

PROJECT HISTORY – 2019

ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS MODEL ACT (#170)

1. Description of the Project, Issues Addressed, etc.

In 2013, the Regulatory Framework (B) Task Force was charged with reviewing NAIC existing models related to health insurance to determine whether they needed to be amended in light of all the changes made by the federal Affordable Care Act (ACA). During that review process, the Task Force added the *Accident and Sickness Insurance Minimum Standards Model Act* (#170) to the list of NAIC models to be considered for revision given the model's provisions for certain types of health insurance plans that would not be permitted under the ACA.

Beginning at the 2014 Fall National Meeting, the Task Force began discussing revisions to Model #170 and the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171). At the 2015 Spring National Meeting, the Task Force decided, given its other priorities for 2015, specifically with respect to revising the formerly titled *Managed Care Network Adequacy Model Act* (#74), now the *Health Benefit Plan Network Access and Adequacy Model Act* (#74), to defer discussing additional revisions to the models until it finished its work on Model #74. The Task Force finished its work in late 2015.

In February 2016, the Task Force established the Accident and Sickness Insurance Minimum Standards (B) Subgroup, with Wisconsin as chair, to begin working on revising Model #170 and Model #171. In March 2016, the Subgroup began meeting every other week to review and discuss the comments received on Model #170 by the Jan. 22, 2016, public comment deadline. The Subgroup met throughout 2016 until November 2016. During its conference calls, the Subgroup discussed a myriad of issues with respect to the revisions to Model #170, including issues concerning the definition of "hospital indemnity or other fixed indemnity insurance;" short-term, limited-duration insurance; and the disclosure of certain information with respect to these coverages as reflected in federal regulations. The Subgroup also discussed initial revisions to Model #171. At the 2017 Spring National Meeting, concerned with the uncertainty of the ACA's future, given congressional proposals to repeal, replace and/or repair it, the Task Force decided to halt Subgroup meetings until there was more certainty about actions at the congressional level.

At the 2017 Fall National Meeting, the Task Force decided to move forward with discussing revisions to Model #170 and Model #171, and it directed the Subgroup to resume its work in early 2018. During its first meetings in 2018, the Subgroup decided to focus first on revisions to Model #170, and after those revisions were complete, the Subgroup would begin discussion of revisions to Model #171. During its meetings via conference call, the Subgroup continued its discussions of revisions to Model #170 to address issues related to hospital indemnity or other fixed indemnity insurance; and short-term, limited-duration insurance. The Subgroup also discussed what language disclosures and notices carriers must provide to consumers purchasing such coverage to alert consumers that these types of coverages are not required to comply with the requirements of the ACA because they are not considered the types of health insurance coverage subject to the ACA's requirements. The Subgroup also discussed revisions to Model #170's scope section for consistency with the types of coverage subject to the model's provisions.

The Subgroup adopted the revisions July 23, 2018. As part of its adoption, the Subgroup established a 30-day public comment period ending Aug. 27, 2018, for the Task Force to receive comments on the revised model. Following the end of the public comment period, the Task Force met Oct. 17 and Sept. 24, 2018, via conference call to discuss the comments received focusing on comments received related to Model #170's title and other clarifying suggested revisions. The Task Force adopted the revised model at the 2018 Fall National Meeting. The Health Insurance and Managed Care (B) Committee adopted the revisions Feb. 14.

The proposed revisions to Model #170 remove provisions in the model concerning the type of health insurance plans subject to the ACA's requirements, such as its guaranteed issue, guaranteed renewal, and prohibition on preexisting condition exclusion requirements. The revisions add specific provisions concerning short-term, limited-duration insurance; and hospital indemnity or other fixed indemnity insurance, including definitions of the terms and provisions requiring that certain notices and disclosures be provided to consumers purchasing such coverage.

2. Name of Group Responsible for Drafting the Model and States Participating

The Subgroup of the Task Force drafted the proposed revisions to Model #170. The members of the Subgroup were: Wisconsin, Chair; Colorado; Florida; Iowa; Louisiana; Maine; Missouri; Nebraska; Oklahoma; Oregon; Pennsylvania; South Carolina; Utah; Vermont; and Washington. The Task Force adopted additional revisions to Model #170 following the Subgroup's adoption of the proposed revisions. The members of the Task Force were: Wisconsin, Chair; Colorado, Vice Chair; Alaska; American Samoa; Arkansas; California; District of Columbia; Florida; Idaho; Iowa; Kansas; Kentucky; Maine; Maryland; Massachusetts; Minnesota; Missouri; Nebraska; New Hampshire; North Carolina; North Dakota; Oklahoma; Pennsylvania; South Dakota; Texas; Utah; Virginia; Washington; and West Virginia.

