

**America's Health
Insurance Plans**

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Representative Greg Wren
Chair, NCOIL State-Federal Relations Committee
Alabama House of Representatives
11 South Union Street
Montgomery, AL 36130

Ms. Susan Nolan
Executive Director
NCOIL
385 Jordan Road
Troy, NY 12180
United States of America

January 29, 2010

Dear Representative Wren and Ms. Nolan,

I am writing on behalf of America's Health Insurance Plans (AHIP), to comment on the draft NCOIL *Market Conduct Annual Statement Model Act*. AHIP is the nation's trade association representing nearly 1,300 member companies providing health, long-term care, dental, disability and supplemental coverage to more than 200 million Americans. AHIP has been engaged with the National Association of Insurance Commissioners (NAIC) on issues of market regulation and data integrity since the inception of the NAIC's program for market regulation reform in 2003, and supports the NAIC's goal of creating effective and efficient market regulatory systems and tools. We also participated with NCOIL as it prepared its *Market Conduct Surveillance Model Law* in 2006.

AHIP member companies appreciate the willingness of the NCOIL to receive and investigate concerns raised by the insurance industry pertaining to the NAIC's previously announced plans to expand its Market Conduct Annual Statement (MCAS) initiative. We understand that this draft bill arose from NCOIL's review of MCAS and from insurance industry concerning possible release of MCAS data to the public.

For the reasons set forth below, our members respectfully request that NCOIL undertake further study and analysis of its draft model, and defer any action until such time as it can complete its analysis and review.

1. The environment surrounding MCAS and the NCOIL draft has significantly changed since the time NCOIL presented its draft for comment.

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NAIC Leadership has responded to many of the issues raised by industry surrounding data confidentiality and the public release of MCAS data. During the 2010 December National Meeting, public assurances were given by Commissioner Kim Holland (OK), chair of the Market Regulation and Consumer Affairs (D) Committee and newly elected Secretary/Treasurer of the NAIC, that MCAS data will not be released by the NAIC. Commissioner Holland announced it is now the position of the NAIC that any release of MCAS data is more properly a state regulatory issue, to be decided by each state's chief insurance regulatory official. Given these developments, NCOIL may wish to expand its review to include the standards for state review of confidential market conduct data and the basis for public release of this data by regulators.

The NAIC established a work group chaired by Commissioner Holland, comprised of regulators, industry representatives, and consumer representatives which is reviewing and evaluating the efficacy of the MCAS data set as a regulatory tool. This data work group has just been charged with considering the creation of a new consumer data base to empower consumers by providing them with meaningful marketplace information. This new tool would be separate and independent from MCAS.

2. The scope of MCAS has changed as the NAIC has just announced that MCAS is to include health insurance data.

The NAIC has announced the imminent expansion of MACS to included health insurance. Bypassing earlier indications that DI and possibly LTC insurance would be added to MCAS before including health insurance, Commissioner Holland also announced in December that health data would be the next line of business for inclusion in MCAS.

While AHIP participated with other industry trade associations in the preparation of the proposed model legislation submitted to NCOIL, AHIP's participation was in the role of an interested party, not as a representative for covered entities.

AHIP's membership has not fully engaged on this issue. Accordingly, we are unable to present all of the ideas and suggestions that our members may identify and present to the NCOIL working group for its consideration.

3. Concerns of health insurance writers may not fully align with those of other types of insurers, and failure to recognize these additional concerns may have unintended consequences of reducing the possibility for consumers to obtain actionable information.

Health insurers are not as challenged as other insurers by the release of verified marketplace data to empower consumer choice. Many health insurers currently share marketplace data with governments

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and with private entities such as National Committee for Quality Assurance, concerning health insurer performance and health quality data. The draft NCOIL *Market Conduct Annual Statement Model Act* must ensure that it does not inadvertently prescribe these efforts and developing initiatives.

Given current NAIC MCAS initiatives and pronouncements, we urge NCOIL to continue its review, but suggest that any substantive action at the upcoming spring meeting would be premature. The NAIC has assured the insurance industry that it will not publically release MCAS data. This was the single most important concern raised by industry representatives. The NAIC is conducting a detailed review of MCAS data elements, stating that it will delete those data elements that do not support market regulation and proper analysis. The NAIC will examine the creation of an independent market information data base, available to consumers so they can evaluate insurance company performance and products.

Consideration of a model which does not include all of these factors could unintentionally and significantly restrict regulators and insurers from providing the information regulators need to perform their duties and consumers need for informed choice.

We would be pleased to discuss our concerns and our request for further NCOIL deliberation on its model at your convenience.

Respectfully,

A handwritten signature in black ink, appearing to read "Mitchell, Jr." with a stylized flourish at the end.

Martin L. Mitchell
Director, Product Policy
America's Health Insurance Plans