

- C. A person or entity not licensed by the commissioner as a purchasing alliance and engaged in the purchase, sale, marketing or distribution of health insurance or health care benefit plans shall not hold itself out as an alliance, health insurance purchasing alliance, purchasing alliance, health insurance purchasing cooperative or purchasing cooperative, or otherwise use a confusingly similar name.
- D. Nothing in this Act shall be deemed to be in conflict with or limit the duties and powers granted to the commissioner under the laws of this state.
- E. Purchasing alliances shall report to the commissioner any suspected or alleged law violations.
- F. Violations of this Act shall be subject to the penalties contained in [insert reference to state law penalty provisions].

Drafting Note: The range of regulatory actions, processes, remedies and penalties to be specified here should be least as broad as those available to the commissioner when he or she sanctions entities under the insurance laws.

Section 3. Purchasing Alliance Application and Licensing Process

- A. An application in a form designated by the commissioner shall be completed and filed with the commissioner by an authorized representative of the board of the nonprofit corporation established as a precursor to being granted a purchasing alliance license. An application will not be deemed filed until all information necessary to properly process the application has been received by the commissioner.

Upon filing, the commissioner will make a determination concerning the application and will provide notice of the determination to the applicant. If approved, a copy of a license, in a form

- (9) Any other information required by the commissioner deemed pertinent to the policies and operation of the alliance.

- C. Financial and performance audits or examinations of the alliance shall be conducted on a regular basis by the commissioner. The commissioner may require audited financial statements from an alliance. Reasonable costs of examinations or audits are to be paid by the alliance. The commissioner may impose conditions on licensure, or continued licensure, for example, the removal and replacement of managerial, marketing staff or third party contractors to remedy compliance or performance problems.

Section 4. Grounds for Denial, Nonrenewal, Suspension or Revocation of License

In addition to any other grounds specified in this Act, the following constitute grounds for denial, nonrenewal,

Section 5. Conflicts of Interest

No board members or members of their household nor any management personnel of the alliance may be employed by, be a consultant for, be a member of the board of directors of, be affiliated with an agent of, or otherwise be a representative of any carrier or other insurer, a health care provider, agent or broker. This provision shall not preclude a board member from purchasing coverage through an alliance.

Drafting Note: States should review their ethics laws to ensure prohibition or limitation on the amount of stock that a board members can own in the entities described in Section 5. If no prohibition or limitation exists, a state should consider drafting language to do so.

Section 6. Additional Powers of and Restrictions on Purchasing Alliances

In addition to the powers granted to it in Section [insert reference to nonprofit corporation act]:

- A. A purchasing alliance may do any of the following:
 - (1) Set reasonable fees for membership, which may vary by employer size, in the purchasing alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance;
 - (2) Define and offer other health benefit plans in addition to the standard and basic health benefit plans promulgated pursuant to [insert reference to small employer health insurance availability law]. The alliance may also incidentally offer optional group vision and dental benefit plans and, with the prior approval of the commissioner, other limited benefit health insurance to enrollees;

Drafting Note: Under the guaranteed issue provision of the small employer health insurance availability model act, carriers offering a particular health benefit plan designed through a purchasing alliance will also have to offer and issue that plan to any small employer outside of the purchasing alliance.

(3)

- (6) As a condition of membership, require a small employer, eligible employee or dependent to subscribe to limited benefit health insurance or non-health care related products or services;
- (7) Operate the purchasing alliance or market the purchasing alliance in a county or primary metropolitan statistical area in a way which would cause the purchasing alliance to select a risk pool with actuarially projected health care utilization over a two-year period which is below the projected average for all individuals residing in that county or primary metropolitan statistical area. The measurement and composition of projected utilization by members of the purchasing alliance to all individuals shall be done on a county or primary metropolitan statistical area basis and not across all members of the purchasing alliance;
- (8) Engage in any competitive act or practice that results in the selection of member small employers and enrollees based on any of the risk factors specified in Paragraph (3) of this subsection or small employer size; or
- (9) Require or take any action inconsistent or in conflict with state laws or regulations.

