

Draft: 9/12/19

Market Conduct Examination Standards (D) Working Group
Conference Call
August 29, 2019

The Market Conduct Examination Standards (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met via conference call Aug. 29, 2019. The following Working Group members participated: Bruce R. Ramage, Chair (NE); Russell Hamblen, Vice Chair (KY); Melissa Grisham and Mel Heaps (AR); Sarah Borunda and Maria Ailor (AZ); Damion Hughes (CO); Kurt Swan (CT); Sharon Shipp (DC); Frank Pyle (DE); Sarah Crittenden (GA); Lindsay Bates (IA); Mary Lou Moran (MA); Jill Huisken (MI); Win Nickens (MO); Paul Hanson (MN); Edwin Pugsley and Maureen Belanger (NH); Ralph Boeckman (NJ); Bogdanka Kurahovic and Otis Phillips (NM); Peggy Willard-Ross (NV); Sylvia Lawson (NY); Rodney Beetch and Angela Dingus (OH); Kevin Foor, Landon Hubbart, Joel Sander and Shelly Scott (OK); Scott Martin (OR); Christopher Monahan (PA); Joy Morton, Rebecca Nichols and Yolanda Tennyson (VA); Christina Rouleau (VT); Jeanette Plitt (WA); Barbara Belling, Darcy Paskey, Diane Dambach and Rebecca Rebholz (WI); and Desiree Mauller (WV).

1. Discussed New Travel Insurance-Related Examination Standards for Inclusion in the Handbook

Director Ramage said Ms. Nichols and Ms. Morton developed draft travel insurance-related examination standards and a high-level summary of the draft standards for the Working Group's review and discussion, based on the *Travel Insurance Model Act* (#632) and to be incorporated into the *Market Regulation Handbook* (Handbook). He said the draft examination standards were exposed May 22 for a public comment period ending June 24, and the comment period was subsequently extended to July 10 and then to Aug. 15.

Ms. Morton said that a revised draft was circulated Aug. 26 for the conference call, and the draft included revisions she and Ms. Nichols made in response to comments received in July from John P. Fielding (Steptoe & Johnson LLP), on behalf of the U.S. Travel Insurance Association (USTIA) and Angela Gleason (American Property Casualty Insurance Association—APCIA).

Ms. Morton presented the redlined changes made to the draft. Ms. Plitt suggested that in Marketing and Sales Exam Standard 1 in the sentence "Indicate that the travel protection plan being marketed is insurance," that "is" be changed to "can include." Ms. Gleason and Mr. Fielding said that they would both be submitting additional comments on the draft.

Director Ramage extended the comment due date to Oct. 2, and Ms. Gleason and Mr. Fielding said that they would both be submitting additional comments on the draft by that date. Director Ramage asked for comments by Oct. 2 so Ms. Nichols and Ms. Morton can review any comments received and provide a revised draft for discussion during the next Working Group conference call, which is scheduled for Oct. 9. Director Ramage said NAIC staff will provide advance email notice of the conference call.

2. Adopted a New Workers' Compensation Standardized Data Request for Inclusion in the Reference Documents of the Handbook

Director Ramage said the new workers' compensation in force standardized data request, which was circulated July 15 and discussed during the Working Group's July 18 and Aug. 29 conference calls, was developed by state insurance regulator subject matter experts (SMEs) for the Working Group's review, discussion and consideration of adoption.

Mr. Hamblen made a motion, seconded by Ms. Nichols, to adopt the new workers' compensation standardized data request (Attachment XXXXXX). The motion passed unanimously.

3. Discussed Other Matters

Director Ramage welcomed Oregon's new representatives, TK Keen and Mr. Martin, to the Working Group.

Having no further business, the Market Conduct Examination Standards (D) Working Group adjourned.

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Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination

IMPORTANT NOTE:

The standards set forth in this chapter are based on established procedures and/or NAIC models, not on the laws and regulations of any specific jurisdiction. This handbook is a guide to assist examiners in the examination process. Since it is based on NAIC models, use of the handbook should be adapted to reflect each state's own laws and regulations with appropriate consideration for any bulletins, audit procedures, examination scope and the priorities of examination. Further important information on this and how to use this handbook is included in Chapter 1—Introduction.

This chapter provides a format for conducting travel insurance company examinations. Procedures for conducting property/casualty insurance company examinations and other types of specialized examinations—such as third-party administrators and surplus lines brokers—may be found in separate chapters.

The examination of travel insurance operations may involve any review of one or a combination of the following business areas:

- A. Operations/Management
- B. Complaint Handling
- C. Marketing and Sales
- D. Producer Licensing
- E. Policyholder Service
- F. Underwriting and Rating
- G. Claims

When conducting an examination that reviews these areas, there are essential tests that should be completed. The tests are applied to determine if the company is meeting standards. Some standards may not be applicable to all jurisdictions. The standards may suggest other areas of review that may be appropriate on an individual state basis.

Deleted: A. Operations/Management¶

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Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.¶

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Tests and Standards

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OPERATIONS/MANAGEMENT

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Deleted: Apply to: . All property and casualty travel insurance products¶

¶ Priority: . Essential¶

¶ Documents to be Reviewed¶

¶ . Applicable statutes, rules and regulations ¶

¶ Others Reviewed¶

¶ _____ ¶

¶ _____ ¶

¶ NAIC Model References¶

¶ *Travel Insurance Model Act (#632)*¶

¶ *Unfair Trade Practices Act (#880)*¶

¶ Review Procedures and Criteria¶

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Deleted: B. Complaint Handling¶

¶
Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.¶

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Tests and Standards

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COMPLAINT HANDLING

Deleted: Standard [*None noted for this category*]

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Priority: . Essential¶

Documents to be Reviewed¶

_____ . Applicable statutes, rules and regulations¶

_____ . Applicable complaint register(s)¶

Others Reviewed¶

_____¶

_____¶

NAIC Model References¶

Travel Insurance Model Act (#632)¶

Unfair Trade Practices Act (#880)¶

Review Procedures and Criteria¶

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C. Marketing and Sales

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

1. Tests and Standards

The marketing and sales review includes, but is not limited to, the following standards addressing various aspects of the marketing and sales function. The sequence of the standards listed here does not indicate priority of the standard.

