2015 Spring National Meeting
Phoenix, Arizona

HEALTH INSURANCE AND MANAGED CARE (B) COMMITTEE
Sunday, March 29, 2015
3:30 – 5:00 p.m.
Phoenix Convention Center North—Room 129—Street Level

ROLL CALL

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<tr>
<td>Roger A. Sevigny, Chair</td>
<td>New Hampshire</td>
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<td>Mike Kreidler, Vice Chair</td>
<td>Washington</td>
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<td>Germaine L. Marks</td>
<td>Arizona</td>
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<td>Marguerite Salazar</td>
<td>Colorado</td>
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<td>Mike Rothman</td>
<td>Minnesota</td>
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<td>Scott J. Kipper</td>
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<td>Benjamin M. Lawsky</td>
<td>New York</td>
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<td>Laura N. Cali</td>
<td>Oregon</td>
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<td>Teresa D. Miller</td>
<td>Pennsylvania</td>
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<td>Angela Weyne</td>
<td>Puerto Rico</td>
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<td>Todd E. Kiser</td>
<td>Utah</td>
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<td>Jacqueline K. Cunningham</td>
<td>Virginia</td>
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<td>Ted Nickel</td>
<td>Wisconsin</td>
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AGENDA

1. Consider Adoption of its March 10 Minutes—Commissioner Roger A. Sevigny (NH)

2. Hear Update from the Federal Center for Consumer Information and Insurance Oversight (CCIIO) on Federal Affordable Care Act (ACA) Implementation Activities—Amanda Schnitzer (CCIIIO)

3. Hear Discussion of Stakeholder Issues Related to ACA Implementation—Commissioner Roger A. Sevigny (NH)

4. Hear Update on ACA Health Insurance Consumer Operated and Oriented Plan (CO-OP) Program Activities—Kelly Crowe and Martin Hickey (National Alliance of State Health CO-OPs—NASHCO)

5. Consider Adoption of its Subgroup, Working Group and Task Force Reports:
   - Consumer Information (B) Subgroup—Angela Nelson (MO)
   - Health Care Reform Regulatory Alternatives (B) Working Group—Commissioner Ted Nickel (WI)
   - Health Actuarial (B) Task Force—Commissioner Jim L. Ridling (AL) and Steve Ostlund (AL)
   - Regulatory Framework (B) Task Force—Commissioner Ted Nickel (WI) and J.P. Wieske (WI)
   - Senior Issues (B) Task Force—Commissioner Scott J. Kipper (NV)

6. Discuss Any Other Matters Brought Before the Committee—Commissioner Roger A. Sevigny (NH)

7. Adjournment
Agenda Item #1

Consider Adoption of its March 10 Minutes
The Health Insurance and Managed Care (B) Committee met via conference call on March 10, 2015. The following Committee members participated: Roger A. Sevigny, Chair (NH); Mike Kreidler, Vice Chair (WA); Germaine L. Marks (AZ); Marguerite Salazar represented by Peg Brown (CO); Mike Rothman (MN); Scott J. Kipper (NV); Benjamin M. Lawsky represented by Frank Horn (NY); Laura N. Cali represented by Annette Boyce (OR); Teresa D. Miller represented by Peter Camacci (PA); Angela Wayne (PR); Todd E. Kiser (UT); Jacqueline K. Cunningham (VA); and Ted Nickel, J.P. Wieske and Dan Schwartzer (WI). Also participating were: Steve Ostlund (AL); Angela Nelson (MO); and Christina Goe (MT).

1. **Adopted its 2014 Fall National Meeting Minutes**

Commissioner Rothman made a motion, seconded by Commissioner Wayne, to adopt the Committee’s 2014 Fall National Meeting minutes *(see NAIC Proceedings – Fall 2014, Health Insurance and Managed Care (B) Committee Nov. 17, 2014, minutes)*. The motion passed unanimously.

2. **Heard Report on NAIC Comments on the Proposed Summary of Benefits and Coverage and Uniform Glossary Changes**

Ms. Nelson reported that the Consumer Information (B) Subgroup had met via conference call to review the proposed federal regulation modifying the Summary of Benefits and Coverage and the Uniform Glossary, both of which were developed by the NAIC in cooperation with interested parties. After receiving comments from regulators and interested parties it was clear that the proposed changes were insufficient and not timely. She said the Subgroup drafted a comment letter urging the federal agencies to withdraw the proposed regulation and rely, once again, on the NAIC and the interested parties to recommend amendments to these two documents for the 2017 plan year. This comment letter was adopted by the Government Relations (EX) Leadership Council and sent to the federal agencies.

