

Appendix to NAPHIA Comments on Pet Insurance Licensing

SECTION 3 – Key Definitions Related to Licensing

- “Limited Lines Pet Insurance Producer” means a person licensed to sell, solicit, and negotiate only pet insurance.
- “Pet Insurance Producer” means a person holding an accident and health or sickness, property, personal lines, or Limited Lines Pet Insurance Producer license in this state.

Drafting Note: The intent of this definition is to ensure that “Pet Insurance Producer” includes producers holding the major lines of authority for property and health insurance, as well as producers holding the limited line of authority for pet insurance. States that refer to the “accident and health or sickness” and “property” license types by other terms, or that do not offer a “personal lines” license type should revise this definition accordingly.

- “Pet Retailer” means an entity not licensed as a Pet Insurance Producer that –
 - (1) Is registered with at least one Pet Insurance Producer;
 - (2) May make available to customers materials about specific Pet Insurance products, Pet Insurance Producers, or pet insurers; and
 - (3) May offer opinions or information to customers about preferences or support for specific Pet Insurance products, Pet Insurance Producers, or pet insurers without (i) evaluating, interpreting, or providing advice about the technical terms or conditions of an insurance policy or a prospective purchaser’s existing insurance coverage, or (ii) receiving compensation or other valuable consideration that is based on the purchase of an insurance product or the volume of insurance transacted.

Pet Retailers may not sell, solicit, or negotiate Pet Insurance, or engage in other activities requiring an insurance license under the laws of this State, unless the entity is licensed to engage in those activities.

SECTION 6 – Licensing

- (A) License Required. A person shall not sell, solicit, or negotiate Pet Insurance in this state unless the person is a Pet Insurance Producer.
- (B) Limited Lines Pet Insurance Producer – Licensing and Qualifications.
 - (1) The Commissioner may issue a Limited Lines Pet Insurance Producer license to an individual or business entity that has filed with the Commissioner an application for a Limited Lines Pet Insurance Producer license in a form and manner prescribed by the Commissioner. Such Limited Lines Pet Insurance Producer shall be licensed to sell, solicit, or negotiate Pet Insurance through a licensed insurer. No person may act as a Limited Lines Pet Insurance Producer unless properly licensed.

- (2) The Commissioner may impose 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 Commissioner in implementing the provisions of this Act.
- (3) Pre-Licensing Education.
 - (a) A Limited Lines Pet Insurance Producer shall be exempt from the pre-licensing education and examination requirements provided in *[cite to applicable sections of the state's major lines producer licensing law]* and the continuing education requirements provided in *[cite to applicable sections of the state's major lines producer licensing law]*.
 - (b) A Limited Lines Pet Insurance Producer shall:
 - (i) complete a 10-hour pre-licensing training course providing instruction on: Pet Insurance, consumer protections, ethical sales practices, duties applicable to insurance producers, and required disclosures to prospective customers; and
 - (ii) successfully pass an examination upon completion of such training that tests applicants' knowledge of each of the topics covered in the training course.
 - (c) Training and examinations required by this section shall be developed and conducted under rules and regulations prescribed by the Commissioner.
- (4) A Limited Lines Pet Insurance Producer shall be appointed by the insurer named on the Limited Lines Pet Insurance license. The provisions of this code 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 Act.

(C) Pet Retailer Registration.

- (1) A Pet Retailer that complies with the requirements of Subsection (2) may make available to customers materials about specific Pet Insurance products, Pet Insurance Producers, or pet insurers, and may offer opinions or information to customers about preferences or support for specific Pet Insurance products, Pet Insurance Producers, or pet insurers.
- (2) A Pet Retailer may engage in the activities described in Subsection (1) on behalf of and under the license of a Pet Insurance Producer only if the following conditions are met:
 - (a) At the time of licensure, the Pet Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Pet

Retailer that engages in the activities described in Subsection (1) on the Pet Insurance Producer's behalf. The register shall be maintained and updated annually by the Pet Insurance Producer and shall include the name, address, and contact information of the Pet Retailer and an officer or person who directs or controls the Pet Retailer's operations, and the Pet Retailer's Federal Tax Identification Number. The Pet Insurance Producer shall submit such register to the Commissioner upon reasonable request. The Pet Insurance Producer shall also certify that the Pet Retailer registered complies with 18 USC § 1033. The grounds for the suspension, revocation, and the penalties applicable to resident insurance producers under *[insert applicable reference to insurance code]*, shall be applicable to Pet Insurance Producers and Pet Retailers.

