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Mr. Martin Swanson, Nebraska Department of Insurance, co-chair, Improper Marketing of Health Insurance (D) Working Group

Mr. Frank Pyle, Delaware Department of Insurance, co-chair, Improper Marketing of Health Insurance (D) Working Group

Via email: GWelker@naic.org; martin.swanson@nebraska.gov; frank.pyle@delaware.gov

Re: Improper Marketing of Health Insurance Working Group Proposed Amendments to Model 880 Unfair Trade Practices Act

Dear Mr. Swanson & Mr. Pyle,

The American Council of Life Insurers (ACLI) appreciates the opportunity to provide comments on the proposed amendments to NAIC Model Law 880, The Unfair Trade Practices Act. We support the utilization of the NAIC's standards for state insurance regulators to protect consumers from the improper marketing of health insurance products.

American Council of Life Insurers | 101 Constitution Ave, NW, Suite 700 | Washington, DC 20001-2133

The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

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goal of ensuring that health insurance products, particularly health-related supplemental excepted benefits, are advertised, marketed, and sold properly. Our members are committed to ensuring agents and producers with whom they work are properly trained, managed, and vetted to prevent improper behavior. We appreciate the opportunity to work with you to find the most effective way to address the improper behavior of concern. To that end, we offer the following comments and suggestions regarding the exposure draft of Model 880 (the Unfair Trade Practices Model Act).

Definition of Lead Generator

As the consumer protection concerns of the Working Group are related to the marketing and sale of specific health insurance products, we believe that formal written guidance from the Working Group regarding applicability of existing laws and regulations can address many regulatory concerns the Working Group has expressed. We also recognize a major concern of the Working Group is a belief that there is no clear definition of the entities that perform the lead generation functions. However, we note that a definition of lead generation is currently included in the NAIC's Model 40, Advertisements of Accident and Sickness Act.

We are concerned that as the Working Group moves forward with applying a definition of lead generator, the definition of "Insurance Lead Generator" proposed in this exposure draft is overly broad and will likely lead to more confusion in the industry at large. For example, under the proposed definition, any newspaper, television station or network, internet website, or other advertising

producer, and/or insurer and, in so doing, discusses specific health insurance policy terms and conditions, and (d) any part of whose compensation is contingent on the purchase of a health insurance product by a referred person.

We would also like the opportunity to discuss sections B and new Section C with the Working Group to ensure we understand what the specific expectations would be for records and availability of data related to internet advertising. Since Model 880 is broadly applicable to all entities engaged in the business of insurance, this might be a more appropriate discussion to have in the context of Model 40, as discussed below in our comments related to guidance and best practices.

Rhode Island Proposal

ACLI strongly recommends that the Rhode Island proposal to insert Third Party Marketing Organizations (TPMO) definitions and provisions be rejected. The federal TPMO rule upon which this recommendation is based was promulgated by the federal Centers for M

We believe guidance issued from the Working Group to clarify how existing standards apply to the lead