

## **ANTIFRAUD (D) TASK FORCE**

Antifraud (D) Task Force Dec. 14, 2022, Minutes

Antifraud (D) Task Force Nov. 16, 2022, Minutes (Attachment One)

Antifraud (D) Task Force Sept. 6, 2022, Minutes (Attachment Two)

Improper Marketing of Health Insurance (D) Working Group Nov. 3, 2022, Minutes (Attachment Three)

Improper Marketing of Health Insurance (D) Working Group Dec. 14, 2022, Minutes (Attachment Four)

## Draft Pending Adoption

Draft: 1/10/23

Antifraud (D) Task Force  
Tampa, Florida  
December 14, 2022

The Antifraud (D) Task Force met in Tampa, FL, Dec. 14, 2022. The following Task Force members participated: Trinidad Navarro, Chair (DE); John F. King, Vice Chair (GA); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain represented by Crystal Phelps (AR); Evan G. Daniels represented by Maria Ailor (AZ); Andrew N. Mais represented by Kurt Swan (CT); Doug Ommen represented by Andria Seip and Jared Kirby (IA); Dean L. Cameron represented by Hermoliva Abejar (ID); Vicki Schmidt represented by John Eichkorn (KS); Sharon P. Clark, represented by Rob Roberts (KY); Kathleen A. Birrane represented Mary Kwei (MD); Anita G. Fox represented by Michele Riddering and Randall Gregg (MI); Grace Arnold represented by Paul Hanson (MN); Chlora Lindley-Myers represented by Carrie Couch and Marjorie Thompson (MO); Mike Chaney represented by John Hornback (MS); Troy Downing represented by Steve Matthews (MT); Mike Causey represented by Tracy Biehn (NC); Jon Godfread represented by Dale Pittman (ND); Eric Dunning represented by Laura Arp and Martin Swanson (NE); Chris Nicolopoulos represented by Heather Silverstein (NH); Russell Toal represented by Leatrice Geckler (NM); Judith L. French represented by Michelle Brugh Rafeld (OH); Glen Mulready represented by Rick Wagnon (OK); Andrew R. Stolfi represented by Dorothy Bean and Stephanie Noren (OR); Michael Wise (SC); Larry D. Deiter represented by Melissa Manning and Travis Jordan (SD); Jon Pike represented by Randy Overstreet, Tanji J. Northrup, and Tracy Klausmeier (UT); Scott A. White represented by Juan A. Rodriguez Jr. and Richard Tozer (VA); and Kevin Gaffney (VT); and Allan L. McVey represented by Erin K. Hunter (WV).

### 1. Adopted its Nov. 16 and Sept. 6 Minutes

Commissioner Navarro said the Task Force met Nov. 16 and Sept. 6. During these meetings, the Task Force took the following action: 1) discussed its 2022 and 2023 charges and priorities; 2) discussed the proposal for a centralized producer portal; 3) discussed the NAIC Model Law Review for the *Unfair Trade Practices Act* (#880); and 4) heard reports from antifraud associations.

Commissioner King made a motion, seconded by Biehn, to adopt the Task Force's Nov. 16 (Attachment One) and Sept. 6 (Attachment Two) minutes. The motion passed unanimously.

### 2. Discussed its 2023 Proposed Charges and Priorities

Commissioner Navarro said the Task Force has had a successful year adopting the Antifraud Plan Repository Workflow, redesigning the Online Fraud Reporting System (OFRS), and creating the Improper Marketing of Health Insurance (D) Working Group. He said the Working Group has begun to focus on its charge to review models and guidelines for potential amendments. He said the Task Force has also made great efforts to provide additional training through the NAIC Insurance Summit, the Annual Fraud Directors Conference, and a New Fraud Training presented to the Northeast Zone.

### 3. Discussed the Proposal for the NAIC Producer Portal

Commissioner Navarro said the Task Force has been working with NAIC staff and Harry Ting (Health Consumer Advocate) on a proposal to create a centralized portal that would allow consumers to find licensing information on insurance producers. Dr. Ting said the consumer representatives support the creation of this portal.

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### 4. Discussed a 1033 Waiver Request Template

Commissioner Navarro said the Producer Licensing (D) Task Force has requested that the 1033 waiver request be brought to the Task Force. He said for those not familiar with the 1033 waiver request, federal law provides penalties for a person who has been convicted of a felony involving dishonesty or breach of trust and engages in the business of insurance, unless the person receives written consent to engage in the business of insurance from the appropriate state insurance regulatory official.

Commissioner Navarro said it has been requested because it is important, as the Antifraud (D) Task Force was responsible for the development of the NAIC's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994*.

Commissioner Navarro said in terms of background, the efforts of the Producer Licensing (D) Task Force arose out of the life insurance industry's recent efforts on racial equity, which include a focus on second-change hiring within the insurance industry. He said this led some life insurance companies to focus on the 1033 waiver process and whether the process could be improved. NAIC staff worked with a small group of state insurance regulators and representatives from Prudential to draft the template as a resource document for the states. Commissioner Navarro said the template is not intended to be a list of best practices or minimum standards since each state will have its own process for the review of 1033 waiver requests. He said NAIC staff will be circulating the draft template to the Antifraud (D) Task Force, the Producer Licensing (D) Task Force, and all interested state insurance regulators and interested parties for comment through January.