3. Project Authorized by What Charge and Date First Given to the Group

The Task Force established the Subgroup in February 2016 to consider revisions to Model #170 and Model #171 based on the Task Force's continuing charge to "review the model law review recommendations of NAIC models recommended for revision by the former Affordable Care Act (ACA) Model Review (B) Working Group and, as appropriate, appoint a working group to revise the NAIC model(s) prioritized for revision in 2016."

Based on that charge, the Task Force's charge to the Subgroup is to "review and consider revisions to the *Accident and Sickness Insurance Minimum Standards Model Act* (#170) and its companion regulation, the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act* (#171)."

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc.; include any parties outside the members that participated)

Beginning in March 2016 and ending in July 2018, the reviewed and discussed all comments received as part of the drafting process. Numerous interested parties participated in the process. The interested parties represented all stakeholder groups, including consumers, insurers and other stakeholders. Each draft of proposed revisions was posted to the Subgroup's webpage and as appropriate, the Task Force's webpage, on the NAIC website. All comment letters received were also posted.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

Beginning in March 2016 and ending in July 2018, the Subgroup reviewed and discussed all comments received as part of the drafting process. Numerous interested parties participated in the process. The interested parties represented all stakeholder groups, including consumers, insurers and other stakeholders. Each draft of proposed revisions was posted to the Subgroup's webpage and as appropriate, the Task Force's webpage, on the NAIC website. All comment letters received were also posted.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

A few significant issues were raised and addressed during the drafting process. Those issues focused on: 1) the definition of "short-term, limited-duration insurance;" and 2) what specific information insurers must include in the notices provided to consumers purchasing hospital indemnity or other fixed indemnity insurance or short-term, limited-duration insurance. Specifically, regarding the definition of "short-term, limited-duration insurance," the Subgroup discussed whether the draft should reflect language in the final federal regulations defining the maximum duration of such coverage or whether to provide flexibility to the states to establish their own such provisions. After extended discussion, given the different requirements the states have with respect to the duration of short-term, limited-duration insurance coverage and the renewal of such coverage, the Subgroup decided to include in the revisions language in the definition of "short-term, limited-duration coverage," in proposed Section 3I, providing flexibility to the states to establish their own requirements related to such coverage. The Subgroup also added a drafting note for proposed Section 3I explaining its rationale. In its discussions related to the information insurers must include in the notices to be provided to consumers purchasing hospital indemnity or other fixed indemnity insurance or short-term, limited-duration insurance coverage, the Subgroup discussed how detailed the language should be with respect to distinguishing these types of coverage from major, medical insurance coverage and the ACA requirements. The Subgroup decided not to be too detailed in order to avoid consumer confusion. The Subgroup decided to require insurers to include in the notices broad language noting these coverages are not required to comply with ACA requirements. In addition, the Subgroup decided to require that insurers include in the notice language advising consumers to check the policy to understand what it covers and does not cover as an additional measure to help ensure that consumers know what they are purchasing.

7. Any Other Important Information (e.g., amending an accreditation standard)

None.

Section-by-Section Summary of Proposed Revisions

The proposed revisions to Model #170 revise the title to “Supplementary and Short-Term Health Insurance Minimum Standards Model Act.”

Section 1. Purpose

The proposed revisions to Model #170 revise this section for consistency with the substantive changes to the model, which remove provisions concerning the types of health insurance coverage subject to the requirements of the ACA.

Section 2. Applicability and Scope

The proposed revisions to Model #170 for this section clarify what types of health insurance coverage are subject to and not subject to its requirements.

Section 3. Definitions

The proposed revisions to Model #170 for this section add, revise and delete definitions to reflect the substantive changes made in the other sections of the model. The proposed revisions add new definitions for the terms: 1) hospital indemnity or other fixed indemnity insurance; 2) limited scope dental coverage; 3) limited scope vision coverage; 4) short-term, limited-duration insurance; and 5) supplementary and short-term health insurance. The proposed revisions revise and delete several definitions for consistency with the substantive changes to the model’s provisions.

Section 4. Standards for Policy Provisions

The proposed revisions to Model #170 for this section make a few revisions for consistency with the substantive revisions to the model. The proposed revisions also clarify a few of the standards for policy provisions related to terms of renewability or extensions of coverage and preexisting condition exclusions.

Section 5. Minimum Standards for Benefits

The proposed revisions to Model #170 revise this section for consistency with the substantive revisions to other sections in the model. For example, the proposed revisions delete references to the health insurance coverage subject to the ACA’s requirements removed from the model. The proposed revisions also make a few non-substantive changes.

Section 6. Disclosure Requirements

The proposed revisions to Model #170 revise this section for consistency with the substantive revisions to other sections in the model. The proposed revisions to this section also add new consumer notice requirements for hospital indemnity or other fixed indemnity insurance coverage and short-term, limited-duration insurance coverage.

Section 7. Preexisting Conditions

The proposed revisions to Model #170 make no changes to this section.

Section 8. Administrative Procedures

The proposed revisions to Model #170 make no changes to this section.