STATE LEGISLATIVE BRIEF

NAIC National Association of Insurance Commissioners
& The Center for Insurance Policy and Research

The NAIC Life and Health Insurance Guaranty Association Model Act

- *The guaranty association system ensures that consumers can purchase insurance products with the knowledge that their coverage will be protected in the event of a future company failure or insolvency.*
- *In order to ensure policyholders are adequately protected from such failures, in December 2017, the NAIC adopted revisions to the NAIC Life and Health Insurance Guaranty Association Model Act (#520) to address issues and concerns with guaranty fund coverage and assessments for any future Long Term Care Insurance (LTCI) insolvencies.*
- *Industry groups support these amendments and worked cooperatively with regulators on them.*

Background

According to the U.S. Department of Health and Human Services (HHS), about 12 million of America's senior citizens will require long-term care by 2020. Although the long-term care insurance (LTCI) market has evolved over the years, it has undergone significant contraction, both in terms of sales as well as insurers participating in the market following more than two decades of rapid growth. The primary challenges for insurers and state insurance regulators in LTCI markets relate to several uncertainties, particularly regarding policyholder longevity and the costs of health care in America. The actuarial assumptions made several decades ago about longevity and persistency of LTCI blocks of business are proving to be inaccurate, putting strain on the financial condition of LTC writers. While the NAIC is working to address historical problems encountered in the LTC marketplace and encourage innovation for the protection of consumers in the future, concerns remain that the financial strain on those blocks of business could lead to insolvencies of certain LTC writers.

In December 2017, the NAIC adopted changes to the *NAIC Life and Health Guaranty Association Model Act* to address concerns stemming from insolvencies of insurers writing LTCI. The Penn Treaty insolvency resulted in the health industry bearing the majority of the guaranty fund assessment obligations, since LTCI is categorized as "health" insurance while life insurers predominately wrote the majority of LTCI premium. The revisions broaden the assessment base for LTCI insolvencies to include both life and health insurers and splits the assessment 50%/50% between the life and health insurance industries. The amendments also provide for the inclusion of HMOs as members of the life and health insurance guaranty association, which might necessitate changes in other statutes to ensure consistency in state laws. To avoid conflicts between a state's guaranty association act and other laws, states that adopt the revised Model #520 should review: (1) the law governing insurer receiverships, and (2) laws and regulations related to HMOs. It may be necessary to enact changes to these laws to comport with Model #520.

Key Points

- ✓ Currently 34 states have adopted the 2017 revisions (AK, AR, AZ, CT, DE, FL, GA, IA, ID, IL, IN, KY, LA, MD, ME, MN, MO, MS, MT, NC, ND, NE, NH, NV, OK, PA, SC, SD, TN, TX, UT, VA, WV, and WY).
- ✓ State insurance regulators acted quickly to identify and address issues potentially affecting consumers should there be any future health or long-term care solvency issues, underscoring the NAIC's commitment to supporting a healthy state-based guaranty association system.
- ✓ These amendments reflect regulators' continued commitment to protecting policyholders from loss due to insolvency.

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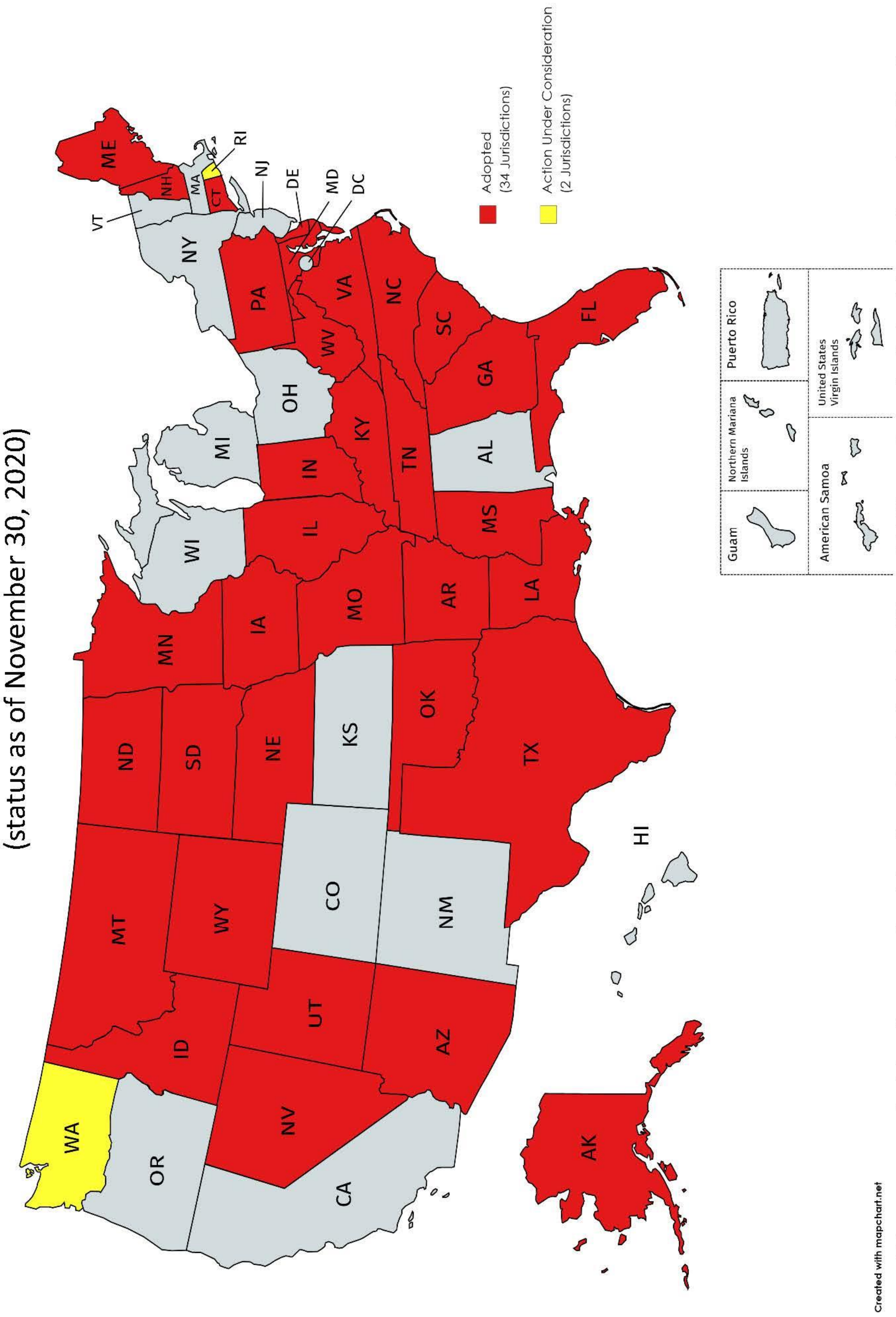
Implementation of 2017 Revisions to Model #520
Life and Health Insurance Guaranty Association Model Act
(status as of November 30, 2020)



This map represents state action or pending state action addressing the topic of the model. This map does not reflect a determination as to whether the pending or enacted legislation contains all elements of the model or whether a state meets any applicable accreditation standards.

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