



TO: Commissioners, Directors and Superintendents
Interested Parties

FROM: Noreen K. Vergara
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RE: **NAIC Action on Model Laws and White Papers During the 2008 2nd Quarter National Meeting**

Following is a brief description of the NAIC's action on model laws and guidelines.

Adopted Model Laws and Regulations

1. Uniform Health Carrier External Review Model Act (Draft: 3/14/08)

The Plenary adopted this new model law during the 2008 Summer National Meeting. This new model provides uniform standards for the establishment and maintenance of external review procedures to assure that covered persons have the opportunity for an independent review of an adverse determination or final adverse determination.

Adopted Guidelines

1. Filing Procedures for Compliance with the Provisions of the Terrorism Risk Insurance Program Reauthorization Act of 2007

The Plenary adopted this bulletin during the 2008 Summer National Meeting. This bulletin addresses changes to the Terrorism Risk Insurance Program (TRIP) that will occur in light of the enactment of the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).

2. Senior Citizens Beware – Question Credentials of So-Called “Senior Specialists”; Insurer and Producer Bulletin

The Plenary adopted the draft insurer and producer bulletin and draft consumer alert during the 2008 Summer National Meeting. This bulletin was developed in response to a hearing held by the Senate Special Committee on Aging in September, 2007. The bulletin and the alert are for use by state insurance departments to make seniors aware as well as caution insurers and producers about the use of senior designations in the sale of insurance and annuity products. It is

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alleged that individuals, some of whom are insurance producers, are using these new “senior” designations as a means to mislead senior citizens as to the individual’s investment and financial expertise.

3. Unfair Trade Practices Act (# 880) (Draft: 3/27/08)

The Plenary adopted guideline amendments concerning the issue of life insurance travel underwriting during the 2008 Summer National Meeting. The purpose of these amendments is to prohibit unfair discrimination based on an individual’s past or future lawful travel plans. The Life Insurance and Annuities (A) Committee adopted these travel underwriting revisions during the 2008 Spring National Meeting.

Adopted Actuarial Guidelines

There were no actuarial guidelines adopted during the Summer National Meeting.

Adopted White Papers

1. The Potential Impact of Climate Change on Insurance Regulation (Draft: May 31, 2008)

The Plenary adopted this white paper during the 2008 Summer National Meeting. The purpose of this white paper is to assess and, to the extent possible, mitigate the impact global warming will have on insurance. This white paper began as an overview of climate change concerns related to insurance and insurance regulation. The Global Warming (Ex) Task Force focused the scope on issues faced by insurance regulators because at its meeting in September 2006, the Task Force concluded that significant work had already been done on issues faced by insurance consumers and insurers.

Model Law and Regulation Concepts Approved for Development by the Executive Committee

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

The Health Insurance and Managed Care (B) Committee requested to amend the current Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act. These amendments are needed as a result of Congress recently passing the Genetic Information Nondiscrimination Act of 2008 (GINA). GINA prohibits Medicare supplement policies from denying, conditioning or discriminating in their pricing based on genetic information. This Act also limits Medicare supplement issuers from requesting or requiring genetic testing as well as prohibits issuers from collecting genetic information for underwriting purposes. The Executive Committee approved this Request for Model Law Development. To view a copy of the Request for Model Law Development, please visit: http://www.naic.org/index_committees.htm.

2. Suitability in Annuity Transactions Model Regulation (# 275)

The Life Insurance and Annuities (A) Committee requested to amend the current Suitability in Annuity Transactions Model Regulation. These amendments would 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. As such, the amendments will need to be adopted by all of these states to maintain the current level of uniformity. This will ensure that these states' consumers will have the same level of protection from unsuitable sales as well as abusive sales and marketing practices. The Executive Committee approved this Request for Model Law Development. To view a copy of the Request for Model Law Development, please visit: http://www.naic.org/index_committees.htm.

3. Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities to Seniors Model Regulation (Draft: 5/23/08)

The Life Insurance and Annuities (A) Committee requested that the Executive Committee approve the development of this new model. Recently, states have become aware of an ever growing issue and possible fraudulent marketing and sales activity related to the use of senior-specific designations and professional certifications in the sale of life insurance and annuities to seniors. Individuals often boast designations and credentials using terms such as "certified," "accredited," "retirement planner," "senior advisor" or "senior consultant" to convince people they have special expertise to help seniors choose investment strategies. The Executive Committee approved this Request for Model Law Development. To view a copy of the Request for Model Law Development, and current draft please visit: http://www.naic.org/index_committees.htm.