### 5. Heard an Education Update

Commissioner Navarro said the Task Force has made great efforts to bring additional training that was requested by NAIC leadership. He said the Task Force created a Northeast Zone fraud training, which took place in October, in addition to updating training and education courses available through the NAIC. He said as we move into 2023, the Task Force encourages state insurance regulators and industry to provide suggestions for additional training.

### 6. Received a Report from the Improper Marketing of Health Insurance (D) Working Group

Swanson said the Working Group has had a successful year so far with its efforts to eliminate the improper marketing of health insurance. He said the Working Group has maintained its monthly closed conference calls and open meetings when appropriate. He said the Working Group has begun working on its charge to "Review existing NAIC Models and Guidelines that address the use of lead generators for sales of health insurance products, and identify models and guidelines that need to be updated or developed to address current marketplace activities." He said the Working Group held an open conference call on Nov. 3 (Attachment Three) to review draft language to amend the *Unfair Trade Practices Model Act* (#880) and adopt a Request for NAIC Model Law Development to amend Model #880. He said before the Working Group can continue the NAIC Model Law Review Form for Model #880 must be adopted by the Executive (EX) Committee. He said the Working Group will continue its efforts once this form has been adopted. Swanson said the Working Group will meet this afternoon on Dec. 14 (Attachment Four) to discuss public regulatory actions involving improper marketing of health insurance and receive comments from interested parties.

### 7. Heard Reports from Interested Parties

#### a. CAIF

Matthew J. Smith (Coalition Against Insurance Fraud—CAIF) said on Sept. 8, the CAIF hosted a webinar on a study regarding workers' compensation fraud. He said this was a highly attended webinar. He said the CAIF participated

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in the NAIC Insurance Summit in September regarding a session on natural disasters, the Annual Fraud Directors Conference, the International Global Insurance Fraud Summit, the Nebraska Department of Insurance (DOI) Fraud Conference, the Montana Fraud Meeting, and the NAIC Northeast Zone training. He said prior to the Fall National Meeting, the CAIF held its end-of-year meeting. He said the CAIF has three states left to join its membership. He said Hawaii, Indiana, and South Dakota are the remaining states to join.

### b. HFPP

Shaun O’Neill (Healthcare Fraud Prevention Partnership—HFPP) said the HFPP has worked on launching its new redesigned secure portal producing data analytics on traditional health insurance claims. He said the HFPP has worked with the NAIC, the CAIF, the National Insurance Crime Bureau (NICB), and National Health Care Antifraud Association (NHCAA) to provide useful data to state insurance regulators. He said the HFPP has determined that it will focus on two initiatives in 2023: 1) revising how analytics are reviewed concerning partners in the same class with high and low exposure; and 2) a data project with an aggregate medical database and medical warehouse.

### c. NICB

Richard DiZinno (NICB) said the NICB has been engaging in operational and legislative issues. He said its key services include a geospatial intelligence center, case preparation, vehicle reparations, an insurance fraud prosecutors conference, fraud reporting, and vehicle identification number (VIN) verification. He said in its efforts for public awareness, the NICB held a successful Contractor Fraud Awareness Week May 23–27. He said moving into 2023, the NICB will focus on towing issues and other legislative proposals to assist the states.

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

[AFTF 12.14.22](#)

