



November 10, 2023

Commissioner Trinidad Navarro
Chair, NAIC AntiFraud (D) Task Force

Via email: GWelker@naic.org; martin.swanson@nebraska.gov;

Re: Amendments to Model 880 Unfair Trade Practices Act – Antifraud Task Force Exposure

Dear Commissioner Navarro,

AHIP and the American Council of Life Insurers (ACLI) appreciate the opportunity to provide comments on the Anti-fraud (D) Task Force (“Task Force”) exposure of the sixth draft of proposed amendments to NAIC Model Law 880, The Unfair Trade Practices Act (“NAIC Model Law 880”). We share the Task Force’s goal of ensuring that health insurance products, particularly health-related supplemental excepted benefits, are advertised, marketed, and sold properly. Our member companies are committed to ensuring producers with whom they work are properly vetted, trained, and managed to prevent improper behavior. We appreciate the opportunity to work with you to find the most effective way to address improper activity and ensure consumer protection in the market.

We are supportive of the NAIC’s attempt to define and include “health insurance lead generators” in NAIC Model Law 880 and give state regulators clearer regulatory authority over their actions. We also appreciate that the model changes that have been moved to the Task Force from the Improper Marketing of Health Insurance Working Group limit the scope of changes to lead generators that are involved in identification of sales leads for health insurance products. We’d like to share our thoughts on a proposed change that was recently introduced to the Task Force related to a definition of “recording” and the inclusion of complete recordings in the “Failure to Maintain Marketing and Performance Records” portion of NAIC Model Law 880.

We agree that a definition of “recording” is important since recordings are increasingly used to monitor performance quality and train new sales personnel. We also agree that when used, recordings should be complete and not only a recording of the final verification of the sale. We seek clarification in the definition that recording of sales and verification calls does not constitute a mandate but is instead intended to apply only in states that have existing recording requirements. Universal mandatory call recording and long-term storage would be difficult for smaller agencies and independent agents. In addition to the cost and complexity of recording systems that deal

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with transferred calls, there are also privacy safeguards that could be more difficult for some small agents and brokers to meet. A recording mandate might have the unintended consequence of reducing the number of agents and brokers able to serve as agents and brokers at a time when we are seeing an aging agent/broker workforce and we are seeking new ways to include diverse communities in the agent and broker supply chain. We therefore request the following modifications to the language for clarification:

Section 2 (new L):

L. "Recording" means recording of **all** sales and verification calls, including **all** virtual technology calls, in their entirety, used in the marketing of insurance."

Section 4 (J):

J. Failure to Maintain Marketing and Performance Records. Failure to maintain its books, records, documents, and other business records, including any recordings when applicable, in such an order that data regarding ...

Thank you again for the opportunity to offer our comments. We look forward to further discussion and collaboration on this important topic and stand ready to answer any questions you may have.

Sincerely,



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American Council of Life Insurers



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