

REQUEST FOR NAIC MODEL LAW DEVELOPMENT

This form is intended to gather information to support the development of a new model law or amendment to an existing model law. Prior to development of a new or amended model law, approval of the respective Parent Committee and the NAIC's Executive Committee is required. The NAIC's Executive Committee will consider whether the request fits the criteria for model law development. Please complete all questions and provide as much detail as necessary to help in this determination.

Please check whether this is: **New Model Law** or **Amendment to Existing Model**

1. Name of group to be responsible for drafting the model:

Pet Insurance (C) Working Group

2. NAIC staff support contact information:

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3. Please provide a brief description of the proposed new model or the amendment(s) to the existing model. If you are proposing a new model, please also provide a proposed title. If an existing model law, please provide the title, attach a current version to this form and reference the section(s) proposed to be amended.

Pet Insurance Model Law. This model would define a regulatory structure related to pet insurance, including issues such as producer licensing, policy terms, coverages, claims handling, premium taxes, disclosures, arbitration, and preexisting conditions.

4. Does the model law meet the Model Law Criteria? **Yes** or **No (Check one)**

(If answering no to any of these questions, please reevaluate charge and proceed accordingly to address issues).

a. Does the subject of the model law necessitate a national standard and require uniformity amongst all states? **Yes** or **No (Check one)**

If yes, please explain why: Interested parties agree that there is ambiguity within regulation of the pet insurance market and having a more defined and consistent regulatory structure will improve the market and benefit consumers. The NAIC Paper, A Regulators' Guide to Pet Insurance, the Pet Insurance (C) Working Group and the Producer White Licensing (D) Task Force have previously discussed some of these ambiguities in the regulation of the market.

b. Does Committee believe NAIC members should devote significant regulator and Association resources to educate, communicate and support this model law?

Yes or **No (Check one)**

5. What is the likelihood that your Committee will be able to draft and adopt the model law within one year from the date of Executive Committee approval?

1 **2** **3** **4** **5** **(Check one)**

High Likelihood

Low Likelihood

Explanation, if necessary: The NAIC White Paper, "A Regulator's Guide to Pet Insurance" has provided the background for the Working Group to understand the issues and begin to draft a model.

6. What is the likelihood that a minimum two-thirds majority of NAIC members would ultimately vote to adopt the proposed model law?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

7. What is the likelihood that state legislatures will adopt the model law in a uniform manner within three years of adoption by the NAIC?

1 2 3 4 5 (Check one)

High Likelihood

Low Likelihood

Explanation, if necessary:

8. Is this model law referenced in the NAIC Accreditation Standards? If so, does the standard require the model law to be adopted in a substantially similar manner?

No

9. Is this model law in response to or impacted by federal laws or regulations? If yes, please explain.

No

PET INSURANCE MODEL LAW

New Model - Draft: 7/21/2022

Adopted by Pet Insurance (C) Working Group – 7/21/2022

Adopted by Property and Casualty Insurance (C) Committee – 8/1/2022

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Section 1. Short Title

This Act shall be known as the “Pet Insurance Act.”

Section 2. Scope and Purpose

- A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Pet Insurance may be sold in this state.
- B. The requirements of this Act shall apply to Pet Insurance policies that are issued to any resident of this state, and are sold, solicited, negotiated, or offered in this state, and policies or certificates that are delivered or issued for delivery in this state.
- C. All other applicable provisions of this state’s insurance laws shall continue to apply to Pet Insurance except that the specific provisions of this Act shall supersede any general provisions of law that would otherwise be applicable to Pet Insurance.

Section 3. Definitions

If a pet insurer uses any of the terms in this Act in a policy of pet insurance, the pet insurer shall use the definition of each of those terms as set forth herein and include the definition of the term(s) in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of the pet insurer or pet insurer’s program administrator’s website.

Nothing in this Act shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.

As used in this Act:

- A. “Chronic condition” means a condition that can be treated or managed, but not cured.
- B. “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.
- C. “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

- D. “Orthopedic” refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.
- E. “Pet insurance” means a property insurance policy that provides coverage for accidents and illnesses of pets.
- F. “Preexisting condition” means any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:
 - (1) A veterinarian provided medical advice;
 - (2) The pet received previous treatment; or
 - (3) Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy.

- G. “Renewal” means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.
- H. “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which he or she practices.
- I. “Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.
- J. “Waiting period” means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. Waiting periods may not be applied to renewals of existing coverage.
- K. “Wellness program” means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or wellbeing of the pet. If any wellness program [insert language from state statute or regulation that defines the trigger for insurance contracts, which might include language such as: [undertakes to indemnify another], or [pays a specified amount upon determinable contingencies] or [provides coverage for a fortuitous event]], it is transacting in the business of insurance and is subject to the insurance code. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being “the business of insurance,” unless other indications of insurance also exist.

