MEMORANDUM

TO: Commissioners, Directors, Superintendents, and Interested Parties

FROM: Jennifer Neuerburg, Legal Counsel

DATE: May 4, 2021

RE: Action on Model Laws, Guidelines, and White Papers at the 2021 Spring National Meeting

This memorandum describes NAIC action on model laws, guidelines, and white papers at the 2021 Spring 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 page.

I. Actions by Executive (EX) Committee and Plenary

A. Model Laws and Regulations Considered by the Executive (EX) Committee and Plenary

1. Amendments to Unfair Trade Practices Act (#880)

The Executive (EX) Committee and Plenary adopted amendments to the Unfair Trade Practices Act (#880), specifically Section 4(H)(2)(e), related to anti-rebating. The Innovation and Technology (EX) Task Force began discussing rebating issues in 2018 because of the increased interest in offering value-added products and services that are not necessarily addressed within the applicable insurance policy language. The Executive (EX) Committee adopted the amendments on December 9, 2020.

2. New: Real Property Lender-Placed Insurance Model Act (#631)


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

1. Amendments to Antifraud Plan Guideline (#1690)

The Executive (EX) Committee and Plenary adopted revisions to the Antifraud Plan Guideline (#1690). The amendments reorganize the guideline more intuitively, eliminate repetitive requirements, and add suggestions to better meet existing requirements for most states. The Market
Regulation and Consumer Affairs (D) Committee adopted the amendments during the 2020 Fall National Meeting.

2. New: Guideline for Administration of Large Deductible Policies in Receivership (#1980)

The Executive (EX) Committee and Plenary adopted the Guideline for Administration of Large Deductible Policies in Receivership (#1980). The Guideline provides enhancements to the U.S. receivership regime with regard to the administration of large deductible policies in receivership. The Financial Condition (E) Committee adopted the guideline during the 2020 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 Spring National Meeting.

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

The Executive (EX) Committee and Plenary did not adopt any bulletins or consumer alerts at the Spring National Meeting.

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

New: Regulatory Review of Predictive Models White Paper

The Executive (EX) Committee and Plenary adopted the white paper titled Regulatory Review of Predictive Models. The Casualty and Actuarial (C) Task Force was tasked with drafting the white paper to address issues related to regulatory review of predictive analytics used to support rate filings. The Property and Casualty Insurance (C) Committee adopted the white paper on December 8, 2020.

II. Actions by Executive (EX) Committee

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

Amendments to Nonadmitted Insurance Model Act (#870)

The Executive (EX) Committee approved the model law development request for amendments to the Nonadmitted Insurance Model Act (#870). The amendments will modernize the model and bring it into alignment with the federal Nonadmitted and Reinsurance Reform Act. The Property and Casualty Insurance (C) Committee approved the request on December 8, 2020.
III. Actions by Other Committees, Task Forces and Working Groups

A. Life Insurance and Annuities (A) Committee

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

   The Life Insurance and Annuities (A) Committee voted to send the participating income annuity amendments to *Annuity Disclosure Model Regulation* (#245), which were adopted by the Life Insurance and Annuities (A) Committee in 2018, to the Executive (EX) Committee and Plenary for adoption at the Summer 2021 National Meeting. Thereafter, the Annuity Disclosure (A) Working Group will disband and no longer pursue amendments related to illustrated indices. The Executive (EX) Committee approved the model law development request for these amendments at the 2017 Summer National Meeting.

2. Amendments to *Life Insurance Disclosure Model Regulation* (#580)

   The Life Insurance and Annuities (A) Committee granted a request for extension of time to the Life Insurance Illustration Issues (A) Working Group to continue drafting amendments to the *Life Insurance Disclosure Model Regulation* (#580). The Working Group is amending Model #580 to include a policy overview document requirement into the model to improve the understandability of the life insurance policy and narrative summaries already required by Section 5A(2) of Model #580. The Executive (EX) Committee approved the request for model law development to amend the model at the 2017 Summer National Meeting.

B. Health Insurance and Managed Care (B) Committee

**New: Pharmacy Benefit Manager (PBM) Model Law**

The Health Insurance and Managed Care (B) Committee granted an extension of time to continue drafting the new Pharmacy Benefit Manager (PBM) Law. The Pharmacy Benefit Manager Regulatory Issues (B) Subgroup submitted a draft of the model to the Regulatory Framework (B) Task Force at its November 19, 2020, meeting. The Task Force adopted the draft on March 18, 2021. The Health Insurance and Managed Care (B) Committee deferred adoption of the draft PBM model until issues related to the Section 8 drafting note can be further discussed. The Executive (EX) Committee approved the request for model law development request for this model at 2019 Summer National Meeting.

C. Property and Casualty Insurance (C) Committee

**New: Pet Insurance Model Law**

The Property and Casualty Insurance (C) Committee granted an extension of time to continue drafting the new Pet Insurance Model Act. The Working Group has met several times to discuss Sections 5 through 9 of the proposed model. The Working Group decided to remove the section on licensing and add a drafting note asking each state to review the NAIC *State Licensing Handbook*. The Executive (EX) Committee approved the model law development request for this model at the 2019 Summer National Meeting.
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 2021 Spring National Meeting.

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

1. **New: Guideline for Definition of Reciprocal State in Receivership Laws**

The Financial Condition (E) Committee adopted the new *Guideline for Definition of Reciprocal State in Receivership Laws*. Receivership laws typically provide for a stay of actions on the attachment of assets of an insurance company when it is placed into liquidation in a reciprocal state. In many states, the definition of reciprocal state is more restrictive than the Part A Accreditation Standards. As a result, in some cases, a court may not stay a litigation when an insurance company is placed into liquidation in another state. The Guideline’s definition of reciprocal state is consistent with the definition in accreditation standards. The Receivership and Insolvency (E) Task Force adopted the *Guideline for Definition of Reciprocal State in Receivership Laws* on March, 12, 2021.

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

The Financial Condition (E) Committee granted a request for extension of time to the Mortgage Guaranty Insurance (E) Working Group to continue drafting amendments to the *Mortgage Guaranty Insurance Model Act (#630)*. The Working Group’s goal is to construct a counter-cyclical model similar to risk-based capital. The Executive (EX) Committee approved the model law development request for these amendments prior to the Summer 2013 National Meeting.