Draft: 12/13/22

Antifraud (D) Task Force  
Virtual Meeting  
November 16, 2022

The Antifraud (D) Task Force met Nov. 16, 2022. The following Task Force members participated: Trinidad Navarro, Chair, (DE); John F. King, Vice Chair, represented by Weston Burleson (GA); Lori K. Wing-Heier represented by Alex Romero (AK); Peni Itula Sapini Teo represented by Elizabeth Perri (AS); Alan McClain and Crystal Phelps (AR); Evan G. Daniels represented by Jon Savary and Paul Hill (AZ); Ricardo Lara represented by Charlene Ferguson and George Mueller (CA); Michael Conway represented by Steven Giampaolo (CO); Andrew N. Mais represented by Kurt Swan and Richard Reid (CT); Karima M. Woods represented by Brian Bressman (DC); David Altmaier represented by Jan Davis, Scott Woods and Simon Blank (FL); Dean L. Cameron represented by Hermoliva Abejar and Randy Pipal (ID); Doug Ommen represented by Andria Seip (IA); Vicki Schmidt represented by Jamie Nickoley, John Eichkorn, and LeAnn Crow (KS); Sharon P. Clark, Lee Webb, Juan Garret, Nancy Phillips, and Rob Roberts (KY); Kathleen A. Birrane represented by Joe Smith, Mary Kwei, Natalie Nelson, and Theresa Morfe (MD); Anita G. Fox represented by Austin Millner and Danielle Torres (MI); Grace Arnold represented by Cam Jenkins, Chris Ness, Jennifer Catechis, Paul Hansen, and T.J. Patton (MN); Chlora Lindley-Myers represented by Carrie Couch, Cynthia Amann, Jeana Thomas, and Marjorie Thompson (MO); Mike Chaney represented by John Hornback and Vanessa Miller (MS); Troy Downing represented by Troy Bidon (MT); Mike Causey represented by Angela Hatchet and Tracy Biehn (NC); Jon Godfread represented by Dale Pittman (ND); Eric Dunning represented by Laura Arp and Martin Swanson (NE); Chris Nicolopoulos represented by Brendhan Harris and Heather Silverstein (NH); Marlene Caride represented by Richard Besser (NJ); Russel Toal represented by Cass Brulotte, Devin Chapman, and Roberta Bacca (NM); Barbara D. Richardson represented by Dave Long (NV); Judith L. French represented by Michelle Brugh Rafeld (OH); Glen Mulready represented by Courtney Khodabakhsh, Landon Hubbart, and Rick Wagnon (OK); Andrew R. Stolfi represented by Brian Fordham, Dorothy Bean, and Stephanie Noren (OR); Michael Humphreys represented by Jodi Frantz (PA); Michael Wise represented by Gwendolyn McGriff and Joshua Underwood (SC); Larry D. Deiter represented by Melissa Manning and Travis Jordan (SD); Jon Pike represented by Randy Overstreet and Tracy Klausmeier (UT); Scott A. White represented by Julie Fairbanks and Richard Tozer (VA); and Allan L. McVey represented by Karla Nuissl, Isabelle Turpin Keiser, Marcia Violette, Mary Block, and Nick Marineau (VT); and Allan L. McVey, Erin K. Hunter, and Greg Elam (WV).

1. Discussed the Request for NAIC Model Law Review for Model #880

Commissioner Navarro said the Improper Marketing of Health Insurance (D) Working Group has been focusing on its charge to review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products and identify models and guidelines that need to be updated or developed to address current marketplace activities. He said the Working Group determined its first model review will be on the *Unfair Trade Practices Act* (#880). Commissioner Navarro said in order for the Working Group to continue its work, the NAIC needs to complete the review of and adopt the Request for NAIC Model Law Review. Commissioner Navarro said the form is intended to gather information to support the development of a new model law or amendment to an existing model law.

Commissioner Navarro said the Working Group met Nov. 3 to review the form, and it was adopted unanimously. Commissioner Navarro said the form was sent to the Task Force for discussion during today's meeting. He said the Task Force is to discuss only the form and not address specific language that will be added as an amendment.

Swanson said the purpose behind reviewing Model #880 is to provide flexibility to all those states that would use that model to make sure that they had jurisdiction over these entities that are improperly marketing these particular health plans. He said the purpose of today's meeting is to obtain a procedural vote to adopt the form before the Working Group can finalize reviewing any potential amendments. Swanson said due to the activity being witnessed in each state regarding the improper marketing of health insurance plans, it is important not to lose movement on these amendments. He said with the amendments applied to Model #880, it would provide states with the ability to take the necessary action.

Commissioner Navarro said the Task Force received a letter from the Ohio Department of Insurance (DOI). Rafeld said Ohio appreciates the work that the Working Group and the Task Force are conducting concerning the deceptive marketing practices with health insurance plans. She said they are concerned with the restricted scope that the Working Group has taken with reviewing Model #880. Rafeld said amendments to Model #880 would not provide states with additional authority above what they have today as it is written. She said unfair and deceptive trade practices would still not allow states to take action unless they are licensed. Rafeld said there have been several discussions at the Working Group level regarding this problem. She said while reviewing this model is admirable, the Ohio DOI does not feel this is the proper vehicle at this time. She said the proposed language does not provide any additional regulatory authority. She said it would only allow the ability to issue cease and desist orders against lead generators who are engaging in unfair and deceptive practices. Rafeld said another concern with reviewing Model #880 is that it was recently amended in 2020 and adopted in 2021. It is now within the three-year window for states to update their existing model language.

Rafeld said the Working Group was charged with reviewing existing models and guidelines, not just Model #880. Rafeld said the Working Group has focused its attention fully on Model #880 and that Ohio thinks additional consideration should be given to other models, such as the *Producer Licensing Model Act* (#218), the *Advertisements of Accident And Sickness Insurance Model Regulation* (#40), and the *NAIC Model Rules Governing Advertisements of Medicare Supplement Insurance With Interpretive Guidelines* (#660). Rafeld said that Ohio encourages the Working Group to take a more comprehensive look at which models would be more appropriate to potentially amend. She said it may be necessary for the Working Group to partner with other Working Groups or Task Forces, including the Producer Licensing (D) Task Force and the Health Insurance and Managed Care (B) Committee.

