

**PET INSURANCE MODEL ACT –  
DISCUSSION DRAFT for PET INSURANCE (C) WORKING GROUP  
September 6, 2019**

**Table of Contents**

Section 1 Short Title  
Section 2 Scope and Purpose  
Section 3 Definitions  
Section 4 Disclosures  
Section 5 Violations  
Section 6 Licensing  
Section 7 Preexisting Conditions  
Section 8 Reimbursement Benefits  
Section 9 Regulations

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**Section 6        Licensing**

(A) No person shall sell or solicit any form of pet insurance in this state unless that person is licensed as an insurance agent or broker or has complied with the requirements of this article ~~and has been issued a license by the commissioner as provided in this article.~~

Companion Protect suggests deleting this language to avoid creating ambiguity about whether a Pet Retailer is required to be licensed to transact pet insurance.

(B) As used in this article, the following terms have the following meanings:

- (1) “Limited lines pet insurance agent” means an insurer designee, such as a managing general agent or limited lines agent of pet insurance.
- (2) “Transact” means, for the purposes of this article, the following activities when engaged in by a ~~veterinarian or~~ pet retailer:

Companion Protect suggests revising the definition of a Pet Retailer so that it is not limited to finite types of organizations and so that it is broad enough to include veterinarians. The types of organizations that we believe should be authorized to offer and disseminate pet insurance under this section include without limitation veterinary practices, animal welfare organizations, government-owned animal shelters, privately-owned animal shelters, retail pet shops, pet groomers, pet trainers, boarding kennels, breeders, etc.

- (a) Offering and disseminating information to a prospective or current policyholder on behalf of a limited lines pet insurance agent, including brochures, buyer guides, descriptions of coverage, and price.
- (b) Referring specific questions regarding coverage features and benefits from a prospective or current policyholder to a limited lines pet insurance agent.
- (c) Disseminating and processing applications for coverage, coverage selection forms, or other similar forms in response to a request from a prospective or current policyholder.

(d) Collecting premiums from a prospective or current policyholder on behalf of a limited lines pet insurance agent.

(e) Receiving and recording information from a policyholder to share with a limited lines pet insurance agent.

(3) "Pet insurance" means an individual or group insurance policy that provides coverage for veterinary expenses.

(4) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the Veterinary Medical Board.

(5) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

(6) "Pet retailer" means a business ~~entity or individual that offers and disseminates organization that sells different kinds of animals, pet food, pet medicine, and pet accessories in addition to offering both hygienic care (such as pet cleaning) and esthetic services (such as cat and dog grooming). Pet retailers may also offer and disseminate~~ pet insurance as a service to its customers on behalf of and under the direction of a limited lines pet insurance agent.

(C) Transaction of pet insurance under the license of an organization holding a limited lines pet insurance agent license shall be subject to the following conditions:

(1) A limited lines pet insurance agent may authorize a ~~veterinarian or~~ pet retailer to transact pet insurance on behalf of and under its authority under the following conditions:

(a) The limited lines pet insurance agent is clearly identified on marketing materials and fulfillment packages distributed by the ~~veterinarian and~~ pet retailers to customers. The marketing materials and fulfillment packages shall include the agent's name, business address, email address, and telephone number, ~~license number and the availability of the department's toll-free consumer hotline.~~

Companion Protect believes that requiring the marketing and fulfillment materials to include the agent's license number and availability of the state insurance regulator's toll-free number will essentially require the development of state-by-state marketing and fulfillment materials, which may increase premium costs. Alternatively, Companion Protect suggests requiring the agent's National Producer Number rather than the state license number, which vary by state, or requiring the agent's state license number state insurance regulator's toll-free number only on the fulfillment materials, and not the marketing materials.

(b) The limited lines pet insurance agent, at the time of licensure and thereafter, maintains a register noting each ~~veterinarian and~~ pet retailer that transacts pet insurance on the licensee's behalf. The register shall be maintained and updated annually by the licensee in a form prescribed by, or format acceptable to, the commissioner and shall include the name and contact information of the ~~veterinarian or~~ pet retailer and an officer or person who directs or controls the ~~veterinarian or~~ pet retailer's operations, ~~and the veterinarian or pet retailer's federal employer identification number (FEIN). The limited lines pet insurance agent shall also certify that the registered veterinarian or pet retailer complies with Section 1033 of Title 18 of the United States Code.~~ The licensee shall submit the register for review and inspection upon request by the department.

