

2. Guideline for Implementation of Medical Professional Liability Closed Claim Reporting

The Statistical Subgroup of the Casualty Actuarial and Statistical (C) Task Force discussed a draft of this guideline on several conference calls that were held prior to the Fall National Meeting. This guideline is intended to supplement the Medical Professional Liability Closed Claim Reporting Model Law (# 77), which was adopted during the 2008 Fall National Meeting. The draft identified several items for further discussion, including NAIC Statement of Statutory Accounting Principles modifications regarding transfer of run-off business and allowance of prospective accounting. Other issues included the collection and compilation of Actuarial Opinion Summary data as well as the need to work with states that still allow a commissioner to approve a specialist instead of a qualified actuary to sign actuarial opinions. During these conference calls, the Subgroup focused on Part A guideline and exposed for comment an Aug. 10 draft. The Subgroup continues to discuss Parts B through E of the Dec. 3, 2008 draft.

3. Implementation Commentary: Guidelines for Regulations and Legislation for Workers' Compensation Coverage for Professional Employer Organization Arrangements

The Professional Employer Organization Model Law (C) Working Group reviewed a draft of this white paper. The purpose of this paper is to assist the states, professional employer organizations (PEOs) and the insurance industry in implementing a regulatory framework consistent with the *Guidelines for Regulations and Legislation on Workers' Compensation Coverage for Professional Employer Association Arrangements*. The Working Group was particularly concerned with issues regarding data reporting and statistical matters. The Working Group anticipates that a draft will be ready for adoption by the Workers' Compensation Task Force by the Winter National Meeting.

5. Third Party Administrator Guidelines (# 90)

The Workers' Compensation (C) Task Force did not address these guidelines during the Fall National Meeting. The Task Force anticipates that the Regulatory Framework (B) Task Force will provide their comments within the next few weeks. The guidelines will then be reviewed by both the Producer Licensing (Ex) Task Force and the Large Deductible Study Implementation Working Group prior to the Winter National Meeting. These guidelines are being developed to replace the current TPA statute. The revisions will add workers' compensation and provide updating, including a few changes related to health insurance.

E. Market Regulation and Consumer Affairs (D) Committee

1. Model Antifraud Plan Guideline

The Antifraud Liaison (D) Working Group continued drafting this proposed guideline. The Working Group intends to distribute a new draft prior to the Winter National Meeting. The guideline addresses recommended requirements for state regulations and statutes such as: (1) elements that should be included in fraud plans filed by insurers; (2) fraud warning language and (3) Special Investigation Unit requirements.

F. Financial Condition (E) Committee

This Committee did not discuss any model laws or guidelines during the 2009 Fall National Meeting.

G. Financial Regulation Standards and Accreditation (F) Committee

The Committee did not discuss any model laws or guidelines during the 2009 Fall National Meeting.