

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
202 429 3000 main  
www.steptoe.com

October 31, 2019

Don Beatty  
Chair, NAIC Pet Insurance (C) Working Group  
Virginia Department of Insurance  
1300 E Main Street  
Richmond, VA 23219

Dear Chair Beatty:

On behalf of the North American Pet Health Insurance Association (“NAPHIA”), thank you for the opportunity to provide comments on the National Association of Insurance Commissioners’ (“NAIC”) Pet Insurance (C) Working Group’s draft model law (“WG Draft”).<sup>1</sup> NAPHIA strongly believes that the development and consistent implementation of a model law that establishes a uniform framework for the sale of pet insurance in each state is critical. A consistent understanding among regulators and industry stakeholders can assist in ensuring appropriate consumer protections are in place across the country.

By way of background, NAPHIA is comprised of pet health insurance organizations from across the United States and Canada. NAPHIA members provide more than 99 percent of pet insurance policies in force in the United States. As a coalition, NAPHIA works to advance and grow the pet insurance industry and marketplace through research, data sharing, benchmarking initiatives, advocacy efforts, strategic partnerships, resource sharing, and the dissemination of information to collaboratively address challenges and opportunities.

NAPHIA appreciates the Working Group posting the draft in order to begin substantive discussions. The WG Draft appears to be based largely on California’s pet insurance law.<sup>2</sup> The WG Draft also contains provisions that are not in the current California law, including a licensing section that appears to be based on the California travel insurance producer licensing law (which is based on the NAIC’s travel insurance producer licensing framework),<sup>3</sup> and sections on

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<sup>1</sup> See Pet Insurance Model Act Discussion Draft for Pet Insurance (C) Working Group, NAIC (Oct. 2, 2019), *available at* [https://content.naic.org/sites/default/files/call\\_materials/NAIC%20Pet%20Insurance%20Model%20Law%20DiscussionDraft20191002.docx](https://content.naic.org/sites/default/files/call_materials/NAIC%20Pet%20Insurance%20Model%20Law%20DiscussionDraft20191002.docx).

<sup>2</sup> See CAL. INS. CODE §§ 12880 – 12880.5.

<sup>3</sup> See CAL. INS. CODE §§ 1752 – 1757.

preexisting conditions and reimbursement benefits that appear to be based on draft legislative language from a bill that failed in California in 2010.<sup>4</sup>

NAPHIA has drafted a model law (“NAPHIA Draft”) that we believe provides a comprehensive and appropriate governance structure for pet insurance.<sup>5</sup> The NAPHIA Draft, like the WG Draft, is based on current California law and incorporates the NAIC’s travel insurance producer licensing framework in its approach to pet producer licensing.<sup>6</sup> The NAPHIA Draft differs from the WG Draft in that: (1) it does not include the preexisting condition and reimbursement benefits provisions that were in early versions of the failed California legislation (although the NAPHIA Draft does require appropriate disclosure of these and other policy conditions); (2) it does not use California-specific terms and provisions, except in certain sections, such as the disclosure section, where California’s current law is comprehensive; and (3) instead of relying completely on California’s statutory language, which is not standard in other states and differs from NAIC models, the NAPHIA Draft incorporates and adapts language from NAIC models that enjoy widespread adoption across the country. An annotated version of the NAPHIA Draft, noting the origins of the language used in each provision, is attached as Appendix A.

## **COMMENTS ON WG DRAFT SECTIONS 1 – 4**

Although we urge you to use the industry-agreed upon NAPHIA Draft as the base document for your discussions going forward, we appreciate the opportunity to provide comments on Sections 1 through 4 of the WG Draft, as requested. Below are our comments on these sections.

### **Section 1: Short Title**

*This Act shall be known as the “Pet Insurance Act.”*

<p><b>NAPHIA Comment:</b> Although this differs from the NAPHIA Draft, we have no objections to this section.</p>
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### **Section 2: Scope and Purpose**

*A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Pet Insurance may be sold in this state.*

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<sup>4</sup> See 2010 CA AB 2411. The preexisting conditions and reimbursement benefits provisions were in early drafts of the legislation, but were deleted from the bill before it was passed by the California legislature. The entire bill was ultimately vetoed by California Governor Arnold Schwarzenegger on September 23, 2010.

