

## FROM THE NAIC CONSUMER REPRESENTATIVES

March 18, 2020

Mr. Don Beatty  
Virginia Office of the Commissioner of Insurance  
c/o National Association of Insurance  
Commissioners  
Hall of States, Suite 701  
444 North Capitol Street, N.W.  
Washington, DC 20001-1509

Ms. Jolie H. Matthews  
Senior Health and Life Policy Counsel  
National Association of Insurance  
Commissioners  
Hall of States, Suite 701  
444 North Capitol Street, N.W.  
Washington, DC 20001-1509

**RE: Consumer Representatives' Recommendations for Changes to NAIC's Health Maintenance Organization Model Act (#430)**

Dear Mr. Beatty and Ms. Matthews:

On behalf of the undersigned consumer representatives to the National Association of Insurance Commissioners (NAIC), we appreciate the opportunity to provide recommendations and comments to the revised draft of the NAIC's Health Maintenance Organization Model Act (#430). We acknowledge the work of the Subgroup to ensure that Model Act #430 is consistent with the Life and Health Insurance Guaranty Association Model Act (#520), and we support many of the provisions in the current draft. That said, Model Act #430 includes explicit consumer protections that we strongly urge the Subgroup to retain: (1) Section 14, Continuation of Benefits and (2) Section 21, Open Enrollment and Replacement Coverage in the Event of Insolvency.

We believe that this approach—of maintaining the current text, alongside clarifying drafting notes—will provide additional clarity for state officials as they update their laws in response to Model Act #520 (while helping ensure that states that do not make changes in response to Model Act #520 maintain important consumer protections).

### Section 14. Continuation of Benefits

The current Continuation of Benefits provisions protect consumers by providing a mechanism so that patients who are in the process of undergoing treatment have continued access to the health care services and providers they need. Rather than delete section 14 entirely, we would recommend that section 14 be retained in its current form, with a drafting note to follow. This will ensure that states that have not adopted Model Act #520 will still retain this important consumer protection.

**Drafting Note: States that have adopted the *Life and Health Insurance Guarantee Association Model Act (#520)*, which was amended in 2017 to make health maintenance organizations members of the guarantee association, may want to adopt alternative continuation of benefits provisions to ensure that enrollees' claims are paid during the transition period and/or while waiting for the commencement of alternative coverage.**

### Section 21. Open Enrollment and Replacement Coverage in the Event of Insolvency

We also have concerns with the elimination of this section, which grants consumers a 30-day enrollment period to transition to other coverage. While the Affordable Care Act provides consumers with a 60-day special enrollment period in the individual market following the loss of minimum essential coverage, Section 21 lays out much more specific provisions that govern circumstances related to insolvency

coverage, including coverage and rate protections that enrollees may rely on. Because these provisions offer specific protections for enrollees whose coverage becomes insolvent, we would urge the Subgroup to retain these provisions with updates as needed.

We look forward to working with the Subgroup to improve the Model Act for consumers. Thank you for your consideration.

Sincerely,

Anna Schwamlein Howard  
Bonnie Burns  
Katie Keith  
Ben Chandhok  
Silvia Yee  
Andrew Sperling  
Laura Colbert  
Justin Giovannelli  
Sarah Lueck  
Amy Killelea  
Caitlin Westerson  
Lucy Culp  
Wayne Turner  
Deborah Darcy