HEALTH POLICY RATE AND FORM FILING MODEL [ACT] [REGULATION]

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Section 1. Short Title

This [Act][regulation] may be known as the Health Policy Rate and Form Filing [Act][Regulation].

[Section 2. Purpose

The purpose of this Act is to provide a uniform standard for processing of accident and health carrier policy rate and form filings.]

Drafting Note: This option should be used if the state is adopting this model as a statute.

Drafting Note: If the state requires approval of marketing material, a reference should be added in this section.

[Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner under [cite sections of state law establishing the commissioner's authority to issue regulations]].

Drafting Note: If the state determines it has the authority to adopt the provisions of this model by regulation, this option should be used.

Section 3. Definitions

A. "Accident and health carrier" means an entity licensed to offer accident and health insurance in this state, or subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, or any insurer that provides policies of supplemental, disability income, Medicare supplement or long term care insurance.

B. "Commissioner" means the insurance commissioner of this state.

Drafting Note: Where the word "commissioner" appears in this regulation, the appropriate designation for the chief insurance supervisory official of the state should be substituted.

C. "Health care services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease.

D. "Policy form" means any policy, contract, certificate, rider, endorsement, evidence of coverage or any amendments thereto that are required by law to be filed with the commissioner for approval prior to their sale or issuance for sale in this state.

E. "Supplemental documents" means documents required to be filed in support of policy forms that may or may not be subject to approval.

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F. "Type of insurance" means those coverages listed on the NAIC Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix or any successor document under the headings "Continuing Care Retirement Communities," "Health," "Long Term Care" and "Medicare Supplement."

Section 4. Applicability and Scope

This [Act] [Regulation] shall apply to any individual or group policy form issued by an accident and health carrier required to be filed with the commissioner for review or approval.

Section 5. Due Diligence

All parties in the filing process shall act in good faith and with due diligence in performance of their duties pursuant to this [Act][regulation].

Section 6. Review Procedures

A. Subject to the provisions of this section, no policy form subject to this [Act] [regulation] shall be delivered or issued for delivery in this state, unless it has been filed with and approved by the commissioner.

B. (1) The commissioner shall create a document containing filing requirements for each type of insurance. The document shall contain a list of all product filing requirements contained in the statutes, regulations and published bulletins in this state having the force and effect of law, with appropriate citations to each, including the citation for the type of insurance that is required to be filed, and shall be available on the Insurance Department Internet site.

(2) The commissioner shall update the document no less frequently than annually, and within thirty (30) days of any change in law, regulation or bulletin published by the commissioner having the force and effect of law in this state requiring its amendment.

C. A filer shall submit a copy of the document with a policy form filing, indicating the location within the policy form or supplemental documents for each requirement contained in the document, and certifying that the policy form meets all requirements of state law.

D. The commissioner shall review and approve, provide notice of deficiencies or disapprove the initial filing within sixty (60) days of receipt. Any notice of deficiencies or disapproval shall be in writing and based only on the specific provisions of applicable statutes, regulations or bulletins published by the commissioner having the force and effect of law in this state and contained in the document created by the commissioner pursuant to Subsection B. The notice of deficiencies or disapproval shall provide the reasons for notice of deficiencies or disapproval and sufficient detail for the filer to bring the policy form into compliance, and shall cite the specific statutes, regulations or bulletins upon which the notice of deficiencies or disapproval is based.

E. A filer may resubmit a policy form that corrects any deficiencies or resubmit a disapproved policy form, and a revised certification, within thirty (30) days of its receipt of the commissioner's notice of deficiencies or disapproval. Any policy form not resubmitted within thirty (30) days of the notice of deficiencies shall be deemed withdrawn. Any disapproved policy form not resubmitted within thirty (30) days is disapproved.

Drafting Note: States should review statutory language with regard to the insurer's right to a hearing upon policy form disapproval to ensure consistent terminology.

F. At the end of the review period, the form is deemed approved if the commissioner has taken no action.

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G. (1) The commissioner shall review the resubmitted filing and certification, and shall approve or disapprove it within thirty (30) days. Notice of deficiencies or disapproval shall be in writing and shall provide a detailed description of the reasons for the disapproval and sufficient detail for the filer to bring the policy form into compliance and shall cite the specific statutes, regulations, or bulletins upon which the disapproval is based. No further extensions of time may be taken unless the filer has introduced new provisions in the resubmission or the filer has materially modified any substantive provisions of the policy form, in which case the commissioner may extend the time for review by an additional thirty (30) days. At the end of the review period, the policy form is deemed approved if the commissioner has taken no action.

(2) (a) Subject to Subparagraph (b) of this paragraph, the commissioner may not disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to Subsection D.

