The National Association of Insurance Commissioners (NAIC) has officially finalized its newly proposed Pet Insurance Model Act (“Model” or “Model Law”). Work on this Model Law has been in progress for over two years and, if formally adopted by the NAIC’s Executive (EX) Committee and Plenary, it will define a regulatory structure related to pet insurance for respective states’ consideration. By definition, NAIC Model Laws propose statements of insurance laws that should be adopted by the 50 states to help provide uniformity within the industry. Current regulation of pet insurance varies widely across the states, and the impact of this Model Law will depend on whether and how states choose to enact the law.

Generally speaking, pet insurance is very similar to health insurance for humans with certain exclusions and varying levels of coverage, deductibles, and payment limits. Most pet insurance policies exclude pre-existing conditions and hereditary or congenital conditions, and some may not accept pets after a certain age or have waiting periods before benefits begin. According to a recent report from the North American Pet Health Insurance Association, the pet health insurance sector recorded its sixth consecutive year of double-digit growth with $2.174 billion in total premiums sold in 2020 (up 26 percent from $1.717 billion in 2019) and 3.45 million pets insured across North America (up 22.5 percent from 2.81 million pets insured in 2019). Further, a national online survey from The American Society for the Prevention of Cruelty to Animals revealed that approximately one in five households acquired a cat or dog between the onset of the COVID-19 crisis and May 2021. Needless to say, a model law in this sector is very timely.

The NAIC’s Pet Insurance Model Act is largely based on California’s existing pet insurance law. California was the first state to adopt a law specifically governing pet insurance in 2014. The law established essential consumer protections by requiring pet insurers to disclose information regarding reimbursement benefits, preexisting condition limitations, and a clear explanation of limitations of coverage including coinsurance, waiting periods, deductibles, and annual or lifetime policy limits. It also provided consumers with a “free look” period in which a pet insurance policy could be returned for a full refund. California enacted the law in an attempt to address complaints from a growing number of policyholders who alleged that they learned too late that the exclusions included in their policies far outweighed the benefits. The state has reinforced the rules since 2014 and, most recently, considered a bill which would require insurers to include spaying and neutering in standard coverage. The bill ultimately failed to pass during California’s 2021 legislative session, but it highlights the interest that the pet insurance industry continues to attract from legislators, regulators and consumers.

During its 2018 Spring National Meeting, the NAIC’s Property and Casualty Insurance (C) Committee approved a request from its Producer Licensing (D) Task Force to draft a comprehensive white paper on pet insurance that would provide information on coverage options, product approval, marketing, ratemaking, claims practices and regulatory concerns. The proposal emerged amid discussions with...
The industry stemming back to December 2016 where an industry member raised concerns about the use of limited lines licensing for pet insurance. The carrier suggested that a full property & casualty line should be required to sell, solicit, or negotiate pet insurance. Before offering guidance on the type of producer license required to sell the product, the Task Force’s white paper proposal was to provide the industry with a better understanding of the complexities of pet insurance.

The Pet Insurance Model Act was initially adopted by the Working Group on Aug. 4, 2021; however, comments on the Act provided by the NAIC’s Legal Department, as well as Working Group members, were proven to be sufficiently important enough to warrant further edits. Three additional meetings were held in September and October where the Working Group considered suggested changes, as well as new language relating to sales practices for wellness programs and a section entitled, “Insurance Producer Training.” The final language of the proposed Model Law was adopted by the Working Group on Oct. 21, 2021.

During the C Committee’s consideration of the proposed Model, interested parties were able to voice their opinions. NAPHIA highlighted the lack of consensus on two critical issues — waiting periods and the marketing of wellness programs — stating that they agreed on robust disclosures and an option for a consumer to waive the waiting period, both of which are included within the Model, but it goes a step further by including prohibitions and limitations on the risk mitigation features. According to NAPHIA, the Model language, if adopted in the states, will likely force carriers to increase premiums to mitigate the risks and offer less coverage options that exist in the marketplace today. Additionally, NAPHIA supported prior adopted Model language which provided for clear marketing and sales practices for selling wellness plans at the same time as insurance; however, when this language was revisited, the Working Group adopted opposite language that prohibits the marketing of non-insurance wellness products sold during the sale, solicitation or negotiation of pet insurance. NAPHIA questions whether this is beneficial for consumers.

