

ANTIFRAUD (D) TASK FORCE

Antifraud (D) Task Force March 17, 2024, Minutes

Improper Marketing of Health Insurance (D) Working Group March 17, 2024, Minutes (Attachment One)

Draft Pending Adoption

Draft: 4/1/24

Antifraud (D) Task Force
Phoenix, Arizona
March 17, 2024

The Antifraud (D) Task Force met in Phoenix, AZ, March 17, 2024. The following Task Force members participated: John F. King, Chair (GA); Trinidad Navarro, Vice Chair (DE); Alan McClain represented by Jake Windley (AR); Ricardo Lara represented by George Mueller (CA); Andrew N. Mais represented by Kurt Swan (CT); Karima M. Woods represented by Mike Ross (DC); Michael Yaworsky represented by Simon Blank (FL); Dean L. Cameron represented by Roy Shepherd (ID); Sharon P. Clark represented by Shawn Boggs (KY); Grace Arnold represented by (MN); Mike Chaney represented by Vanessa Miller (MS); Eric Dunning represented by Martin Swanson (NE); D.J. Bettencourt represented by Josh Hilliard (NH); Scott Kipper represented by Alexia Emmermann (NV); Glen Mulready represented by Rick Wagnon (OK); Andrew R. Stolfi represented Cassie Soucy (OR); Michael Humphreys represented by David Bueno (PA); Elizabeth Kelleher Dwyer represented by Brett Bache (RI); Michael Wise represented Joshua Underwood (SC); Cassie Brown represented by Christopher Davis (TX); Jon Pike represented by Armand Glick (UT); Scott A. White represented by Angela Crooker, Juan Rodriguez Jr., and Richard Tozer (VA); and Nathan Houdek represented by Rebecca Rebholz (WI).

1. Adopted its 2023 Fall National Meeting Minutes

Blank made a motion, seconded by Emmermann, to adopt the Task Force's Dec. 2, 2023, minutes (*see NAIC Proceedings – Fall 2023, Antifraud (D) Task Force*). The motion passed unanimously.

2. Discussed its 2024 Charges and Priorities

Commissioner King said that the Task Force had a successful year in 2023, and the plan is to continue this momentum in 2024. He said the collaboration that takes place at the Task Force and its Working Groups' open and closed meetings are vital for states to continue their efforts to prevent and resolve insurance fraud.

Commissioner King said that in addition to the Task Force's charges, it will focus on priorities throughout the year. The first will be to build upon the current communication between state fraud departments, federal partners, and antifraud organizations. Commissioner King said that next is the Public Producer Portal, which will be a centralized portal that would allow consumers to find licensing information on insurance producers. He said the Task Force will continue its work on the implementation of the redesigned Online Fraud Reporting System (OFRS) and assist with the review of the 1033 Waiver Guidelines, which the Producer Licensing (D) Task Force is discussing.

Commissioner King said work will also be focused on the Task Force's two working groups: 1) the Improper Marketing of Health Insurance (D) Working Group, which will continue its efforts to provide assistance and guidance monitoring the improper marketing of health plans for coordination of enforcement actions; and 2) the Antifraud Technology (D) Working Group, which will be continuing its efforts on the implementation of the new OFRS redesign capabilities and begin reviewing necessary enhancements.

3. Adopted the Report of the Improper Marketing of Health Insurance (D) Working Group

Swanson said the Working Group met March 17, 2024. During this meeting, the Working Group adopted its 2023 Fall National Meeting minutes and heard from the federal Centers for Medicare & Medicaid Services (CMS) concerning the current issues consumers are experiencing with continued agent transfers of policies. Swanson said the Working Group will meet in regulator-to-regulator session and open meetings to continue discussions with state, federal, and industry representatives in order to protect consumers.