<sup>5</sup> Association members worked together to develop the NAPHIA Draft, which has been adopted by the NAPHIA Board and represents the majority opinion. To the extent views differ from the majority of the industry on one or more provisions, individual companies may provide their own comments to you.

<sup>6</sup> See NAIC Travel Insurance Model Act (MDL 632) § 4, which has been adopted in 8 states and is based on the NAIC’s Uniform Licensing Standard (“ULS”) 34, *available at* [https://www.naic.org/documents/committees\\_ex\\_pltf\\_producer\\_licensing\\_ul\\_standards\\_revised.pdf](https://www.naic.org/documents/committees_ex_pltf_producer_licensing_ul_standards_revised.pdf). ULS 34 has been adopted by 46 states.

*B. The requirements of this Act shall apply to Pet Insurance policies that are issued to covers any resident of this state, and is sold, solicited, negotiated, or offered in this state, and policies and certificates are delivered or issued for delivery in this state.*

*C. All other applicable provisions of this state’s insurance laws shall continue to apply to Pet Insurance except that the specific provisions of this Act shall supersede any general provisions of law that would otherwise be applicable to Pet Insurance.*

**NAPHIA Comment:** Although this differs from the NAPHIA Draft, we have no objections to this section, except fixing the typo in Subsection (b).

### **Section 3: Definitions**

~~*If a pet insurer uses any of the terms in this Act in a policy of pet insurance, the insurer shall use the definition of each of those terms as set forth herein and include the definition of the term(s) in the policy. The pet insurer shall also make the definition available through a link on the main page of the insurer’s Internet Web site.*~~

~~*Nothing in this Act shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.*~~

**NAPHIA Comment:** NAPHIA proposes moving these two paragraphs to § 4 (Disclosures) because these provisions are more appropriate in the substantive disclosure section. Note that § 4(G) already includes a requirement that this information be available through a link on the main page of the insurer’s website. This requirement appears in the Consumer Disclosures section of the NAPHIA Draft at § 6(E).

*As used in this Act:*

*A. “Chronic condition” means a condition that can be treated or managed, but not cured.*

**NAPHIA Comment:** NAPHIA has no proposed changes to this definition.

*B. “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.*

**NAPHIA Comment:** NAPHIA has no proposed changes to this definition.

*C. “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.*

**NAPHIA Comment:** NAPHIA has no proposed changes to this definition.

*D. “Pet insurance” means an individual or group insurance policy that provides coverage for veterinary-eligible expenses.*

**NAPHIA Comment:** NAPHIA proposes deleting the phrase “veterinary expenses,” which is a defined term in the WG Draft (see below), and replacing it with the phrase “eligible expenses,” which is not a defined term. NAPHIA believes that requiring all Pet Insurance policies to provide the same coverage (i.e., covering “veterinary expenses”) would end innovation in the marketplace, essentially limiting pet insurers to providing one type of policy with the same coverages. Product differentiation is essential for a robust and competitive market. A “one size fits all” approach will restrict market competition and it is not in consumers’ best interest.

*E. “Preexisting condition” means any condition for which a veterinarian provided medical advice, the pet received treatment for, or the pet displayed signs or symptoms consistent with the stated condition prior to the effective date of a pet insurance policy or during any waiting or affiliation period.*

**NAPHIA Comment:** NAPHIA proposes revising this definition to add “affiliation” to make it consistent with the defined term (see below).

*F. “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the ~~Veterinary Medical Board pursuant to Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code or other~~ appropriate licensing entity in the jurisdiction in which he or she practices.*

**NAPHIA Comment:** NAPHIA proposes revising this definition to delete California-specific references and, thereby, make the definition more appropriate for use in a NAIC model law to be enacted in all states.

*G. ~~“Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.~~*

**NAPHIA Comment:** NAPHIA proposes that this term and definition be deleted for the reasons explained in connection with the definition of “Pet Insurance” (see above).

