

Reflects Edits Adopted by the NAIC/Consumer Board of Trustees on ~~August~~May 28, 2024
Adopted by NAIC/Executive (EX) Committee on August 12, 2022.

Reflects Status Change Revisions Suggested by the Chair Drafting Group

**PLAN OF OPERATION
NAIC CONSUMER PARTICIPATION PROGRAM**

April 11, 2017

The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the fifty states, the District of Columbia and five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC staff supports these efforts and represents the collective views of state regulators domestically and internationally. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

The mission of the NAIC is to assist state insurance regulators, individually and collectively, in serving the public interest and achieving the following fundamental insurance regulatory goals in a responsive, efficient and cost-effective manner, consistent with the wishes of its members:

Protect the public interest;
Promote competitive markets;
Facilitate the fair and equitable treatment of insurance consumers;
Promote the reliability, solvency and financial solidity of insurance institutions; and
Support and improve state regulation of insurance.

To promote consumer representation and participation in the NAIC, the Consumer Participation Program was established by the NAIC.

Section 1. Mission

The mission of the NAIC Consumer Participation Program is to assist the NAIC in its efforts to support state insurance regulation by providing consumer views on insurance regulatory issues.

Section 2. NAIC Consumer Participation Board of Trustees

- A. The NAIC Consumer Participation Board of Trustees (Board) shall consist of 12 members: six NAIC members and six consumer representative members.
- B. The current president of the NAIC, or his or her designee shall serve as Chairperson of the Board.
- C. The NAIC Executive Committee shall annually appoint the NAIC members of the Board at the beginning of each year.
- D. Board appointments of the six NAIC members shall be confirmed by the NAIC Executive Committee during the first quarter of the year.
- E. The term of service for the six NAIC members of the Board shall be one year, which shall begin on January 1 and conclude on December 31.
- F. Each December, the six NAIC members serving on the current Board shall appoint to the board six consumer representatives, chosen from those who will serve in the upcoming year. The consumer representatives selected to serve on the Board shall have served for at least two years as a NAIC consumer representative.

- G. Consumer Members of the Board shall serve staggered, two-year terms with three different consumer members of the Board rotating on and off the Board annually; however, each must submit a recertification form for the second year of their term. NAIC members of the Board will review second-year recertification forms to determine if there is a reason a consumer representative should not continue to serve on the Board. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.
- H. Consumer representatives shall be asked to indicate their interest to serve on the Board when they apply to be consumer representatives.
- I. The Board may meet in person or via teleconference to conduct its business.
- J. Meetings of the Board are not public meetings and matters discussed are to be kept confidential unless publicly disclosed by the Chairperson of the Board. However, no change to the Plan of Operation may be taken by the Board without prior disclosure to and opportunity for comment by current consumer representatives of the proposed changes.
- K. A consumer representative Board member may be removed by a majority vote of the Board (four of the six NAIC members and four of the six consumer representative members) whenever, in their judgment, the best interests of the Board would be served thereby. Prior to the vote, the consumer representative Board member under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her Board seat and/or to answer any questions of the Board members.
- L. If a vacancy occurs on the Board prior to October 1 due to the resignation or removal of a Board member, a new Board member shall be appointed to serve out the remainder of the term. If the open position is that of an NAIC Member, a replacement shall be appointed by the NAIC Officers. If the open position is that of a Consumer Representative, a replacement shall be appointed by the NAIC Members of the Board. No replacement will be appointed for a vacancy on the Board that occurs on or after October 1.

Section 3. Duties of the Board

- A. The Board shall administer the Consumer Participation Program:
 - 1. By the end of the calendar year prior to the new term, the current Board shall select the NAIC funded and unfunded consumer representatives to serve in the next calendar year.
 - 2. The Board may also remove a designated consumer representative by a majority vote of the Board (four of the six NAIC members and four of the six consumer members) whenever the representative no longer meets the consumer representative qualifications; or, whenever in its judgment, the best interests of the Consumer Participation Program would be served, thereby. Prior to the vote, the designated consumer representative under consideration for removal will be afforded an opportunity to address the Board and present justification for retention of his or her designation and/or to answer any questions of the NAIC Board members.
 - 3. At the last national meeting of each year, the Chairperson of the NAIC Consumer Participation Board of Trustees shall provide the NAIC Executive (EX) Committee with an annual report summarizing the Board's activities for the year, as well as the consumer participation in the Program.

