

Draft: 11/10/23

Antifraud (D) Task Force
Virtual Meeting
October 20, 2023

The Antifraud (D) Task Force met Oct. 20, 2023. The following Task Force members participated: Trinidad Navarro, Chair, (DE); John F. King, Vice Chair, represented by Paula Shamburger and Teresa Winer (GA); Lori K. Wing-Heier represented by Alex Romero and Kayla Erickson (AK); Alan McClain represented by Jane Windley and Teri Mecca (AR); Barbara Richardson represented by Shane Foster (AZ); Ricardo Lara represented by Charlene Ferguson and George Mueller (CA); Andrew N. Mais represented by Kurt Swan (CT); Karima M. Woods represented by Brian Bressman and Tina Ching (DC); David Altmaier represented by Simon Blank (FL); Dean L. Cameron represented by Kyle Cammack, Shannon Hohl and Randy Pipal (ID); Doug Ommen represented by Andria Seip, David Sullivan and Paula Wallin (IA); Vicki Schmidt represented by Jamie Nickoley, and LeAnn Crow (KS); Sharon P. Clark represented by Daniel Meilwan and Juan Garret (KY); Kathleen A. Birrane represented by Joe Smith, and Jason Little (MD); Grace Arnold represented by Tony Ofstead (MN); Chlora Lindley-Myers represented by Amy Hoyt, Carrie Couch, Jo LeDuc and Teresa Kroll (MO); Mike Chaney represented by John Hornback (MS); Troy Downing represented by David Dachs, Ted Bidon and Troy Smith (MT); Mike Causey represented by Angela Hatchet, Joe Wall, Kevin Robertson, Melinda Munden 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 (NH); Marlene Caride represented by Richard Besser (NJ); Russel Toal represented by Cass Brulotte, Melissa Robertson, Paige Duhamel and Roberta Bacca (NM); Scott Kipper, David Cassetty and David Long (NV); Judith L. French represented by Alana Neff, David Barney, Lee Washburn and Tynesia Dorsey (OH); Glen Mulready represented by Rick Wagnon (OK); Andrew R. Stolfi represented by Dorothy Bean, Kristen Anderson and Stephanie Noren (OR); Michael Humphreys represented by Deb Lee and Michael Fissel (PA); Elisabeth Kelleher Dwyer and Matt Gendron (RI); Michael Wise represented by Joshua Underwood (SC); Larry D. Deiter represented by Amanda Feist and Travis Jordan (SD); Cassie Brown represented by Christopher Davis, Leah Gillum, Matthew Tarpley and Thomas Morgan (TX); Jon Pike, Carrie Backus, Kelly Christensen, Shelly Wiseman, Tanji Northrup and Tracy Klausmeier (UT); Scott A. White represented by Andrea Baytop, Katie Johnson, Melissa Gerachis and Richard Tozer (VA); and Kevin Gaffney, Karla Nuissl and Mary Block, (VT); and Allan L. McVey represented by Greg Elam (WV).

1. Adopted its Oct. 20 Meeting Minutes

Commissioner King made a motion, seconded by Ofstead, to adopt the Task Force's Oct. 20 minutes (see NAIC Proceedings – Fall 2023, Antifraud (D) Task Force). The motion passed unanimously.

2. Discussed the Unfair Trade Practices Act (Model #880)

Commissioner Navarro said the Improper Marketing of Health Insurance (D) Working Group has been working on amendments to Model 880 for the purposes of their 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.

Commissioner Navarro said during the Summer National Meeting the Working Group met and adopted the draft amendments. He said the Task Force exposed the draft amendments for comment. The Task Force received three comments from Missouri, Virginia and the Coalition Against Insurance Fraud/NAIC Consumer Representatives.

LeDuc said Missouri reviewed the amendment draft and submitted suggestions concerning Section 2 Definitions, Section 4 Unfair Trade Practices Defined and Sections 6-10. She said for Section 2 Missouri suggests that "Health

Insurance Lead Generator” is too broad and inadvertently encompasses several persons who are not acting as lead generators. Leduc said Missouri suggests deleting “engages in any of the following activities and replace with utilizes a lead-generating device.

LeDuc said the next suggestion was concerning Section 4. Missouri suggests part “C” is redundant and recommends removing “C” and changing language within “J” to encompass necessary language. She said the suggestion language would be to add “health insurance lead generator” following insurer and to add “Failure to do shall constitute a violation of (INSERT STATE STATUTE).

LeDuc said the third suggestion was concerning Section 6 – 10. She said as currently drafted, Missouri does not believe the model provides states sufficient authority to effectively regulate health insurance lead generators. While the revisions define what constitutes a health insurance lead generator and impose regulatory requirements on these entities, the sections of the model granting states authority over entities covered by the model have not been extended to include health insurance lead generators. We believe Sections 6 – 11 of the model should be revised to provide explicit regulatory authority over these entities. Suggestions on how these sections could be revised to include” health insurance lead generators” are included in the attached document.

Johnson said Virginia reviewed the draft amendments and per the discussions from Missouri comments it looks to be resolved, however they have concerns with the current language on Section 3. Johnson said the current language may bring the definition of “person” into doubt. It should mean “everyone” and by naming entities, it creates a question as to the meaning of “person.”

Brent Walker (Coalition Against Insurance Fraud) said in coordination with the NAIC Consumer Representatives they have submitted a suggestion in line with Virginia’s comment on the definition of “person.” Walker said the suggestion they have made is to add language at the end of the definition to read: For purposes of this act, “person” includes a health insurance lead generator operating as any such natural or artificial entity.

The Task Force discussed the suggestions submitted and agreed to include the changes in the draft.

Gendron said he would like to inquire about the change in language concerning the failure to maintain marketing and performance records. The Working Group discussed the changes. Megan Stringer (American Health Insurance Plans – AHIP) said the purpose behind the change was due to the original records language duplicates what is in Section 4. J which already requires insurers to keep all those business records. Gendron said that he agrees it does include some of the same language, however it is narrowed down and does not fully cover what is necessary. Gendron said he would discuss with Patrick Smock (Rhode Island Deputy Chief of Legal Services) to provide alternative language. The Task Force discussed and agreed. Wake said he would agree to the changes suggested and that the Task Force should review the model language so that the language and terminology used throughout the model would flow the same as other NAIC models. The Task Force discussed the model language and agreed.

Pipal said Idaho has concerns pulling lead generators from the definition of persons and redefining specifically. The second concern is the definition of “lead generating device” however it is not found anywhere else in the model. Commissioner Navarro said he has some concerns as well and said the Task Force may need to review this area as well.

The Task Force discussed the current language amendments to the model and the limitations it sets, being specific to health. Swanson said the charge given to the Working Group was to focus on “health” lead generators.

The Task Force reviewed the suggested changes and agreed to include them with the exception Rhode Island suggested language on Failure to Maintain Marketing and Performance Records.-

Commissioner Navarro said he will work with the NAIC staff to include all these changes and redistribute them out for review. He said the plan moving forward will be to either try and work in a conference call prior to the National Meeting or if timing permits, they will adopt at the Fall National Meeting and send on to the Market Regulation and Consumer Affairs (D) Committee for adoption.

3. Any Other Matters

Commissioner Navarro said he would like to remind the Task Force about the 2024 charges. He said an email was distributed with edits for 2024 Proposed Charges. Please review those edits and provide Greg Welker with a response with your electronic vote to adopt.

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

[AFTF 10.20.23 Minutes](#)