*GH. “Waiting or affiliation period” means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin.*

**NAPHIA Comment:** NAPHIA has no proposed changes to this definition, except to re-letter appropriately.

#### **Section 4: Disclosures**

**NAPHIA Comment:** All of the disclosure requirements set forth in § 4 of the WG Draft are included in the NAPHIA Draft, with a few slight changes, all as noted below. The significant difference between the WG Draft and the NAPHIA Draft is organizational. In the NAPHIA Draft, the “Free Look” (§ 5) and the Complaints (§ 7) sections are separated from the Consumer Disclosures (§ 6) section. The requirements with respect to “Free

Look” and Complaints involve more than disclosures to consumers, so they have been given their own sections in the NAPHIA Draft. We think this makes sense both organizationally and substantively.

*(A) An insurer transacting pet insurance shall disclose all of the following to consumers:*

*(1) If the policy excludes coverage due to any of the following:*

- (a) A preexisting condition.*
- (b) A hereditary disorder.*
- (c) A congenital anomaly or disorder.*
- (d) A chronic condition.*

*(2) If the policy includes any other exclusion, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”*

*(3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.*

*(4) Whether the insurer reduces coverage or increases premiums based on the insured’s claim history.*

*(C) A pet insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a pet insurance policy within the policy and through a link on the main page of the insurer’s Internet Web site.*

**NAPHIA Comment:** NAPHIA respectfully notes that the WG Draft is missing a Subsection (B), and, therefore, the lettered paragraphs are mis-lettered from here (Subsection (C)) through the end of § 4. We believe this reflects the moving of a section that appears as Subsection (B) in the enacted California law<sup>7</sup> to § 3 (Definitions) of the WG Draft. The moved section reads, in part, “Nothing in this Act shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.” NAPHIA proposes restoring this provision to the Disclosure section, as it appears in NAPHIA Draft § 6(E).

*(D) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:*

*(1) Clearly disclose the applicable benefit schedule in the policy.*

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<sup>7</sup> See CAL. INS. CODE §§ 12880.2.

(2) *Disclose all benefit schedules used by the insurer under its pet insurance policies through a link on the main page of the insurer’s Internet Web site.*

(E) *A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:*

(1) *Include a usual and customary fee limitation provision in the policy that clearly describes the insurer’s basis for determining usual and customary fees and how that basis is applied in calculating claim payments.*

(2) *Disclose the insurer’s basis for determining usual and customary fees through a link on the main page of the insurer’s Internet Web site.*

(F) *The insurer shall include a summary of all policy provisions required in subdivisions (A) through (E), inclusive, in a separate document titled “Insurer Disclosure of Important Policy Provisions.”*

(G) *The insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in subdivision (F) through a link on the main page of the insurer’s Internet Web site.*

(H) (1) *In connection with the issuance of a new pet insurance policy, the insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to subdivision (F) in at least 12-point type when it delivers the policy.*

(2) *In addition, the pet insurance policy shall have clearly printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by **notifying in writing** the insured for cancellation (“free look period”) by delivering it or mailing it to the insurer or to the agent through whom it was purchased.*

**NAPHIA Comment:** This provision has some typographical errors that we have corrected. In addition, the requirement that the policy be cancelled by “delivering it or mailing it” is not the way cancellation works in today’s marketplace. Notification in writing by the policyholder to the applicable insurer or agent is sufficient. In addition, Subsections (a), (b), and (c) (see below) should be moved to their own section, as we have done in NAPHIA Draft § 5, for the reasons discussed in our comment at the beginning of this § 4 (see above).

(a) *The free look period shall be clearly stated on the notice, and shall be not less than 30 days. ~~The insured may return the policy to the insurer or the agent through whom the policy was purchased at any time during the free look period specified in the notice.~~*

**NAPHIA Comment:** The struck sentence appears unnecessary given the language in Subsection (H)(2) (see above).

(b) The ~~delivery or mailing~~ **notification of cancellation** of the policy by the insured pursuant to this paragraph shall void the policy from the beginning, and the parties shall be in the same position as if a policy or contract had not been issued.