Section 4. Consumer Representatives

- A. Consumer representatives must possess a commitment to and experience with consumer advocacy regarding insurance regulatory issues.
- B. Applicants may apply to be designated funded or unfunded consumer representatives.

Section 5. Consumer Representative Application Process

- A. By August 31 of each year, a link for web access to the blank consumer representative applications shall be posted on the NAIC website along with: 1) a statement that the NAIC encourages those individuals and consumer advocacy groups with a commitment to and experience with consumer advocacy regarding insurance regulatory issues; 2) a statement describing the NAIC and its services to the state insurance departments; 3) a schedule of the NAIC meetings for the following year and their locations; 4) a list of the NAIC committees and their memberships; 5) an explanation that the role of the consumer representatives at NAIC meetings is to serve as a liaison to the consumer advocacy community and to offer the consumer perspective; and 6) the following statement:

The NAIC provides an equal opportunity for all applicants and does not discriminate based on: race, creed, color, sex, sexual orientation, gender identity or expression, religion, age, national origin or ancestry, handicap or disability, marital status, pregnancy, genetic information, veteran or military status or any other status protected by law.

- B. Prospective consumer representatives are required to submit fully completed applications to the NAIC by October 31. (Partial or late applications will not be considered.) To be considered a fully completed application, the applicant must:
1. Submit a copy of his or her organization's by-laws, if available, reflecting the organization's mission to represent consumer interests and promote consumer protection, if the applicant is applying as a representative of a consumer organization.
 2. Submit a completed and signed application with all required attachments.
 3. Submit a signed NAIC Conflict of Interest Statement to disclose conflicts, if any, and acknowledge the NAIC's expectation that he or she will notify the Board of any potential conflict of interest as soon as one arises during the year. The Board will determine if a conflict exists and what action may be required on a case-by-case basis.

Section 6. Consumer Representative Qualifications

- A. Applicants for the position of NAIC consumer representative shall:
1. Demonstrate a commitment to and ~~experience expertise in with consumer advocacy regarding~~ insurance regulatory issues;
 2. ~~Demonstrate an expertise in insurance regulatory issues~~ Represent a consumer organization or apply as an individual to represent a consumer perspective;
 3. Demonstrate an ability to effectively advocate on behalf of ~~for~~ consumers in a collegial, respectful and professional manner;
 4. Commit to ~~attending regular NAIC meetings absent exceptional circumstances, and commit to participating in the work of~~ the NAIC, including attending NAIC meetings; contributing to the work of NAIC Committees, Task Forces, and Working Groups; and communicating and coordinating with other NAIC ~~conference calls, including calls among~~ consumer representatives; and
 5. ~~Only be considered for~~ For reappointment, demonstrate a track record of participation at NAIC as defined in Item 4. above. if he or she attends NAIC meetings and participates in NAIC meetings and NAIC calls.
- B. Applicants for a funded representative position must describe in detail the applicant's need for NAIC funding, including his or her current source of funding. If he or she is applying as a consumer representative of an organization, he or she must submit the organization's most current annual budget.
- C. At the completion of the selection process, successful applicants will be notified of his or her appointment as either a funded or unfunded consumer representative.

- D. The current Board will determine if unsuccessful applicants for funded positions may be considered for unfunded positions.

Section 7. Reimbursement of Expenses

NAIC funded consumers shall submit expense reports itemizing the costs of attending NAIC meetings according to the NAIC Funded Consumer Representative Guidelines for Reimbursement of Expenses located on the NAIC Consumer Participation web site.

Unfunded consumer representatives will not receive reimbursement for travel expenses from the NAIC but are eligible for other benefits, including waiver of the NAIC national meeting registration fees.

