



February 16, 2021

The Honorable Donald C. Beatty
Chair, NAIC Pet Insurance (C) Working Group
c/o Executive Office, NAIC
444 North Capitol Street NW
Suite 700
Washington, DC 20001

**Re: Pet Insurance Model Act—Discussion Draft for Pet Insurance (C) Working Group;
Additional Comments on the Amended Definition of ‘Preexisting Condition’**

Dear Commissioner Beatty:

On behalf of the American Veterinary Medical Association (AVMA) and our more than 97,000 member veterinarians, we very much appreciate your continued interest in our feedback on the discussion draft of the Pet Insurance Model Act (Model Act). The intent of this communication is to reiterate the veterinarian’s perspective on the definition of “preexisting condition” as it is currently referenced in the Model Act in Section 3: Definitions and Section 7: Preexisting Conditions.

Within Section 3 (and with attention to amendments to the Model Act, which have been applied over the course of its discussion), ‘preexisting condition’ is defined as *“any condition for which a veterinarian provided medical advice, the pet received treatment for, or the pet displayed clinical signs related to **or** [emphasis added] contemporaneous with the stated condition prior to the effective date of a pet insurance policy or during any waiting period.”* To accomplish the intent of the insertion of ‘contemporaneous’, AVMA believes that ‘or’ needs to be amended to ‘and’ (i.e., *“...displayed clinical signs related to **and** contemporaneous with the stated...”*). ‘Or’ gives the option of either, so it could be “related to” and not “contemporaneous with”, which is not consistent with the intent of adding ‘contemporaneous’.

‘Contemporaneous’ was added to address the concern that multiple clinical conditions may cause similar clinical signs and that past observation of a non-specific clinical sign, in and of itself, should not be grounds for denying coverage. For example, an animal that was lethargic at one point in time due to pain from an injury, should not be denied treatment for cancer, cardiac or respiratory disease at a later date because this same clinical sign, lethargy, was exhibited in conjunction with the latter condition. We recognize the North American Pet Health Insurance Association (NAPHIA) has expressed concern about the addition of “contemporaneous with” and shared the issue of waxing and waning clinical signs that may be associated with chronic conditions as the basis for its objection. While clinical signs may wax and wane, they are likely the reason the animal has been presented for evaluation and diagnosis in the first place and, as such, they will be not only ‘related to’ the condition, but also ‘contemporaneous’. If there are no observed clinical signs, but the condition is discovered on routine bloodwork, then that

would appear to fall under the “..a veterinarian provided medical advice...” criterion in the proposed definition.

We believe it is important to narrow the definition of preexisting condition, as much as possible, to ensure that the clinical sign observed is indeed associated with the preexisting condition to be excluded from coverage. With analogies to how preexisting conditions are handled within human health care, the addition of ‘**and** [emphasis added] *contemporaneous*’ appears to achieve a reasonable compromise between a prudent standard¹, as applied to the definition of ‘preexisting condition’ in Section 3, and the more restrictive objective standard² as applied in Section 7.

With these amendments (including the replacement of ‘or’ with ‘and’), we believe the definition in Section 3 is appropriate and sufficient, and that the definition for ‘preexisting condition’ in Section 7 should be deleted, or revised to be consistent with the definition in Section 3, so as to avoid confusion.

In addition to your consideration of our comments above, we look forward to hearing more about the outcomes of the Producer Licensing (D) Task Force’s consideration of items in Section 6: Licensing of the Model Act. We continue to believe that pet insurance is an important and beneficial tool that helps clients cover veterinary expenses, which may ultimately lead to increased willingness to follow veterinarians’ recommendations and better health outcomes for our patients. As such, it is important that veterinarians be able to continue to provide general information and perspectives about their experience with pet insurance without invoking regulatory compliance obligations that are inconsistent with the type of information being provided.

Thank you, again, for the opportunity to continue providing feedback on the discussion draft of the Model Act. The AVMA appreciates the Working Group’s consideration of our concerns and comments. For questions about the AVMA’s comments or if you need additional information regarding the AVMA’s concerns, please do not hesitate to contact Mr. Isham Jones, General Counsel at ijones@avma.org or Dr. Gail Golab, Chief Veterinary Officer at ggolab@avma.org.

Sincerely,

A handwritten signature in black ink that reads "Janet D. Donlin DVM". The signature is written in a cursive, flowing style.

Janet D. Donlin, DVM, CAE
Chief Executive Officer

¹ “Prudent Person” definition, meaning that the average layperson would have sought treatment or advice for the given condition. This means that actually consulting a health care provider is not always necessary for a condition to be considered preexisting. See: <https://www.ncsl.org/research/health/individual-health-insurance-in-the-states.aspx>

² “Objective Standard” definition, which includes those conditions for which someone actually received medical advice, diagnosis, care or treatment prior to enrollment to be counted as preexisting. See: <https://www.ncsl.org/research/health/individual-health-insurance-in-the-states.aspx>