**NAPHIA Comment:** See comment under Subsection (H)(2) (see above).

(c) All premiums paid and any policy fee paid for the policy shall be refunded to the insured within 30 days from the date that the insurer is notified of the cancellation. However, if the insurer has notified the insured **of the approval of any claim or a portion thereof**, ~~paid any claim, or has advised the insured in writing that a claim will be paid,~~ the 30-day free look right pursuant to this paragraph is inapplicable and **instead** the policy provisions relating to cancellation shall apply.

**NAPHIA Comment:** Termination of the free look period before the 30-day period has tolled should be contingent, not upon whether a claim has been paid, but whether a claim has been approved. The distinction here is important because of the treatment of deductibles. If a policyholder makes a claim that is within the deductible and that claim is approved, that policyholder will not have “paid any claim” because no payment is due. Nonetheless, a claim has been made and approved under the policy. Therefore, the free look period should terminate at the time of approval.

(I) At the time a pet insurance policy is issued or delivered to a policyholder, the insurer shall include a written disclosure with all of the following information, printed in 12-point ~~boldface~~ type:

(1) The department’s mailing address, toll-free telephone number and internet website address.

(2) The address and customer service telephone number of the insurer or the agent or broker of record.

(3) A statement that the department should be contacted only after discussions with the insurer, or its agent or other representative, have failed to produce a satisfactory resolution of the problem.

(4) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.

**NAPHIA Comment:** NAPHIA proposes moving this Subsection (I) to its own section, as we have done in the NAPHIA Draft § 7, for the reasons discussed in our comment at the beginning of this § 4 (see above). NAPHIA also proposes deleting the requirement that the disclosure be in boldfaced type. Consumers will be receiving a number of disclosures when they purchase a policy. They are all important and the disclosures in this section should not be emphasized over others.

*(J) The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.*

**NAPHIA Comment:** NAPHIA has no proposed changes to this Subsection.

\* \* \*

Thank you for your consideration of our views. We look forward to working with you as you proceed through this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "John P. Fielding". The signature is fluid and cursive, with a large initial "J" and "P".

John P. Fielding  
Counsel, North America Pet Health Insurance Association

## **APPENDIX A**

*This Appendix A sets forth the NAPHIA Draft Pet Insurance Model Law. Language that has been taken or adapted from NAIC models, state laws, or other sources is noted at the end of the applicable section.*

### **SECTION 1: SHORT TITLE**

This Act shall be known as the “Pet Insurance Model Act.”

#### **SECTION 1 NOTES**

- The language in this section was derived from other NAIC models, including:
  - Travel Insurance Model Act (MDL 632) (“NAIC Travel Model”).

### **SECTION 2: SCOPE AND PURPOSES**

- A. The purpose of this Act is to promote the public welfare by creating a comprehensive legal framework within which Pet Insurance may be sold in this state.
- B. All other applicable provisions of this state’s insurance laws shall continue to apply to Pet Insurance except that the specific provisions of this Act shall supersede any general provisions of law that would otherwise be applicable to Pet Insurance.

#### **SECTION 2 NOTES**

- Clarifies that this NAPHIA Draft is meant to be a comprehensive, uniform framework for the regulation of pet insurance.
- The language in this section was derived from other NAIC models, including:
  - Travel Insurance Model Act (MDL 632); and
  - Long-Term Care Insurance Model (MDL 640).

### **SECTION 3: DEFINITIONS**

As used in this Act:

- A. “Chronic Condition” means a condition that can be treated or managed, but not cured.  
[From CA]
- B. “Commissioner” means the commissioner of insurance of this state.  
[From NAIC Travel Model]

**Drafting Note:** Insert the title of the state’s chief insurance regulatory official wherever the term “Commissioner” appears.