Section 7. Operation of Purchasing Alliances

The board shall:

- A. Operate the purchasing alliance;
- B. Develop and make available a list of objective criteria that participating carriers must meet in order to be eligible to participate in the purchasing alliance;
- C. Contract with at least three (3) unaffiliated participating carriers to ensure that enrollees have a choice from among a reasonable number of competing carriers and types of health benefit plans that include the basic and standard health benefits plans required by Section [cite small employer health insurance availability law]. The commissioner may, upon a showing of good cause, waive the requirement to have at least three (3) unaffiliated participating carriers throughout all portions of the purchasing alliance's service area.;

Drafting Note: Coverage through a purchasing alliance of employees who work and reside outside of the state can create administrative problems due to the application of other states' extraterritorial mandated benefit laws. Moreover, many participating carriers, notably local HMOs, will not be able to provide coverage for out-of-state residents in any event. Purchasing alliances may wish to address this by issuing a separate request for proposal for the purpose of contracting with carriers to provide out-of-state coverage.

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- R. Treat all members within a class equally with regard to membership and administrative fees and benefits of membership.

Section 8. Participating Carriers

- A. In order to be eligible to be a participating carrier, a carrier must be able to demonstrate the following operating characteristics satisfactory to the board:
- (1) Be licensed and approved as a small employer carrier, and in good standing with the commissioner;
 - (2) The ability to administer health benefit plans, to provide adequate service, and to comply with all contractual requirements of the purchasing alliance;
 - (3) The ability to provide enrollees with reasonable access to covered services;
 - (4) The ability to provide coverage for enrollees in any service area in which the carrier plans to participate through the purchasing alliance;
 - (5) The ability to arrange and pay for the appropriate quality, level and type of health care services;
 - (6) The ability to provide data required by the board, including information on enrollee satisfaction based on standard surveys as may be prescribed and to meet reasonable satisfaction measures as may be established;
 - (7) The ability to provide standard data elements in a manner prescribed by the board;
 - (8) The ability to meet basic quality of care standards established by the commissioner and other relevant regulators;
 - (9) Strong financial condition;
 - (10) Adequate administrative management;
 - (11) A procedure to address enrollee grievances and appeals;
 - (12) The ability to achieve satisfactory enrollment levels within the service area in which the carrier is licensed; and
 - (13) All other criteria established by

(3) Provide accessible health care services.

C. In evaluating which carriers may participate in the purchasing alliance, the board shall consider:

(1) Minimum geographic service and participation requirements, maximum thresholds for premium rates, and standards for determining whether a carrier operates efficiently;

(2) The ability of a carrier to provide services within the purchasing alliance service area;

(3) Pricing and the competitiveness of each bid from a carrier; and

(4) The effect of contracting with additional carriers on the administrative costs of the

Drafting Note: States are reminded that this section is not intended to modify any existing statutes that require the licensing of individuals who provide advice on insurance coverage or who solicit sales of insurance.

- D. A participating carrier, agent, broker, contractor or producer of a participating carrier, or independent insurance agent, broker, contractor or producer may not engage, directly or indirectly, in an activity or marketing practice that would encourage member small employers or eligible enrollees to:
 - (1) Refrain from enrolling in a health benefit plan offered through the purchasing alliance because of their health status or claims experience;
 - (2) Seek coverage from other participating carriers because of their health status or claim experience; or
 - (3) Enroll or fail to enroll in the purchasing alliance because of their health status or claims experience.

Section 11. Solvency

In the event a purchasing alliance becomes insolvent, the commissioner shall maintain jurisdiction of the alliance for purposes of protection of the interests of the alliance enrollees.

Section 12. Purchasing Alliance Evaluation

The board shall make a report not later than [insert date] to the commissioner of at least the following:

- A. The progress achieved in assuring affordable health care coverage to eligible employees of member small employers;
- B. The need, if any, for financial incentives or other mechanisms to increase participation in the purchasing alliance;
- C. The benefits, if any, of exclusive purchasing of health insurance through the purchasing alliance for all small employers who choose to purchase health coverage; and
- D. Other changes in the law or procedure that would improve the overall efficiency, further reduce costs and improve fairness.

Section 13. Effective Date

This Act shall be effective [insert date].

Drafting Note: Each state should draft to be consistent with that state's procedures for establishing an effective date.