A consumer advocate urged the prohibition of any waiting period provisions and believed the Working Group’s
proposed language regarding wellness generally struck a reasonable balance between consumer and insurer interests. The advocate also drew comparisons between the proposed Model Law and the recently adopted NAIC Travel Insurance Model Act. Both are hybrid insurance products with a combination of coverages from health insurance to property & casualty insurance, noting both are often sold in connection with non-insurance services. Despite the similarities, the consumer advocate stated they take significantly divergent approaches, highlighting how the Travel Insurance Model Act permits insurers to market and sell non-insurance services at the same time as travel insurance, as well as the bundled sale of insurance and non-insurance.

Ultimately, the proposed NAIC Pet Insurance Model Act was unanimously adopted by the C Committee on Nov. 10, 2021. It will be further considered by the Executive (EX) Committee and Plenary during the NAIC Fall 2021 National Meeting, hosted in San Diego, California on Dec. 11-16, 2021, before it is formally adopted by the organization. It is currently unclear whether the industry’s concerns will be raised or further discussed before the membership body votes on the proposal.

Fred E. Karlinsky is co-chair of the firm’s Insurance Regulatory and Transactions Practice Group. Fred has nearly 30 years of experience representing the interests of insurers, reinsurers and a wide variety of other insurance-related entities on their regulatory, transactional, corporate and governmental affairs. Fred is a recognized authority on national insurance regulatory and compliance issues and has taken a leadership position in many insurance trade organizations, has led many industry-driven legislative and regulatory initiatives, and is a sought-after thought leader who has spoken and presented to insurance executives and governmental officials, both nationally and internationally.

Timothy F. Stanfield is of counsel at Greenberg Traurig. Timothy is a member of the firm’s Florida Government Law & Policy Practice and represents a broad array of private and public-sector clients before the Florida legislature, cabinet, and state agencies.

Christian Brito is an associate at Greenberg Traurig. Christian focuses his practice on national insurance transactional, regulatory and compliance matters. Christian represents a wide variety of insurance industry participants, including insurers, reinsurers, captives, managing general agencies, brokers, third-party administrators, claims administrators and others in connection with regulatory, transactional, corporate and governmental affairs matters.

in their careers and are frequently looking to employers to help facilitate their personal development. When organizations engender loyalty among their workforce, retention increases, and workers with disabilities are no exception to that generalization. They also are more likely to remain longer. By maintaining continuity of operation, retention drives productivity and efficiency.

When organizations aren’t in tune with the unique needs and perspective of employees, those workers feel like outsiders, like branches disconnected from the whole vine. According to SHRM research, 20 percent of workers surveyed say they feel undervalued at work, not undervalued — which pretty much describes everyone at times. For Black workers the number balloons to one-third. In this environment, workers who feel invisible are a DM away from walking out the door. They would leave for any comparable offer, so it is easy to imagine them leaving for more money, which is readily available in today’s era of widespread wage inflation. Having a diverse workforce means little if your diverse talent is not included in the enterprise.

Empathy is instrumental in creating a truly inclusive workplace. It’s important to clear up the widespread misperception conflating empathy with sympathy, or what SHRM’s chief knowledge officer calls “ME-pathy.” At its core, empathy means stepping outside of our own perspectives to understand others. It doesn’t involve fixing or changing people. Empathy opens a space for people to be themselves. It’s about acceptance and trust. Empathy enables people to work cooperatively and effectively with others who have very different life experiences. According to a recent SHRM survey, 93 percent of workers with an opinion agree they would seek an empathetic company if they were seeking a job. Empathy, as a value proposition, has a measurable tangible impact among workers and on business performance.

Inclusion seeks to engage the workforce fully by integrating diversity into meaningful work. It involves maximizing the potential of diverse talent to enhance performance. The best, most sought-after workers want to be challenged and valued, and organizations must demonstrate their commitment with training, development, and eventual advancement. When inclusion is done right, workers feel like they belong. They tend to stick with the organizations longer, improving retention. They also perform at higher levels and are rewarded accordingly — eventually developing into workplace leaders. Inclusion does not just stop at what is considered “diverse” talent, it enhances engagement across the entire workforce.

To win the war for talent, business leaders must see beyond traditional talent pools. Truly inclusive organizations create