- C. “Complaint” means any written communication, excluding communication on social media, primarily expressing a grievance.  
[Derived From UTPA]
- D. “Congenital Anomaly or Disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or otherwise contribute to illness or disease.  
[From CA]
- E. “Delivery” means handing applicable materials or information to a policyholder or sending applicable materials or information by postal mail or electronic means to the policyholder or certificate holder.  
[From NAIC Travel Model]
- F. “Hereditary Disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.  
[From CA]
- G. “Limited Lines Pet Insurance Producer” means a person licensed to sell, solicit and negotiate only Pet Insurance.  
[Derived From NAIC Travel Model]
- H. “Pet Insurance” means an individual or group insurance policy that provides coverage for eligible expenses.  
[Derived From CA]
- I. “Pet Insurance Producer” means a person holding an accident and health or sickness, property, personal lines, or Limited Lines Pet Insurance Producer license in this state.

**Drafting Note:** The intent of this definition is to ensure that “Pet Insurance Producer” includes producers holding the major lines of authority for property and health insurance, as well as producers holding the limited line of authority for pet insurance. States that refer to the “accident and health or sickness” and “property” license types by other terms, or that do not offer a “personal lines” license type should revise this definition accordingly.

[Derived From NAIC Travel Model]

- J. “Pet Retailer” means a person who: (a) sells animals to the public or offers animals to the public for free; (b) provides pet-related goods and services; or (c) provides medical goods and services for pets.  
[Derived From NAIC Travel Model]
- K. “Preexisting Condition” means any condition for which a Veterinarian provided medical advice, the pet received treatment for, or the pet displayed signs or symptoms consistent with the stated condition prior to the effective date of a Pet Insurance policy or during any Waiting or Affiliation Period.

[Derived From CA]

- L. “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from an appropriate licensing entity in the jurisdiction in which he or she practices.

[Derived From CA]

- M. “Waiting or Affiliation Period” means the period of time specified in a Pet Insurance policy that is required to transpire before some or all of the coverage in the policy can begin.

[Derived From CA]

### **SECTION 3 NOTES**

- Establishes uniform meaning of key terminology used in this NAPHIA Draft.
- Provides for definitions of terms uniquely important to the pet insurance industry.
- Unless noted, these definitions are revised versions of the definitions in California law (AB 2056).
  - The definition of “Complaint” is derived from the Unfair Trade Practices Act (MDL 880) (“UTPA”) Section 4(K), which also is cross-referenced in the Model Regulation for Complaint Records (MDL 884).
  - The definitions of “Commissioner” and “Delivery” come from the NAIC Travel Model; the definitions of “Limited Lines Pet Insurance Producer,” “Pet Insurance Producer,” and “Pet Retailer” are derived from the NAIC Travel Model.

## **SECTION 4: PRODUCER LICENSING, REGISTRATION, AND ADJUSTER LICENSING**

- A. License Required. A person shall not sell, solicit, or negotiate Pet Insurance in this state unless the person is a Pet Insurance Producer.

- B. Limited Lines Pet Insurance Producer – Licensing and Qualifications.

- (1) The Commissioner may issue a Limited Lines Pet Insurance Producer License to an individual or business entity that has filed with the Commissioner an application for a Limited Lines Pet Insurance Producer License in a form and manner prescribed by the Commissioner. Such Limited Lines Pet Insurance Producer shall be licensed to sell, solicit, or negotiate Pet Insurance through a licensed insurer. No person may act as a Limited Lines Pet Insurance Producer unless properly licensed.

- (2) Pre-Licensing Education.

- (a) A Limited Lines Pet Insurance Producer shall be exempt from the pre-licensing education and examination requirements provided in [cite to applicable section of the state’s producer licensing law] and the continuing education requirements provided in [cite to applicable section of the state’s producer licensing law].

- (b) A Limited Lines Pet Insurance Producer shall:
  - (i) complete a 10-hour pre-licensing training course providing instruction on pet insurance, ethical sales practices, and required disclosures to prospective customers; and
  - (ii) successfully pass an examination upon completion of such training course. The examination shall test the knowledge of the individual concerning the issues addressed in the course of the training.
- (c) Training and examinations required by this section shall be developed and conducted under rules and regulations prescribed by the Commissioner.