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STANDARDS
MARKETING AND SALES

Standard 1 Ensure the advertising and/or sales materials being utilized by the Limited Lines Travel Insurance Producer and travel insurer (i) provide the information required by Section 4(C) of the model law [or state equivalent], (ii) are consistent with the travel protection plan being offered, (iii) are not deceptive or misleading, and (iv) otherwise comply with state law.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ The travel insurer's approved brochures or other written materials used in offering or disseminating travel insurance to prospective purchasers.
- _____ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- _____ Producers' own advertising and sales materials, including travel retailers under the direction of a Limited Lines Travel Insurance Producer

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request and review specimen or actual copies of either (i) sampled, (ii) specifically identified and selected or (iii) all of the brochures or other written materials that are made available to prospective purchasers from the travel insurer or Limited Lines Travel Insurance Producer as deemed appropriate or necessary by the examiner(s). If the examiner is unable to obtain the requested information from the travel insurer or the Limited Lines Travel Insurance Producer, the examiner may request the information directly from the Travel Retailer.

Review specimen or actual copies of all of the brochures or other written materials in conjunction with the appropriate policy forms, endorsements, policies, rate filings, and certificates of insurance.

Materials should not:

- Misrepresent policy benefits, advantages or conditions by failing to disclose limitations, exclusions or reductions, or use terms or expressions that are misleading or ambiguous;
- Make false, deceptive or misleading statements or representations with respect to any person, company or organization.

Materials should:

- Clearly disclose name and address of insurer;
- If using a trade name, disclose the name of the insurer, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference, if the advertisement would have the capacity or tendency to mislead or

Deleted: Citation: Model #632, Section 4 – Licensing and Registration, Subsection C.¶

Any Travel Retailer offering or disseminating Travel Insurance shall make available to prospective purchasers, brochures or other written materials that have been approved by the travel insurer. Such materials shall include information which, at a minimum: (1) Provides the identity and contact information of the insurer and the Limited Lines Travel Insurance Producer; (2) Explains that the purchase of Travel Insurance is not required in order to purchase any other product or service from the Travel Retailer; and (3) Explains that an unlicensed Travel Retailer is permitted to provide only general information about the insurance offered by the Travel Retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the Travel Retailer or to evaluate the adequacy of the customer's existing insurance coverage.¶

Citation: Model #632 – Section 7 – Sales Practices, Subsection C (1).¶

All documents provided to consumers prior to the purchase of travel insurance, including but not limited to sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including but not limited to, forms, endorsements, policies, rate filings, and certificates of insurance.¶

Commented [A1]: APCIA requested that "all" be deleted from this section. Virginia recommends that the WG consider a proposed insertion of the option to select "sampled, specifically selected, or all" as an alternative to the deletion of the word "all." The recommended language provides regulators with options regarding the scope of this review.

Deleted: ~~in the conduct of the travel insurer or Limited Lines Travel Insurance Producer;...~~

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deceive as to the true identity of the insurer, or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy;

- Clearly describe the type of policy being advertised;
- Indicate that the travel protection plan being marketed ~~is~~ includes insurance;
- Comply with applicable statutes, rules and regulations;

Commented [A3]: APCA requested replacing "is" with "includes." This change has been made.

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Determine if the travel insurer approves producer sales materials and advertising.

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**STANDARDS
MARKETING AND SALES**

Standard 2 The disclosures combinations of travel insurance, non-insurance travel assistance services, and cancellation fee waivers are compliant with applicable statutes, rules, and regulations.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- ___ Applicable statutes, rules and regulations
- ___ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- ___ Producers' own advertising and sales materials and travel retailers acting under the direction of a Limited Lines Travel Insurance Producer

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request information from the travel insurer or Limited Lines Travel Insurance Producer that is sufficient to determine compliance with this standard. If the examiner is unable to obtain the information from the travel insurer or the Limited Lines Travel Insurance Producer, the examiner may request the information directly from the travel retailer.

Deleted: Citation: Model #632, Section 6 Travel Protection Plans:¶

Travel Protection Plans may be offered for one price for the combined features that the Travel Protection Plan offers in this state if: ¶

¶
The Travel Protection Plan clearly discloses to the consumer, at or prior to the time of purchase, that it includes Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers as applicable, and provides information and an opportunity, at or prior to the time of purchase, for the consumer to obtain additional information regarding the features and pricing of each; and ¶

¶
The Fulfillment Materials: (1) Describe and delineate the Travel Insurance, Travel Assistance Services, and Cancellation Fee Waivers in the Travel Protection Plan, and (2) Include the Travel Insurance disclosures and the contact information for persons providing Travel Assistance Services, and Cancellation Fee Waivers, as applicable.¶

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STANDARDS
MARKETING AND SALES

Standard 3 The Limited Lines Travel Insurance Producer has established and maintains a register of each travel retailer that offers travel insurance on the producer's behalf.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Deleted: **Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (2).¶