Draft Pending Adoption

Swanson said the Working Group heard from CMS concerning the ongoing efforts surrounding Medicare Advantage. He said the Working Group will focus on collaboration, enforcement, and marketing of insurance. Swanson said the Working Group discussed the Federal Trade Commission's (FTC's) judgment on Simple Health Plans. The U.S. government obtained a \$195 million judgment against Simple Health Plans after a federal judge agreed that the company deceived tens of thousands of consumers into purchasing "sham" health insurance. Swanson said the Working Group will follow up with the FTC for additional information pertaining to this case.

Swanson made a motion, seconded by Emmermann, to adopt the report of the Improper Marketing of Health Insurance (D) Working Group (Attachment One). The motion passed unanimously.

4. Received an Update From the Antifraud Technology (D) Working Group

Glick said the Working Group did not meet prior to the Spring National Meeting. However, he has been working with NAIC staff on the implementation of the OFRS redesign and web service. Glick said the Working Group will begin meeting to discuss further enhancements. He said the Working Group will also work with NAIC staff to finish the Antifraud Plan Repository.

5. Heard Reports From Interested Parties

A. CAIF

Michelle Rafeld (Coalition Against Insurance Fraud—CAIF) introduced herself as the new Executive Director, and Brent Walker as Director of Government Relations for the CAIF. Rafeld said Anthony DiPaolo, Executive Director of the Insurance Fraud Bureau of Massachusetts, has been appointed as CAIF's new public co-chair. Rafeld said the CAIF has a number of committees and task forces that have contributed to the information exchanged between members. She said these groups include a Public Information Committee, a Government Affairs Committee, a Legal Affairs Committee, and an Amicus Review Committee. Rafeld said that in addition to the committees, the CAIF has a Life and Disability Task Force and a Workers Compensation Task Force that will be continuing this year. She said the CAIF will have two new Task Forces that will start up this year: 1) the Medical Task Force, which will kick off the year by identifying issues in the health care provider and medical provider fraud areas; and 2) the Property and Casualty Task Force, which will focus on collaborative efforts to address stated auto accidents, inflated claims, and complex fraud cases. Rafeld said she encourages state members and industry to participate.

Rafeld said the CAIF has two valued studies that have been completed and will be updated this year. The first is a benchmarking study, and the second is a biannual technology study. Rafeld said that in addition to those research studies, the CAIF is busy addressing the 2024 legislative priorities.

Walker said the legislative priorities are aligned with many of the efforts of the task force will . He said that in 2024, the CAIF has 12 legislative priorities, and he would be happy to go into more detail for anyone who would like that information. Walker said the longstanding examples include contract fraud, litigation financing, towing fraud, and staged accidents . He said consumer data privacy and use of consumer data is another legislative priority.

Walker said the CAIF's Workers Compensation Working Group will be hosting a free webinar for the public on March 28 at 2 p.m. ET.

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B. NICB

Edward Tobin (National Insurance Crime Bureau—NICB) said he will replace Rich DiZinno at the national meetings. He said the NICB will be modernizing efforts on the OFRS implementation and enhancements. Tobin said the NICB will hold a Contract Fraud Awareness Week May 20–24 focusing on contractor fraud relating to the aftermath of natural disasters. Tobin said that since this is his first time providing an update to the Task Force, we will have a more detailed presentation for the Summer National Meeting.

6. Discussed Other Matters

Greg Welker (NAIC) said the NAIC is adding a multi-factor authentication (MFA) for OFRS. He said that effective April 1, OFRS industry users will be required to use MFA. MFA adds an extra layer of security for users, helping protect against unauthorized access by requiring an additional form of authentication beyond username and password. Welker said this will not impact state insurance regulators' access to OFRS reports via iSite.

Welker said that after logging in for the first time after April 1, users will be prompted to set an MFA type of their choice, including Okta Verify, Google Authenticator, voice call authentication, email authentication, or SMS authentication. He said the NAIC will be sending an email to all users announcing this change as well. There are help documents for implementing specific MFA factors on the NAIC Help Page.

Having no further business, the Antifraud (D) Task Force adjourned.

