



July 14, 2020

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 (Revisions Made Following March 5, 2020 Conference Call)

Dear Commissioner Beatty:

On behalf of the American Veterinary Medical Association (AVMA) and our member veterinarians, we thank you once again for the opportunity to provide comments as the National Association of Insurance Commissioners' (NAIC) Pet Insurance Working Group (Working Group) continues its consideration of the discussion draft of the Pet Insurance Model Act (Model Act). Our goal for our comments is, as always, to share the perspective of veterinarians on the Model Act. The AVMA sincerely appreciates the NAIC's efforts to gather stakeholder input when considering appropriate regulatory standards for the pet insurance industry.

Association Background and Related AVMA Policy

The AVMA is the nation's leading representative of the veterinary profession and speaks for more than 95,000 member veterinarians across the United States who care passionately about protecting animal health, animal welfare, and human health. Informed by our members' scientific knowledge, training, and practical experience, we advocate for policies that best protect our patients and their owners, advance the practice of veterinary medicine, and support and promote the critical work of veterinarians nationwide.

The AVMA fully supports the concept of pet insurance and has adopted association policy as follows:

Pet Health Insurance: The AVMA endorses the concept of pet health insurance that provides coverage to help defray the cost of veterinary medical care and encourages veterinary healthcare teams to proactively educate their clients about the existence of such resources. The AVMA recognizes that viable pet health insurance programs may be an important approach for the veterinary profession to continue to provide high quality veterinary services.

(policy continued on next page)

Pet health insurance policies should:

- 1. Require a veterinarian-client-patient relationship*
- 2. Allow policyholders to choose their own veterinarians, including specialists and emergency and critical care facilities*
- 3. Never interfere with the veterinarian's fee structures*
- 4. Be approved by the state insurance regulatory agency where the policy is sold*
- 5. Be consistent with the Principles of Veterinary Medical Ethics and the pet health insurance industry ethical standards*
- 6. Use licensed veterinarians to assist in claims adjudication*
- 7. Be clear about policy limits, pricing structures, and optional coverage (e.g., coverage for annual wellness visits) that might be available to policyholders*
- 8. Be transparent about how the terms and conditions of plans will impact coverage and costs, including the financial obligations of policyholders such as copays, deductibles, and exclusions*
- 9. Communicate clearly about the fee reimbursement process (i.e., how reimbursements are determined and how quickly reimbursements are provided to policyholders)*

As indicated by our policy, the AVMA recognizes that pet health insurance, under the appropriate business model, may help make quality preventive care and medical treatment more affordable, and thereby more accessible, for pet owners. This, in turn, helps veterinarians and those pet owners provide better care for our patients.

With this background, the AVMA offers the following comments on several of the definitions in Section 3 of the March 5, 2020 discussion draft of the Model Act.

Recommend Clarifying the Definition of *Chronic Condition*

The AVMA supports clarity in a definition for *chronic condition* as discussed during the Working Group's conference call and very much appreciates the Working Group's interest in the AVMA's recommendation for same. After reviewing definitions for "chronic disease" and "chronic condition" across the veterinary and human medical literature, the AVMA suggests the following amendments to the definition as provided in the discussion draft (text to be deleted is ~~struck-through~~, text we suggest be added is underlined):

- A. "*Chronic condition*" means a condition that ~~can be treated or managed, but not cured~~ requires treatment or management for a prolonged period of time (e.g., diabetes, allergy, arthritis).

We believe the above revisions address the need to distinguish chronic conditions from those that are acute, but similarly may be able to be treated, but not cured. Acute conditions are sudden in onset. A chronic condition, by contrast, typically takes longer to develop and persists for a prolonged period of time.

Recommend Further Revision of the Definition of *Pre-existing Condition* and Adding a Definition of *Clinical Sign*

During the March 5 conference call, and in reference to the definition of *pre-existing condition* in

the discussion draft, the AVMA expressed its concern regarding the use of “symptoms” to describe “clinical signs” in a pet. “Symptoms” are understood by the medical professions to be subjective (i.e., apparent only to the patient) and are self-reported. A “clinical sign”, by comparison, is objective evidence of a disease that can be observed by others (e.g., skin rash, lump, behavioral change). While pets may exhibit clinical signs of disease that can be observed and interpreted by others, they cannot self-report. Accordingly, the AVMA believes the use of “symptom” with respect to pets is not appropriate and, as requested by the Working Group, offers the following definition for *clinical sign* (text to be added is underlined):

“Clinical sign” means an observable manifestation of a disease, injury, or abnormal physiological or behavioral state (as identified during a veterinarian’s examination of the pet, recorded in a pet’s medical record, or observed by any individual).

