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NCOIL ADOPTS SHORT TERM LIMITED DURATION INSURANCE MODEL ACT
*Provides Framework for States that Permit Sale of Short-Term Plans; Based on Indiana Law
Enacted in 2019*

Manasquan, NJ – At the NCOIL “Summer” Meeting in Alexandria, VA on September 26, the organization adopted the NCOIL Short Term Limited Duration Insurance Model Act (Model) sponsored by IN Representative Martin Carbaugh. The measure passed on a voice vote by both the NCOIL Health Insurance & Long Term Care Issues Committee and NCOIL Executive Committee.

Short-term limited-duration insurance (STLDI) is a type of health insurance that provides coverage to policyholders for a period of as little as a month to as long as three years. This type of coverage is exempt from the definition of individual health insurance coverage under the Patient Protection and Affordable Care Act (PPACA) and is therefore not subject to the PPACA provisions that apply to the individual market. States regulate STLDI in varying ways.

The Model was introduced at the NCOIL 2019 Summer Meeting in Newport Beach, California and is based on Indiana HB 1631 which was also sponsored by Rep. Carbaugh and signed into law in 2019. The Model provides a framework for those states that permit the sale of STLDI. Importantly, the Model includes a drafting note that makes clear that states are not required to offer STLDI, and notes that “for states that choose to offer such plans, this Model is intended to serve as a framework that can be adjusted accordingly to meet each state’s needs.”

Rep. Carbaugh said, “Thank you to everyone who worked on this Model. When comparing the first draft of the Model to the version that was adopted, it is clear that we made sure to hear from those with differing views on short-term plans and make necessary changes. I am a strong supporter of short-term plans and firmly believe that they can help people meet their healthcare needs. Immediately after sponsoring similar legislation in Indiana, I proposed to develop this Model at NCOIL knowing that it was the perfect forum to provide states guidance who are looking to foster a short-term plan marketplace.”



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During the drafting discussions, NCOIL legislators and staff heard from a wide array of interested parties including Jim Parker, Senior Advisor to the Secretary of Health and Human Services (HHS) for Health Reform; Jan Dubauskas, VP, Senior Counsel at Health Insurance Innovations (HII); Jeff Smedsrud, President of Pivot Health; Michelle Lilienfeld, Sr. Attorney at the National Health Law Program (NHLP); The Honorable Glen Mulready, Commissioner of the Oklahoma Department of Insurance; Brian Blase, President & CEO of Blase Policy Strategies; the National Association of Insurance and Financial Advisors (NAIFA); the American Medical Association (AMA); the Health Benefits Institute; and the BlueCross BlueShield Association.

“This Model is a great example of how NCOIL can examine an issue and develop policy in a fair and efficient manner,” said NY Assemblywoman Pam Hunter, Chair of the NCOIL Health Committee. “Opinions differ on the value of short-term plans, but nonetheless the Model represents a solid framework for states to utilize when offering such plans.”

“It is great to see that NCOIL is still being productive and offering states guidance in the form of model legislation even during these unprecedented times”, said IN Representative Matt Lehman, NCOIL President. “I am also proud to see my colleague and fellow Hoosier guide this Model through towards final adoption. We’ve seen positive results in Indiana following enactment of our short-term plan law, and I am confident that the states that choose to adopt the Model will see the same.”

The purpose of the Model is to establish standards for the regulation of short-term plans that may be sold in a State.

Highlights of the Model include requiring that a short-term plan have an annual limit of at least two million dollars (\$2,000,000) and requiring that short-term plans provide coverage for ambulatory patient services, hospitalization, emergency services, and laboratory services.

The Model also requires that an insurer that issues a short-term plan to disclose to an applicant, in bold, 12 point type: that the short term insurance plan is not required to include coverage for all ten (10) of the essential health benefits required under the PPACA and specify the essential health benefits where no coverage is offered; that the short term insurance plan does not necessarily provide the full coverage that is required under PPACA; and that the full coverage required by the PPACA may be secured during the next PPACA annual open enrollment, which typically commences on November 1 and can be found at <https://www.healthcare.gov/quick-guide/dates-and-deadlines/>. An insurer is also required to obtain the signature of an applicant to whom those disclosures are made.

NCOIL CEO, Commissioner Tom Considine, stated, “Thank you both to Rep. Carbaugh for sponsoring this Model and to Chairwoman Hunter for holding productive hearings that resulted in significant changes, and thank you also to the Committee for deliberating on the Model in a careful but efficient manner. I think short-term plans can really provide help to consumers, particularly when Exchange programs may be unaffordable. For example, in instances where a consumer is close to Medicare age and wants to put as much money as possible into their business, a short-term plan can be a great, cost-effective option that still provides robust coverage.”

A fully copy of the Model is below.