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Attachment One
Antifraud (D) Task Force
3/17/24

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Improper Marketing of Health Insurance (D) Working Group
Phoenix, Arizona
March 17, 2024

The Improper Marketing of Health Insurance (D) Working Group of the Antifraud (D) Task Force met in Phoenix, AZ, March 17, 2024. The following Working Group members participated: Martin Swanson, Chair (NE); David Buono, Vice Chair (PA); Maria Ailor (AZ); Kurt Swan (CT); Susan Jennette (DE); Erica Weyhenmeyer (IL); Andria Seip (IA); Joseph Garcia (MI); T.J. Patton (MN); Marjorie Thompson (MO); Patrick Smock (RI); Jill Kruger and Travis Jordan (SD); John Haworth (WA); and Bryan Stevens (WY).

1. Adopted its 2023 Fall National Meeting Minutes

Kruger made a motion, seconded by Swan, to adopt the Working Group's Dec. 2, 2023, minutes (*see NAIC Proceedings – Spring 2024, Antifraud (D) Task Force*). The motion passed unanimously.

2. Discussed its Agent Transfer Issues

Swanson said the Working Group began discussing agent transfer issues during the 2023 Fall National Meeting. During this meeting, the Working Group heard a presentation from Heather Widler (Insurance Care Direct) and John Doak (Insurance Care Direct) concerning the issues consumers are encountering with agent transfers. Swanson said this led to discussions with the federal Centers for Medicare & Medicaid Services (CMS). He said for the meeting today, they have asked CMS to attend and advise the Working Group on information it has concerning agent transfers and the efforts it is taking to protect consumers.

Gina Zdanowicz (CMS) said CMS has been looking into the agent transfer issues. She said CMS feels that regarding the enrollment supported by agents and brokers the NAIC is an important channel to discuss consumer protection on this topic. Zdanowicz said CMS is working to add additional enforcement regulation and some technology changes to curb these actions. The Working Group discussed and encouraged CMS to work closely with the NAIC and states individually to focus on the impact that agent transfers are having on consumers. The Working Group agreed that CMS should have a record of these bad actors and requested further details from CMS so they can collaborate to increase enforcement activity. Zdanowicz stated that CMS will collaborate with the Working Group to devise a plan aimed at assisting states in disseminating this information to the relevant state or jurisdiction, thereby addressing concerns related to agent transfers.

3. Discussed Medicare Advantage

Swanson said the topic of Medicare Advantage was presented to the Working Group to review and address. Swanson said this includes the coordination with the Federal Trade Commission (FTC) on its telemarketing enforcement action, swapping of clients in health insurance, network adequacy, formulary changes post-enrollment, and CMS request for information (RFI).

Michael Taylor (CMS) said he is at the meeting today to listen to the Working Group's concerns. He said he intends to relay these concerns to CMS for further discussion and collaboration with the Working Group. Taylor said there has been a slight decrease in the number of marketing representation complaints that CMS receives compared to this time last year. Taylor said he does not have specific data that he can share with the Working Group. However,

Draft Pending Adoption

Attachment One
Antifraud (D) Task Force
3/17/24

this is information CMS can put together for a discussion with the Working Group. The Working Group discussed and agreed that further dialog with CMS is warranted and will take place following the Spring National Meeting.

4. Discussed the FTC Judgement on Simple Health Plans

Swanson said the government has obtained a \$195 million judgement against Simple Health Plans after a federal judge agreed that the Florida company deceived tens of thousands of consumers into purchasing “sham” health insurance. Swanson said the FTC filed a complaint against Simple Health Plans in 2018, arguing that the issuer misled consumers into believing they were purchasing comprehensive insurance coverage that would cover preexisting medical conditions, prescription drugs, hospital care, and other important medical services. He said instead, consumers paid as much as \$500 a month for what was essentially a medical discount membership with limited benefits, leaving consumers on the hook for thousands in unexpected bills. Swanson said a federal judge found in favor of the FTC and banned Simple Health Plans; its CEO, Steven Dorfman; and related entities from selling or promoting health care products in the future.

Having no further business, the Improper Marketing of Health Insurance (D) Working Group adjourned.

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