(2) At the time of licensure, the Limited Lines Travel Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer's behalf. The register shall be maintained and updated by the Limited Lines Travel Insurance Producer and shall include the name, address, and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. ~~The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC §1033. The grounds for the suspension, revocation and the penalties applicable to resident insurance producers under [insert applicable reference to insurance code], shall be applicable to the Limited Lines Travel Insurance Producers and Travel Retailers. [Stricken language is not relevant to this standard.]¶~~

¶
Citation: Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.¶

Deleted: *State Licensing Handbook: Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*¶

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STANDARDS
MARKETING AND SALES

Standard 4 The Limited Lines Travel Insurance Producer has documentation sufficient to demonstrate compliance that the travel retailers (acting under the Limited Lines Travel Insurance Producer's license) comply with 18 USC § 1033.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Deleted: Citation: Model 632 – Section 4 – Licensing and Registration, Subsection B (2);¶

(2) ~~At the time of licensure, the Limited Lines Travel Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Travel Retailer that offers Travel Insurance on the Limited Lines Travel Insurance Producer's behalf. The register shall be maintained and updated by the Limited Lines Travel Insurance Producer and shall include the name, address, and contact information of the Travel Retailer and an officer or person who directs or controls the Travel Retailer's operations, and the Travel Retailer's Federal Tax Identification Number. The Limited Lines Travel Insurance Producer shall submit such register to the state insurance department upon reasonable request. The Limited Lines Travel Insurance Producer shall also certify that the Travel Retailer registered complies with 18 USC § 1033. The grounds for the suspension, revocation and the penalties applicable to resident insurance producers under [insert applicable reference to insurance code], shall be applicable to the Limited Lines Travel Insurance Producers and Travel Retailers. ~~Stricken language is not relevant to this standard.~~~~¶

¶
Citation: Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this act.¶

Deleted: *State Licensing Handbook; Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*¶

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STANDARDS
MARKETING AND SALES

Standard 5 Determine that consumers were provided with information and an opportunity to learn more about the pre-existing condition exclusions (i) at any time prior to the purchase and (ii) in the fulfillment materials.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Policy form, fulfillment materials, advertising/sales materials, and disclosures

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Determine that information about pre-existing condition exclusions is provided prior to the time of purchase, including whether the purchaser of travel insurance (i) has the ability to waive the pre-existing condition exclusion, (ii) under what circumstances it can be waived; and (iii) the purchaser of travel insurance has been advised that the coverage for pre-existing conditions can be purchased, if applicable.

Determine that the fulfillment materials provide information about pre-existing condition exclusions

Determine that the policies or certificates and fulfillment materials clearly define pre-existing conditions as intended in the exclusions

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection C (2): For Travel Insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase, and in the coverage's Fulfillment Materials.¶

STANDARDS
MARKETING AND SALES

Standard 6 Determine that descriptions of the following are provided to the purchasers of travel insurance: (i) material or actual terms of the insurance coverage, (ii) process for filing a claim, (iii) review or cancellation process for the Travel Insurance policy, and (iv) the identity and contact information of the travel insurer and Limited Lines Travel Insurance Producer.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request information from the travel insurer or Limited Lines Travel Insurance Producer that is sufficient to determine compliance with this standard. If the examiner is unable to obtain the information from the travel insurer or the Limited Lines Travel Insurance Producer, the examiner may request the information directly from the travel retailer.

Deleted: Citation: Model #632 – Section 4 – Licensing and Registration, Subsection B (1) (a) through (d); ¶

The Limited Lines Travel Insurance Producer or Travel Retailer provides to purchasers of Travel Insurance: ¶

(a) A description of the material terms or the actual material terms of the insurance coverage; ¶

(b) A description of the process for filing a claim; ¶

(c) A description of the review or cancellation process for the Travel Insurance policy; and ¶

(d) The identity and contact information of the insurer and Limited Lines Travel Insurance Producer.¶

¶

Citation: Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer’s designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this Act.¶

STANDARDS
MARKETING AND SALES

Standard 7 The Limited Lines Travel Insurance Producer has an adequate training program in place, containing instructions on the types of insurance offered, ethical sales practices, and required consumer disclosures, that is required of each employee and authorized representative of the Travel Retailer whose duties shall include offering and disseminating travel insurance.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ Limited Lines Travel Insurance Producer's policies and procedures, including the standards for product training
- _____ Limited Lines Travel Insurance Producer's instruction/training files and training materials for travel retailer employees and authorized representatives offering or disseminating travel insurance.

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Review policies and procedures to ensure that the Limited Lines Travel Insurance Producer has adequate procedures in place to provide instruction and training that is appropriate for and consistent with the type(s) of travel insurance being offered. Review the Limited Lines Travel Insurance Producer's procedures used to inform travel retailers of the regulated entity's standards for travel insurance product training and of applicable state statutes, rules or regulations regarding the solicitation and sale of travel insurance products.

Determine that the Limited Lines Insurance Travel Insurance Producer has adequate procedures in place to verify that the employees and authorized representatives of a travel retailer have completed necessary training, as required by applicable state statutes, rules and regulations, before allowing the employees and authorized representatives to sell travel insurance for that insurer.

Contact other regulators that may have conducted a recent review of the training standards.

Determine if the training materials are appropriate and accurately reflect the coverage provided by the travel insurance product.

Review regulated entity's records to determine if, when and how training occurred prior to the employees or authorized representatives of a travel retailer's recommendation of a travel insurance product.