Commissioner Navarro said there was mention that some states are in the process of adopting amendments to Model #880. He asked if those states are known. Rafeld said she does not have that information. However, she said there was amended language concerning anti-rebating prohibitions that would impede innovations and insurance. Commissioner Navarro said the first goal is protecting consumers and trying to put an end to the improper marketing of health insurance plans.

Swanson said the Working Group has discussed with NAIC Legal and the NAIC Research Library to determine the best model to review. Swanson said there have been multiple discussions within the Working Group and with Brian Webb, support staff with the Life Insurance and Annuities (A) Committee. Swanson said amending Model #880 would provide clear jurisdiction over these entities, which is the intended movement from involving other NAIC committees, task forces, and working groups. He said the concern with reviewing other models would be getting direction from those parent committees. Swanson said the process of reviewing other models would take additional time and may lengthen this process. He said it is vital to get amendments made now in order to take action against these entities. Swanson said Model #880 would be the start of the charge to review other models and guidelines.

Commissioner Gaffney said it would be good to know what states have or are in the process of adopting amendments to Model #880. He said Vermont adopted this in the 2022 legislative session. The Task Force discussed states that have adopted these amendments.

Rafeld said there are questions concerning the form. It mentions a maximum two-thirds vote. Rafeld said it is highly unlikely that state legislatures would adopt amended language to Model #880. She said she is unaware of where the decision was made to review Model #880 and that based on her prior experience, it would need to be vetted through the Working Group and Task Force.

Swanson said the decision was made from the research completed. He said the Working Group unanimously adopted the form for Model #880. Rafeld said it was adopted at the Working Group level, but she does not feel the proper due diligence has been completed to confirm that Model #880 should be amended. Rafeld said amendments to Model #880 would not provide the states with the ability to take action on these entities—only licensed entities or individuals.

Swanson said by making the proper amendments, it would provide the states with the ability to define these entities, which encompasses them into the actions and oversight of the state insurance departments. Swanson said it would also provide necessary restrictions under the current umbrella as it is written in other states.

Commissioner Navarro said it is important for everyone to remember that this is the start of the model review process and that it would not be limited to Model #880, but that would be where they start.

Swanson made a motion, seconded by Commissioner McVey, to adopt the Request for NAIC Model Law Review for Model #880. The motion passed, with 20 states abstaining, 12 voting yes, and five voting no.

Commissioner Navarro said regarding next steps, the Market Regulation and Consumer Affairs (D) Committee will meet Nov. 28 to review and discuss the form and potentially consideration. He said the form would then be presented to the Executive (EX) Committee for consideration.

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

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Antifraud (D) Task Force  
Virtual Meeting  
September 6, 2022

The Antifraud (D) Task Force met Sept. 6, 2022. The following Task Force members participated: Trinidad Navarro, Chair, (DE); John F. King, Vice Chair (GA); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain represented by Crystal Phelps (AR); Evan G. Daniels represented by Paul Hill (AZ); Ricardo Lara represented by George Mueller (CA); Andrew N. Mais represented by Kurt Swan (CT); Karima M. Woods represented by Brian Bressman (DC); Doug Ommen represented by Jared Kirby (IA); Dean L. Cameron represented by Hermoliva Abejar (ID); Vicki Schmidt represented by Jamie Nickoley, John Eichkorn and LeAnn Crow (KS); Sharon P. Clark and Juan Garret (KY); Kathleen A. Birrane represented by Jason Little and Joe Smith (MD); Anita G. Fox represented by Austin Millner and Danielle Torres (MI); Grace Arnold represented by Paul Hansen (MN); Chlora Lindley-Myers represented by Carrie Couch and Marjorie Thompson (MO); Mike Chaney represented by John Hornback (MS); Troy Downing represented by Troy Bidon (MT); Mike Causey represented by Angela Hatchet and Tracy Biehn (NC); Jon Godfread represented by Dale Pittman (ND); Eric Dunning represented by Connie Van Slyke (NE); Chris Nicolopoulos represented by Brendhan Harris (NH); Marlene Caride represented by Richard Besser (NJ); Russel Toal represented by Devin Chapman and Roberta Bacca (NM); Barbara D. Richardson represented by Dave Long (NV); Judith L. French represented by David Barney (OH); Glen Mulready represented by Rick Wagnon (OK); Andrew R. Stolfi represented by Dorothy Bean (OR); Michael Humphreys represented by Deborah Lee (PA); Michael Wise represented by Gwendolyn McGriff, Joshua Underwood (SC); Larry D. Deiter represented by Melissa Manning and Travis Jordan (SD); Jon Pike represented by Tracy Klausmeier (UT); Scott A. White represented by Juan Rodriguez and Richard Tozer (VA); and Allan L. McVey represented by Karla Nuissl, Isabelle Turpin Keiser, Marcia Violette, Mary Block and Nick Marineau (VT). Also participating were: Steven Giampaolo (CO); and Matthew Guy, Sheryl Parker, Scott Woods, and Simon Blank (FL).

1. Adopted its June 30 minutes.

The Task Force met June 30 and took the following action: 1) adopted the NAIC Antifraud Plan Repository Workflow document.

