MEMORANDUM

TO: Commissioners, Directors, Superintendents, and Interested Parties
FROM: Jennifer Neuerburg, Model Laws Coordinator
DATE: January 6, 2020
RE: Action on Model Laws, Guidelines, and White Papers at the 2020 Fall National Meeting

This memorandum describes NAIC action on model laws, guidelines, and white papers at the 2020 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 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 Standard Nonforfeiture Law for Individual Deferred Annuities (#805)

   The Executive (EX) Committee and Plenary adopted revisions to the Standard Nonforfeiture Law for Individual Deferred Annuities (#805). The amendments arose out of concern over the 1% floor on the minimum nonforfeiture accumulation rate currently in the model, which is difficult for insurers to achieve in the current low interest rate environment. The revisions reduce the minimum nonforfeiture rate to 0.15%. The Life Insurance and Annuities (A) Committee adopted the amendments on November 10, 2020.

2. Amendments to Health Maintenance Organization Model Act (#430)

   The Executive (EX) Committee and Plenary adopted revisions to the Health Maintenance Organization Model Act (#430). The amendments address conflicts and redundancies with provisions in the revised Life and Health Insurance Guaranty Association Model Act (#520), which added HMOs as members of the guaranty association. The Health and Managed Care (B) Committee adopted the amendments on November 2, 2020.
3. Amendments to the Insurance Holding Company System Regulatory Act (#440) and Insurance Company System Model Regulation with Reporting Forms and Instructions (#450)

The Executive (EX) Committee and Plenary adopted revisions to the Insurance Holding Company System Regulatory Act (#440) and the Insurance Holding Company System Model Regulation with Reporting Forms and Instructions (#450). The amendments to the models provide legislative language to enable the Group Capital Calculation (GCC) and the Liquidity Stress Test. The Financial Condition (E) Committee adopted the amendments on November 19, 2020.

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

Amendments to Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49)

The Executive (EX) Committee and Plenary adopted amendments to Actuarial Guideline XLIX—The Application of the Life Illustrations Model Regulation to Policies with Index-Based Interest (AG 49). The guideline is being sunset for policies issued on and after December 14, 2020, the effective date of Actuarial Guideline XLIXA—The Application of the Life Illustrations Model Regulation to Policies With Index-Based Interest Sold On or After November 25, 2020 (AG 49-A). AG 49 was revised to allow companies to apply the requirements of AG 49-A to in-force illustrations for policies issued prior to December 14, 2020. The Life Insurance and Annuities (A) Committee adopted the amendments on November 10, 2020.

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

Amendments to State Disaster Response Plan Handbook

The Executive (EX) Committee and Plenary adopted the updated NAIC State Disaster Response Plan Handbook (Handbook). The Handbook can be used by state insurance departments as a template to create a disaster response plan. The Handbook provides information regarding: 1) the purpose of the disaster response plan; 2) NAIC disaster assistance; 3) preparation steps and planning; 4) the data collection process; 5) the disaster response and incident management team; 6) business continuity organizational charts; 7) response levels and definitions; and 8) sample contact lists. The Property and Casualty Insurance (C) Committee adopted the Handbook on August 12, 2020.
E. **White Papers Adopted by Executive (EX) Committee and Plenary**

**New: Workers’ Compensation Policy and Changing Workforce**

The Executive (EX) Committee and Plenary adopted a white paper titled *Workers’ Compensation Policy and Changing Workforce*. The NAIC/International Association of Industrial Accident Boards and Commissions (IAIABC) Joint (C) Working Group of the Workers’ Compensation (C) Task Force was charged with updating the 2009 white paper, *An Overview of Workers’ Compensation Independent Contractor Regulatory Approaches*. The white paper explores how changes in work and the evolving landscape surrounding the legality of employment options are shifting responsibility for coverage and benefits related to occupational injuries, illnesses, and fatalities. The paper was adopted by the Property and Casualty Insurance (C) Committee on August 12, 2020.

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

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

**Amendments to Unfair Trade Practices Act (#880)**

The Executive (EX) Committee 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 amendments were adopted by the Task Force on December 4, 2020. The Executive (EX) Committee approved the request for model law development to amend the model at the 2019 Fall National Meeting.

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 granted a request for extension of time to the Annuity Disclosure (A) Working Group to continue drafting amendments to the *Annuity Disclosure Model Regulation (#245)*. The Working Group has not met since March 13, 2020 due to pandemic related issues. 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 Model #580 to improve the understandability of the life insurance policy summary and narrative summary 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 Property and Casualty Insurance (C) 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 deferred action on the proposed PBM model and exposed it for a 30-day public comment period ending on December 22, 2020. The Task Force anticipates it will convene in January 2021 to discuss comments. 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

1. New: Real Property Lender-Placed Insurance Model Act

The Property and Casualty Insurance (C) Committee adopted the new Real Property Lender-Placed Insurance Model Act. The model addresses lender-placed insurance related to mortgage loans. The Lender-Placed Insurance Model Act (C) Working Group adopted the model on November 13, 2020. The Executive (EX) Committee approved the model law development request for this Act at the 2017 Summer National Meeting.

2. 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 Working Group hopes to finalize the model before the 2021 Spring National Meeting. The Executive (EX) Committee approved the model law development request for this model at the 2019 Summer National Meeting.


The Property and Casualty Insurance (C) Committee 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.
4. Amendments to *Nonadmitted Insurance Model Act* (#870)

The Property and Casualty Insurance (C) Committee approved the model law development request for amendments to the *Nonadmitted Insurance Model Act* (#870). The amendments are necessary to bring Model #870 into compliance with the requirements outlined within the federal Nonadmitted and Reinsurance Reform Act of 2010.

D. Market Regulation and Consumer Affairs (D) Committee

Amendments to *Antifraud Plan Guideline* (#1690)

The Market Regulation and Consumer Affairs (D) Committee 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 Antifraud (D) Task Force adopted the amendments on November 16, 2020.

E. Financial Condition (E) Committee

*New: Guideline for Administration of Large Deductible Policies in Receivership*

The Financial Condition (E) Committee adopted the new *Guideline for Administration of Large Deductible Policies in Receivership*. The Guideline provides enhancements to the U.S. receivership regime with regard to the administration of large deductible policies in receivership.