

LAW OFFICE  
**WILLIAM G. SCHIFFBAUER**  
CHARTERED  
1300 PENNSYLVANIA AVENUE, N.W.  
SUITE 700  
WASHINGTON, D.C. 20004

(202) 204-3030  
FAX (202) 789-7349  
wgslaw@erols.com

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Jolie Matthews  
Senior Health & Life Policy Counsel  
National Association of Insurance Commissioners  
444 North Capitol Street, NW – Suite 700  
Washington, DC 20001-1509

**Comments on the Ancillary Health Insurance Minimum Standards Model Act**

Dear Jollie:

I am writing on my own behalf to submit comments on the draft Model 170 entitled the “Ancillary Health Insurance Minimum Standards Model Act”. My comment relates solely to the title of the draft. I respectfully request the Regulatory Framework Task Force to consider as a substitute the title “Supplementary and Transitional Health Insurance Minimum Standards Model Act”.

The term “ancillary” is used too broadly to include both supplementary insurance products that are mostly “excepted benefit” coverages and so are not major medical coverage, and also short-term limited duration health insurance which is a type of individual major medical coverage for a term of less than one-year. It is not appropriate to label these products as one in the same. These are two very different and distinct types of insurance coverage and the title should make that distinction.

Titles do matter in defining the subject and scope of an Act or regulation. The U.S. Supreme Court states that titles matter because “the title of a statute or section of law can aid in resolving ambiguity” in the text of legislation or a regulation. See *Immigration and Naturalization Service v. National Center for Immigrants’ Rights, Inc.*, 502 U.S. 183 at 189 (1991). I have included technical amendments necessary to accomplish this change in the attached document.

Thank you for your consideration of this comment and the suggested changes.

Sincerely,



William G. Schiffbauer  
Attachment

**WILLIAM G. SCHIFFBAUER**  
**COMMENTS ON NAIC DRAFT MODEL #170**  
**THE ANCILLARY HEALTH INSURANCE MINIMUM STANDARDS MODEL ACT**  
**AMEND TO READ AS SUPPLEMENTARY AND TRANSITIONAL**

1. The term "ancillary" is used too broadly to include both supplementary insurance products that are mostly "excepted benefit" coverages, and also short-term limited duration health insurance which is a type of individual major medical coverage for a term of less than one-year. It is inappropriate at best to label these products as one in the same. These are very different and distinct types of insurance coverage.

2. The term "ancillary" means subordinate or subsidiary. This term is wholly without dignity with respect to the importance of stand-alone "excepted benefits" coverage such as hospital indemnity or other fixed indemnity coverage, disability income protection, accident only, specified disease, and specified accident coverage. These products are "excepted benefits" coverage because they are not offered as major medical coverage, are not "creditable coverage," and are not "minimum essential coverage".

3. The term "ancillary" (again meaning subordinate or subsidiary) does not properly and faithfully describe short-term health insurance coverage. This is a type of individual major medical coverage that is designed to address an individual's temporal circumstance between other major medical coverage or between employer-provided coverage. Congress specified this coverage to also be "creditable coverage" but because it is not "individual" health insurance it is not considered "minimum essential coverage".

4. One suggested title for Model #170 is: the "Supplementary and Transitional Health Insurance Minimum Standards Model Act". The U.S. Supreme Court states that titles matter because "the title of a statute or section of law can aid in resolving ambiguity" in the text of legislation or a regulation. See *Immigration and Naturalization Service v. National Center for Immigrants' Rights, Inc.*, 502 U.S. 183 at 189 (1991).

5. The term "supplementary" means additional or extra which properly describes these "excepted benefit" types of coverage that provide financial protection in addition to a major medical health insurance policy. A similar term of "supplemental" is also descriptive but could also include coverage that specifically fills cost sharing and deductible "gaps" that most "excepted benefits" plans do not (other than Medigap for Medicare). These products are not offered, marketed, and sold as comprehensive major medical health insurance.

6. The term "transitional" means passing from one condition to another which properly describes the purpose of short term, limited duration insurance coverage.

7. The title change would also necessitate amendments to the current draft to distinguish "supplementary" coverage standards from "transitional" coverage standards. This distinction also provides a more appropriate basis for regulating these very different types of insurance products. "Supplementary" references would expressly include the products (1), (2), (3), (5), (6), and (7) listed in Section 5A; and "transitional" references would expressly include product (4) listed in Section 5A.

**POSSIBLE DRAFT AMENDMENTS TO MODEL #170 (07/23/18 Version)**

1. Title. Strike "Ancillary" and insert: "SUPPLEMENTARY AND TRANSITIONAL"
2. Section 1. Purpose. Strike "ancillary" and insert: "supplementary and transitional".
3. Section 2. Applicability and Scope. First sentence. Strike "ancillary" and insert: "supplementary".
4. Section 2. Applicability and Scope. Second sentence. Strike "ancillary" and insert: "transitional".
5. Section 3. Definitions. A(1). Strike "Ancillary" and insert "supplementary and transitional".
6. Section 3. Definitions. A(2). Strike "Ancillary" and insert "supplementary and transitional".
7. Section 3. Definitions. A. Drafting Note. Strike "ancillary" and insert "supplementary and transitional".
8. Section. 3. Definitions. B. Strike "ancillary" and insert "supplementary and transitional".
9. Section 3. Definitions. E. Strike "ancillary" and insert "supplementary and transitional".
10. Section 4. Standards for Policy Provisions. First sentence. Strike "ancillary" and insert "supplementary and transitional".
11. Section 5. Minimum Standards for Benefits. Insert a new introductory paragraph as follows: "The commissioner shall issue regulations to establish minimum standards for benefits under specified categories of supplementary and transitional health insurance subject to this Act."
12. Section 5. Minimum Standards for Benefits. Insert a new subparagraph "A" as follows: "A. The regulation shall set minimum standards for benefits for the following categories of supplementary coverage that is not offered, marketed, and sold as comprehensive major medical health insurance: [insert draft coverages (1), (2), (3), (5)[renumber as (4), (6)[renumber as (5)], and (7)[renumber as (6)]." Include the "Drafting Note".
13. Section 5. Minimum Standards for Benefits. Insert a new subparagraph "B" as follows: "B. The regulation shall set minimum standards for benefits for transitional coverage referred to hereinafter as "short-term, limited duration health insurance coverage."

14. Section 6. Disclosure Requirements. A. Strike “ancillary” and insert “supplementary and transitional”.
15. Section 6. Disclosure Requirements. G. Strike “ancillary” and insert “supplementary and transitional”.
16. Section 6. Disclosure Requirements. J. Strike “ancillary” and insert “supplementary”.
17. Section 6. Disclosure Requirements. J. Drafting Note. Strike “ancillary” and insert “supplementary”.
18. Section 6. Disclosure Requirements. K. Strike “ancillary health insurance providing”.