



August 15, 2019

NAIC 2019 Summer National Meeting Report

The National Association of Insurance Commissioners (NAIC) held its 2019 Summer National with approximately 2,000 insurance industry professionals including NAIFA, regulators and consumer representatives. The following matters of interest to NAIFA and its members were discussed and/or acted upon:

Annuity Suitability/Standard of Care

As previously reported, The NAIC's Annuity Suitability Working Group has been working to develop revisions to the NAIC's Suitability in Annuity Transactions Model Regulation to incorporate, among other amendments, a requirement that the producer's/insurer's financial interests should not be placed ahead of the consumer's interests when recommending an annuity product. NAIFA has been an active participant in the Working Group's deliberations—we have testified at every meeting of the Working Group and submitted detailed comment letters, both individually and as part of an industry coalition, at numerous points in the NAIC process. NAIFA supports a "best interest" standard of care for annuity recommendations and sales so long as such a standard met certain criteria, with the key criterion being that any such standard must maintain existing business models and compensation structures and preserve the ability of middle and lower income consumers to have access to competent professional services, advice and financial products.

The Annuity Suitability Working Group held a full-day interim meeting in Columbus, Ohio to discuss "open issues" regarding the amendments to the existing model, and subsequently held several conference calls to discuss these issues. The working Group met during the 2019 Summer National Meeting and continued these discussions. At the conclusion of its meeting, the Working Group Chair, Ohio Director Jillian Froment, stated that she would be appointing a subgroup of regulators to develop a new draft of amendments to the current model, which would reflect the discussions held and decisions reached during the interim meeting and conference calls.

The subgroup's draft would be published by mid-September, comments would be received until approximately the beginning of October, and the Working Group would hold weekly conference calls starting in October to try to conclude its work. Director Froment's goal is to for the Working Group to be able to vote out amendments to the model and present these amendments to the NAIC's Life Insurance and Annuities Committee at the NAIC Fall National Meeting in early December 2019. NAIFA will continue to provide input to the Working Group and be an active part of these deliberations.

NAIC Retirement Security Initiative



The NAIC Retirement Security Initiative, under the supervision of the Life Insurance and Annuities (A) Committee, was established to study ways to provide for and enhance peoples' retirement security. The A Committee set up a working group chaired by Washington, D.C. Commissioner Steven Taylor, which includes regulators from Iowa, Alaska, Idaho, Rhode Island and Texas, and will focus on the broad topics of consumer education, consumer protection, and product/service innovation. The new working group will develop a work plan for how it will proceed, which will likely begin with drafting a white paper exploring the retirement planning challenges facing consumers.

NAIC Review of Anti-Rebating Laws

The NAIC's Innovation and Technology Task Force, Chaired by North Dakota Commissioner John Godfreed, has begun a process of reviewing whether the way state anti-rebating laws have been interpreted has created regulatory barriers to insurance-related innovative products and services which are designed to help consumers and manage insurance costs and claims. The concern is that providing certain services and/or products such as "smart" devices, such as wearable devices that track the insured's level of activity and potentially reduce premium rates based on that activity, could run afoul of state anti-rebating laws, which are on the books in all but two states (CA and FL).

While the NAIC's discussion of this topic is just beginning, there did seem to be some agreement that there was a need to differentiate the providing of things of value to consumers that would induce the purchase of a policy (and would constitute an impermissible rebate) from products and services that will help to minimize risk and potentially lead to lower rates, and to have the latter not be considered a "rebate". The NAIC will continue this discussion, and will consider topics including whether these concerns can be addressed by insurance departments issuing guidelines and/or bulletins as opposed to the more complex process of amending the model law, whether anti-rebating laws should be abolished, and whether the dollar limits on what can be given to the insured without violating the laws should be revised upward.

Health Insurance

Association Health Plans (AHP): Insurance regulators from various states announced that they intend to propose regulations regarding AHPs, however these regulators gave little information on what these forthcoming regulations will entail. The North Carolina Department of Insurance noted that it is working with state lawmakers on AHP legislation, and the Washington and Arkansas Departments stated that they intend to issue AHP regulations soon. Other state insurance departments support the NAIC developing a "best practices" resource to guide regulators as they oversee the formation of AHPs. While NAIFA does not oppose AHPs, we support measures to ensure that AHPs are financially solvent and that they do not enable adverse selection in the health insurance market.

Short-Term Limited Duration Health Insurance: The NAIC requested that insurance carriers selling STLDI coverage provide information to state insurance departments on the amount of



compensation that advisors receive for selling such policies. It is unclear what state insurance regulators intend to do in reaction to the information they receive. NAIFA would oppose any proposals to restrict or limit advisor compensation and/or discourage the sale of STLDI plans.

Long-Term Care Insurance: The NAIC heard from experts at the Society of Actuaries (SOA) who testified on the state of the market for “hybrid LTC” products, which are often life insurance policies with an LTC rider. According to the SOA, the hybrid policy market is growing and is mostly sold by financial advisors who, SOA argues, are not LTC specialists. Despite the growth in this market, the SOA noted several impediments for these products: training financial advisors to sell these policies as part of their core training requirements, point-of-sale disclosure requirements, and coordination of benefits when multiple products could be available for benefits (e.g., one spouse has a traditional LTC product and the other has a hybrid LTC product).

During the discussion with regulators, the SOA said there also are increasing sales of LTC riders on annuity products and they are supportive of these types of “hybrids.” The SOA also explained how these products may be better off than traditional LTC with respect to solvency concerns because they have to have the reserve backing of both products (life and LTC) and you can plan for a guaranteed pay-out in one form or another (either as a life benefit or a LTC benefit), so there is more certainty. They said \$3,500 is the annual average cost of the current product offerings and they are not expected to supplant the traditional LTC market, but rather to supplement it.

Next Meeting

The next NAIC national meeting will be held December 7-10, 2019.

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