(b) The commissioner may disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to Subsection D if:

(i) The filer has introduced new provisions in the resubmission;

(ii) The filer has materially modified any substantive provisions of the policy form;

(iii) There has been a change in statutes, regulations or published bulletins in this state having the force and effect of law; or

(iv) There has been reviewer error and the written disapproval fails to state a specific provision of applicable statute, regulation or bulletin published by the commissioner having the force and effect of law in this state that is necessary to have the policy form conform to the requirements of law.

H. Notwithstanding any other provision in this section, the commissioner may return a grossly inadequate filing to the filer without triggering any of the time deadlines set forth in this section. For purposes of this subsection, a "grossly inadequate filing" means a filing that fails to provide key information, including state-specific information, regarding a product, policy or rate, or that demonstrates an insufficient understanding of what is required to comply with state statutes or regulations.

OPTIONAL PROVISION

Section 7. Self-Certification Option

A. A filer may elect to self-certify its policy forms pursuant to the requirements of this section and opt out of the review procedures of Section 6 of this [Act] [regulation].

B. (1) A valid self-certification shall be made by the [appropriate company officer] and shall be on a form prescribed by the commissioner certifying that the policy form meets all requirements of state law and that the filer intends to forego the review process.

(2) A filer shall submit a copy of the document created by the commissioner pursuant to Section 6B of this [Act][regulation], with a policy form filing, indicating the location within the policy form for each requirement contained in the document.

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C. (1) If the commissioner determines that there are material errors or omissions in a policy form that has been self-certified, then the commissioner may review and disapprove the policy form. The commissioner shall notify the filer in writing of the reasons for the disapproval. Any disapproval shall be based only on the specific provisions of applicable statutes, regulations or bulletins published by the commissioner having the force and effect of law in this state and contained in the document created by the commissioner pursuant to Section 6B of this [Act][regulation]. The notice shall provide a detailed description of the reasons for disapproval and sufficient detail for the filer to bring the policy form into compliance, and shall cite the specific statutes, regulations, or bulletins upon which the disapproval is based.

(2) If a self-certified filing is disapproved, the commissioner may order the filer to take appropriate actions with respect to existing policyholders.

(3) A filer may correct any deficiencies and resubmit a disapproved policy form within sixty (60) days of its receipt of the commissioner's notice of disapproval. Any disapproved policy form not resubmitted within sixty (60) days shall be deemed withdrawn.

(4) (a) The commissioner shall review the resubmitted filing and may approve or disapprove it within thirty (30) days. Notice of disapproval shall be in writing and shall provide a detailed description of the reasons for the disapproval, specific recommendations for compliance and shall cite the specific statutes, regulations or bulletins upon which the disapproval is based. No further extensions of time may be taken unless the filer has introduced new provisions in the resubmission or the filer has materially modified any substantive provisions of the policy form, in which case the commissioner mayextend the time for review by an additional thirty (30) days. At the end of the review period, the policy form is deemed approved if the commissioner has taken no action.

(b) (i) Except as provided in Item (ii), the commissioner may not disapprove a resubmitted policy form for reasons other than those initially set forth in the original disapproval letter sent pursuant to Paragraph (1) of this subsection.

(ii) The commissioner may disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of disapproval sent pursuant to Paragraph (1) of this subsection if the filer has introduced new provisions in the resubmission or if the filer has materially modified any substantive provisions of the policy form.

D. If the commissioner has made a finding pursuant to Subsection C(1), the self-certification option is no longer available to that filer for a time period to be determined by the commissioner.]

Drafting Note: States that do not want to allow a self-certification option should not adopt this section.

Section 8. Effect of Deemer Provision

Except in cases of a material error or omission in a policy form that has been approved or deemed approved pursuant to the provisions of this [Act][regulation], the commissioner shall not:

A. Retroactively disapprove that filing; or

B. With respect to those policy forms, examine the filer during a routine or targeted market conduct examination for compliance with any later-enacted policy form filing requirements.

Section 9. Effect of Subsequent Law Changes

Unless otherwise required by statute, no rules or regulations issued by the commissioner impacting product filings shall be applicable to existing approved or deemed-approved policy forms except upon policy renewal or anniversary date.

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Section 10. Rate Filings and Marketing Materials

If a rate filing or marketing material is required to be filed or approved by state law for a specific policy form, the time frames for review, approval or disapproval, resubmission, and re-review of those rates or materials shall be the same as those provided for in Sections 6 and 7 of this [Act][regulation] for the review of policy forms.

Section 11. Effective Date

This [Act] [Regulation] shall be effective for health policy forms and rates filed on or after [insert date].