- Deleted: Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection B (6).¶
- The Limited Lines Travel Insurance Producer requires each employee and authorized representative of the Travel Retailer whose duties including offering and disseminating Travel Insurance to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review and approval. The training materials shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.¶
- ¶
- Citation:** Model #632 – Section 4 – Licensing and Registration, Subsection F Responsibility: As the insurer's designee, the Limited Lines Travel Insurance Producer is responsible for the acts of the Travel Retailer and shall use reasonable means to ensure compliance by the Travel Retailer with this Act.¶
- ¶
- Commented [A5]:** Change recommended by Nebraska.
- Deleted:** Limited Lines Travel Insurance Producer's instruction/training files travel retailer employees and authorized representatives offering or disseminating travel insurance.¶
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- _____ Limited Lines Travel Insurance Producer's training materials for travel retailer employees and authorized representatives offering or disseminating travel insurance...
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- Deleted:** *State Licensing Handbook: Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*¶
- ¶
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- Commented [A7]:** APCLIA requested similar edits.
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STANDARDS
MARKETING AND SALES

Standard 8 The Limited Lines Travel Insurance Producer has designated a “Designated Responsible Producer.”

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Deleted: Citation: Model #632, Section 4 – Licensing and Registration, Subsection B (3).¶

(3) The Limited Lines Travel Insurance Producer has designated one of its employees who is a licensed individual producer as the person (a “Designated Responsible Producer” or “DRP”) responsible for the compliance with the Travel Insurance laws and regulations applicable to the Limited Lines Travel Insurance Producer and its registrants. ¶

Deleted: *State Licensing Handbook: Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*¶

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**STANDARD
MARKETING AND SALES**

Standard 9 Sales practices do not include “negative option or opt out.”

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

___ Applicable statutes, rules and regulations

___ Sales and marketing

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Review a sampling of marketing materials and policies to confirm that customers were not offered or sold a policy through negative option or opt out.

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection D:¶

D. Opt out. No person offering, soliciting, or negotiating Travel Insurance or Travel Protection Plans on an individual or group basis may do so by using negative option or opt out, which would require a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form, when the consumer purchases a trip.¶

**STANDARDS
MARKETING AND SALES**

Standard 12 Blanket coverage is not marketed or described as “free” coverage.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Review the use of the words/phrases “free,” “no cost,” “without cost,” “no additional cost,” “at no extra cost” or words/phrases of similar import. Such words/phrases should not be used with respect to any benefit or service being made available with a policy, unless true.

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection E.¶

E. It shall be an unfair trade practice to market Blanket Travel Insurance coverage as free. ¶

**STANDARD
MARKETING AND SALES**

Standard 13 If the aggregator's website provides a short summary of the coverage, determine that the consumer has access to the full provisions of the policy by electronic means.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection C (5):¶

(5) Where Travel Insurance is marketed directly to a consumer through an insurer's website or by others through an Aggregator Site, it shall not be an unfair trade practice or other violation of law where an accurate summary or short description of coverage is provided on the web page, so long as the consumer has access to the full provisions of the policy through electronic means. ¶

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D. Producer Licensing

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD
PRODUCER LICENSING**

Standard 1 Determine that the travel insurer or Limited Lines Travel Insurance Producer has provided the information required in Section 4(B)(1) [or state equivalent] to the purchasers of travel insurance.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Determine if the requested coverage is issued.

Examiners should request proof from the travel insurer or Limited Lines Travel Insurance Producer sufficient to demonstrate that the actual information was provided. If the examiner is unable to obtain proof from the travel insurer or the Limited Lines Travel Insurance Producer, the examiner may request the information directly from the travel retailer.

Deleted: Citation: Model #632, Section 4 – Licensing and Registration, Subsection B:¶

B. A Travel Retailer may offer and disseminate Travel Insurance under a Limited Lines Travel Insurance Producer business entity license only if the following conditions are met:¶

(1) The Limited Lines Travel Insurance Producer or Travel Retailer provides to purchasers of Travel Insurance: (a) A description of the material terms or the actual material terms of the insurance coverage; (b) A description of the process for filing a claim; (c) A description of the review or cancellation process for the Travel Insurance policy; and (d) The identity and contact information of the insurer and Limited Lines Travel Insurance Producer. ¶

Deleted: *State Licensing Handbook: Uniform Licensing Standard 34 (Limited Lines Travel Insurance Standard)*¶

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E. Policyholder Service

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD
POLICYHOLDER SERVICE**

Standard 1 Fulfillment materials were provided to the policyholder or certificate holder as required.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ All applications

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request documentation from the travel insurer or Limited Lines Travel Insurance Producer that is sufficient to demonstrate that the fulfillment documents were provided to the purchasers of travel insurance.

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection C Marketing (3):¶

(3) The Fulfillment Materials and the information described in Section 4B(1)(a)-(d) shall be provided to a policyholder or certificate holder as soon as practicable, following the purchase of a Travel Protection Plan. ~~Unless the insured has either started a covered trip or filed a claim under the Travel Insurance coverage, a policyholder or certificate holder may cancel a policy or certificate for a full refund of the Travel Protection Plan price from the date of purchase of a Travel Protection Plan until at least: (a) Fifteen (15) days following the date of delivery of the Travel Protection Plan's Fulfillment Materials by postal mail; or (b) Ten (10) days following the date of delivery of the Travel Protection Plan's Fulfillment Materials by means other than postal mail.~~ For the purposes of this section, delivery means handing Fulfillment Materials to the policyholder or certificate holder or sending Fulfillment Materials by postal mail or electronic means to the policyholder or certificate holder. *[Stricken language is not relevant to this standard.]*¶

¶

**STANDARD
POLICYHOLDER SERVICE**

Standard 2 The policy documents disclosed whether the travel insurance was primary or secondary to other coverage.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

___ Applicable statutes, rules and regulations

___ All applications

Others Reviewed

___ _____
___ _____

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Examiners should request documentation from the travel insurer or Limited Lines Travel Insurance Producer that is sufficient to demonstrate that the policy documents state whether the coverage provided is primary or secondary to other coverage.

Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection C Marketing (4):¶

(4) The company shall disclose in the policy documentation whether the Travel Insurance is primary or secondary to other coverage. ¶

Deleted: ~~Unfair Trade Practices Act (#880)¶~~

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F. Underwriting and Rating

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD
UNDERWRITING AND RATING**

Standard 1 Minimum data collection standards to ensure proper allocation for payment of premium tax have been established.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ All applications

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Deleted: Citation: Model #632, Section 5 Premium Tax¶

A. A travel insurer shall pay premium tax, as provided in [insert reference to the state's existing premium tax provision] on Travel Insurance premiums paid by any of the following: ¶

(1) An individual primary policyholder who is a resident of this state; ¶

(2) A primary certificate-holder who is a resident of this state who elects coverage under a Group Travel Insurance policy; or ¶

(3) A Blanket Travel Insurance policyholder that is a resident in, or has its principal place of business or the principal place of business of an affiliate or subsidiary that has purchased Blanket Travel Insurance in this state for eligible blanket group members, subject to any apportionment rules which apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions. ¶

B. A travel insurer shall: ¶

(1) Document the state of residence or principal place of business of the policyholder or certificateholder, as required in Section 5A; and, ¶

(2) Report as premium only the amount allocable to Travel Insurance and not any amounts received for Travel Assistance Services or Cancellation Fee Waivers. ¶

G. Claims

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

STANDARD CLAIMS

Standard 1 The policies issued contain benefits for which a claim and claim payment could have been made.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- ___ Applicable statutes, rules and regulations
- ___ Review policy forms and endorsements
- ___ Claim files
- ___ Claim complaint records
- ___ Claim procedure/underwriting manuals

NAIC Model References

Travel Insurance Model Act (#632)

Unfair Trade Practices Act (#880)

Unfair Property/Casualty Claim Settlement Practices Act (#902)

Review Procedures and Criteria

To determine compliance with this requirement, examiners will (i) review a sample set of policies to confirm that benefits are being offered under the policies issued and a payment for a claim could have been made; **and** (ii) review a sample of denied claims to confirm that the denials were appropriate based on the policy language.

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Deleted: Citation: Model #632, Section 7 – Sales Practices, Subsection B:¶

B. Illusory Travel Insurance. Offering or selling a Travel Insurance policy that could never result in payment of any claims for any insured under the policy is an unfair trade practice under [insert reference to NAIC model Unfair Trade Practices Act (#880)]. ¶

Commented [A11]: Inadvertently omitted reference to this model in the earlier draft.

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Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination

IMPORTANT NOTE:

The standards set forth in this chapter are based on established procedures and/or NAIC models, not on the laws and regulations of any specific jurisdiction. This handbook is a guide to assist examiners in the examination process. Since it is based on NAIC models, use of the handbook should be adapted to reflect each state's own laws and regulations with appropriate consideration for any bulletins, audit procedures, examination scope and the priorities of examination. Further important information on this and how to use this handbook is included in Chapter 1—Introduction.

This chapter provides a format for conducting travel insurance company examinations. Procedures for conducting property/casualty insurance company examinations and other types of specialized examinations—such as third-party administrators and surplus lines brokers—may be found in separate chapters.

The examination of travel insurance operations may involve any review of one or a combination of the following business areas:

- A. Operations/Management
- B. Complaint Handling
- C. Marketing and Sales
- D. Producer Licensing
- E. Policyholder Service
- F. Underwriting and Rating
- G. Claims

When conducting an examination that reviews these areas, there are essential tests that should be completed. The tests are applied to determine if the company is meeting standards. Some standards may not be applicable to all jurisdictions. The standards may suggest other areas of review that may be appropriate on an individual state basis.

C. Marketing and Sales

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

1. Tests and Standards

The marketing and sales review includes, but is not limited to, the following standards addressing various aspects of the marketing and sales function. The sequence of the standards listed here does not indicate priority of the standard.

DRAFT

STANDARDS MARKETING AND SALES

Standard 1 Ensure the advertising and/or sales materials being utilized by the limited lines travel insurance producer and travel insurer (i) provide the information required by Section 4(C) of the model law [or state equivalent], (ii) are consistent with the travel protection plan being offered, (iii) are not deceptive or misleading, and (iv) otherwise comply with state law.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ The travel insurer's approved brochures or other written materials used in offering or disseminating travel insurance to prospective purchasers.
- _____ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- _____ Producers' own advertising and sales materials, including travel retailers under the direction of a limited lines travel insurance producer

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request and review specimen or actual copies of either (i) sampled, (ii) specifically identified and selected, or (iii) all of the brochures or other written materials that are made available to prospective purchasers from the travel insurer or limited lines travel insurance producer as deemed appropriate or necessary by the examiner(s). If the examiner is unable to obtain the requested information from the travel insurer or the limited lines travel insurance producer, the examiner may request the information directly from the travel retailer.

Review specimen or actual copies of all of the brochures or other written materials in conjunction with the appropriate policy forms, endorsements, policies, rate filings, and certificates of insurance.

Materials should not:

- Misrepresent policy benefits, advantages or conditions by failing to disclose limitations, exclusions or reductions, or use terms or expressions that are misleading or ambiguous;
- Make false, deceptive or misleading statements or representations with respect to any person, company or organization

Materials should:

- Clearly disclose name and address of insurer;
- If using a trade name, disclose the name of the insurer, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer, or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy;

- Clearly describe the type of policy being advertised;
- Indicate that the travel protection plan being marketed includes insurance;
- Comply with applicable statutes, rules and regulations;

Determine if the travel insurer approves producer sales materials and advertising.