3. **Heard Reports from its Subgroup, Working Group and Task Force**

   a. **Consumer Information (B) Subgroup**

Ms. Nelson said the Consumer Information (B) Subgroup continues to work on the *Frequently Asked Questions About Health Care Reform* document (FAQ document). The document has been updated and is currently under review for readability. It should be forwarded to the Committee after the Spring National Meeting.

   b. **Health Care Reform Regulatory Alternatives (B) Working Group**

Mr. Schwartzer reported that the Health Care Reform Regulatory Alternatives (B) Working Group may have a call prior to the Spring National meeting but will meet at the Spring National Meeting to discuss the potential impacts of the upcoming U.S. Supreme Court decision in *King v. Burwell*. The Working Group will not be making recommendations, but discussing possible options for states under different scenarios. Timothy Stoltzfus Jost (Virginia Organizing) noted that there will also be a presentation at the Consumer Liaison Committee meeting at Spring National Meeting on the *King v. Burwell* case.

Mr. Schwartzer said the Working Group is also reaching out to the Territories to determine how the Territories (B) Subgroup would like to proceed.

   c. **Health Actuarial (B) Task Force**

Mr. Ostlund said the Health Actuarial (B) Task Force’s various working groups and subgroups have been very active, and will continue to be in 2015.

The Health Care Reform Actuarial (B) Working Group has responded to issues related to the federal Affordable Care Act (ACA). The Working Group has provided a regular forum for state regulators to discuss rate review issues and the Actuarial Value (B) Subgroup is working on comments for the Actuarial Standards Board.
Draft Pending Adoption

The Long-Term Care Actuarial (B) Working Group will discuss the Society of Actuaries experience tables at the Spring National Meetings. Its Long-Term Care Valuation (B) Subgroup is looking at studies related to reserves and its Long-Term Care Pricing (B) Subgroup has met via conference call twice weekly to consider changes to the Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation (Guidance Manual). Draft revisions to the Guidance Manual have been exposed for comment and comments are due March 4.

The Joint Long-Term Care Guidance Manual (B) Subgroup will consider the recommendations of the Long-Term Care Pricing (B) Subgroup.

The Medicare Supplement Refund Formula (B) Subgroup will begin meeting via conference call after the Spring National Meeting to review a report it received from the American Academy of Actuaries.

The Individual Disability Valuation Table Implementation (B) Subgroup will meet via conference after the Spring National Meeting to develop recommendations for adjustments to the table and will complete work by the Summer National Meeting.

  d. Regulatory Framework (B) Task Force and Network Adequacy Model Review (B) Subgroup

Mr. Wieske said the Regulatory Framework (B) Task Force is focusing on completing the proposed changes to the Managed Care Plan Network Adequacy Model Act (#74). He said work on other NAIC models identified as in need of review and possible revision as the result of the ACA will not continue in earnest until the Task Force finishes its work revising Model #74.

Mr. Wieske said the Network Adequacy Model Review (B) Subgroup is currently working through the many comments received on the initial draft of proposed revisions to Model #74 during weekly conference calls. The Subgroup may move to two calls a week if needed to complete its work by the Summer National Meeting.

  e. ERISA (B) Working Group

Ms. Goe said the ERISA (B) Working Group is finalizing minor changes to the latest draft of the Stop Loss Insurance, Self-Funding and the ACA white paper which will be distributed prior to the Spring National Meeting and considered at the meeting. The Working Group is also working with the U.S. Department of Labor on compliance and information sharing issues and will soon turn its attention to updating the ERISA Handbook.

  f. Senior Issues (B) Task Force

Commissioner Kipper said the Task Force met via conference call March 9 and received reports from its working groups and subgroups. Commissioner Kipper acknowledged all of the work the Health Actuarial (B) Task Force and its subgroups are doing on long-term care insurance issues. He said two other subgroups are also working on long-term care insurance issues. The Long-Term Care Consumer Disclosure (B) Subgroup is reviewing the Long-Term Care Insurance Model Act (#640), the Long-Term Care Insurance Model Regulation (#641) and the Guidance Manual for the Rating Aspects of the Long-Term Care Insurance Model Regulation (Guidance Manual) and receiving comments from regulators and interested parties on possible amendments to improve the disclosures for consumers. The Long-Term Care Partnership Reporting (B) Subgroup is discussing whether and how data collected by long-term care insurance carriers participating in the Long-Term Care Partnership program should be collected and compiled into a report. These two subgroups have met via conference call and expect to complete their work this year.

