



May 20, 2019

NAIC Holds 2019 Spring National Meeting

The National Association of Insurance Commissioners (NAIC) held its 2019 Spring National Meeting in Orlando, Florida from April 5-9, 2019. NAIFA State Government Relations staff attended the meeting on behalf of NAIFA. Overall attendance at the meeting was approximately 2,000 insurance industry professionals, 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 above the consumer's interest 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's position, based on NAIFA's existing Policy Statement on Standard of Care, is that NAIFA would support 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.

At the Fall 2018 Fall National Meeting, the task of addressing any outstanding issues and finalizing revisions to the Model was passed back to the Working Group's parent committee, the Life Insurance and Annuities (A) Committee (the "A Committee"). The A Committee subsequently published the Working Group's most current version of draft revisions to the Model and set a February 15, 2019 deadline for the submission of comments on that draft. NAIFA, both individually and as part of an industry coalition, submitted detailed comment letters which raised specific concerns about the draft.

At the Spring National meeting, the A Committee determined that there was more work to be done on the draft revisions. The Committee then reformulated the Annuity Suitability Working Group with Ohio Director Jillian Froment as Working Group Chair and tasked it with completing a new revised draft of amendments to the Model. Director Froment and A Committee Chair Doug Ommen (Iowa) asked industry to prepare suggested amendments to the latest draft addressing



issues such as how to incorporate a “best interest of the consumer” standard into the Model. NAIFA is part of this industry group, which is current working on our proposed revisions.

The Working Group plans to hold an in-person multi-day interim meeting to discuss revisions to the Model sometime in the mid-May to mid-June time period. NAIFA will attend this meeting and continue to be an active part of these deliberations.

Proper (and Improper) Uses of “Big Data”

The NAIC Big Data Working Group was formed roughly one year ago to examine issues related to the proper and potentially not-so-proper uses by insurers of the large quantities of data on consumers that are currently available. Possible uses for “big data” include the potential for replacing the use of bloodwork and other fluid gathering in underwriting with data pertaining to credit scoring and other factors as a way to predict mortality, and the use of big data analytics to help improve fraud detection. Regulators have expressed concerns about the potential for using big data for inappropriate purposes, such as to devalue or deny legitimate claims.

The Working Group is still largely discussing these topics at a “30,000 foot” level—trying to identify potential problem areas-- and has not yet begun the process of discussing specific ways to regulate the use of this data or to address the concerns that have been raised.

NAIC Retirement Security Initiative

The newly established NAIC Retirement Security Initiative, under the supervision of the Life Insurance and Annuities (A) Committee, is a new “charge” (i.e., assignment) of the Committee and was established to explore ways to provide for and enhance peoples’ retirement security. The A Committee will set up a specific working group that will coordinate with other NAIC working groups and task forces and explore topics such as how to most effectively educate young people of the need to save for retirement, senior financial exploitation, and how to ensure that producers fully understand the increasingly complex products they are marketing.

Health Insurance

The NAIC approved sending a bulletin to advisors and state insurance departments urging state regulators to discipline advisors who make misleading statements to consumers regarding the sale of certain Medigap policies. Specifically, the NAIC is concerned that some agents are falsely stating to Medigap C and F policyholders that somewhat recent changes in federal law will cause their plan premiums to increase significantly and that the policyholder may want to purchase other coverage. State insurance departments consider any such statement to be false and misleading.

Under the Medicare Access and CHIP Reauthorization Act (MACRA), signed into law on April 16, 2015, sales of Medigap plans to cover Medicare Part B deductibles are prohibited to newly eligible Medicare beneficiaries after January 1, 2020. Importantly, those policyholders who currently have a Medigap policy to cover Part B deductibles may maintain the policy after that



date. MACRA would not affect these policyholders. Any statement to the contrary is incorrect.

[The NAIC bulletin states:](#) "Some agents are telling their policyholders that premiums for coverage under Plans C or F will be increasing to such an extent that they should purchase other coverage. These are misleading statements to induce policyholders to improperly switch coverage using marketing and sales techniques that are in clear violation of the Medicare supplement insurance laws and a states' unfair trade practices laws. If a state finds such activity, the state can take appropriate administrative action."

NAIFA encourages members to share this information with your colleagues to ensure that advisors are aware of current law regarding Medigap policies.

Next Meeting

The next NAIC national meeting will be held August 3-7, 2019 in New York City.

NAIFA Staff Contacts: Gary Sanders, Counsel and Vice President - Government Relations, at gsanders@naifa.org and Steve Kline – Director, at skline@naifa.org.