C. Pet Retailer Registration.

- (1) A Pet Retailer that complies with the requirements of Subsection (2) may provide to consumers general information about Pet Insurance, including general information about a specific Pet Insurance policy and information regarding experience with specific pet insurers and Pet Insurance Producers.
- (2) A Pet Retailer may engage in the activities described in Subsection (1) on behalf of and under the license of a Pet Insurance Producer business entity only if the following conditions are met:
  - (a) At the time of licensure, the Pet Insurance Producer shall establish and maintain a register, on a form prescribed by the Commissioner, of each Pet Retailer that engages in the activities described in Subsection (1) on the Pet Insurance Producer's behalf. The register shall be maintained and updated by the Pet Insurance Producer and shall include the name, address, and contact information of the Pet Retailer and an officer or person who directs or controls the Pet Retailer's operations, and the Pet Retailer's Federal Tax Identification Number. The Pet Insurance Producer shall submit such register to the state insurance commissioner upon reasonable request. The Pet Insurance Producer shall also certify that the Pet 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 Pet Insurance Producers and Pet Retailers.
  - (b) The Pet Insurance Producer has designated one of its employees who is a licensed individual Pet Insurance Producer as the person (a "Designated Responsible Producer") responsible for compliance with the Pet Insurance laws and regulations applicable to the Pet Insurance Producer and its registered Pet Retailers.

- (c) The Designated Responsible Producer, president, secretary, treasurer, and any other officer or person who directs or controls the Pet Insurance Producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the Pet Insurance Producer.
  - (d) The Pet Insurance Producer has paid all applicable licensing fees as set forth in applicable state law.
  - (e) The Pet Insurance Producer requires each employee and authorized representative of the Pet Retailer who engages in the activities described in Subsection (1) to receive a program of instruction or training, which is subject, at the discretion of the Commissioner, to review and approval. The training material shall, at a minimum, contain adequate instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.
- (3) A Pet Retailer employee or authorized representative, who is not licensed as an insurance producer, may not:
- (a) Evaluate or interpret the technical terms, benefits, and conditions of the offered Pet Insurance coverage;
  - (b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage;
  - (c) Hold himself or itself out as a licensed insurer, licensed producer, or insurance expert; or
  - (d) Receive compensation for engaging in the activities described in Subsection (1).
- (4) A Pet Retailer shall make available to prospective purchasers brochures or other written materials that have been approved by the pet insurer. Such materials shall include information which, at a minimum:
- (a) Provides the identity and contact information of the insurer and the Pet Insurance Producer;
  - (b) Explains that the purchase of Pet Insurance is not required in order to purchase any other product or service from the Pet Retailer; and
  - (c) Explains that an unlicensed Pet Retailer is permitted to provide only general information about Pet Insurance, and is not qualified or authorized to answer technical questions about the terms and conditions of Pet Insurance or to evaluate the adequacy of the customer's existing insurance coverage.

- (5) Responsibility. As the insurer’s designee, the Pet Insurance Producer is responsible for the acts of the Pet Retailer and shall use reasonable means to ensure compliance by the Pet Retailer with this Act.

D. Adjuster License. Any insurer that processes Pet Insurance claims in this state and any entity that processes Pet Insurance claims in this state on behalf of an insurer shall have one employee in a supervisory position licensed as an independent adjuster in accordance with [cite to applicable section of the state’s claims adjuster licensing statutory provision]. An employee supervised by a licensed adjuster is not required to be licensed as an independent adjuster.

**Drafting Note:** This provision is not applicable in the states that do not require independent adjusters to be licensed.