Chronological Summary of Action (all references are to the Proceedings of the NAIC)

2006 Proc. 2nd Quarter 40, 76-82 (adopted).

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This chart is intended to provide readers with additional information to more easily access state statutes, regulations, bulletins or administrative rulings related to the NAIC model. Such guidance provides readers with a starting point from which they may review how each state has addressed the model and the topic being covered. The NAIC Legal Division has reviewed each state's activity in this area and has determined whether the citation most appropriately fits in the Model Adoption column or Related State Activity column based on the definitions listed below. The NAIC's interpretation may or may not be shared by the individual states or by interested readers.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Nor does this state page reflect a determination as to whether a state meets any applicable accreditation standards. Every effort has been made to provide correct and accurate summaries to assist readers in locating useful information. Readers should consult state law for further details and for the most current information.

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KEY:

MODEL ADOPTION: States that have citations identified in this column adopted the most recent version of the NAIC model in a **substantially similar manner**. This requires states to adopt the model in its entirety but does allow for variations in style and format. States that have adopted portions of the current NAIC model will be included in this column with an explanatory note.

RELATED STATE ACTIVITY: Examples of Related State Activity include but are not limited to: older versions of the NAIC model, statutes or regulations addressing the same subject matter, or other administrative guidance such as bulletins and notices. States that have citations identified in this column **only** (and nothing listed in the Model Adoption column) have **not** adopted the most recent version of the NAIC model in a **substantially similar manner.**

NO CURRENT ACTIVITY: No state activity on the topic as of the date of the most recent update. This includes states that have repealed legislation as well as states that have never adopted legislation.

NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Alabama		ALA. CODE § 27-14-8 (all insurance policies and annuity contracts).
Alaska	NO CURRENT ACTIVITY	
American Samoa	NO CURRENT ACTIVITY	
Arizona	NO CURRENT ACTIVITY	
Arkansas		ARK. CODE ANN. §§ 23-79-109 to 23-79-110 (1959/2015).
California	NO CURRENT ACTIVITY	
Colorado		3 COLO. CODE REGS. § 702-4:4-2-11 (1992/2013).
Connecticut	NO CURRENT ACTIVITY	
Delaware	NO CURRENT ACTIVITY	
District of Columbia	NO CURRENT ACTIVITY	
Florida		FLA. ADMIN. CODE ANN. 69O-149.002 to 69O-149.010 (2008/2013); Memorandum 2006-012.
Georgia	NO CURRENT ACTIVITY	
Guam	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
Hawaii	NO CURRENT ACTIVITY	
Idaho	NO CURRENT ACTIVITY	
Illinois		215 ILL. COMP. STAT. 5/143 (1937/2013).
Indiana	NO CURRENT ACTIVITY	
Iowa	NO CURRENT ACTIVITY	
Kansas	KAN. STAT. ANN. § 40-2215 (1965/2008).	
Kentucky	NO CURRENT ACTIVITY	
Louisiana	NO CURRENT ACTIVITY	
Maine	NO CURRENT ACTIVITY	
Maryland	NO CURRENT ACTIVITY	
Massachusetts	NO CURRENT ACTIVITY	
Michigan	NO CURRENT ACTIVITY	
Minnesota	NO CURRENT ACTIVITY	
Mississippi	NO CURRENT ACTIVITY	
Missouri	NO CURRENT ACTIVITY	
Montana	NO CURRENT ACTIVITY	
Nebraska	NO CURRENT ACTIVITY	
Nevada	NO CURRENT ACTIVITY	
New Hampshire	NO CURRENT ACTIVITY	
New Jersey	NO CURRENT ACTIVITY	
New Mexico	NO CURRENT ACTIVITY	
New York	NO CURRENT ACTIVITY	

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NAIC MEMBER	MODEL ADOPTION	RELATED STATE ACTIVITY
North Carolina	NO CURRENT ACTIVITY	
North Dakota	NO CURRENT ACTIVITY	
Northern Marianas	NO CURRENT ACTIVITY	
Ohio	NO CURRENT ACTIVITY	
Oklahoma		OKLA. STAT. tit. 36, §§ 4402 to 4403 (1957).
Oregon	NO CURRENT ACTIVITY	
Pennsylvania		PA NOTICE 2013-03.
Puerto Rico	NO CURRENT ACTIVITY	
Rhode Island		32-1 R.I. CODE R. §§ 17:1 to 17:10 (2013).
South Carolina		S.C. CODE ANN. § 38-71-310 (1976/2001).
South Dakota	S.D. CODIFIED LAWS §§ 58-11-64 J to 58-11-76 (2008).	
Tennessee	NO CURRENT ACTIVITY	
Texas		BULLETIN B-0008-13 (2013).
Utah		BULLETIN 2013-4 (2013).
Vermont	NO CURRENT ACTIVITY	
Virgin Islands	NO CURRENT ACTIVITY	
Virginia	NO CURRENT ACTIVITY	
Washington	NO CURRENT ACTIVITY	
West Virginia	NO CURRENT ACTIVITY	
Wisconsin		BULLETIN 2-28-2013 (2013).
Wyoming	NO CURRENT ACTIVITY	

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