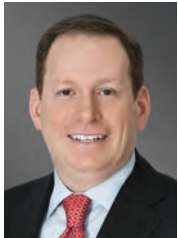


NAIC Finalizes Its New Pet Insurance Model Law



By Fred E. Karlinsky, Timothy F. Stanfield, and Christian Brito

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.

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.

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 first draft of the Pet Insurance Model Act provided on Oct. 1, 2019 was further developed over 24 open meetings with active participation from veterinarian representatives, consumer representatives and the industry — including producers.

The white paper — “A Regulator’s Guide to Pet Insurance” — was published in April 2019. After its release, the C Committee created the Pet Insurance (C) Working Group to discuss the potential development of a model law. An official, relative Request for NAIC Model Law Development was approved by the NAIC Executive (EX) Committee and Plenary on Aug. 6, 2019. The first draft of the Pet Insurance Model Act provided on Oct. 1, 2019 was further developed over 24 open meetings with active participation from veterinarian representatives, consumer representatives and the industry — including producers. The Model covers required definitions and disclosures as well as regulations for policy conditions, sales practices, wellness programs and producer training. The Working Group hosted extensive discussions on major issues, which included preexisting conditions, waiting periods, free look periods, renewals, wellness programs and producer licensing.

While the Working Group ultimately decided that the Model was not the appropriate place to decide the type of license required to sell pet insurance, they wanted to ensure that producers are trained in specific features of the product before selling it. Additionally, despite their awareness of the industry’s issues with waiting periods and the wellness program language, Working Group members unanimously agreed on the language proposed for those two issues. They also discussed the potential need for specific data collection

on the pet insurance line of insurance, noting it’s an issue that should be kept open for future discussions.

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



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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. 

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