Also, since submission of our previous comments in March 2020 and considering questions raised by Working Group members during the March 5 conference call, the AVMA has continued to carefully deliberate the appropriateness of the phrase “related to the stated condition” in the definition of *pre-existing condition*. As a result of our conversation we have suggestions for additional revision.

The definition of *pre-existing condition* in the discussion draft appears to borrow from the history of human healthcare regulation in adopting a prudent standard,¹ as compared with an objective standard.² While we understand and fully appreciate the reasons for this approach, we are concerned that the definition as included in the March 5 discussion draft would allow denial of coverage in the case of non-specific clinical signs for which there could be multiple causes in the absence of a diagnosis (e.g., vomiting caused by a hairball in a young cat could be seen as consistent with vomiting attributed to a diagnosis of gastrointestinal lymphoma later in that cat’s life even though the two events are likely not related).

While adoption of the Health Insurance Portability and Accountability Act in 1996 and the Patient Protection and Affordable Care Act in 2010 has affected the handling of *pre-existing conditions* in human health care, we are also aware that, historically, and to avoid situations similar to that described above, a limit would typically be placed on the amount of time a carrier could “look back” and consider a condition as pre-existing. Given the relatively short life spans of pets and, further, given tremendous variability in those life spans from species to species, and even among breeds or types within a species, we believe specifying an appropriate “look back” period would be prohibitively difficult for all concerned.

Instead, we suggest the definition of *pre-existing condition* be narrowed to ensure, as much as possible, that the clinical sign observed is indeed associated with the *pre-existing condition* to be excluded. With that in mind, the AVMA is supportive of language proposed by a member of the

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 healthcare provider is not always necessary for a condition to be considered pre-existing. 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 pre-existing. See: <https://www.ncsl.org/research/health/individual-health-insurance-in-the-states.aspx>

Working Group (i.e., “related to and contemporaneous with”) and has incorporated that language into our recommendation for a revised definition as follows:

- B. *“Preexisting condition” means any condition for which a veterinarian provided medical advice, the pet received treatment ~~for~~, or the pet displayed clinical signs or symptoms ~~consistent~~ related to and contemporaneous with the stated condition prior to the effective date of a pet insurance policy or during any waiting period.*

Definition of Pet Insurance and Veterinary Expenses as Compared with Eligible Expenses

Finally, we further considered discussion taking place during the December 19, 2019 and March 5, 2020 conference calls with regard to the definition of *pet insurance* and its integration of the definition of *veterinary expenses*. After taking into account that insurance companies will typically determine what expenses their policies will or will not cover and then provide information accordingly, as well as the fact that some services recommended by veterinarians may be delivered by other providers under the direction of a veterinarian (e.g., behavioral modification, use of an underwater treadmill for rehabilitation) we recommend the following revisions to these definitions:

- D. *“Pet insurance” means an ~~individual or group~~ insurance policy that provides coverage for veterinary-eligible expenses.*

and

- G. *“Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided, prescribed, or recommended by a veterinarian, ~~including, but not limited to, the cost of drugs prescribed by a veterinarian.~~*

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 and we look forward to continued collaboration with the NAIC on the appropriate regulation of the pet insurance industry. If you have questions or would like more information, please contact Mr. Isham Jones, General Counsel, at 847-285-6708 or via e-mail to ijones@avma.org; Dr. Gail Golab, Chief Veterinary Officer, at 847-285-6618 or via e-mail to ggolab@avma.org; or Dr. Warren Hess, Assistant Director, Division of Animal and Public Health, at (847) 285-6784 or via e-mail to whess@avma.org.

Sincerely,



Janet D. Donlin, DVM, CAE
Executive Vice President and Chief Executive Officer

IJ/GCG/WH