#### **SECTION 4 NOTES**

- This section provides for: (1) licensure of Pet Insurance Producers, including Limited Lines Pet Insurance Producers; and (2) registration of Pet Retailers. It also clarifies who is required to hold an adjuster license for Pet Insurance claims. The licensing and registration language is based on the requirements set forth in the NAIC Travel Model. The two substantive differences are: (1) the activities in which Pet Retailers are permitted to engage are different from those set forth in the NAIC Travel Model; and (2) Pet Retailers are prohibited from being compensated for engaging in activity permitted herein.
- The WG Draft contains a licensing provision that is very similar to the registration requirement provided for here. The WG Draft, however, is based on California’s travel insurance producer licensing law, which uses terminology specific to California and imposes California-specific requirements in terms of disclosures, violations, and licensure requirements. NAPHIA believes that the Working Group should draft the NAIC Pet Insurance Model Act using terms and requirements that are suitable for all states, and the language of the NAIC Travel Model provides a fully vetted framework for doing so.

#### **SECTION 5: FREE LOOK**

All policies shall provide policyholders with the right to return the policy for cancellation, and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

A. The period of time set forth by the insurer for return of the policy shall be clearly stated on the notice, and this “free look period” shall be not less than 30 calendar days.

- B. The notification by the insured pursuant to Section 6(L) shall void the policy from the beginning, and the parties shall be in the same position as if a policy or contract had not been issued.
- C. All premiums paid and any policy fee paid for the policy shall be refunded to the insured within 30 calendar days from the date that the insurer is notified of the cancellation. However, if the insurer has notified the insured of the approval of any claim or a portion thereof, the 30-day free look right pursuant to this paragraph is inapplicable and instead the policy provisions relating to cancellation apply to any refund.

**SECTION 5 NOTES**

- The language in this section comes from California’s pet insurance law and WG Draft § 4 Disclosure. Because this provision imposes more than disclosure requirements, NAPHIA believes it should have its own section in the NAIC Pet Insurance Model Act.

**SECTION 6: CONSUMER DISCLOSURES**

- A. The insurer shall create a summary of all policy provisions required in Section 6(D)-(J), inclusive, into a separate document titled “Insurer Disclosure of Important Policy Provisions.”
- B. The insurer shall post the “Insurer Disclosure of Important Policy Provisions” document required in Section 6(A) through a link on the main page of the insurer’s website.
- C. In connection with the issuance of a new Pet Insurance policy, the insurer shall provide the consumer with a copy of the “Insurer Disclosure of Important Policy Provisions” document required pursuant to Section 6(A) in at least 12-point type when it delivers the policy.
- D. A pet insurer in this state shall disclose all of the following to consumers:
- (1) If the policy excludes coverage due to any of the following:
    - (a) A Preexisting Condition;
    - (b) A Hereditary Disorder;
    - (c) A Congenital Anomaly or Disorder; or
    - (d) A Chronic Condition;
  - (2) All accident-only policies shall contain a prominent “This is an accident-only policy” statement on the first page of the policy, in either contrasting color or in

boldface type at least equal to the size of type used for headings or captions of sections in the policy;

- (3) If the policy includes any other exclusion, the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information.”;
  - (4) Any policy provision that limits coverage through a Waiting or Affiliation Period, a deductible, coinsurance, or an annual, or lifetime policy limit; and
  - (5) Whether the insurer reduces coverage or increases premiums based on the insured’s claim history.
- E. If a pet insurer uses any of the terms in Section 6(D)(1) in a policy of Pet Insurance, the insurer shall use the definition of those terms as set forth in Section 3 and include the definition of the term in the policy. Nothing in this Section 6(E) or Section 3 in any way prohibits or limits the types of exclusions pet insurers may use in their policies, nor does it require pet insurers to have any of the limitations or exclusions defined in Section 3.
- F. A policy that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import shall include a definition of the terms and an explanation of the terms in its “Insurer Disclosure of Important Policy Provisions.”
- G. A pet insurer shall disclose to consumers the identity and contact information of the insurer and the producer.
- H. A pet insurer shall disclose to consumers the process for filing and appealing a claim.
- I. A pet insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a Pet Insurance policy within the policy and through a link on the main page of the insurer’s website.
- J. A pet insurer that uses a benefit schedule to determine claim payments under a Pet Insurance policy shall do both of the following:
- (1) Clearly disclose the applicable benefit schedule in the policy; and
  - (2) Disclose all benefit schedules used by the insurer under its Pet Insurance policies through a link on the main page of the insurer’s website.
- K. A pet insurer that determines claim payments under a Pet Insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do both of the following:

- (1) Include a usual and customary fee limitation provision in the policy that clearly describes the insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments; and
  - (2) Disclose the insurer's basis for determining usual and customary fees through a link on the main page of the insurer's website.
- L. The Pet Insurance policy shall have clearly printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by notifying in writing the insurer or the agent through whom it was purchased, as provided in Section 5.
- M. The disclosures required in this Section 6 shall be in addition to any other disclosure requirements required by law or regulation.