Bacca made a motion, seconded by Mueller, to adopt the Task Force's June 30 minutes (*see NAIC Proceedings – Summer 2022, Antifraud (D) Task Force*). The motion passed unanimously.

2. Discussed the 2022 Priorities

Commissioner Navarro said the Task Force has remained vigilant in its work against insurance fraud. Navarro said the Antifraud Technology (D) Working Group finalized the Antifraud Plan Repository Workflow document, which was adopted and presented to the Executive (EX) Committee. The Improper Marketing of Health Insurance (D) Working Group has continued its work, holding monthly regulator-to-regulator meetings and open meetings during the national meetings.

Navarro said the Task Force is working on a proposal to create a centralized producer portal that would allow consumers to find licensing information on insurance producers.

Tim Mullen (NAIC) said the NAIC has been discussing with Harry Ting (Health Consumer Advocate) and Commissioner Navarro the creation of a public search portal for producer information. Mullen said there is



currently an existing search for a “find an agent” available on the NAIC web page. However, this new portal would provide additional information for consumers to review on existing agents. He said they are working with NAIC technical departments to create prototype screens as a beginning. Mullen said the idea would be to create search functionalities that go beyond the status of a producer. The functionalities would include the appointment of information, regulatory actions, and complaint information. He said one of the challenges that will be encountered is that the NAIC does not create the data. This data comes from the state insurance department and is then shared with the NAIC technology departments and the National Insurance Producer Registry (NIPR), which makes it public and for insurance companies’ due diligence. Mullen said the next step will be to bring the Task Force screenshots of this proposal and work through the process of what the functions will be for this portal. He said during this review process, there is a need to figure out how to integrate with some existing state websites. Mullen said there are currently 15–20 states that have consumer lookups for producer information, and it will be necessary to ensure that once this portal is created, it will still drive consumers to their local state departments.

Commissioner Navarro said this was originally brought to the Task Force from Dr. Ting. He said the proposal was modeled after the Financial Industry Regulatory Authority (FINRA) Broker Check available online. Navarro said this proposal is a good example of the collaboration among the Task Force members, interested parties, and the NAIC.

Wes Bissett (Independent Insurance Agents & Brokers of America) said that this would be a good tool for consumers. However, he said he does have some concerns about the information that would be displayed on producers. Bissett said the concerns are primarily with unverified complaints that are lodged against producers. Commissioner Navarro said he welcomes the feedback. He said that the quality of the data is important and that it is a concern to have the correct information displayed. He said as they continue working on this proposal, they will bring updates to the Task Force to achieve transparency.

Birny Birnbaum (Center for Economic Justice—CEJ) said he recommends that the proposed portal not be adjudicated complaints only. He said financial services do not focus on only adjudication. Birnbaum said there are various types of public methods for causing dissatisfaction with the vendor of a company. He said the consumer representatives would respectfully disagree on limiting this information to adjudicated only. Bonnie Burns (California Health Advocates) said that she agrees with Birnbaum and would recommend the portal be transparent in what is displayed.

### 3. Heard Reports from Interested Parties

#### a. Coalition

Matthew Smith (Coalition Against Insurance Fraud—Coalition) said that on Sept. 8, the Coalition will be hosting a webinar on a study on workers’ compensation fraud. Smith said at this time, there are more than 1,000 attendees. He said the Coalition has been working on a major study for the use of ethical use of data and plans to have the data available soon. Smith said the Coalition has completed its economic impact study and determined that the cost of fraud has risen to \$308.6 billion.

Smith said upcoming events include the Insurance Summit with a session on natural disasters, the annual fraud directors conference, the International Global Insurance Fraud Summit, the Nebraska Department of Insurance (DOI) fraud conference, the Montana fraud meeting, and an upcoming Northeast Zone training in October. Smith said the Coalition will hold its annual end-of-year meeting in December.

#### b. HFPP

Shaun O’Neill said the Healthcare Fraud Prevention Partnership (HFPP) currently has 261 partners. He said the HFPP has launched a new redesigned secure portal producing one data analytic per month on traditional health insurance claims. O’Neill said the HFPP has worked with the Coalition Against Insurance Fraud, the National Insurance Crime Bureau (NICB) and NHCAA to provide useful information. O’Neil said the HFPP is focusing on 2 initiatives. The first is the spin on how we look at analytics with a view on partners in same class with high and low exposure and a cross over data project with aggregate medical database and the HFPP medical warehouse.

c. NICB

Howard Handler (NICB) said the NICB has been around for 112 years and has approximately 1,200 property/casualty (P/C) members, affiliate members, rental car companies, vehicle companies, and finance companies. Handler said that the NICB’s core capabilities include data analytics, investigations, training, public affairs, and governmental affairs.

Handler said the NICB focuses on and is engaged in operational and legislative issues. He said their key services include geospatial intelligence center, case preparation, vehicle reparations, insurance fraud prosecutors conference, fraud reporting, and vehicle identification number verification.