- (b) The Pet Insurance Producer has designated one of its employees who is a licensed individual Pet Insurance Producer as the person (a "Designated Responsible Producer") responsible for compliance with the Pet Insurance laws and regulations applicable to the Pet Insurance Producer and its registered Pet Retailers.
 - (c) The Designated Responsible Producer, president, secretary, treasurer, and any other officer or person who directs or controls the Pet Insurance Producer's insurance operations complies with background check requirements as required by the Commissioner.
 - (d) The Pet Insurance Producer has paid all applicable licensing fees as set forth in applicable state law.
 - (e) The Pet Insurance Producer requires each employee and authorized representative of the Pet Retailer to receive a program of instruction or training.
 - (i) Training materials shall, at a minimum, contain adequate instructions on the types of insurance sold by the Pet Insurance Producer and on disclosures and required information in materials disseminated by Pet Retailers.
 - (ii) Training materials shall be developed under rules and regulations prescribed by the Commissioner and shall be made available to the Commissioner upon request.
- (3) A Pet Retailer employee or authorized representative, who is not licensed as an insurance producer, may not:
- (a) Evaluate or interpret the technical terms, benefits, exclusions, and conditions of the Pet Insurance coverage, including analyzing coverage with respect to any specific pet condition;

- (b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage;
 - (c) Hold himself or itself out as a licensed insurer, licensed producer, or insurance expert; or
 - (d) Receive compensation or other valuable consideration that is based on the purchase of an insurance product or the volume of insurance transacted.
- (4) A Pet Retailer may make available to prospective purchasers brochures or other written materials that have been approved by the pet insurer. Such materials shall include information which, at a minimum:
- (a) Provides the name, business address, email address, telephone number, and license number of the insurer and the Pet Insurance Producer;
 - (b) Explains that additional information about specific Pet Insurance policies is available on the website of the licensed entity marketing the insurance product or the insurer's website, and provides that website's URL address;
 - (c) Explains that the purchase of Pet Insurance is not required in order to purchase any other product or service from the Pet Retailer; and
 - (d) Explains that a Pet Retailer is permitted to provide only general information about Pet Insurance, and is not qualified or authorized to answer technical questions about the terms and conditions of Pet Insurance or to evaluate the adequacy of the customer's existing insurance coverage.
- (5) Responsibility of Pet Insurance Producers for registered Pet Retailers.
- (a) As the insurer's designee, the Pet Insurance Producer is responsible for the acts of the Pet Retailer and shall use reasonable means to ensure compliance by the Pet Retailer with this Act.
 - (b) If the Commissioner determines that a Pet Retailer, or a Pet Retailer's employee, has violated any provision of this Act or any other provision of this code, the Commissioner may:
 - (i) Direct the Pet Insurance Producer to implement a corrective action plan with the Pet Retailer; and
 - (ii) Direct the Pet Insurance Producer to revoke the authorization of the Pet Retailer to provide general information about Pet Insurance on its behalf and under its license and to remove the Pet Retailer's name from its register.

- (c) If the Commissioner determines that a Pet Retailer, or a Pet Retailer's employee, has violated any provision in this Act or any other provision of this code, the Commissioner, after notice and hearing, may:
 - (i) Suspend or revoke the license of the Pet Insurance Producer as authorized under this *[insert applicable reference to insurance code]*; and
 - (ii) Impose a monetary fine on the Pet Insurance Producer.
- (d) A Pet Insurance Producer who aids and abets a Pet Retailer in violating this Act or any other provision of this code, or aids and abets a Pet Retailer in any activity concerning Pet Insurance after being directed to revoke the Pet Retailer's authorization, in addition to any other action authorized under this code, shall be subject to *[cite to applicable statutory provisions regarding monetary penalties]*.