UNFAIR DISCRIMINATION AGAINST SUBJECTS OF ABUSE IN PROPERTY AND CASUALTY INSURANCE MODEL ACT

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Section 1.

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Section 4. Unfairly Discriminatory Acts Relating to Property and Casualty Insurance

Drafting Note: Because of the nature and consequences of the prohibited acts, this model provides that a single instance of prohibited

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benefit of the applicant or the insured, and only to the following persons:

(a) A reinsurer that seeks to indemnify or indemnifies all or any part of a policy covering a subject of abuse and that cannot underwrite or satisfy its obligations under the reinsurance agreement without that disclosure;

(b) A party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurer or insurance professional;

(c) Medical or claims personnel contracting with the insurer or insurance professional, only where necessary to process an application or perform the insurer's or insurance professional's duties under the policy or to protect the safety or privacy of a subject of abuse (also includes parent or affiliate companies of the insurer or insurance professional that have service agreements with the insurer or insurance professional); or

(d) With respect to address and telephone number, to entities with whom the insurer transacts business when the business cannot be transacted without the address and telephone number;

(4) To an attorney who needs the information to represent the insurer or insurance professional effectively, provided the insurer or insurance professional notifies the attorney of its obligations under this Act and requests that the attorney exercise due diligence to protect the confidential abuse information consistent with the attorney's obligation to represent the insurer or insurance professional; or

(5)

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B. Is otherwise permissible by law and applies in the same manner and to the same extent to all applicants and insureds with a similar claim or claims history without regard to whether the claims are abuse-related.

Section 6. Insurance Protocols for Subjects of Abuse

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees and by insurance professionals they contract with, for the purpose of protecting the safety and privacy of a subject of abuse and shall otherwise implement the provisions of this Act when taking an application, investigating a claim, pursuing subrogation or taking any other action relating to a policy or claim involving a subject of abuse. Insurers shall distribute their written policies to employees and insurance professionals.

Drafting Note: States may wish to consider requiring insurers to develop procedures in consultation with domestic violence advocacy groups.

Drafting Note: States are advised that these policies and procedures should be subject to review as part of a market conduct examination or otherwise at the request of the commissioner.

Section 7. Enforcement

The commissioner shall conduct a reasonable investigation based on a written and signed [add any means by which the commissioner receives complaints] complaint received by the commissioner and issue a prompt determination as to whether a violation of this Act may have occurred. If the commissioner finds from the investigation that a violation of this Act may have occurred, the commissioner shall promptly begin an adjudicatory proceeding. The commissioner may address a violation through means appropriate to the nature and extent of the violation, which may include suspension or revocation of certificates of authority or licenses, imposition of civil penalties, issuance of cease and desist orders, injunctive relief, a requirement for restitution, referral to prosecutorial authorities or any combination of these. The powers and duties set forth in this section are in addition to all other authority of the commissioner.

Drafting Note: States may wish to delete this section if the substance of it already exists in state law.

Section 8. Effective Date

This Act is effective [insert date], and applies to all actions taken on or after the effective date, except where

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