

Draft Pending Adoption

Draft: 8/5/19

ERISA (B) Working Group
New York, New York
August 3, 2019

The ERISA (B) Working Group of the Regulatory Framework (B) Task Force met in New York, NY, Aug. 3, 2019. The following Working Group members participated: Robert Wake, Chair (ME); Ryan James (AR); Kate Harris (CO); Howard Liebers (DC); Andria Seip (IA); Julie Holmes (KS); Frank Opelka (LA); Melinda Domzalski-Hansen (MN); Angela Nelson and Mary Mealer (MO); Laura Arp and Martin Swanson (NE); Ted Hamby (NC); Laura Miller (OH); Cuc Nguyen (OK); Jill Kruger (SD); Tanji Northrup (UT); and Toni Hood (WA). Also participating were: Weston Trexler (ID); Erica Baily (MD); David Cassetty (NV); and Tashia Sizemore (OR).

1. Adopted its Spring National Meeting Minutes

Ms. Nelson made a motion, seconded by Mr. James, to adopt the Working Group's April 6 minutes (*see NAIC Proceedings – Spring 2019, Regulatory Framework (B) Task Force, Attachment Four*). The motion passed unanimously.

2. Discussed AHPs

Mr. Wake asked for information on state activities regarding multiple employer welfare arrangements (MEWAs) and association health plans (AHPs) since the District Court for the District of Columbia issued its opinion in *New York v. U.S. Department of Labor*, vacating critical portions of the U.S. Department of Labor's (DOL) final rule on AHPs. Mr. Bader said the North Carolina legislature was drafting MEWA legislation, and the department of insurance (DOI) has been asked to provide technical assistance. Ms. Hood said in Washington, the DOI was working on a regulation to clarify what it means to be a "bona fide association." Mr. James said Arkansas was exposing a MEWA rule for public comment that is a hold-over from an attempt years ago to specifically regulate MEWAs. Mr. Wake said Maine was again looking at stop loss insurance requirements after a hiatus from considering changes.

William F. Megna (MEWA Association of America—MAA) said his organization is made up of MEWAs that have gathered to protect the existing infrastructures in which they operate and lower health care costs for small business and their employees. He said the MAA promotes market regulatory changes to open new markets to existing MEWAs through the development of uniform standards for regulation and solvency protections for self-funded MEWAs. He said the MAA would like to work with state insurance regulators on these standards. He said the MAA will be holding its first annual meeting during the 2019 Fall National Meeting in Austin, TX, and everyone is welcome to attend. Mr. Wake said it was unlikely, given the differing perspectives of the states, that the NAIC would support a uniform approach to the regulation of MEWAs, but a forum for hearing what other states are doing might be interesting.

Having no further business, the ERISA (B) Working Group adjourned into regulator-to-regulator session, pursuant to paragraph 2 (pending investigations which may involve either the NAIC or any member in any capacity), paragraph 3 (specific companies, entities or individuals), and paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings.

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