National Council of Insurance Legislators (NCOIL)

Short Term Limited Duration Insurance Model Act

**Sponsored by Rep. Martin Carbaugh (IN)*

**Adopted by the NCOIL Health Insurance & Long Term Care Issues Committee and NCOIL Executive Committee on September 26, 2020.*

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Section 1. Title

This Act shall be known as the “[State] Short Term Limited Duration Insurance Model Act.”

Section 2. Purpose

The purpose of this Act is to establish standards for the regulation of short term limited duration insurance plans that may be sold in [State].

Drafting Note: States are not required to offer short term limited duration insurance plans. For states that choose to offer such plans, this Model is intended to serve as a framework that can be adjusted accordingly to meet each state’s needs.

Section 3. Applicability

This Act shall apply to short term insurance plans delivered or issued for delivery to residents of this state, regardless of the situs of the contract or policy; however, nothing in this Section shall invalidate a plan validly delivered in another state.

Section 4. Definitions

For purposes of this Act:

- (a) “Covered Individual” means an individual entitled to coverage under a short term insurance plan
- (b) “PPACA” means the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152)
- (c) “Network based plan” means a type of health plan that contracts with healthcare providers to create a network of participating providers to provide healthcare services at a discounted cost to covered persons.
- (d) “Short Term Insurance Plan” means a policy of health insurance that:
 - (1) may be renewed for the greater of:
 - (i) thirty-six (36) months; or
 - (ii) the maximum period permitted under federal law;
 - (2) has a term of not more than three hundred sixty-four (364) days; and
 - (3) has an annual limit of at least two million dollars (\$2,000,000).

Section 5. Renewal and Underwriting

- (a) An insurer may require an applicant for coverage under a short term insurance plan to specify, before issuance of the short term insurance plan, the number of renewals the applicant elects.
- (b) After issuance of a short term insurance plan, the insurer may not require underwriting of the short term insurance plan until:
 - (1) all renewal periods elected under subsection (a) have ended; and
 - (2) the covered individual enrolls in a new short term insurance plan beyond the periods described in subdivision (1).

Section 6. Coverage Requirements

A short term insurance plan must include coverage for the following:

- (1) Ambulatory patient services;
- (2) Hospitalization;
- (3) Emergency services; and
- (4) Laboratory services

Section 7. Network Based Plan Requirements

(a) This section applies to an insurer that issues a short term insurance plan and undertakes a network based plan to render health care services to covered individuals under the short term insurance plan.

(b) An insurer described in subsection (a) shall ensure that the network based plan meets the following requirements:

(1) The network based plan includes essential community providers in accordance with PPACA.

(2) The network based plan is sufficient in number and types of providers (other than mental health and substance abuse treatment providers) to assure covered individuals' access to all health care services without unreasonable delay.

(3) The network based plan is consistent with the network adequacy requirements that:

(i) apply to qualified health plan issuers under 45 C.F.R. § 156.230(a) and 45 C.F.R. § 156.230(b); and

(ii) are consistent with subdivisions (1) and (2).

Section 8. Disclosure Requirements

(a) An insurer that issues a short term insurance plan shall disclose to an applicant, in bold, 12 point type, the following:

(1) That the short term insurance plan is not required to include coverage for all ten (10) of the essential health benefits required under the PPACA and specify the essential health benefits where no coverage is offered.

(2) That the short term insurance plan does not necessarily provide the full coverage that is required under PPACA.

(3) That the full coverage required by the PPACA may be secured during the next PPACA annual open enrollment, which typically commences on November 1 and can be found at <https://www.healthcare.gov/quick-guide/dates-and-deadlines/>

(b) An insurer shall obtain the signature of an applicant to whom the disclosures required by subsection (a) are made.

Section 9. Tiering/Rating

An insurer shall not, as a condition of enrollment or continued enrollment in a short term insurance plan, require an individual to pay a premium or contribution greater than the premium or contribution for a similarly situated individual enrolled in the short term insurance plan on the basis of a health status related factor in relation to the individual or a dependent of the individual.

Section 10. Discounts/Rebates/Out-of-Pocket Payment Modifications

This Act does not prevent an insurer from establishing a premium discount, a rebate, or out-of-pocket payment modifications in return for adherence to programs of health promotion and disease prevention.

Section 11. Rescission

An insurer that issues a short term insurance plan shall not rescind such plan or coverage with respect to an enrollee once the enrollee is covered under such plan involved, except for an act or practice that constitutes fraud or intentional misrepresentation of material fact consistent with the requirements in Public Health Service Act § 2712 (42 U.S.C. § 300gg-12) and 45 C.F.R. § 147.128 or their successors.

Section 12. Rules

The Insurance Commissioner may adopt rules regulating short term limited duration plans that are consistent with this Act.

Section 13. Effective Date

This Act shall take effect [_____].

NCOIL is a national legislative organization with the nation's 50 states as members, represented principally by legislators serving on their states' insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act seventy-five years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.