Model Laws, Regulations, Guidelines and White Papers to be Adopted during the 2008 Fall National Meeting in Washington, D.C.

1. Guidelines for the Filing of Workers' Compensation Large Deductible Policies and Programs (Large Deductible Filing Guidelines) (Draft: 6/2/2008)

The Property and Casualty Insurance (C) Committee adopted these guidelines during the 2008 Summer National Meeting. The intent of these guidelines is to give states suggested approval guidelines for large deductible policies and programs that are consistent with that detailed study, and to give a few comments on the reasoning behind some of them. To view a copy of these guidelines, please visit: http://www.naic.org/index_committees.htm.

2. Medical Professional Liability Closed Claim Reporting Law (Draft: 4/7/08)

This model was scheduled to be adopted by the Plenary during the 2008 Summer National Meeting. A commissioner requested additional time to review the model and provide a comment letter. The proposed model will be exposed for a 21-day comment period on the very narrow issue of the model's treatment of captive insurers. After the Property and Casualty (C) Committee reviews these comments, a joint Executive (Ex) Committee/Plenary conference call will be scheduled prior to the NAIC Fall National Meeting to consider the model for adoption. To view a copy of the current draft, please visit: http://www.naic.org/index_committees.htm.

3. Model Act on Custodial Agreements and the Use of Clearing Corporations (# 295)

The Financial Condition (E) Committee adopted guideline amendments to this model. These changes allow the Federal Home Loan Bank to be considered in the definition of an authorized custodian. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

4. Model Regulation on Custodial Agreements and the Use of Clearing Corporations (# 298)

The Financial Condition (E) adopted guideline amendments to this model. These changes allow the Federal Home Loan Bank to be considered in the definition of an authorized custodian. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

5. Model Regulation to Define Standards in Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition (# 385)

The Financial Condition (E) Committee adopted amendments to this model. The current draft of the model incorporates proposed changes received by the Examination Oversight (E) Task Force through a survey conducted in 2005. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

Updates on Models, Guidelines and Whitepapers

1. Actuarial Guideline CCC – The Application of the Standard Nonforfeiture Law for Life Insurance to Certain Policies Having Intermediate Cash Benefits (Draft: 5/30/08)

The Life and Health Actuarial Task Force received a new charge to develop an actuarial guideline. This Guideline applies to individual life insurance policies, other than variable and non-variable adjustable life policies and current assumption whole life policies, that provide for an endowment benefit, materially less than the policy face amount, at a specified intermediate duration during a longer period of life insurance protection. The Task Force is accepting comments on this guideline until July 15, 2008. To view a copy of the current draft, please visit:

http://www.naic.org/committees_lhatf.htm.

2. Actuarial Guideline GWP – Group Term Life Waiver of Premium Disabled Life Reserves (Draft: 3/29/08)

The Life and Health Actuarial Task Force discussed revisions that included a floor on reserves based on 75% of tabular mortality rates and 160% of tabular recovery rates. Rounding rules were reinstated and the credibility weighted adjustment method was written as a step-wise procedure. After discussion, the Task Force agreed to remove paragraph 3.iii and release the revised guideline for comment. To view a copy of the current draft, please visit:

http://www.naic.org/committees_lhatf.htm.

3. Actuarial Guideline VACARVM – CARVM for Variable Annuities Redefined (Draft: 9/29/07)

The Life and Health Actuarial Task Force discussed dynamic hedging and delta hedging, in particular, where continuous rebalancing is used. The consensus was that the hedges on the books at the time of the valuation should be included in the reserves. The Task Force discussed whether to include future hedges in the reserves. After much consideration, the Task Force voted to table this guideline until a conference call could be held at a later date. To view a copy of the current draft, please visit:

http://www.naic.org/committees_lhatf.htm.

