GUARANTY FUND ASSESSMENTS FOR LONG TERM CARE INSOLVENCIES

(ILLUSTRATED WITH PENN TREATY NETWORK AMERICA LIQUIDATION)

Presentation for Maryland General Assembly
February 12, 2020

GUARANTY ASSOCIATIONS PROTECT POLICYHOLDERS OF INSOLVENT INSURERS

- **Obligations**
  When company is liquidated, the GA system assumes the obligations of the insolvent insurer up to certain statutory limits.

- **Funding Sources**
  The GAs get a share of the assets of the insolvent insurer, and levy assessments on their Members if they have claims from policyholders in excess of the insolvent estate's assets.

- **Members**
  Most insurance companies licensed to write life, annuity, or accident & health ("A&H") policies in a state are members of the GA in that state. HMOs in Maryland are not included – but should be.

- **Accounts**
  All Life, Annuity, and A&H business is allocated into separate GA assessment accounts. The assessments, for each type of policy, are limited to the applicable account. Life writers pay for life insolvencies, health writers pay for health insolvencies.

- **Assessments**
  Assessments are levied on each member in proportion to its share of the total assessable premium. Assessments, in any given year, are limited to 2% of annual earned premium for each company and may be abated or deferred if the assessment would threaten the member's solvency.

Assessments are applied to specific "Accounts"

	Life	Annuity	Health
Types of Policies Covered	• Life insurance	• Allocated funding agreements • Structured settlement annuities • Immediate or deferred annuity contracts	• Basic hospital, medical, and surgical • Major medical insurance • Disability insurance • **Long-term care insurance**
National* Assessment Capacity	$2.5 billion	$3.1 billion	$4.8 billion

* Excludes New York
** 2014 figures as estimated and published by NOLHGA

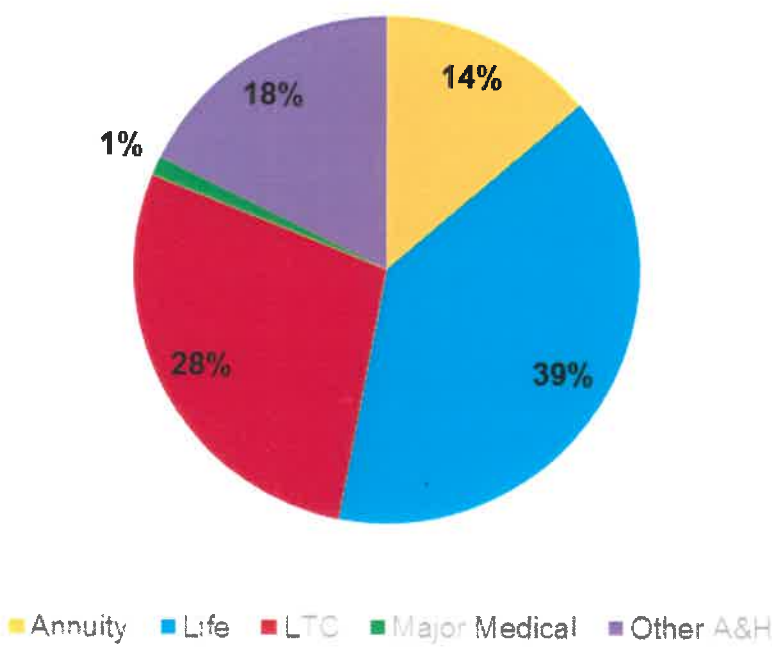
Long Term Care and the ACA – A Perfect Storm

- Simultaneous Insolvencies:
  - **Penn Treaty** – largest health insolvency to date, costing $4.8B nationwide ($2.6B reduced to present value)
  - **Co-Ops** – only 4/24 remain – many were covered by guaranty associations
    - Co-Opportunity (IA/NE) – GA required to borrow funds to pay claims
    - Colorado COOP – tested the limits of GA capacity
      - Evergreen – **NOT** covered by the GA in Maryland