Section 8. Designated Consumer Representative Term

Designated consumer representatives are appointed by NAIC and consumer members of the Board and shall serve two-year terms; however, each must submit a recertification form for the second year of the term.

NAIC and consumer members of the Board will review recertification forms to determine if there is a reason a designated consumer representative should not continue to serve. If no reason is determined, the designated consumer representatives shall serve the second year of his or her two-year term.

Section 9. Representatives ~~Chosen to Represent an Organization~~ Who Change Their Status Midyear

~~When~~If an NAIC Consumer Representative wishes to change their status midyear to represent a different organization or represent consumers as an individual instead of on behalf of an organization, notification of the change in status is required to be sent to NAIC staff support in a timely fashion with the materials noted below.

- A. If they want to apply to represent an organization that has previously participated in the program, they must complete the sections of the application relevant to personal conflicts of interest, sign a new conflict of interest form, complete sections of the application relevant to the organization's conflict of interest, and submit the organization's budget.
- B. If they are applying to represent an organization that has not previously been represented at NAIC, they must complete the sections of the application related to the organization.
- C. If they are applying to represent consumers as an individual after representing an organization, they must complete the sections of the application relevant to personal conflicts of interest and sign a new conflict of interest form.

In a timely manner, NAIC staff support will distribute the materials to all Board members for review, discussion, and a vote as to whether the change requested is acceptable for continuation as a NAIC Consumer Representative. A vote to accept must include a majority vote is required to approve a change in status. The majority vote must include at least two regulator members and two consumer members for the change to be approved. NAIC staff support will notify the Consumer Representative seeking the change of the Board's decision.

~~A consumer representative chosen to represent an organization will be expected to resign their position if the representative ceases to be affiliated with the organization or if the organization ceases to exist.~~

~~Such a representative may apply to be an individual, independent consumer representative during the next annual application period.~~

Section 10. Further Information

Information about the NAIC Consumer Participation Program (application deadline, selection criteria, etc.) and complete listings of the current NAIC Consumer Representatives can be found on the NAIC website.

Section 11. NAIC/Consumer Liaison Committee

- A. The purpose of the NAIC Consumer Liaison Committee is to assist the NAIC in its mission to support state insurance regulation by providing consumer views on insurance regulatory issues. The Liaison Committee provides a forum for ongoing dialogue between NAIC members and NAIC consumer representatives.
- B. To promote participation at NAIC meetings, the agenda of the NAIC Consumer Liaison Committee shall be set and distributed no later than 21 days prior to the next NAIC national meeting by the Chairperson of the NAIC Consumer Liaison Committee in consultation with one of the six consumer members of the Consumer Participation Board of Trustees. Any amendments made to this agenda are subject to the approval of the Chairperson of the NAIC Consumer Liaison Committee.

Draft: 8/9/24

Model Law Development Report

Amendments to the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)*—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA) and the revisions to its companion model act, the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)*. The Accident and Sickness Insurance Minimum Standards (B) Subgroup completed the revisions to Model #170 in late 2018, which the Executive (EX) Committee and Plenary adopted in February 2019. Therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee.

Soon after completing its work on Model #170, the Subgroup began considering revisions to Model #171. The Subgroup met every two weeks until December 2019. After a long hiatus since late 2019 due to the loss of a co-chair, the COVID-19 pandemic, and other resource issues, the Subgroup resumed its meetings in June 2021. The Subgroup has been meeting on a regular basis to discuss the comments received on Model #171. During the last few months of 2022, the Subgroup's discussions focused on Section 8—Supplementary and Short-Term Health Minimum Standards for Benefits. This section establishes minimum standards for benefits for the products subject to the model, including accident-only coverage, hospital indemnity or other fixed indemnity coverage, and disability income protection coverage. The revisions also include a new section establishing minimum benefits for short-term, limited-duration (STLD) plans. The Subgroup completed its discussions of Section 8 in December 2022, including developing a new subsection establishing minimum benefit standards for STLD plans.