DRAFT

STANDARDS
MARKETING AND SALES

Standard 2 The disclosures combinations of travel insurance, non-insurance travel assistance services, and cancellation fee waivers are compliant with applicable statutes, rules, and regulations.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ Policy forms and fulfillment materials are accurately represented in advertising and sales materials
- _____ Producers' own advertising and sales materials and travel retailers acting under the direction of a Limited lines travel insurance producer

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request information from the travel insurer or limited lines travel insurance producer that is sufficient to determine compliance with this standard. If the examiner is unable to obtain the information from the travel insurer or the limited lines travel insurance producer, the examiner may request the information directly from the travel retailer.

**STANDARDS
MARKETING AND SALES**

Standard 3 The limited lines travel insurance producer has established and maintains a register of each travel retailer that offers travel insurance on the producer's behalf.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

DRAFT

STANDARDS
MARKETING AND SALES

Standard 4 The limited lines travel insurance producer has documentation sufficient to demonstrate compliance that the travel retailers (acting under the limited lines travel insurance producer's license) comply with 18 USC § 1033.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

DRAFT

STANDARDS
MARKETING AND SALES

Standard 5 Determine that consumers were provided with information and an opportunity to learn more about the pre-existing condition exclusions (i) at any time prior to the purchase and (ii) in the fulfillment materials.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Policy form, fulfillment materials, advertising/sales materials, and disclosures

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Determine that information about pre-existing condition exclusions is provided prior to the time of purchase, including whether the purchaser of travel insurance (i) has the ability to waive the pre-existing condition exclusion, (ii) under what circumstances it can be waived; and (iii) the purchaser of travel insurance has been advised that the coverage for pre-existing conditions can be purchased, if applicable.

Determine that the fulfillment materials provide information about pre-existing condition exclusions

Determine that the policies or certificates and fulfillment materials clearly define pre-existing conditions as intended in the exclusions

STANDARDS
MARKETING AND SALES

Standard 6 Determine that descriptions of the following are provided to the purchasers of travel insurance: (i) material or actual terms of the insurance coverage, (ii) process for filing a claim, (iii) review or cancellation process for the travel insurance policy, and (iv) the identity and contact information of the travel insurer and limited lines travel insurance producer.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request information from the travel insurer or limited lines travel insurance producer that is sufficient to determine compliance with this standard. If the examiner is unable to obtain the information from the travel insurer or the limited lines travel insurance producer, the examiner may request the information directly from the travel retailer.

STANDARDS
MARKETING AND SALES

Standard 7 The limited lines travel insurance producer has an adequate training program in place, containing instructions on the types of insurance offered, ethical sales practices, and required consumer disclosures, that is required of each employee and authorized representative of the travel retailer whose duties shall include offering and disseminating travel insurance.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ Limited lines travel insurance producer's policies and procedures, including the standards for product training
- _____ Limited lines travel insurance producer's instruction/training files and training materials for travel retailer employees and authorized representatives offering or disseminating travel insurance.

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Review policies and procedures to ensure that the limited lines travel insurance producer has adequate procedures in place to provide instruction and training that is appropriate for and consistent with the type(s) of travel insurance being offered. Review the limited lines travel insurance producer's procedures used to inform travel retailers of the regulated entity's standards for travel insurance product training and of applicable state statutes, rules or regulations regarding the solicitation and sale of travel insurance products.

Determine that the limited lines travel insurance producer has adequate procedures in place to verify that the employees and authorized representatives of a travel retailer have completed necessary training, as required by applicable state statutes, rules and regulations, before allowing the employees and authorized representatives to sell travel insurance for that insurer.

Contact other regulators that may have conducted a recent review of the training standards.

Determine if the training materials are appropriate and accurately reflect the coverage provided by the travel insurance product.

Review regulated entity's records to determine if, when and how training occurred prior to the employees or authorized representatives of a travel retailer's recommendation of a travel insurance product.

STANDARDS
MARKETING AND SALES

Standard 8 The Limited lines travel insurance producer has designated a “Designated Responsible Producer.”

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

DRAFT

**STANDARD
MARKETING AND SALES**

Standard 9 Sales practices do not include “negative option or opt out.”

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ Sales and marketing

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Review a sampling of marketing materials and policies to confirm that customers were not offered or sold a policy through negative option or opt out.

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**STANDARDS
MARKETING AND SALES**

Standard 12 Blanket coverage is not marketed or described as “free” coverage.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Review the use of the words/phrases “free,” “no cost,” “without cost,” “no additional cost,” “at no extra cost” or words/phrases of similar import. Such words/phrases should not be used with respect to any benefit or service being made available with a policy, unless true.

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**STANDARD
MARKETING AND SALES**

Standard 13 If the aggregator’s website provides a short summary of the coverage, determine that the consumer has access to the full provisions of the policy by electronic means.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

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D. Producer Licensing

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

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**STANDARD
PRODUCER LICENSING**

Standard 1 Determine that the travel insurer or limited lines travel insurance producer has provided the information required in Section 4(B)(1) [or state equivalent] to the purchasers of travel insurance.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)
Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Determine if the requested coverage is issued.

Examiners should request proof from the travel insurer or limited lines travel insurance producer sufficient to demonstrate that the actual information was provided. If the examiner is unable to obtain proof from the travel insurer or the limited lines travel insurance producer, the examiner may request the information directly from the travel retailer.