Section 4. Disclosures

- A. A pet insurer transacting pet insurance shall disclose the following to consumers:
 - (1) If the policy excludes coverage due to any of the following:
 - (a) A preexisting condition;
 - (b) A hereditary disorder;
 - (c) A congenital anomaly or disorder; or
 - (d) A chronic condition.
 - (2) If the policy includes any other exclusions, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”

- (3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.
 - (4) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet or a change in the geographic location of the insured.
 - (5) If the underwriting company differs from the brand name used to market and sell the product.
- B. Right to Examine and Return the Policy.
- (1) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate or rider to the company or an agent/insurance producer of the company within fifteen (15) days of its receipt and to have the premium refunded if, after examination of the policy, certificate or rider, the applicant is not satisfied for any reason,
 - (2) Pet insurance policies, certificates and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free look statement or language substantially similar shall be included:

“You have 15 days from the day you receive this policy, certificate or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent/insurance producer that you bought it from as long as you have not filed a claim. You must return it within 15 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate or rider will be void as if it had never been issued.”
- C. A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy, prior to policy issuance and through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- D. A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:
- (1) Clearly disclose the applicable benefit schedule in the policy.
 - (2) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- E. A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:
- (1) Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments.
 - (2) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.
- F. If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

- G. Waiting periods and the requirements applicable to them, must be clearly and prominently disclosed to consumers prior to the policy purchase.
- H. The pet insurer shall include a summary of all policy provisions required in Subsections (A) through (G), inclusive, in a separate document titled “Insurer Disclosure of Important Policy Provisions.”
- I. The pet insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in Subsection (H) through a clear and conspicuous link on the main page of the pet insurer or pet insurer’s program administrator’s website.
- J. In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to Subsection (H) in at least 12-point type when it delivers the policy.
- K. At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:
 - (1) The [insert state insurance department]’s mailing address, toll-free telephone number and website address.
 - (2) The address and customer service telephone number of the pet insurer or the agent or broker of record.
 - (3) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.
- L. The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.

Section 5. Policy Conditions

- A. A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.
- B. A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.
 - (1) A pet insurer utilizing a waiting period permitted in Subsection 5B shall include a provision in its contract that allows the waiting periods to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.
 - (2)
 - (a) A medical examination under Subsection 5B(1) shall be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.
 - (b) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer’s ability to waive the waiting periods in Subsection 5B.
 - (3) Waiting periods, and the requirements applicable to them, must be clearly and prominently disclosed to consumers prior to the policy purchase.
- C. A pet insurer must not require a veterinary examination of the covered pet for the insured to have their policy renewed.

- D. If a pet insurer includes any prescriptive, wellness, or non-insurance benefits in the policy form, then it is made part of the policy contract and must follow all applicable laws and regulations in the insurance code.
- C. An insured's eligibility to purchase a pet insurance policy must not be based on participation, or lack of participation, in a separate wellness program.

Section 6. Sales Practices for Wellness Programs

- A. A pet insurer and/or producer shall not do the following:
 - (1) Market a wellness program as pet insurance;
 - (2) Market a wellness program during the sale, solicitation, or negotiation of pet insurance.
- B. If a wellness program is sold by a pet insurer and/or producer:
 - (1) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance.
 - (2) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer and/or producer.
 - (3) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer and/or producer.
 - (4) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy; and
 - (5) The advertising of the wellness program shall not be misleading and shall be in accordance with Subsection 6B of this Model.
 - (6) A pet insurer and/or producer shall clearly disclose the following to consumers, printed in 12-point boldface type:
 - (a) That wellness programs are not insurance.
 - (b) The address and customer service telephone number of the pet insurer or producer or broker of record.
 - (c) The [insert state insurance department]'s mailing address, toll-free telephone number, and website address.
- C. Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

Section 7. Insurance Producer Training

- A. An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in Subsection C of this Section.
- B. Insurers shall ensure that its producers are trained under Subsection C of this Section and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.
- C. The training required under this subsection shall include information on the following topics:
 - (1) Preexisting conditions and waiting periods;
 - (2) The differences between pet insurance and noninsurance wellness programs;
 - (3) Hereditary disorders, congenital anomalies or disorders and chronic conditions and how pet insurance policies interact with those conditions or disorders; and

- (4) Rating, underwriting, renewal and other related administrative topics.
- D. The satisfaction of the training requirements of another state that are substantially similar to the provisions of Subsection C shall be deemed to satisfy the training requirements in this state.

Section 8. Regulations

The commissioner may promulgate rules and regulations to administer this Act.

Section 9. Violations

Violations of this Act shall be subject to penalties pursuant to [insert state administrative code].

PROJECT HISTORY - 2022

PET INSURANCE MODEL LAW (#633)

1. Description of the Project, Issues Addressed, etc.

Development of the Pet Insurance Act. This model addresses required disclosures, definitions, policy conditions, sales practices for wellness programs, and producer training requirements.

