



June 28, 2019

Commissioner Glen Mulready and Ms. Melinda Domzalski-Hansen  
Accident and Sickness Minimum Standards Subgroup  
National Association of Insurance Commissioners  
444 North Capitol Street NW  
Suite 700  
Washington, DC 20001  
Attention: Jolie Matthews, J.D., Senior Health and Life Policy Counsel

Dear Commissioner Mulready and Ms. Domzalski-Hansen,

Thank you for the opportunity to provide public comments on Model 171, the model regulation to the Supplementary and Short-Term Health Insurance Minimum Standards Model Act. We look forward to working with you on this proposed model regulation which provides states with more detail in implementing Model 170. As a minimum standards model, it will not answer all questions for states but will provide a guidepost in regulating these products.

The Coalition to Preserve Health Plan Choices (HPC) is a group of agents, brokers, insurers, and others seeking to protect the ability of consumers to make their own insurance choices. We support policies that educate consumers on their coverage options and promote high quality health outcomes through transparency in medical costs, medical quality, and the financing mechanism used to pay for medical care. As a result, these comments reflect the positions of HPC, but may not necessarily reflect the individual views of all members.

As you know, the NAIC through Regulatory Framework Task Force had initially charted a path of passing both Model 170 and Model 171 at the same time. While a good approach, there was strong interest from both the states and from consumer groups to move forward quickly with Model 170. Now that Model 170 has been adopted by the NAIC, the Accident and Sickness working group's decision to stick with the framework in Model 170 in crafting Model 171 is an important step forward. The issues contained in this model are equally important, and re-litigating issues already decided in Model 170 will significantly delay the process.

It is also important to note that in adopting the staff revisions to Model 171 – which were based in part on previous work by the committee – the group laid out an important starting point. As usual, Jolie Matthews did excellent work in putting together the draft. The staff draft also largely reflects the changes that were accepted by the NAIC when it adopted Model 170.

The proposed work plan – to go through the model line-by-line – is a good one. Make no mistake that it will be an arduous but collaborative process, and it is ultimately the only way to understand the specific issues and to build consensus. One of the more difficult tasks, as highlighted on the call, will be to ensure that there is an understanding of the differing minimum standards based on each of the products

represented by Model 171. This process will be particularly important for short-term limited duration insurance (STLDI), which has been the subject of a great deal of public attention.

### **Hospital and Other Fixed Indemnity Coverage, Limited Benefit Plans**

Structurally, fixed indemnity plans are different than short-term limited duration plans – both legally and in their purpose, so it makes sense to separate them from STLDI. As excepted benefits under HIPAA, they are excluded from federal regulation and states stand as the exclusive regulator of these products. The current definitions inside the model recognize this distinction. The plans provide consumers with first dollar coverage that can be used to supplement costs not covered by other plans. The plans are not subject to coordination of benefit laws, so consumers will receive coverage regardless of other plan responsibilities.

It is also important to note that with the introduction of new final HRA rules, employees of firms may find that their employer is providing access to an HRA account that will allow the purchase of the products. Fixed indemnity coverage is not a replacement for a comprehensive health insurance plan, but it can provide consumers with increased access to needed medical care.

### **Short Term Limited Duration Coverage**

Federally, the Trump administration has issued new regulations allowing states the flexibility to make their own decisions on STLDI. As a result, member states of the NAIC have taken a variety of positions on STLDI. Some states have banned the sale of the product. Other states have changed their existing legal structure to ensure availability of the plans. Most states have landed somewhere in the middle and are looking to the NAIC for guidance. Both Ms. Domzalski-Hansen's and Commissioner Mulready's experience on this issue will provide valuable insight. Ms. Domzalski-Hansen has long experience in various regulatory aspects of the health field while Commissioner Mulready actively sold the products in the private market.

We believe STLDI products have their place in the market. There is no question that there are some illegitimate companies scamming consumers by selling substandard products as ACA-compliant products. Overly restrictive STLDI rules will only exacerbate this problem. In the end, we believe the most important test will be whether consumers have access to the products that meet their needs and their budget, while fully understanding the product they purchased. Driving all insurers out of the STLDI market or making it too difficult for consumers to purchase STLDI products allows the scammers to proliferate. Setting appropriate ground rules for the legitimate industry and ensuring STLDI purchasers receive upfront information about these plans can strike a balance of upholding consumer choice and consumer protection alike.

### **Other Coverages**

This model also covers a number of other health insurance products including dental, vision, disability and others. Consumers need access to these products. Many employers do not offer these insurance products as part of their employer plan making the individual purchase even more important. We urge the committee to provide maximum flexibility to insurers in designing these products to allow them to design based on consumer need.

We look forward to working with the committee on specific language. Again, thank you for the opportunity to provide general comments on Model 171.

Sincerely

A handwritten signature in black ink, appearing to read "JPW", followed by a long horizontal flourish.

J.P. Wieske  
Vice President  
State Affairs