E. Policyholder Service

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

**STANDARD
POLICYHOLDER SERVICE**

Standard 1 Fulfillment materials were provided to the policyholder or certificate holder as required.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ All applications

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Unfair Trade Practices Act (#880)

Review Procedures and Criteria

Examiners should request documentation from the travel insurer or limited lines travel insurance producer that is sufficient to demonstrate that the fulfillment documents were provided to the purchasers of travel insurance.

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**STANDARD
POLICYHOLDER SERVICE**

Standard 2 The policy documents disclosed whether the travel insurance was primary or secondary to other coverage.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ All applications

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

Examiners should request documentation from the travel insurer or limited lines travel insurance producer that is sufficient to demonstrate that the policy documents state whether the coverage provided is primary or secondary to other coverage.

F. Underwriting and Rating

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

**STANDARD
UNDERWRITING AND RATING**

Standard 1 Minimum data collection standards to ensure proper allocation for payment of premium tax have been established.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

_____ Applicable statutes, rules and regulations

_____ All applications

Others Reviewed

NAIC Model References

Travel Insurance Model Act (#632)

Review Procedures and Criteria

DRAFT

G. Claims

Use the standards for this business area that are listed in Chapter 20—General Examination Standards, Chapter 21—Conducting the Property and Casualty Examination, and the standards set forth below.

DRAFT

**STANDARD
CLAIMS**

Standard 1 The policies issued contain benefits for which a claim and claim payment could have been made.

Apply to: All property and casualty travel insurance products

Priority: Essential

Documents to be Reviewed

- _____ Applicable statutes, rules and regulations
- _____ Review policy forms and endorsements
- _____ Claim files
- _____ Claim complaint records
- _____ Claim procedure/underwriting manuals

NAIC Model References

- Travel Insurance Model Act (#632)
- Unfair Trade Practices Act (#880)
- Unfair Property/Casualty Claim Settlement Practices Act (#902)

Review Procedures and Criteria

To determine compliance with this requirement, examiners will (i) review a sample set of policies to confirm that benefits are being offered under the policies issued and a payment for a claim could have been made; and (ii) review a sample of denied claims to confirm that the denials were appropriate based on the policy language.

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SUMMARY OF COMMENTS/CHANGES - 10/3/2019 (comments follow the tracked changes version)

| Page Number | Offeror | Recommendation/requested change | Drafters' Comment |
|---------------------------------------------|-----------------|------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| pp. 2-5 | Virginia | Delete these pages | No special standards were established for these items |
| pp. 7, 9, 10-14, 16-19, 21, 23, 24, 26, 28, | Virginia | Delete the excerpts from the travel insurance model | The excerpts were included only to guide the discussion and evaluation of the proposed exam standards |
| p. 7 | APCIA | Delete the word "all" | The language was modified to provide regulators with options and discretion regarding the scope of the request and review of these materials |
| p. 8 | APCIA | Delete the words "in the conduct of travel insurer or Limited Lines Travel Insurance Producer" | Change was made |
| p. 8 | APCIA | Replace the word "is" with "includes" – second to the last bullet) | Change was made |
| p. 10, 11, 14, 16, 21, | Virginia | Strike reference to the State Licensing Handbook | After further evaluation, this reference does not appear to be relevant |
| p. 14 | Nebraska | Combine two bullets that were similar into one | Change was made |
| p. 15 | Nebraska | Modify the last item in the list of Review Procedures and Criteria | Change was made |
| p. 14, 15 | UStiA; APCIA | Delete the words "product specific" and "specific product(s)" | Changes were made to accommodate this suggestion |
| p. 24 | Virginia | Deleted reference to model #880 | Reference deleted since the standard is unique to the travel insurance model act |
| p. 28 | Virginia | Added reference to model #902 | Reference to this model inadvertently omitted |
| General | Virginia | Non-substantive edits were made for grammatical accuracy | Example, p.9 – deleted an extraneous word ("the") |

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From: Vandevoorde, Reva <Reva.Vandevoorde@nebraska.gov>

Sent: Friday, September 20, 2019 10:24 AM

To: Wallace, Petra <PWallace@naic.org>

Subject: MARKET CONDUCT EXAMINATION STANDARDS (D) WORKING GROUP - Chapter 21A Conducting the Property and Casualty Travel Insurance Examination

I have a couple of comments on the above document.

On page 14, under Documents to be reviewed, the last two items are too similar and should be combined by changing to: Limited Lines Travel Insurance Producer's instruction/training files and training materials for travel retailer employees and authorized representatives offering or disseminating travel insurance.

On page 15, the last sentence change "retailer recommend a" to "retailer's recommendation of".

Reva M. Vandevoorde, CIE, MCM, CPCU, ALMI

Market Conduct Administrator

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September 27, 2019

Commissioner Bruce R. Rame
Chair, NAIC Market Conduct Examination Standards (D) Working Group
Nebraska Department of Insurance
1135 M Street
Lincoln, NE 68508-3639

Dear Chair Rame:

On behalf of the U.S. Travel Insurance Association (“USTiA”), thank you for the opportunity to provide comments on the National Association of Insurance Commissioners’ (“NAIC”) Market Conduct Examination Standards (D) Working Group (“Working Group”) draft Travel Insurance Examination Standards (“Examination Standards”) dated August 26, 2019,¹ to accompany the new travel insurance model law (“Model Law”).² The USTiA appreciates the Working Group’s willingness to incorporate our suggestions into the Examination Standards.

The USTiA remains concerned about one aspect of the review procedures and criteria under the Marketing and Sales Examination Standard 7 and believes the Working Group should amend it to be consistent with the Model Law.

