

## MEMORANDUM

**TO:** Commissioners, Directors, Superintendents, and Interested Parties  
**FROM:** Jennifer McAdam, Legal Counsel  
**DATE:** December 21, 2017  
**RE:** Action on Model Laws, Guidelines, and White Papers at the 2017 Fall National Meeting

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This memorandum describes NAIC action on model laws, guidelines, and white papers at the 2017 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](http://www.naic.org)), Committees page.

### **I. Actions by Executive (EX) Committee and Plenary**

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#### **A. Model Laws and Regulations Adopted by the Executive (EX) Committee and Plenary**

##### **1. New Insurance Data Security Model Law (#668)**

On a conference call held on Oct. 24, 2017, prior to the Fall National Meeting, the Executive (EX) Committee and Plenary adopted the new *Insurance Data Security Model Law* (#668). The Cybersecurity (EX) Working Group drafted the model law, which establishes standards for data security and standards for the investigation of and notification to the Commissioner of a cybersecurity event. The Executive (EX) Committee granted approval for development of the model at the 2016 Spring National Meeting. The new model law was adopted by the Innovation and Technology (EX) Task Force at the Summer National Meeting.

##### **2. Amendments to Life and Health Insurance Guaranty Association Model Act (#520)**

On a conference call held on Dec. 21, 2017, following the Fall National Meeting, the Executive (EX) Committee and Plenary adopted amendments to the *Life and Health Insurance Guaranty Association Model Act* (#520). The Receivership and Insolvency (E) Task Force revised the model to address guaranty association assessments and coverage issues identified specifically regarding long-term care insurer insolvencies. The Executive (EX) Committee granted approval for development of the model at the Summer National Meeting. The Financial Condition (E) Committee adopted the amendments at the Fall National Meeting.

**B. Guidelines Adopted by the Executive (EX) Committee and Plenary**

The Executive (EX) Committee and Plenary did not adopt any Guidelines at the Fall National Meeting.

**C. Actuarial Guidelines Adopted by the Executive (EX) Committee and Plenary**

The Executive (EX) Committee and Plenary did not adopt any Actuarial Guidelines at the Fall National Meeting.

**D. Bulletins/Consumer Alerts Adopted by Executive (EX) Committee and Plenary**

***New CONSUMER ALERT! Be Skeptical About “Free Meal” Seminars; Question Credentials of Insurance and Financial Services Experts***

The Executive (EX) Committee and Plenary adopted the new Consumer Alert titled *CONSUMER ALERT! Be Skeptical About “Free Meal” Seminars; Question Credentials of Insurance and Financial Services Experts*. The Life Insurance and Annuities (A) Committee had charged the Promoting Appropriate Sales Practices in Life Insurance and Annuities (A) Working Group with reviewing the NAIC Consumer Alert from 2008, *Seniors Beware—Consumer Alert—Question the Credentials of “Senior Specialists” Beware of “Free Lunch” Seminars*. The consumer alert was updated and renamed. The Life Insurance and Annuities (A) Committee adopted the alert earlier at the Fall National Meeting.

**E. White Papers Adopted by Executive (EX) Committee and Plenary**

The Executive (EX) Committee and Plenary did not adopt any White Papers at the Fall National Meeting.

**II. Actions by Executive (EX) Committee**

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**A. Model Law and Regulation Requests Approved for Development by the Executive (EX) Committee**

The Executive Committee (EX) Committee did not approve any requests for model law development at the Fall National Meeting.

**B. Model Laws and Regulations Archived by the Executive (EX) Committee**

**Archival of ACA Model Language Templates**

The Health Insurance and Managed Care (B) Committee reported to the Executive (EX) Committee the decision to archive the following ACA model language templates, which were adopted in 2010, reflecting provisions of the ACA that were effective March 23, 2010: *Model Language for Choice of Health Care Professional* (#930-A); *Model Language for Dependent Coverage for Individuals to Age of 26* (#930-B); *Model Language for Lifetime and Annual Limits* (#930-C); *Model Language for Preventive Services* (#930-D); *Model Language for Prohibition on Preexisting Condition Exclusions for Individuals Under the Age of 19* (#930-E); and *Model Language for Prohibition on Rescissions of Coverage* (#930-F). These model language templates

will be removed from the NAIC publication *Model Laws, Regulations and Guidelines*.

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

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#### **A. Life Insurance and Annuities (A) Committee**

##### **1. New *CONSUMER ALERT! Be Skeptical About “Free Meal” Seminars; Question Credentials of Insurance and Financial Services Experts***

The Life Insurance and Annuities (A) Committee adopted the new Consumer Alert titled *CONSUMER ALERT! Be Skeptical About “Free Meal” Seminars; Question Credentials of Insurance and Financial Services Experts*. The Life Insurance and Annuities (A) Committee had charged the Promoting Appropriate Sales Practices in Life Insurance and Annuities (A) Working Group with reviewing the NAIC Consumer Alert from 2008, *Seniors Beware—Consumer Alert—Question the Credentials of “Senior Specialists” Beware of “Free Lunch” Seminars*. The consumer alert was updated and renamed. The Executive (EX) Committee and Plenary adopted the alert later at the Fall National Meeting.