  g. Model Law Review Initiative (B) Subgroup

Brian Webb (NAIC) said the Subgroup will meet following the Spring National Meeting to discuss the comments received on the preliminary recommendations for the five NAIC models it is charged with reviewing to determine whether they should be retained, retained and revised, converted to a guideline or archived. The Subgroup anticipates completing its charge no later than the Fall National Meeting.

4. Discussed Other Possible Projects for the Committee in 2015

Commissioner Sevigny requested input from regulators and interested parties on other project the Committee may consider in 2015. He mentioned that the National Association of State Health CO-OPs (NASHCO) will give a report on the ACA
Consumer Oriented and Operated Plans (CO-OPs) to the Committee at the Spring National Meeting. Commissioner Salazar and Commissioner Kipper agreed that this is an important issue to track in 2015.

Commissioner Rothman said the NAIC should track the impact of the ACA’s reinsurance, risk corridor and risk adjustment programs on the markets. Mr. Webb said the Financial Condition (E) Committee has discussed the impact of these programs on the financial condition of plans and the Health Actuarial (B) Task Force has reviewed their impact on rate-setting. Mr. Ostlund said the Task Force could resume its work on this issue.

Jessie O’Brien (Oregon State Public Interest Research Group) recommended that the Committee consider ways to promote health insurance literacy and share rate review best practices.

Having no further business, the Health Insurance and Managed Care (B) Committee adjourned.

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Agenda Item #2

Hear Update from the Federal Center for Consumer Information and Insurance Oversight (CCIIO) on Federal Affordable Care Act (ACA) Implementation Activities—Amanda Schnitzer (CCIIO): -- NO MATERIALS
Agenda Item #3

Hear Discussion of Stakeholder Issues Related to ACA Implementation:--

NO MATERIALS
Agenda Item #4

Hear Update on ACA Health Insurance Consumer Operated and Oriented Plan (CO-OP) Program Activities—Kelly Crowe and Martin Hickey (National Alliance of State Health CO-OPs—NASHCO): -- Materials Pending
Agenda Item #5

Consider Adoption of its Subgroup, Working Group and Task Force Reports: Pending – Will Be Added to Materials After Each Group Meets at the Spring National Meeting
Conference Calls

CONSUMER INFORMATION (B) SUBGROUP
January 27, 2015 / February 13, 2015

Summary Report

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call Jan. 27, 2015 and Feb. 13, 2015. During these calls, the Subgroup:

1. Drafted and forwarded a comment letter on the federal proposed rule revising the Summary of Benefits and Coverage and Uniform Glossary to the Government Relations (EX) Leadership Council for adoption.

2. Agreed to forward the draft “Frequently Asked Questions about Health Care Reform” document (FAQ document) to NAIC consumer representative Brenda Cude (University of Georgia) for a readability review prior to adoption of the document by the Subgroup.
Consumer Information (B) Subgroup
Conference Call
February 13, 2015

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call Feb. 13, 2015. The following Subgroup members participated: Angela Nelson, Chair, and Mary Mealer (MO); Mary Childers, Vice Chair (WA); Betty Jo Pate (FL); Chris Hollenbeck (KS); Mary Kwei (MD); Kristi Bohn (MN); Terry Seaton (NM); Chlora Lindley-Myers (TN); and Tanji Northrup (UT).

1. Discussed Draft Comment Letter on Federal Proposed Regulations Updating the SBC and Uniform Glossary

Ms. Nelson said that on its last call, the Subgroup discussed the proposed rule revising the summary of benefits and coverage (SBC) and the uniform glossary and decided the NAIC should submit a comment letter. Ms. Nelson said she had asked regulators and interested parties to submit suggestions for inclusion in an NAIC comment letter. She said the Subgroup received feedback from NAIC consumer representatives (Attachment 1); America’s Health Insurance Plans (AHIP) (Attachment 2); National Women’s Law Center (NWLC) (Attachment 3); and American Occupational Therapy Association (AOTA) (Attachment 4). She said the many insightful comments and concerns that were raised all point to the need for additional discussion and debate around the best way to revise the SBC and glossary, which was the primary focus of the draft NAIC comment letter.