4. Building Partnerships with Insurers to Improve the Lives of Children (Draft: 6/2/08)

The Casualty Actuarial and Statistical (C) Task Force adopted this draft bulletin during the 2008 Summer National Meeting but the Property and Casualty (C) Committee requested clarification on the scope of the bulletin and sent it back to the Task Force. This bulletin is intended to encourage companies to participate in the Insurance Match Initiative.

5. Independent Adjuster Licensing Guideline (Draft: 4/21/08)

The Producer Licensing (D) Working Group reopened this guideline for a brief discussion regarding the language in Section 4 – Exceptions to License Requirement. The Group deleted subsections 6A(3) and 6B(2) and added a drafting note. To view a copy of the current draft, please visit:

http://www.naic.org/committees_d_producer_licensing.htm.

6. Life & Health Insurance Guaranty Association Model Act (# 520) (Draft: 3/10/07)

The Receivership Model Act Revision Working Group considered the coverage limits of this model. The majority of the discussion dealt with the various coverages for health insurance benefits. However, the Working Group finalized coverage discussions on life insurance death benefits and cash surrender values. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

7. Model Regulation to Implement the NAIC Medicare Supplement Minimum Standards Model Act (# 651) (Draft: 9/30/07)

The Accident and Health Working Group discussed the project to update the refund calculation in Appendix A. The proposed changes to the Social Security Act will not be considered this year. The Working Group decided to continue the project to develop a refund formula assuming the changes are made. To view a copy of the Request for Model Law Development, please visit:

http://www.naic.org/index_committees.htm.

8. Natural Catastrophe Risk: Creating a Comprehensive National Plan (Draft: 8/8/07)

The Catastrophe Risk (C) Working Group did not meet during the 2008 Summer National Meeting. To view a copy of the current draft, please visit:

http://www.naic.org/committees_c_catastrophe.htm.

9. Property and Casualty Insurance Guaranty Association Model Act (# 540) (Draft: 9/21/06)

The Financial Condition (E) Committee discussed several issues including changes to Section 5H and optionality on the net worth exclusion during a conference call held on May 23, 2008. The Committee decided to direct the Receivership and Insolvency Task Force to look at the issue of assumption of business from unlicensed carriers more closely, including options for the states to consider. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

10. Standard Nonforfeiture Law for Life Insurance (# 808) (Draft: 1/30/07)

The Life and Health Actuarial Task did not discuss this model during the Summer National Meeting. To view a copy of the current draft, please visit:

http://www.naic.org/index_committees.htm.

11. Standard Valuation Law (# 820) (Draft 5/31/08)

The Life and Health Actuarial Task Force discussed the several outstanding proposed amendments to the Standard Valuation Law. The Task Force adopted several of these amendments and deferred others. The Task Force is accepting comments on a new draft containing the adopted amendments until July 15, 2008. To view a copy of the current draft, please visit: http://www.naic.org/index_committees.htm.

12. State Jurisdictional and Extraterritorial Issues White Paper (Draft: 6/9/08)

The Jurisdictional and Extraterritorial Issues (B) Subgroup report discussed a draft outline for a white paper on State Extraterritorial Best Practices during a conference call held on May 2, 2008. The Subgroup is accepting comments on this white paper until July 18, 2008. To view a copy of the current draft, please visit: http://www.naic.org/documents/committees_b_jei_whitepaper.doc.

13. Third Party Administrator Guidelines (# 90) (Draft: 3/20/2007)

The Workers' Compensation (C) Task Force noted that these guidelines were becoming mature, but will be reviewed by both the Health Insurance and Managed Care (B) Committee and the Producer Licensing (D) Working Group before the Task Force will consider adopting them. There are two versions of these guidelines. Version One includes life, health and workers' compensation while Version Two does not include workers' compensation. To view a copy of the current draft, please visit: http://www.naic.org/committees_c_wctf_large_deductible.htm.

14. White Paper on the Determination of Independent Contractor Status for Workers' Compensation Purposes (Draft: 5/27/08)

The NAIC/IAIABC Joint (C) Working Group discussed the current draft of this white paper. The latest revisions include an executive summary. The Working Group discussed plans to enhance two tables by adding information for an additional fourteen (14) states. The Group also discussed whether this white paper should remain a "living document" after it is adopted by both the NAIC and the IAIABC. To view a copy of the current draft, please visit:

http://www.naic.org/committees_c_wctf_naic_iaiabc.htm.