#### **SECTION 6 NOTES**

- With the exception of Subsections (D)(2), (G), and (H), the language in this section was derived from California's pet insurance law. The disclosure in Subsection (D)(2) is intended to respond to concerns raised by regulators during the drafting of the NAIC white paper "A Regulator's Guide to Pet Insurance." Subsections (G) and (H) are based on language from the NAIC Travel Model.

#### **SECTION 7: COMPLAINTS**

- A. At the time a Pet Insurance policy is issued or delivered to a policyholder, the pet insurer shall disclose:
- (1) The Commissioner's mailing address, telephone number, and internet website address;
  - (2) The address and customer service telephone number of the insurer or the agent or broker of record;
  - (3) A statement that the Commissioner should be contacted only after discussions with the insurer, or its agent or other representative, have failed to produce a satisfactory resolution of the problem; and
  - (4) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.
- B. All persons offering Pet Insurance to residents of this state are subject to the Unfair Trade Practices Act at [insert reference to NAIC model *Unfair Trade Practices Act* (#880)].

[Insert applicable section of the Unfair Trade Practices Act] makes it an unfair trade practice to fail to maintain a record of complaints as specified in such section.

- C. Each insurer or the Pet Insurance Producer of record offering Pet Insurance shall maintain a complaint record, which shall be submitted to the Commissioner upon request.

**SECTION 7 NOTES**

- This section includes: (1) the WG Draft requirement setting forth the disclosures required in connection with filing a complaint; (2) a restatement of the NAIC UTPA provision making it an unfair trade practice to fail to maintain a record of complaints; and (3) a requirement that pet insurers and producers maintain a record of complaints, to be submitted to the Commissioner upon request.

**SECTION 8: VIOLATIONS**

- A. The Commissioner may conduct investigations or examinations of pet insurers, Pet Insurance Producers, and Pet Retailers to enforce the provisions of this Act.
- B. The Commissioner may take action, following notice and a hearing, necessary or appropriate to enforce the provisions of this Act, Commissioner's orders, and state statutes to protect consumers of Pet Insurance in this state, pursuant to [cite to applicable statutory provisions regarding notice/hearings/violations/penalties].

**SECTION 8 NOTES**

- The intent of this section is to provide authority to the Commissioner to investigate and take action in connection with violations of the Act. The WG Draft imposes California-specific processes, procedures, and penalties. This provision is permissive, allowing states to follow their own processes and procedures.

**SECTION 9: POLICY**

Notwithstanding any other provision of the [insurance code], Pet Insurance shall be classified and filed for purposes of rates and forms under an inland marine line of insurance.

**Drafting Note:** For consistency, states may wish to update their statutory definition of inland marine to include Pet Insurance as defined in this Act. This provision contemplates that Pet Insurance will be subject to the same state laws and regulations as any other inland marine insurance.

**SECTION 9 NOTES**

- This section is derived from the NAIC Travel Model.

**SECTION 10: RULES AND REGULATIONS**

The Commissioner may, in accordance with [insert appropriate reference to state law], promulgate reasonable regulations as are necessary or proper to carry out the purposes of this Act.

**SECTION 10 NOTES**

- The language in this section was derived from the NAIC Producer Licensing Model Act (MDL 218).

**SECTION 11: EFFECTIVE DATE**

This Act shall take effect 120 calendar days after enactment.

**SECTION 11 NOTES**

- The language in this section was derived from other NAIC models, including:
  - Travel Insurance Model Act (MDL 632)