Handler said the NICB has focused on emerging fraud and crime schemes, including street gang-controlled medical clinics, telemedicine, COVID-19 billing schemes, increased “jump-ins”, cyber-incident threats, insurance-related history, and the insurance use of temporary license plates. Handler said the government affairs side covers all 50 states tracking more than 1,000 pieces of legislation.

d. NHCAA

Leigh McKenna (National Health Care Anti-Fraud Association—NHCAA) said the NHCAA is in the midst of planning an annual training conference, which has been virtual for the past two years. McKenna said the annual training this year will be in person Nov. 15–18 with 60–70 different sessions solely on health care fraud topics. She said there will be approximately 1,500 investigators with law enforcement and antifraud agencies. McKenna said the NHCAA also is planning for 2023 training programs, some of which will be virtual and others in person. She said there are currently 35 different fraud briefs that are 1–2 pages, which provide a notification of potential fraud schemes.

4. Discussed Future Antifraud Training Activities

Commissioner Navarro said one of the Task Force’s priorities has been to bring additional education and training. Commissioner Navarro said this year’s Insurance Summit will be taking place Sept. 19–23. He said three years ago, the Insurance Summit started to include a track devoted to insurance fraud. This year, there are several fraud sessions taking place Sept. 21–22. Commissioner Navarro said the sessions include: a regulator-only session for those new to insurance fraud, open sessions on natural disasters and catastrophes, new technology, how the COVID-19 pandemic has affected insurance fraud, improper marketing of health insurance, international fraud priorities, and the importance of collaboration.

Commissioner Navarro said due to the COVID-19 pandemic, the annual fraud directors conference has not taken place for the past three years. This year, thanks to the Insurance Fraud Bureau of Massachusetts and its executive director Tony DiPaolo, the conference will take place in Boston, MA, Oct. 3–6.

Commissioner Navarro said the last piece of training is the upcoming Northwest Zone fraud training, which will take place in Ocean City, MD, Oct. 12–14. He said the Delaware DOI has put together a great agenda for this training and has been working with NAIC staff to make this a worthwhile training addition. Commissioner Navarro said the goal is to begin with the Northeast Zone and then work toward getting this out to the remaining zones.

Having no further business, the Uniform Education (D) Working Group.

[AFTF Minutes 9.6.22](#)

Draft: 1/11/23

Improper Marketing of Health Insurance (D) Working Group  
Virtual Meeting  
November 3, 2022

The Improper Marketing of Health Insurance (D) Working Group of the Antifraud (D) Task Force met Nov. 3, 2022. The following Working Group members participated: Martin Swanson, Chair, Laura Arp, Michael Anderson, and Robert McCullough (NE); Frank Pyle, Vice Chair, Susan Jennette, and Trinidad Navarro (DE); Cheryl Hawley and Maria Ailor (AZ); Amy Stegall, Kurt Swan, and Richard Reid (CT); Andria Seip, Jackie Russo, and Shannon Hohl (IA); Erica Weyhenmeyer (IL); Danielle Torres and Kristie Taber (MI); Cam Jenkins, Gregory Maus, and Jeff Hayden (MN); Carrie Couch, Joe LeDuc, and Marjorie Thompson (MO); Matthew Eberhardt and Susan Brown (MT); David Buono, Dave Yanick, Jim Laverty, Michael Gugiolo, and Michael Fissel (PA); Amy Ondell, Gretchen Brodkorb, Melissa Vance, Tony Dorschner, Tiffany Carr, and Travis Jordan (SD); Monica Pinion and Thomas Morgan (TX); and Jeanette Plitt, John Haworth, Paul Dubois, Tifany Carr, and Tyler Robbins (WA). Also participating was: Michelle Brugh Rafeld (OH).

1. Adopted the Request for NAIC Model Law Review for Model #880

Swanson said the Working Group has been working on its charge to review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products and to identify models and guidelines that need to be updated or developed to address current marketplace activities. He said the Working Group has been soliciting comments on potential amendments for the *Unfair Trade Practices Act* (#880). Swanson said before the Working Group continues with this process, it needs to review and adopt the Request for NAIC Model Law Review for Model #880. He said the Request for NAIC Model Law Review form is intended to gather information to support the development of a new model law or amendment to an existing model law. He said the Working Group's first task is to adopt this form and then move on to the process of reviewing potential amendment language.

Ailor said she would like to clarify that the Working Group is only looking to adopt the Request for NAIC Model Law Review form and not the actual language to be considered for amendments. Swanson said this is correct; the first step is to adopt the form. The Working Group would then continue on with the review of the language for Model #880.

Jenkins made a motion, seconded by Pyle, to adopt the Request for NAIC Model Law Review form for Model #880.

Rafeld said she would like to clear up any confusion concerning the Working Group's charge. She said the charge states "models and guidelines"—not just a specific model or guideline—and that it would be necessary to review all models before moving forward on Model #880. Rafeld said she submitted comments regarding the *Producer Licensing Model Act* (#218), which she feels would better service the Working Group to review instead of Model #880. She said there has not been a discussion on other models—only Model #880—and she thinks there should be a consensus before moving forward.

