

Comments of the Center for Insurance Research and the Center for Economic Justice

To the NAIC Pet Insurance Working Group

Regarding Proposed Edits to August 4, 2021 Working Group Adopted Model

September 7, 2021

While we greatly appreciate the careful review of the August 4, 2021 version of the pet insurance model law, we are puzzled by nature of many of Ms. Neuerburg's comments. We understood that NAIC Legal review of a working group's work product was to ensure adherence to NAIC model law format. Instead, most of Ms. Neuerburg's comments represent substantive changes to the model that might have been useful during the working group's earlier deliberations. In any event, non-substantive comments like using "preexisting" instead of "pre-existing" or "Web site" instead of "Internet Web site" do not require discussion by the working group.

The lettering in Section 3 has been disrupted and should be corrected.

Comment NJ3: Ms. Neuerburg proposes moving the definition of pre-existing condition to the Disclosures section. This is one of several proposals to move substantive policy form requirements to the Disclosures section. While some of the proposed movements make sense – moving wellness policy requirements to the wellness section – the assumption underlying Mr. Neuerburg's comments is that a requirement for a disclosure is the same as a substantive requirement for the policy form. Stated differently, Ms. Neuerburg seems to be asserting that a requirement to disclose a free-look period is the same as substantive legal requirement for the insurer to offer a free-look period. Our view is that disclosures follow from substantive requirements and, consequently, the substantive requirements must be set out in the model and not inferred from a disclosure requirement. Consequently, we oppose deleting a definition of preexisting condition or deleting the policy form requirements.

Comment NJ5: Ms. Neuerburg suggests moving several sections to the Section 4 Disclosure section, including:

- Moving the definition of pre-existing conditions to Disclosures
- Moving the provisions for waiting period to Disclosures
- Moving the provisions for free-look period to Disclosures

In addition, Ms. Neuerburg suggests deleting the entire Policy Conditions section and moving all of the provisions to either the Disclosures or Wellness Sales Practices section (Comment NJ6). For example, Ms. Neuerburg suggests eliminating the prohibition against a requirement for exam for policy renewal in the Policy Conditions section because there is a disclosure required for this required policy provision (Comment NJ12).

As noted above, Ms. Neuerburg seems to be asserting that a requirement to disclose a free-look period is the same as substantive legal requirement for the insurer to offer a free-look period. Our view is that disclosures follow from substantive requirements and, consequently, the substantive requirements must be set out in the model and not inferred from a disclosure requirement. Consequently, we oppose the proposed changes to delete substantive policy form requirements in favor of disclosures.

We also oppose removing substantive policy form requirements in favor of disclosures because such an approach assumes that disclosures will sufficiently empower consumers to discipline insurers away from unfair, deceptive or misleading practices. There is little or no evidence to suggest that insurance disclosures so empower consumers, generally, and no evidence to suggest that disclosures will so empower pet insurance consumers.