Nationally: LTC writers not subject to majority of assessments

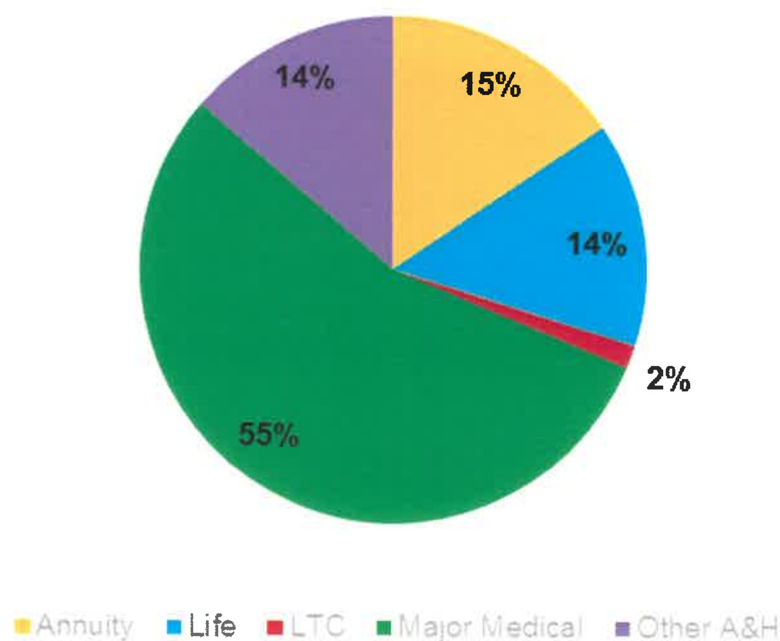
Health Insurers account for only a small fraction of total LTC premiums…

LTC Premium Share



…but they must pay the lion's share of assessments for LTC policies

Current Assessment Share



Note: Insurer type determined by examining 2017 group level data at the national level and assigning a group type based on the category with the plurality of premium.

In Maryland: LTC writers not subject to majority of assessments

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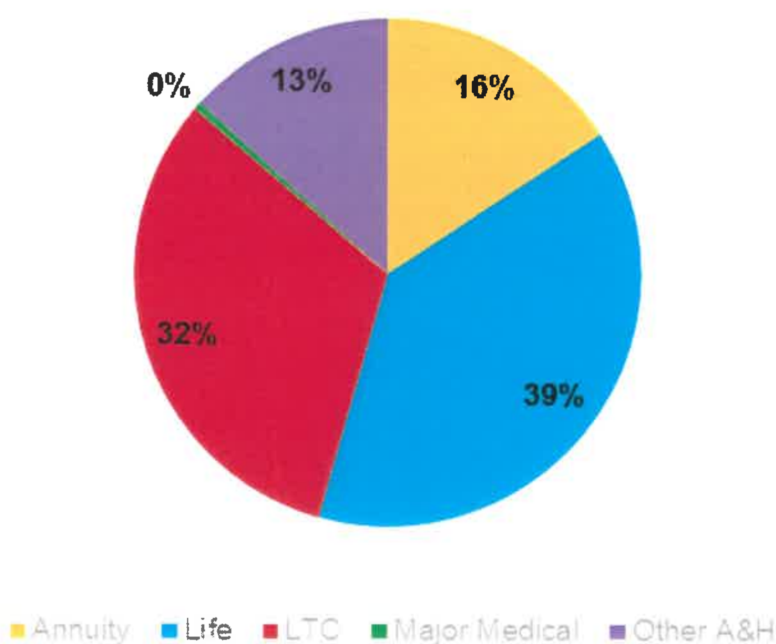
LTC Premium Share



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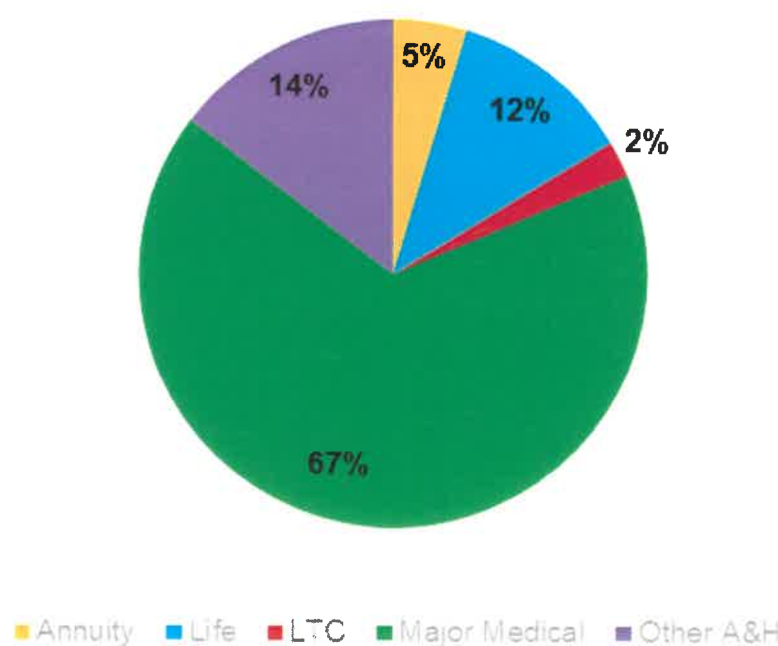