The Subgroup resumed its meetings in February 2023 and plans to continue meeting regularly to continue its discussions. It plans to work on the following Model #171 sections in this order: 1) the remainder of Section 8, including revisiting the proposed new subsection on STLD plans to discuss the Feb. 24, 2023, comments received on that section; 2) Section 7—Prohibited Policy Provisions; 3) revisit Section 5—Definitions and Section 6—Policy Definitions to reconcile any inconsistencies that may have arisen after the Subgroup's review of the substantive provisions of Model #171; and 4) Section 9—Required Disclosure Provisions. The Subgroup is completing work on Section 9—Required Disclosure Provisions. It recently completed its review of all the comments received on Model #171. The Subgroup set a public comment deadline of Dec. 1, 2023, to receive comments on the initial draft reflecting its discussions and preliminary revisions to Model #171. The Subgroup resumed its meetings in January to discuss the comments received. The Subgroup completed its review of those comments following the Spring National Meeting and distributed a draft reflecting all its discussions for final comment. The Subgroup received additional comments on the draft and began discussion of those comments in June. The Subgroup anticipates completing its discussion of the additional comments following the Summer National Meeting and will forward the proposed draft of revisions to Model #171 to the Regulatory Framework (B) Task Force for its consideration.

Amendments to the *Public Adjuster Licensing Model Act (#228)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #228 during the 2024 Spring National Meeting. The Model Law Review Request provided guidance that Model #228 should be amended to strengthen regulatory standards governing the conduct of public adjusters for the following four issues: 1) individuals acting as unlicensed public adjusters; 2) contractors who are also acting as public adjusters on the same claim; 3) inappropriate assignment of benefit rights; and 4) excessive fees charged by public adjusters.

The Public Adjuster Licensing (D) Working Group met July 17, June 18, and April 5. During its April 5 meeting, the Working Group discussed proposed modifications to Sections 3 and 14 of the model, which address public adjuster fees. During its June 18 meeting, the Working Group discussed proposed amendments to Sections 15,

16, and 19 of the model to strengthen regulatory standards regarding individuals acting as unlicensed public adjusters; contractors who are also acting as public adjusters on the same claim; and inappropriate assignment of benefit rights. During its July 17 meeting, the Working Group adopted proposed amendments.

The Producer Licensing (D) Task Force received comments on the model during its Aug. 13 meeting.

Amendments to the *Privacy of Consumer Financial and Health Information Regulation (#672)* —During the 2022 Summer National Meeting, the Executive (EX) Committee approved a Request for NAIC Model Law Development for a new model that would replace existing models in order to enhance consumer protections and corresponding obligations of entities licensed by insurance departments to reflect the extensive innovations that have been made in communications and technology. The Privacy Protections (H) Working Group approved this request on Aug. 2, 2022. The drafting process continued through 2023, culminating in the Working Group pausing its public activities to allow subject matter experts (SMEs) the time necessary to review the comments received, discuss the detailed concerns with individual companies, and develop wording that would address the needs of industry to conduct business while providing important consumer protection. The SMEs met twice a week on this endeavor.

With the Innovation, Cybersecurity, and Technology (H) Committee's recent adoption of an extension to Dec. 31, 2024, the Working Group also started 2024 with new leadership. Throughout the first part of the year, the new leadership focused on understanding the status of work to ensure a proper transition of responsibilities. Following the Spring National Meeting, the Working Group met to hear from an SME on the current privacy landscape. During a June 12 meeting, after hearing comments from interested parties, the Working Group adopted its path forward to revise the existing NAIC privacy model, Model #672. During its July 10 meeting, the Working Group: 1) discussed incorporating comments it had received on core privacy principles from regulators, industry, and consumer representatives into Model #672; and 2) announced it would be requesting volunteers to serve on the drafting group. The Working Group met Aug. 5 in regulator-to-regulator session to discuss next steps in preparation for the Summer National Meeting. During its Aug. 14 meeting, the Working Group will: 1) hear an update on federal privacy legislation; 2) hear a presentation on legacy systems and consumer data protections; 3) discuss record retention and data deletion; and 4) provide guidelines for drafting group volunteers.