2. Name of Group Responsible for Drafting the Model and States Participating

Pet Insurance (C) Working Group

Participating states: Virginia, Chair; California, Co-Chair; Alaska; Arkansas; Connecticut; District of Columbia; Louisiana; Maryland; Massachusetts; Missouri; Pennsylvania; Rhode Island; Utah; Vermont; and Washington.

3. Project Authorized by What Charge and Date First Given to the Group

Authorized by a charge from the Property and Casualty Insurance (C) Committee on March 28, 2019. The Working Group adopted the Request for NAIC Model Law Development on June 27, 2019, and the Property and Casualty Insurance (C) Committee adopted it on July 18, 2019. The Executive (EX) Committee and Plenary adopted the Request for NAIC Model Law Development on Aug. 6, 2019.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated

Drafted by the full membership of the Pet Insurance (C) Working Group. Also participating in the drafting process were: the American Property Casualty Insurance Association (APCIA); the American Veterinarian Medical Association (AVMA); the Center for Economic Justice (CEJ); the Center for Insurance Research (CIR); the Chubb Group, Companion Protect; Mars Veterinary Health; Nationwide Insurance Group; North American Pet Health Insurance Association (NAPHIA); Trupanion; and Unum Life Insurance Company.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

A draft model law was presented to the Working Group on Oct. 1, 2019. The Working Group exposed Sections 1–4 for a public comment period on Oct. 1, 2019. It met to discuss Sections 1–4 on Nov. 7, 2019; Dec. 19, 2019; Feb. 19, 2020; March 5, 2020; and July 16, 2020.

The Working Group exposed Sections 5–6 for a public comment period on July 16, 2020. It met to discuss Sections 5–6 on Sept. 30, 2020, and Oct. 21, 2020.

The Working Group exposed Sections 7–9 for a public comment period on Sept. 30, 2020. It met to discuss Sections 7–9 on Nov. 6, 2020; Nov. 24, 2020; and Feb. 18, 2021.

The Working Group met to discuss open issues in the model on March 4, 2021; March 26, 2021; April 29, 2021; May 19, 2021; June 10, 2021; June 24, 2021; July 8, 2021; July 22, 2021; and July 29, 2021. It adopted a draft model on Aug. 4, 2021. The Working Group held additional meetings to discuss issues in the model on Sept. 8, 2021, and Oct. 7, 2021. The Working Group adopted the revised draft model on Oct. 21, 2021. The Property and Casualty Insurance (C) Committee adopted the draft model on Nov. 10, 2021. Before its consideration at the Joint Meeting of Executive (C) Committee and Plenary during the Fall National Meeting, there were concerns about the producer training section. The model was sent back to the Working Group for review. The Working Group met June 7, 2022 and July 21, 2022 to revise the language in Section 7. The model was adopted by the Working Group on July 21, 2022. The model was adopted by the Property and Casualty Insurance (C) Committee on August 1, 2022.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

Free Look Period – There was discussion that a free look period would offer a better understanding for consumers with a newer product like pet insurance. Many state insurance regulators commented that the free look period was not necessary or actuarial sound. The inclusion of this free look period in the California pet insurance law was requested by industry and supported by many interested parties. State insurance regulators adopted language that insurers can implement a maximum 15-day free look period in which consumers can examine and return the policy for a full refund if no claim has been made on the policy.

Renewals – State insurance regulators wanted clear language added to the model that would not allow a condition that was covered under a policy to be considered a preexisting condition—and, therefore, excluded from coverage—on subsequent policy renewals. While industry did indicate that it would like the ability to issue one-year policies that do not offer a renewal and could then use a preexisting exclusion for a previously covered condition, state insurance regulators stated that these policies would not be considered a renewal and, therefore, the added language would not affect industry's ability to sell these types of policies.

Waiting Period – Some state insurance regulators took issue with the allowance of a waiting period for certain conditions as proposed by the industry. State insurance regulators adopted the allowance of a 30-day waiting period for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.

Wellness Plans – There was discussion about whether wellness plans should be considered insurance or if those plans should be allowed to cover services that could be covered in insurance plans. State insurance regulators adopted a new section of the model to outline sales practices for wellness plans that are sold by licensed insurance entities. Wellness plans that are not sold by licensed entities and do not provide insurance coverage are not regulated by insurance departments and are not addressed in this model.

Licensing – Several state insurance regulators questioned the inclusion of licensing requirements in the model. After discussion with the Producer Licensing (D) Task Force, the licensing section was removed from the model. The Working Group adopted guidelines for producer training requirements.

Producer Training – Regulators in several states wanted to ensure that the language around producer training did not infringe on the work of the Producer Licensing (D) Task Force. They also wanted to make sure the model appropriately addressed reciprocity in states that had different but substantially similar training requirements.

7. Any Other Important Information (e.g., amending an accreditation standard).

None.