Ms. Nelson summarized the draft comment letter. She said the letter points out that the revisions in the proposed rule would have benefited from the uniquely collaborative NAIC process, which was used in the development of the original SBC and glossary. She said the letter recommends that the Secretaries postpone making the revisions to the SBC and glossary and use the NAIC Consumer Information (B) Subgroup and process. She said the letter says that, no matter what the federal agencies decide to do with respect to the changes in the proposed rule, the implementation time frame in the proposed rule is too short. She said the letter also says that the Consumer Information (B) Subgroup would be willing to work on an expedited basis to make improvements to the form through revisions to the instructions.

JoAnn Volk (Georgetown University) said the delay the NAIC asks for in its comment letter should not happen. She said the NAIC comment letter asks for a date further out than the industry is asking for, and suggested that asking for an extension until 2017 is more reasonable. Richard Dropski (Neighborhood Health Plan—NHP) agreed that a 2017 implementation date is manageable. Ms. Nelson explained the calculations that went into the suggestion of a delay until 2018, which were based on calculating how long it would take industry to revise its systems to change the form and the ability of the states to review the new forms for actual use by consumers. She said that, although the time frame would be tight, she would be willing to revise the comment letter to suggest an implementation deadline of “at least 2017.” The Subgroup agreed to this change.

Ms. Volk also suggested that the NAIC comment letter include a specific recommendation that any revisions to the SBC and uniform glossary go through consumer testing. This suggestion was echoed by AHIP in its comment letter. Ms. Nelson explained that the letter did not mention it specifically because the NAIC process for the original SBC included consumer testing, but it was supplied by Consumers Union and AHIP. She agreed that it is critical to consumer-test any changes to the SBC and suggested that the NAIC comment letter could mention that consumer-testing is contemplated as part of using the NAIC process to make revisions to the SBC and glossary.

The Subgroup agreed to forward the draft comment letter, with the agreed-upon changes, to the Government Relations (EX) Leadership Council to consider adoption of, and submission to, the U.S. Department of Labor, U.S. Department of the Treasury and the U.S. Department of Health and Human Services.

Having no further business, the Consumer Information (B) Subgroup adjourned.

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Consumer Information (B) Subgroup
Conference Call
January 27, 2015

The Consumer Information (B) Subgroup of the Health Insurance and Managed Care (B) Committee met via conference call Jan. 27, 2015. The following Subgroup members participated: Angela Nelson, Chair, and Mary Mealer (MO); Mary Childers, Vice Chair (WA); Betty Jo Pate (FL); Cindy Hermes (KS); Mary Kwei (MD); Kristi Bohn (MN); Chlora Lindley-Myers (TN); and Tanji Northrup (UT). Also participating were: J.P. Wieske and Susan Ezalarab (WI).

1. Discussed Comments and Updates to the FAQ Document

The Subgroup discussed the Dec. 20 draft “Frequently Asked Questions about Health Care Reform” (FAQ document). Following the Subgroup’s last conference call, NAIC staff updated the FAQ document to reflect comments submitted by regulators and interested parties. Ms. Nelson said she wanted to focus on substantive comments, concerns or suggestions from regulators and interested parties on the call. She said that technical revisions to the FAQ document should be emailed to NAIC staff.

Comments submitted by Bonnie Burns (California Health Advocates) suggesting revisions to the federal Affordable Care Act (ACA) Medicare-related questions in the FAQ were distributed prior to the call. Ms. Burns explained that her suggested revisions make clear that patients with end-stage renal disease (ESRD) have choices regarding whether to enroll in Medicare or stay in a qualified health plan (QHP). Ms. Nelson suggested, and the Subgroup agreed, to incorporate Ms. Burn’s suggested changes in the FAQ document.

Comments submitted by Jackson Williams (Dialysis Patient Citizens) concerning out-of-network emergency services were distributed prior to the call. Mr. Williams suggested that the FAQ should state that consumers may encounter providers that bill patients for the difference between their charges and the amount allowed by the plan, but that the amount consumers are obligated to pay is a matter for state courts to determine. The Subgroup discussed the fact that the current FAQ includes two possible answers depending on whether balance-billing for out-of-network emergency services is permitted. The Subgroup agreed to revise the drafting note to refer to states that “do not prohibit” balance billing, rather than to states that “allow” balance billing. The Subgroup also agreed to add, in the portion of the answer for states that do not prohibit balance billing, language clarifying that insurance departments do not have jurisdiction over providers.

