

PROJECT HISTORY - 2024

AMENDMENTS TO THE *UNFAIR TRADE PRACTICES MODEL ACT* (#880)

1. Description of the project, issues addressed, etc.

In July 2021, the Market Regulation and Consumer Affairs (D) Committee adopted a new charge and appointed the Improper Marketing of Health Insurance (D) Working Group under the Antifraud (D) Task Force. The Working Group was assigned two charges:

- A. Coordinate with regulators, both on a state and federal level, to provide assistance and guidance on monitoring the improper marketing of health plans and coordinate appropriate enforcement actions, as needed, with other NAIC committees, task forces, and working groups.
- B. Review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products and identify models and guidelines that need to be updated or developed to address current marketplace activities.

As a result of the Working Group's discussions in 2021 regarding current marketplace practices and enforcement actions concerning the improper marketing of health plans, the Working Group adopted amendments to the *Unfair Trade Practices Act*

4. A general description of the drafting process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

In the fall of 2021, the Improper Marketing of Health Insurance (D) Working Group began its work to address its charge to review existing models and guidelines that need to be updated or developed to address the use of lead generators for the sale of health insurance products. The first draft of amendments to Model #880 was distributed to interested regulators and interested parties for review and comment in August 2022. The second draft of amendments to Model #880 was distributed in November 2022.

During the 2023 Spring National Meeting, the Working Group reviewed the second draft and the comments received. Following the Spring National Meeting, a small group of subject matter experts (SMEs) completed the drafting of amendments, and the Working Group circulated a third draft of the model in July 2023.

All drafts were posted on the NAIC website. Written regulator comments were received from Hawaii, Maine, Missouri, Ohio, and Rhode Island. Written industry comments were received from the American Council of Life Insurers (ACLI), the American Health Insurance Policies (AHIP), The Health Benefits Institute, and the National Association of Health Underwriters (NAHU). NAIC consumer representatives also submitted a joint comment letter.

5. A general description of the due process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers, and legislators was solicited).

The first draft of the proposed amendments was exposed on Aug. 31, 2022, for a 30-day public comment period that ended Sept. 30, 2022. The Working Group met on Nov. 3, 2022, to adopt the model law development request and review the comments received. The second draft was exposed on Nov. 8, 2022, for a public comment period that ended Nov. 18, 2022. The comment period was then extended until March 10, 2023. The Working Group met on March 23, 2023, during the Spring National Meeting to discuss the comments received. The Working Group continued to meet through virtual meetings to discuss comments received, and a third draft was exposed on June 29, 2023, for a public comment period that ended July 21, 2023.

The Improper Marketing of Health Insurance (D) Working Group adopted revisions to Model #880 on Aug. 14, 2023, during the Summer National Meeting. The Antifraud (D) Task Force made technical edits to the model and adopted revisions to the model on Dec. 2, 2023, during the Fall National Meeting. The Market Regulation and Consumer Affairs (D) Committee adopted revisions to the model on Dec. 3, 2023, during the Fall National Meeting.

6. A discussion of the significant issues (items of some controversy raised during the due process and the group's response).

The Improper Marketing of Health Insurance (D) Working Group decided that Model #880 should be the first model for review and amendment to provide greater regulatory oversight for entities that are improperly marketing health insurance. The Working Group believed amending Model #880 would provide states with a quicker legislative option than amending other NAIC models, and amending Model #880 would not preclude future discussions of possible amendments to other NAIC models.

The Working Group discussed the review of the following models for possible amendment in addition to Model #880: *Producer Licensing Model Act* (#218), *Advertisements of Accident and Sickness Insurance Model Regulation* (#40), and *NAIC Model Rules Governing Advertisements of Medicare Supplement Insurance with Interpretive Guidelines* (#660).

7. **Any other important information (e.g., amending an accreditation standard).**

PROJECT HISTORY - 2021

UNFAIR TRADE PRACTICES

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

The drafting group met twice at the beginning of 2020, in January and February, and then stopped meeting for a period of time because of the COVID-19 pandemic. However, it regrouped to meet two more times in May and June. Given the Task Force had already received considerable input from stakeholders regarding this topic, the drafting group was able to move forward expeditiously and disbanded prior to the 2020 Summer National Meeting.

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The first draft published out of the drafting group was posted for comment on June 23. Twenty-one comment letters were submitted, and Superintendent Dwyer reviewed the changes made based on those comments

PROJECT HISTORY - 2008

UNFAIR TRADE PRACTICES ACT (#880) (Travel Underwriting Revisions)

1. Description of the project, issues addressed, etc.

The revisions address the issue of underwriting in life insurance based on past lawful travel experiences and future lawful travel plans. The revisions prohibit an insurer from refusing life insurance to, refusing to continue life insurance of, or limiting the amount, extent or kind of life insurance available to an individual based on past lawful travel experiences. The revisions also prohibit an insurer from taking the same action based on future lawful travel plans unless such an action is based on sound actuarial principles and actual or reasonably anticipated experience related to a specific destination or the action is taken because, with respect to the

5. **A general description of the due process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited.**

Each draft of the proposed revisions to the model was circulated to interested parties and posted on the NAIC website. Interested parties were given the opportunity to submit comments. The Working Group and Committee reviewed and considered all comments received. Please see below.

387 . 392 . 0400 . 2 -A discussion of the significant issues (if any) of some controversy raised (if any) by the public hearing

Travel Underwriting UTPA Revisions Development Timeline

Date	Action
March 5, 2006	At the NAIC 2006 Spring National Meeting, the Life Insurance and Annuities Committee (Committee) decides to form a working group to work on the Committee's 2006 charge on travel underwriting.
Sept. 9, 2006	At the NAIC 2006 Fall National Meeting, the Working Group holds a public hearing. Congresswoman Debbie Wasserman Schultz (FL) provided taped testimony. Other participants were: Arnold Dicke (American Academy of Actuaries); Karen Aroesty (Anti-Defamation League); Robbie Meyer (American Council of Life Insurers); and Birny Birnbaum (Center for Economic Justice). 27a80006
Nov. 27, 2006	1

