

August 18, 2020

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VIA Electronic Mail: abrandenburg@naic.org

RE: Draft Pet Insurance Model Law – Sections 5 and 6

Dear Mr. Brandenburg:

The American Property Casualty Insurance Association (APCIA)¹ appreciates the opportunity to provide comments on the National Association of Insurance Commissioners (NAIC) Pet Insurance (C) Working Group's draft Pet Insurance Model Law ("Draft"). APCIA acknowledges that currently comments are being solicited on sections 5 and 6 only.

Section 5. Violations

Section 5(A) of the Draft provides, "A person who violates a provision of this part is liable to the state for a civil penalty to be determined by the commissioner, not to exceed five thousand dollars (\$5,000) for each violation, or, if the violation was willful, a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation." This language appears consistent with penalty provisions contained in California law (Cal. Ins. Code §790.035), it is excessive compared to other states' penalties for violations of the Unfair Trade Practices Act. To be more in line with provisions contained in the majority of states, APCIA requests that this section be amended to allow for "a civil penalty to be determined by the commissioner, not to exceed one thousand dollars (\$1,000) for each violation, or if the violation is willful, a civil penalty not to exceed five thousand dollars (\$5,000) for each violation."

Section 5(B) states, "The penalty imposed by this section is appealable by means of any remedy." APCIA is unsure what this statement means and its intended scope.

APCIA further suggests that the reference to "he or she" in Section 5(C) be amended to read "the Commissioner" to avoid confusion. Finally, is "an order to show cause" a term specific to California?

¹ The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions-protecting families, communities, and businesses in the U.S. and across the globe.

Section 6. Licensing

The Draft contains conditions required when pet insurance is transacted by an organization holding a limited lines pet insurance agent license (sec. 6(C)). Are there intended conditions when this insurance is transacted by a fully-licensed producer?

Section 6(C)(1)(f) requires training “whenever there is a material change that requires a modification to the training materials, but in no event less frequently than every three years.” It is unclear if the reference to a “material change” is to a change in the product, the law, or both. This section goes on to state, “Training materials and changes to those materials shall be deemed approved by the department for use unless notified by the department to the contrary.” APCIA suggests a timeframe be applied to such a deemer to allow insurers comfort in proceeding with the use of such materials.

Section 6(C)(1)(g) and (h) discuss disclosures the limited lines producer must provide, but it is not clear if that producer is required to provide disclosure that the insurer must disclose the items under Section 4, or to provide the actual disclosure? Section 4 disclosures appear to only apply to the insurer. Further, the Draft references disclosures required by Section 2. Should these references be to Section 4?

APCIA suggests that Section 6(D)(1)(b) be amended to read, “A certificate by the insurer or program manager.”

Finally, does Section 6(E) require limited lines producers to be appointed?

Thank you for the opportunity to provide comments on the Draft. APCIA looks forward to working with you on this issue going forward. If you have any questions or would like to discuss any of our comments further, please let us know.

Respectfully Submitted,



Lisa Brown
Sr. Director, Market Conduct and Counsel