

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: New Model Law or Amendment to Existing Model

1. Name of group to be responsible for drafting the model:

Market Regulation Consumer Affairs (D) Committee (Antifraud (D) Task Force/Improper Marketing of Health Insurance (D) Working Group)

2. NAIC staff support contact information:

Market Regulation and Consumer Affairs (D) Committee – Tim Mullen
Antifraud (D) Task Force – Greg Welker
Improper Marketing of Health Insurance (D) Working Group – Greg Welker

3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

Proposed are amendments to the *Unfair Trade Practices Act* (#880):

Section 2: Definitions
Section 3: Unfair Trades Practices Prohibited
Section 4: Unfair Trade Practices Defined

The Improper Marketing of Health Insurance (D) Working Group was created to coordinate with regulators, both on a state and federal level, to provide assistance monitoring the improper marketing of health plans and to coordinate appropriate enforcement actions, as needed, with other NAIC Committees, Task Forces, and Working Groups. The Working Group was charged to review existing NAIC Models and Guidelines that address the use of lead generators for sales of health insurance products and to identify models and guidelines that need to be updated or developed to address current marketplace activities.

In order to achieve this goal and provide regulation over these entities the decision was to review the above-mentioned Model #880, Sections 2, 3, and 4.

There is currently no definition for an Insurance Lead Generator. A definition is necessary to outline what marketing-related activity or entities publicize the availability of an insurance product or service, or what purports to be an insurance product or service. The defined term "Insurance Lead Generator" will then be added to Section 3. Unfair Trade Practices Prohibited. In addition, language specific to lead generators will be added in Section 4. Unfair Trade Practices Defined. These amendments will provide states the means to regulate lead generators and gain a level of consumer protection that is not currently in place.

4. Does the model law meet the Model Law Criteria? Yes or No (Check one)

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? Yes or No (Check one)

If yes, please explain why: See above

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or No (Check one)

5. What is the likelihood that your committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

No

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No