Companion Protect suggests deleting the requirement to obtain and list the FEIN for each Pet Retailer in the register because it is unclear what regulatory purpose it serves and individual Pet Retailers will

have no FEIN to provide. Companion Protect believes the scope of 18 USC § 1033 and the penalties for non-compliance are already defined by federal law and that requiring this certification is not necessary under federal law.

(c) ~~If the~~ limited lines pet insurance agent is a business entity, the agent has designated one of its employees to be responsible for its compliance with the insurance laws, rules, and regulations of the state. The limited lines pet insurance agent's ~~and its~~ designated responsible employee shall hold a property and casualty license.

Companion Protect suggests revising this language so as not to require duplicative licensing as both a limited lines pet insurance agent and so that only the DRP for the business entity limited lines pet insurance agent is required to hold a property and casualty license.

(d) The employee designated by the limited lines pet insurance agent, pursuant to Section 6(C)(1)(c) paragraph (3), ~~and any of the organization's partners, members, controlling persons, officers, directors, and managers~~ complies with the background check requirements in the employee's home state as required by the commissioner.

Companion Protect suggests revising this language so as not to impose duplicative background check requirements on the DRP both in the home state of the DRP and in each non-resident state and so as not to create an added burden on regulators in non-resident states.

(e) The limited lines pet insurance agent has paid all applicable licensing fees required under California law.

(f) The limited lines pet insurance agent uses all reasonable means at its disposal to ensure compliance by the ~~veterinarian and~~ pet retailer and its employees with their obligations under this article. This includes requiring each employee of the ~~veterinarian and~~ pet retailer whose duties include transacting pet insurance to receive training. Training shall be required whenever there is a material change to the pet insurance products sold that requires a modification to the training materials, but in no event less frequently than every three years. Training materials used by or on behalf of the limited lines pet insurance agent to train the employees of a ~~veterinarian and~~ pet retailer shall be submitted to the department upon request at the time the pet insurance agent applies for a license under this article, and whenever modified thereafter. The training materials, at a minimum, should contain instruction on the types of insurance offered, ethical sales practices, and disclosures to be given to prospective insurance customers pursuant to Section 42. ~~Any changes to previously submitted training materials shall be submitted to the department, with the changes highlighted, 30 days prior to their use by the limited lines pet insurance agent. Training materials and changes to those materials shall be deemed approved by the department for use unless notified by the department to the contrary. Failure by a limited lines pet insurance agent to submit training materials or changes for departmental review or use of unapproved or disapproved training materials shall constitute grounds for denial of an application for a license, nonrenewal of a license, suspension of a license, or other action as deemed appropriate by the commissioner.~~

Companion Protect suggests limiting the material change to material changes to the pet insurance policy. Companion Protect also suggests eliminating the requirement to file the training material for review and approval by the state insurance regulator at the time of licensure and at the time of modification. And Companion Protect suggests revising the requirement to require submission of the training materials at the request of the state insurance regulator. Companion Protect believes requiring

the training materials to be submitted to the state insurance regulator for review and approval before use presents a substantial speed to market hurdle.

(g) The limited lines pet insurance agent or ~~veterinarian or~~ pet retailer provides disclosure to the consumer, in either the marketing materials or fulfillment packages, of the disclosure requirements in Section 24 ~~which shall be acknowledged in writing by the purchaser or displayed by clear and conspicuous signs posted at every location where contracts are executed.~~

(h) In addition to providing the disclosure requirements in Section 24 to the prospective insured, the limited lines pet insurance agent or ~~veterinarian or~~ pet retailer shall make the following disclosures, ~~which shall be acknowledged in writing by the purchaser or displayed by clear and conspicuous signs posted at every location where contracts are executed, including, but not limited to, the counter where the purchaser signs the service agreement, or provided~~ in writing to the purchaser:

Companion Protect suggests deleting the requirement in (C)(1)(g) and (H) to obtain the purchasers acknowledgment in writing or to display the disclosures by clear and conspicuous signs at every location where contracts are executed. Companion Protect believes this represents an overly burdensome requirement that may increase acquisition costs and premiums.

