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June 10, 2021

Mr. Don Beatty
Chair, NAIC Pet Insurance (C) Working Group
Virginia Department of Insurance
1300 E Main Street
Richmond, VA 23219

Dear Chair Beatty:

The North American Pet Health Insurance Association (“NAPHIA”) appreciates this opportunity to comment on the treatment of wellness and health maintenance products in the Pet Insurance (C) Working Group’s (“Working Group”) model law (“Model Law”). Our comments provide the Working Group with additional context and explanation for how our members currently offer and market wellness and health maintenance products.

For the reasons set forth below, NAPHIA believes pet wellness and health maintenance products should be treated as pet insurance when they are sold as part of a pet insurance contract, either embedded into the base policy or offered as an endorsement/rider, by a licensed pet insurance entity. NAPHIA also believes that pet wellness and health maintenance products should not be treated as insurance, but the Model Law should provide standards for a regulated entity to observe when they are marketing and selling such non-insurance products as *complementary* products (i.e., sold alongside) to a pet insurance contract.

I. Pet Wellness and Health Maintenance Products Sold by NAPHIA Members Today

A wellness and health maintenance product provides for reimbursement of goods and services for the purpose of avoiding an illness or injury or for the promotion of general health, safety, or wellbeing. Examples of these types of preventive services include, but are not limited to: wellness exam, fecal test, blood test, vaccinations/ titers, preventive medications for flea and tick, heartworm, dental cleaning, spay and neuter procedures, nail trim, grooming, and tags.

Wellness and health maintenance products are commonly offered with the purchase of pet insurance, and many consumers take advantage of them. NAPHIA members today offer pet wellness and health maintenance products in one of two ways:¹

¹ As the trade association representing licensed pet health insurance organizations, NAPHIA does not include members offering wellness and health maintenance products where licensed insurance entities are not involved. We

- 1) Sold by a licensed pet insurance entity and either embedded into the base policy or offered as an endorsement/rider. NAPHIA previously recommended to the Working Group that the definition of “pet insurance” refer to “eligible expenses” rather than “veterinarian expenses,” which would cover these wellness and health maintenance products.² These wellness and health maintenance products also are currently filed with the pet insurance product filing and are subject to regulatory approval.
- 2) Sold by a licensed pet insurance entity or a third-party entity contracted with a licensed pet insurance entity and sold as a complementary product. The pet insurance and the wellness and health maintenance product are not tied together – i.e., the wellness and health maintenance product is not a requirement to purchase the insurance, nor does the cancellation of the wellness and health maintenance product cancel the pet insurance policy. Rather, the wellness and health maintenance is sold alongside the pet insurance policy. Furthermore, whether a consumer purchases a complementary wellness and health maintenance product has no impact on the pet insurance policy’s rates. Complementary wellness and health maintenance products do not meet the definition of pet insurance because their expenses are neither specified in nor covered by the insurance policy.

II. Complementary Wellness and Health Maintenance Products in the Model Law

NAPHIA understands regulator concerns of consumer confusion surrounding complementary wellness and health maintenance products and that they may be perceived as insurance because they are sold alongside a pet insurance policy. NAPHIA, therefore, suggests the Working Group consider adding language regarding the sales practices surrounding the sale of complementary wellness and health maintenance products to address these concerns.

NAPHIA recommends a new section of the Model Law be added to address Sales Practices for Complementary Wellness and Health Maintenance Products:

(A) A complementary wellness and health maintenance product may be marketed and sold alongside a pet insurance policy by a licensed insurance entity as long as:

nonetheless agree with regulators that these unlicensed entities should not be marketing themselves as insurance providers or their wellness and health maintenance products as insurance, and support the regulatory authority that insurance departments across the country already have to take the necessary administrative action against unlicensed entities who market themselves as insurance providers and/or their wellness and health maintenance products as insurance.

² As further explained in our May 18, 2021 email to the Working Group, NAPHIA and the AVMA find the reference to “veterinary expenses” in the current draft definition of “pet insurance” problematic because – although it covers the most common types of eligible expenses in pet insurance policies today – the term could be misleading to consumers. Using “expenses specified in the policy” preserves insurers’ ability to innovate and offer new expanded coverages in the future in response to consumer demand, rather than restricting coverage to only certain types of expenses. Finally, “expenses specified in the policy” is a simple, straightforward concept with which insurance consumers are familiar and reminds consumers to review and understand the terms of their particular policies.

- (1) The purchase of the complementary wellness and health maintenance product is not a requirement to the purchase of pet insurance;
- (2) The costs for each complementary wellness and health maintenance product are separate and identifiable;
- (3) The terms and conditions for the complementary wellness and health maintenance product are separate from the policy and available on the licensed insurance entity's website prior to enrollment;
- (4) The complementary wellness and health maintenance product does not duplicate products available through the pet insurance policy that is marketed and sold alongside such complementary wellness and health maintenance product; and
- (5) The advertising of the complementary wellness and health maintenance product is not misleading and in accordance with subdivision B of this section.

(B) In addition to the Unfair Trade Practices Act at [insert reference to NAIC model Unfair Trade Practices Act (#880)], the following marketing practices apply to complementary wellness and health maintenance products marketed and sold alongside a pet insurance policy by a licensed insurance entity.

(1) Advertising must distinguish between the offered pet insurance and the complementary wellness and health maintenance product, so that the consumer can clearly understand which product is insurance and which product is not insurance.

(2) The following terminology may not be used when describing a complementary wellness and health maintenance product: policy, insurance, and premium.

(3) For advertisements that include costs:

- i. The advertisement must clearly disclose whether the cost includes pet insurance and complementary wellness and health maintenance products; and
- ii. The cost of the insurance premium must be clearly disclosed prior to enrollment.

(4) An advertisement for a complementary wellness and health maintenance product must include the following statement:

“The [insert name of complementary wellness and health maintenance products] are provided by [provider] and are not insurance.”

* * *

Thank you for your consideration of NAPHIA's views. We look forward to continued discussions with the Working Group and other stakeholders on these topics. In the meantime, I would be happy to provide additional information or answer any questions that you might have.

Sincerely,

Cari Lee

Cari Lee

On behalf of the North America Pet Health Insurance Association