Ms. Nelson summarized comments provided by NAIC funded consumer representative Brenda Cude (University of Georgia). Ms. Cude said her students ask questions about catastrophic plans, whether the government relies on tax returns to know if a consumer has health insurance that meets the requirements and what happens if a person does not have to file a tax return. Ms. Cude also said that she has seen tax preparation companies charging a fee to assist consumers in signing up for health insurance through the exchange. She wondered whether a warning about fraud during tax preparation season should be added to the FAQ document. Ms. Nelson said, and the Subgroup agreed, that the information in the FAQ sufficiently addressed the issues raised by Ms. Cude. Ms. Nelson agreed that it might be appropriate to add different or additional information in a direct-to-consumer publication.

Tim Jost (Virginia Organizing) said that he had some technical edits to the FAQ document that he would forward to NAIC staff. Mr. Wieske suggested adding links to the Internal Revenue Service (IRS) website on the questions in the FAQ addressing taxes. Mr. Jost agreed and said that the IRS free filing link might be helpful to add. Ms. Ezalarab said she would forward the IRS link on minimum essential coverage, as well. The Subgroup agreed to send a revised draft to Ms. Cude for a readability review. Then the Subgroup will review it one final time before adopting it.

2. Discussed Federal Proposed Regulations Updating the SBC and Uniform Glossary

Ms. Nelson said that on Dec. 29, 2014, a proposed rule was published in the Federal Register updating the summary of benefits and coverage (SBC) and uniform glossary for group health plans and health insurance coverage in the group and individual markets under the federal Patient Protection and Affordable Care Act (PPACA). Ms. Nelson said that, unlike when the SBC and glossary were originally drafted, the collaborative process involving the NAIC and an advisory working group was not used to revise the SBC and glossary in the proposed rule. She noted that March 2 is the deadline for comments. She said, and the Subgroup agreed, that it is important for the NAIC to comment on the proposed rule in order to give the federal
government feedback based on the experience of the state regulators and the other stakeholders participating in the NAIC process.

Ms. Nelson stated that one concern she had with the proposed rule was deleting the cell from the “What This Plan Covers & What it Costs” that asks: “Is there an overall annual limit?” She said that it may make sense to remove the annual limit, but that the issue of specific coverage limits, like limits on the number of office visits (which is mentioned in the original answer to this question), have become increasingly prevalent. She said many policies have converted dollar limits to other types of coverage limits, making this question more important than ever. Ms. Nelson also said that in Missouri, they have received a lot of consumer feedback about the SBC that raises issues not addressed in the proposed rule changes. She said, for example, with respect to network issues, she would like to clarify that Internet links to plan-specific networks should be included in the SBC. She said modifications to the sample SBC as well as the instructions could clarify this.

Marty Mitchell (America’s Health Insurance Plans—AHIP) said that there were many areas of the proposed rule that raised issues and cautioned against including a recommendation in the NAIC comment letter about linking to specific networks when the Network Adequacy Model Review (B) Subgroup is still working on revisions to the Managed Care Network Adequacy Model Act (#74). Mr. Mitchell said that a major issue with the proposed rule is one of timing. The proposed rule contemplates a 2016 implementation date, which is not enough time for insurers to make changes or for state insurance regulators to review the changes. He explained that making changes to the form, and to the information included in the form, is operationally complex. Lynn Quincy (Consumers Union) said that the promise of the SBC has yet to be realized, and the time has come for changes to be made. She said that the costs need to be balanced against the benefits for consumers. Mr. Jost said he appreciated the NAIC recognizing the unique nature of the process that was used to develop the original SBC and uniform glossary and said he would like to submit comments for the NAIC to consider including in its comment letter.

Ms. Nelson asked for interested parties to submit suggestions to NAIC staff by Feb. 3 for inclusion in an NAIC comment letter. She asked that parties limit their comments to a few issues of the highest importance. NAIC staff will distribute a draft comment letter based on the comments received sometime during the week of Feb. 9 and will schedule an open call to discuss the draft. The comment letter will be submitted after it is adopted by the Government Relations (EX) Leadership Council and signed by the NAIC officers.

Having no further business, the Consumer Information (B) Subgroup adjourned.