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The NAIC Accident and Sickness Minimum Standards (B) Subgroup  
Andrew Schallhorn, Oklahoma Department of Insurance, Co-Chair  
Rachel Bowden, Texas Department of Insurance, Co-Chair  
Jolie Matthews, J.D., National Association of Insurance Commissioners

*Via email:* Matthews, Jolie H. <JMatthews@naic.org>; Andrew Schallhorn  
<Andrew.Schallhorn@oid.ok.gov>; Rachel Bowden <Rachel.Bowden@tdi.texas.gov>

**RE: NAIC Model 171 (The Supplementary and Short-Term Health Insurance Minimum Standards Model Act)**

Dear Mr. Schallhorn, Ms. Bowden, and Ms. Matthews,

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide comments on the October 12, 2023 revised version of NAIC model 171 Supplementary and Short-Term Health Insurance Minimum Standards Model Act. ACLI and our member companies share the working group's goal of ensuring that health insurance products, particularly health-related supplemental excepted benefits, have modernized and flexible minimum standards requirements that can allow these increasingly popular products to meet the financial protection needs of Americans while assuring adequate consumer protections are in place to assure consumers have a clear understanding of the products they are considering, or have already purchased.

We are generally very supportive of the updates and changes that the working group has adopted, and we have appreciated the open and collaborative way that the working group has included all stakeholders in the development of these proposed changes. We are also respectful of the working group's request that our comments focus on specific questions that are pending, and not ask to revisit decisions that the working group has already made.

**Definition of Preexisting Condition for Short-Term, Limited Duration Insurance:** The working group is seeking input on whether a definition of "preexisting condition" for short-term, limited duration insurance (STLDI). We believe that the current definition is appropriate and should not be changed for the supplementary benefits in the model. We believe it is important to recognize that STLDI is very different in purpose, form, and function than supplementary benefits and therefore, if there is any consideration of modifying the definition to reflect the short-term nature of STLDI or any other factors not applicable to supplementary

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

benefits, that should be done by creating a definition of “preexisting condition” applicable to STLDI that remains separate and distinct from the definition of pre-existing condition that applies to supplementary benefits.

**Definition of “malformation”:** The work group is seeking input or clarity on the meaning of “malformed.” Medical dictionaries define “malformed” as “a structural defect in the body due to abnormal embryonic or fetal development.” We suggest that the work group start with this medical definition and consider whether there are instances where an exception should be made for malformations not resulting during fetal development, for example malformations created by abnormal growth of blood vessels under the skin, which cause a functional defect in that part of the body.

**Deletion of Subsection 7E:** This subsection allows insurers to issue waivers that exclude or limit coverage for certain preexisting conditions or hazardous activities. A suggestion was made to eliminate that provision. We recommend keeping that provision in the model because if this provision is removed, it is likely that people with these preexisting conditions will be denied coverage completely. The current language allows people to access coverage for all other covered benefits even though a preexisting condition might otherwise preclude them from eligibility for coverage. The waiver allows them to have coverage for all but the precluding condition or hazardous activity.

**Use of the word “Spouse”:** We prefer to keep the word spouse as it is a gender-neutral term. If the intention is to allow couples that are not legally married to share in the coverage, a solution already exists in which the terms “civil union or domestic partner” can be added to the policy language. This is usually not necessary as the partner in these relationships is usually referred to as the “spouse” for legal purposes.

**Recurrence Provisions:** The work group seeks comment on whether the language on “recurrence benefits” should be moved to the Disability Income section of the model since it specifically describes recurrent “disabilities.” We note that beyond DI insurance, specified disease policies also sometimes include recurrence provisions. We request that the provision not be moved since it is applicable to more than just DI, however we suggest some clarifying language such as:

A policy may contain a provision relating to recurrent illnesses or disabilities; but a provision relating to recurrent disabilities shall not specify that recurrent disability be separated by a period greater than six (6) months.

We want to express our appreciation to the working group and the stakeholders for the open and participatory process. Thank you again for the opportunity to offer our comments. We look forward to further discussion on this important model and stand ready to answer any questions you may have.

Sincerely,



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Vice President, Supplemental Products & Group Insurance  
American Council of Life Insurers

Cc: Rikki Pelta, ACLI