(1) That purchasing pet insurance is not required in order to purchase any other product or service offered by the ~~veterinarian or~~ pet retailer.

(2) If not individually licensed, that the ~~veterinarian or~~ pet retailer's employee is not qualified or authorized to:

(a) Answer technical questions about the benefits, exclusions, and conditions of any of the insurance offered by the ~~veterinarian or~~ pet retailer.

(b) Evaluate the adequacy of the prospective insured's existing insurance coverage.

(2) A ~~veterinarian or~~ pet retailer that meets the requirements set forth in this section and whose activities are limited to offering and selling pet insurance on behalf of a licensed limited lines pet insurance agent is authorized to receive compensation.

(3) (1) If the commissioner determines that a ~~veterinarian or~~ pet retailer, or a ~~veterinarian or~~ pet retailer's employee who has been designated to transact pet insurance on behalf of the licensed limited lines pet insurance agent, has violated any provision of this article or any other provision of this code, the commissioner may:

(a) Direct the limited lines pet insurance agent to implement a corrective action plan with the ~~veterinarian or~~ pet retailer.

(b) Direct the limited lines pet insurance agent to revoke the authorization of the ~~veterinarian or~~ pet retailer to transact pet insurance on its behalf and under its license and to remove the ~~veterinarian or~~ pet retailer's name from its register.

(2) If the commissioner determines that a ~~veterinarian or~~ pet retailer, or a ~~veterinarian or~~ pet retailer's employee who has been designated to transact pet insurance on behalf of the licensed limited lines pet insurance agent, has violated any provision in this article or any other provision of this code, the commissioner, after notice and hearing, may:

(a) Suspend or revoke the license of the limited lines pet insurance agent as authorized under this code.

(b) Impose a monetary fine on the limited lines pet insurance agent.

(3) A limited lines pet insurance agent who aids and abets a ~~veterinarian or~~ pet retailer in the transaction of pet insurance, as defined in this code, or aids and abets a ~~veterinarian or~~ pet retailer in any activity concerning pet insurance after being directed to revoke the ~~veterinarian or~~ pet retailer's authorization, in addition to any other action authorized under this code, shall be subject to a monetary penalty pursuant to Section 53.

~~(4) The conduct of employees of the veterinarian and pet retailer who have been designated to transact pet insurance on behalf of the licensed limited lines pet insurance agent shall be deemed the conduct of the licensed limited lines pet insurance agent for purposes of this article.~~

Companion Protect suggests deleting this strict liability language since Section 6(C)(3) already makes it clear that the limited lines pet insurance agent is subject to regulatory action for violations of the Act committed by a Pet Retailer or Pet Retailer's employee designated to transact pet insurance on behalf of the limited lines pet insurance agent.

(D) (1) An applicant for a limited lines pet insurance agent license under this article shall submit the following documents to the commissioner:

(a) A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(b) A certificate by the insurer that is to be named in the limited lines pet insurance agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its limited lines pet insurance agent and that the insurer will appoint the applicant to act as its agent if the pet insurance agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(c) An application fee, and, for each license period thereafter, a renewal fee, in an amount or amounts determined by the commissioner as sufficient to defray the reasonable costs incurred by the department in implementing the provisions of this Act.

(2) Notwithstanding any other provisions of law to the contrary, the provisions set forth in Sections \_\_\_\_\_ apply to any application for or issuance of a limited lines pet insurance agent license pursuant to this article.

Companion Protect suggests that nonresident individual applicants for a limited lines pet insurance agent license should be exempt from requirements applicable to major lines agents regarding prelicensing examinations, prelicensing education, and continuing education. And to the extent a resident individual is subject to any examination and education requirements, it should be limited to pet insurance topics. If the goal is to ensure some minimal understanding of the products that are being offered and to ultimately protect the consumer, then imposing examination and education requirements that do not touch on topics that are relevant to the sale of pet insurance, such as cost-sharing provisions and preexisting condition exclusions, seems inconsistent with that goal.

(3) Costs and penalties associated with any enforcement action shall be paid for by the person or organization licensed pursuant to this article.

(E) The provisions of this part relating to the appointment and termination of an insurance agent by an insurer or its authorized representative are applicable to licenses issued pursuant to this article.

\*\*\*MATERIAL OMITTED HERE\*\*\*