Swanson said that the Working Group, along with NAIC staff, reached out to the NAIC Research Library in addition to running it by other state insurance regulators to determine that based on the research, Model #880 was the appropriate model to begin reviewing. Swanson said regarding other models, the Working Group would need to be mindful which Committee they fall under before reviewing. In addition, a Request for NAIC Model Law Review form would need to be completed for each separate model.

Rafeld said due to how the charge is written for the Working Group, she thinks the Working Group should review all appropriate models at the same time. Swanson said that the Working Group received comments from Ohio on Model #218, but no other model, and that the determination was that the focus would be on Model #880. Then the Working Group would move on to other applicable models. Rafeld said that Ohio is not on the Working Group as a member but would like to reflect that Ohio does not agree with this process. Swanson said he appreciates the comments and if the Market Regulation and Consumer Affairs (D) Committee directs the Working Group to stop and review a different model first, then the Working Group will do so. However, at this time, he said the Working Group will proceed with the review of Model #880.

Rafeld said the review of Model #880 and suggesting amendments will not provide regulatory authority over lead generation companies whereas if the Working Group made a change to Model #218, it would. She said a change to Model #218 would require lead generators to get a license from the different departments of insurance (DOIs), and they could then be held accountable. Swanson said this would be taken into consideration and would discuss with the Working Group vice chair for future review.

Amann said the Working Group could submit a referral memorandum regarding models that would assist with the process. Swanson said that would be an option. He said once the Working Group has completed the review of Model #880, it can enlist assistance from Rafeld and Amann to look at possible options for its next step.

Rafeld said the charge does not list a specific model; it states that the Working Group is to review “existing models and guidelines” in order to address the use of lead generators. Therefore, she said focusing on Model #880 is out of the scope for the Working Group’s charge. Rafeld said that in the past, Working Group members were able to vote on the appropriate model for review by survey or another form of collecting responses. Swanson said he appreciates the feedback and that if the Working Group is directed to go back and revisit going in another direction, it will. However, at this time, he said the Working Group is proceeding with Model #880.

Swanson said moving on from the discussions, there is a motion on the table made by Jenkins, seconded by Pyle, to adopt the request for NAIC Model Law Review for Model #880 (Attachment). The motion passed unanimously.

Rafeld said she appreciates the comments and that they would indicate the need to potentially amend Model #218 as it would provide regulation on the lead generators. Amann said the Privacy Protections (H) Working Group is reviewing these items as well.

## 2. Discussed Model #880 Potential Amendments

Swanson said the next order of business is to continue with the review of Model #880 for potential amendments. Cindy Goff (American Council of Life Insurers—ACLI) discussed her comment letter. Swanson said that he appreciates the comments and that it brings up some good points for the Working Group to review concerning the charge being limited to “health” and not other lines of insurance. Swanson said the next important point is the scope of states’ jurisdiction. The intent is not to provide jurisdiction over points beyond insurance.

Megan Stringer (American Health Insurance Plans—AHIP) said AHIP is supportive of the efforts being made to address the protection of consumers. She said AHIP had comments on Section 2—Definitions; Section 3—Unfair Trade Practices Prohibited; and Section 4—Unfair Trade Practices Defined. The Working Group discussed the comments from AHIP.

Lucy Culp (Leukemia Lymphoma Society—LLS) said she is an NAIC consumer representative and will kick off the comments submitted by the NAIC consumer representatives. She said the suggestions concerned Section 2—

Definitions to address “Third Party Marketing Organization” and Section 4—Unfair Trade Practices Defined. The Working Group discussed the comments received from the NAIC consumer representatives.

Swanson said the Working Group has additional comment letters. However, due to the time, he said the Working Group will discuss them during a future meeting. Swanson said due to the timing of the Fall National Meeting and the fact that the Working Group cannot do much else until the Request for NAIC Model Law Review for Model #880 has passed through the Executive (EX) Committee, the Working Group will hold off until either following Fall National Meeting or at the beginning of 2023.

Swanson said for its next discussions, the Working Group will break out some sections to address one by one, beginning with Section 2—Definitions. He said due to the comments received, he may be reaching out to some states and industry representatives to work on specific areas and present to the Working Group.

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

[IMHIWG Minutes 11.3.22](#)

## Draft Pending Adoption

Attachment Four  
Antifraud (D) Task Force  
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Draft: 1/5/23

Improper Marketing of Health Insurance (D) Working Group  
Tampa, Florida  
December 14, 2022

The Improper Marketing of Health Insurance (D) Working Group of the Antifraud (D) Task Force met in Tampa, FL, Dec. 14, 2022. The following Working Group members participated: Martin Swanson, Chair, and Laura Arp (NE); Frank Pyle, Vice Chair, and Susan Jennette (DE); Maria Ailor (AZ); Kurt Swan (CT); Andria Seip (IA); Michele Riddering (MI); Paul Hanson (MN); Carrie Couch (MO); David Dachs (MT); David Buono (PA); Travis Jordan (SD); Matthew Tarpley (TX); and John Haworth (WA). Also participating were: Kevin Beagan (MA); and Paige Duhamel (NM).