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

The Annuity Suitability (A) Working Group discussed the Working Group chair draft of proposed revisions to the *Suitability in Annuity Transactions Model Regulation (#275)*. The amendments would add a “best interest” standard of conduct requirement for insurers and producers offering annuity products. The Working Group received preliminary feedback from Working Group members, interested state insurance regulators and interested parties. The Working Group requested written comments by Jan. 22, 2018. The Working Group intends to meet via conference call to discuss any comments received and hopes to have a draft for consideration by the Life Insurance and Annuities (A) Committee at the 2018 Spring National Meeting. The revisions are being drafted for consistency with a federal rule issued by the U.S. Department of Labor. Because this amendment is being drafted for consistency with federal law, the Working Group did not require approval of a request for model law development by the Executive (EX) Committee.

#### **B. Health Insurance and Managed Care (B) Committee**

##### **1. Amendments to *Health Insurance Reserves Model Regulation (#10)***

The Health Insurance and Managed Care (B) Committee granted the Health Actuarial (B) Task Force’s request for an extension of time on the development of amendments to the *Health Insurance Reserves Model Regulation (#10)*. The Task Force is revising the model to reflect appropriate long-term care insurance (LTCI) reserving standards. The Executive (EX) Committee approved the request for model law development to amend Model #10 at the 2014 Summer National Meeting.

**2. Amendments to *Health Carrier Prescription Drug Benefit Management Model Act* (#22)**

The Health Insurance and Managed Care (B) Committee adopted amendments to the *Health Carrier Prescription Drug Benefit Management Model Act* (#22). The Regulatory Framework (B) Task Force drafted revisions to Model #22 to address issues related to: (1) transparency, accuracy and disclosure regarding prescription drug formularies and formulary changes during a policy year; (2) accessibility of prescription drug benefits using a variety of pharmacy options; and (3) tiered prescription drug formularies and discriminatory benefit design. Amendments to Model #22 are required for consistency with the federal Affordable Care Act (ACA) and, therefore, did not require approval of a request for model law development by the Executive (EX) Committee. The Regulatory Framework (B) Task Force adopted the amendments earlier at the Fall National Meeting.

**3. Archival of ACA Model Language Templates**

The Regulatory Framework (B) Task Force adopted a motion to archive the following ACA model language templates, which were adopted in 2010, reflecting provisions of the ACA that were effective March 23, 2010: *Model Language for Choice of Health Care Professional* (#930-A); *Model Language for Dependent Coverage for Individuals to Age of 26* (#930-B); *Model Language for Lifetime and Annual Limits* (#930-C); *Model Language for Preventive Services* (#930-D); *Model Language for Prohibition on Preexisting Condition Exclusions for Individuals Under the Age of 19* (#930-E); and *Model Language for Prohibition on Rescissions of Coverage* (#930-F). The decision to archive these model laws was reported to the Executive (EX) Committee in the Health Insurance and Managed Care (B) Committee's report.

**C. Property and Casualty Insurance (C) Committee**

***Amendments to Creditor-Placed Insurance Model Act* (#375)**

The Property and Casualty Insurance (C) Committee decided to focus on drafting a new Lender-Placed Real Property Insurance Model Act having to do with real property, rather than amending the *Creditor-Placed Insurance Model Act* (#375). Therefore, the Committee reported to the Executive (EX) Committee that it was closing its request for model law development.

**D. Market Regulation and Consumer Affairs (D) Committee**

The Market Regulation and Consumer Affairs (D) Committee did not take action on any model laws at the Fall National Meeting.

## **E. Financial Condition (E) Committee**

### **1. Amendments to *Life and Health Insurance Guaranty Association Model Act* (#520)**

The Financial Condition (E) Committee adopted amendments to the *Life and Health Insurance Guaranty Association Model Act* (#520). The Receivership and Insolvency (E) Task Force revised the model to address guaranty association assessments and coverage issues identified specifically regarding long-term care insurer insolvencies. The Executive (EX) Committee granted approval for development of the model at the Summer National Meeting. The Executive (EX) Committee and Plenary adopted the amendments on a conference call held Dec. 21, 2017, following the Fall National Meeting.

### **2. Amendments to *Mortgage Guaranty Insurance Model Act* (#630)**

On a conference call held prior to the Fall National Meeting, the Financial Condition (E) Committee granted the Mortgage Guaranty Insurance (E) Working Group's request for an extension of time on the development of amendments to the *Mortgage Guaranty Insurance Model Act* (#630). The NAIC retained a consultant to conduct rigorous actuarial testing and review of the proposed new risk-based capital model for mortgage guaranty insurers. This work will need to be completed before drafting can resume. The Working Group is drafting amendments to Capital Requirements, Investment Limitations, Reinsurance and other areas of the model to address areas highlighted for change as a result of the recent mortgage crisis. The Executive (EX) Committee granted approval for development of the model at the 2013 Summer National Meeting.