Standard 7: The Limited Lines Travel Insurance Producer has an adequate training program in place, containing instructions on the types of insurance offered, ethical sales practices, and required consumer disclosures, that is required of each employee and authorized representative of the Travel Retailer whose duties shall including offering and disseminating travel insurance.

The USTiA appreciates the Working Group’s changes to Standard 7. However, the review procedures and criteria language under Standard 7 goes beyond the Model Law.³ *The USTiA requests that the Working Group remove the words “specific product(s) or” from the first paragraph of the review procedures and criteria and the words “product-specific” from the fifth paragraph of the review procedures and criteria.*

¹ “Chapter 21A—Conducting the Property and Casualty Travel Insurance Examination,” NAIC (draft August 26, 2019), available at <https://content.naic.org/sites/default/files/inline-files/Travel%20Ins%20Exam%20Stds%208-26-19.pdf> [hereinafter “Examination Standards”].

² Travel Insurance Model Act (#632), NAIC, available at <https://www.naic.org/store/free/MDL-632.pdf> [hereinafter “Model Law”].

³ Examination Standards at 15.

UStiA's suggested language avoids any confusion that would arise from the language in the current draft that continues to suggest that every insurer come up with narrowly tailored training for each and every product that is sold. The Model Law intends to require travel insurance-specific training, not to require an insurer to train Travel Retailers on every conceivable iteration of their products that are offered. A travel insurance training module that provides instruction as to the type of insurance offered (travel), ethical sales practices, and required disclosures are intended to educate consumers as stated. Specific details about specific products are not normally included because of the retailer's limited role relative to that of the Limited Lines Travel Insurance Producer.⁴

The UStiA hopes this information is helpful and aids in the Working Group's deliberations. The UStiA looks forward to the opportunity to further discuss these comments with you on the next Working Group call. In the meantime, please contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "John P. Fielding". The signature is fluid and cursive, with a long horizontal stroke at the end.

John P. Fielding
Counsel, U.S. Travel Insurance Association
cc: Market Conduct Examination Standards (D) Working Group Members

⁴ The UStiA also notes that Travel Retailers, while permitted to offer and disseminate products, are not permitted to provide advice about insurance, so providing the Travel Retailer with general information about the product, ethical sales practices, etc. is also preferable to avoid implying that Travel Retailers can engage in acts only permitted for Limited Lines Travel Insurance Producers.



September 30, 2019

Director Bruce R. Ramage, Chair
Russell Hamblen, Vice Chair
Market Conduct Examination Standards (D) Working Group
NAIC Central Office
1100 Walnut, Suite 1500
Kansas City, MO 64106-2197

Attn: Petra Wallace, Market Regulation Specialist

VIA Electronic Mail: pwallace@naic.org

RE: Revised Draft Travel Insurance Exam Standards

Dear Director Ramage and Mr. Hamblen:

The American Property Casualty Insurance Association (APCIA)¹ welcomes the opportunity to provide feedback on the draft Travel Insurance Exam Standards (Standards) for the Market Regulation Handbook (Handbook). APCIA appreciates the Market Conduct Examination Standards (D) Working Group's (Working Group) consideration of the interested parties' original comments and respectfully provides the following additional amendments for your consideration. While the suggestions are technical in nature, they have important meaning to a consistent interpretation of the Travel Insurance Model Law (Model Law).

Standard 1 – Page 7

The review procedures state that examiners “request and review specimens or actual copies of *all* of the brochures or written materials that are made available to prospective purchasers... (emphasis added).” We recommend deleting “all” because this will result in an incredible amount of material for review. Certainly, all materials must comply with the law; however, a meaningful sample could adequately evidence compliance without unnecessarily creating a burdensome and potentially duplicative review process. Eliminating “all” will provide examiners the flexibility to identify the level of review they are comfortable with.

Standard 1 – Page 9

The following suggestion is to add clarity: “Materials should not: . . . Make false, deceptive or misleading statements or representations with respect to any person, company or organization ~~in the conduct of travel or Limited Lines Travel Insurance Producer.~~ . . .”

Standard 1 – Page 9

Importantly, “is” should be replaced with “includes” in the following review criteria: “materials should . . . indicate that the travel plan being marketed is insurance.” Travel protection plans, by definition, contain insurance, services and waivers, so it is not all insurance. We believe this verb change is an important

¹ Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, protecting families, communities, and businesses in the U.S. and across the globe.

clarification. Nevertheless, we understand the intent is to note that the insurance department does not have jurisdiction to review non-insurance products and would support additional commentary to reflect this principle.

Standard 7 – Page 15 and 16

APCIA appreciates the Working Group’s efforts to avoid confusion as to the review procedures for training obligations. Section 4(B)(6) requires travel insurance-specific training, but not training on every conceivable iteration of the insurers products that are offered. Standard 7 captures this concept, but in our assessment, there remains some potential for a misunderstanding in the review procedure and criteria. Without clarity a requirement to train on every iteration of a product could cause harm by fostering opportunities for confusion and misinformation.

We suggest the following changes:

Pg. 15 – “Review policies and procedures to ensure that the Limited Lines Travel Insurance Producer has adequate procedures in place to provide instruction and training, including product-specific training that is appropriate for the ~~specific product(s) or~~ types of insurance being offered.”

Page 16 – “Determine if the insurer ~~product-specific~~ training materials are appropriate and accurately reflect the coverage provided by the travel insurance product.

Thank you again for your consideration of industry feedback and the opportunity for additional commentary. We are pleased to discuss any of these recommendations in further detail, should you have questions or concerns.

Respectfully submitted,

Angela Gleason and Lisa Brown