### 1. Discussed its 2023 Proposed Charges

Swanson said the Working Group has two charges that will carry over into 2023: 1) coordinate with regulators, both on a state and federal level, to provide assistance and guidance monitoring the improper marketing of health plans, and coordinate appropriate enforcement actions, as needed, with other NAIC committees, task forces, and working groups; and 2) review existing NAIC models and guidelines that address the use of lead generators for the sale of health insurance products, and identity models and guidelines that need to be updated or developed to address current marketplace activities.

Swanson said the Working Group has begun working on its second charge by drafting potential amended language. He said before the Working Group can proceed further, the Request for NAIC Model Law Review for the *Unfair Trade Practices Act* (#880) has been adopted by the Executive (EX) Committee.

### 2. Discussed Topics Concerning Improper Marketing

Swanson said the Working Group has continued to discuss in closed and open settings specific individuals or businesses that are improperly marketing health insurance. He said there are other market entities that continue to do the same. Swanson said that because this is an open meeting, the Working Group needs to be mindful of any confidential information due to ongoing investigations. However, he said it is important to discuss and continue the uniform and transparency efforts.

Swanson said there have been continued issues that bring the need for additional efforts to help fight the improper actions of health care sharing ministries (HCSMs). He said Medicare advertisements are on Facebook and Instagram. Swanson said he has subscribed and continues to get advertisements. He said he has been in contact with other states and has been informed this is taking place elsewhere. He said that in addition to all other areas, Medicare Advantage and other Medicare-type plans have been popping up. The Working Group discussed the use of Facebook and Instagram to improperly market health insurance with Medicare Advantage. Swanson said there have been advertisements claiming that Medicare Advantage has been approved by the federal Centers for Medicare & Medicaid Services (CMS). He said that with many of these types of advertisements and several others, it is due to the internet; there is no current control over the internet here in the U.S. and internationally. The Working Group members agreed that other states have received the same information and advised that the internet has created more hurdles.

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Pyle said it has been on the Working Group's radar for more than a year. However, he said Pennsylvania has taken action against Segura in addition to Arthur Welch, who has been involved with Segura. Pyle said another item is concerning the Amtrak maintenance shop that has a rogue agent attempting to get with Amtrak employees. He said due to confidentiality, he will not provide more details if a state has any Amtrak issues. Swanson said Nebraska is seeing a self-employed health insurance that is targeting small businesses, which can be discussed further in closed settings. The Working Group discussed, and states agreed, that additional discussions will take place in closed settings to address confidential information with regard to potential investigations.

Ailor said in Arizona, they are not seeing anything new from what has already been described. However, he said robocalls are increasing due to open enrollment. Swanson said the Working Group needs to have further discussion with attorney general offices to address these issues.

Jordan said in South Dakota, they are seeing associations targeting public employee pension plans and are stating they are part of the state's subsequent retirement system in order to solicit individuals that are on the pension system to move retirement accounts into fixed annuities. He said it is important to bring this awareness to the Working Group in an open setting.

The Working Group discussed the different types of open enrollment health plans claiming to be part of the federal Affordable Care Act (ACA) plans, which are being encountered throughout the U.S.

Duhamel said in New Mexico, they have encountered a health matching account. If an individual makes a contribution, then it is matched by an unknown entity to assist with deductibles and premiums. The Working Group discussed and agreed this would be kept on its radar. Duhamel said if any other state has encountered this, please contact New Mexico. Their web page can be found at [www.Healthmatchingaccounts.com](http://www.Healthmatchingaccounts.com).

Beagan said that he has not followed all of the conversations from the Working Group and would like to inquire about the issue of tribal insurance plans. He said they had a conversation with a tribal insurance company, which stated it is exempt from state laws and only subject to federal laws. Swanson said the NAIC/American Indian and Alaska Native Liaison Committee is monitoring this issue and may have more information.

Brian Webb (NAIC) said concerning Medicare Advantage, the U.S. Senate Committee on Finance has been interested in trying to improve the issues surrounding it. He said the CMS is also interested in fighting against this and improving MOU with the state and federal government. Swanson said he is aware that the CMS is trying to help the states fight against improper marketing. Terri LaCroix (CMS Office of Program Operations and Local Engagement—OPOLE) said she is from OPOLE, which handles program operations and local engagement. LaCroix said they represent the 10 regions and colleges across the CMS. She said they are working to assist with fighting against these issues. She advised Working Group members or any state insurance regulator to reach out to Webb or her directly as they work to fight against these improper marketing issues. LaCroix said they are working to build on its current relationships with the states and other associations to determine the best means to stop these fraudulent actions. The Working Group discussed other issues with Medicare Advantage and the efforts between states and the CMS to put a plan in place to fight them.

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

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