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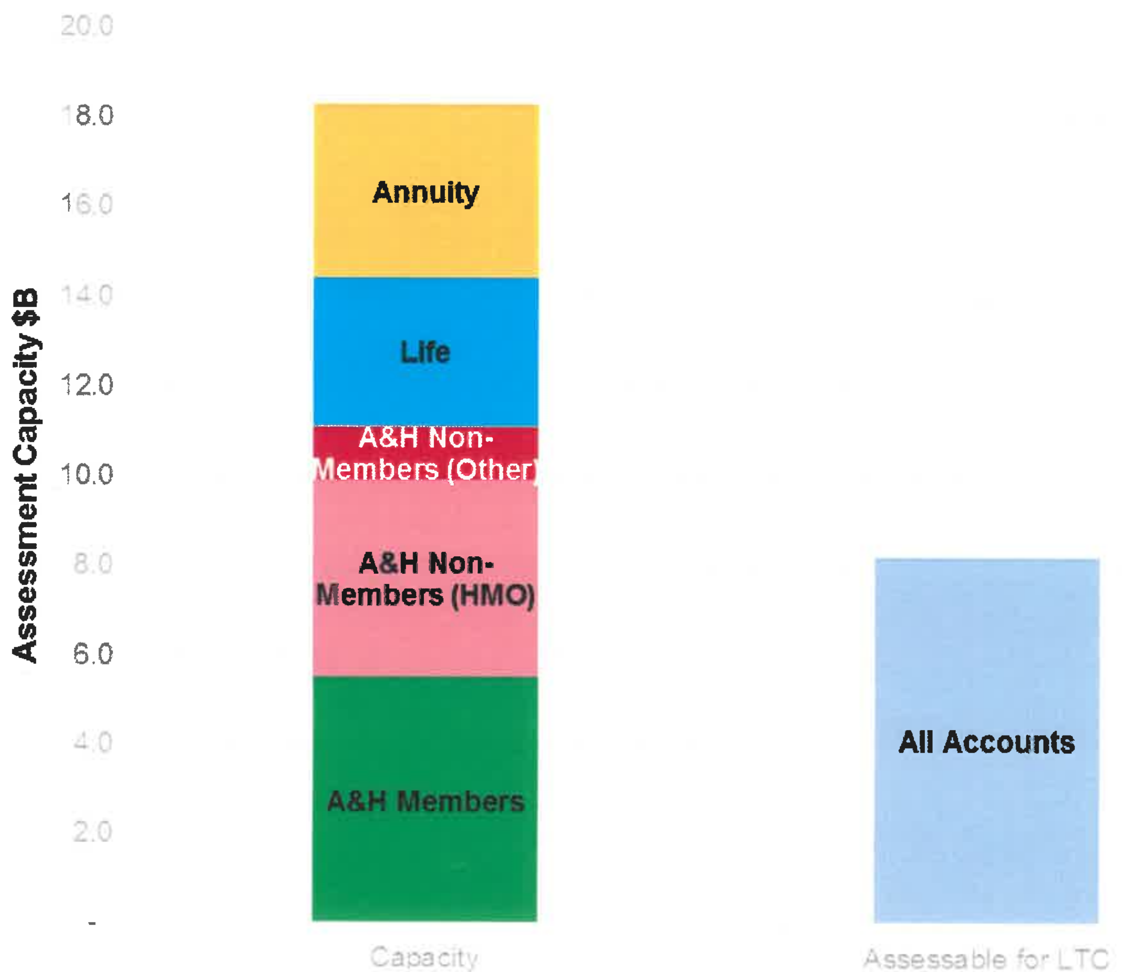
55% of national premiums excluded from assessments*



* Life and Annuity capacity as estimated and published by NOLHGA; A&H, HMO and Other Excl'd Health capacity estimated based on review of guaranty association statutes and financial data from SNL Financial.

75% of Maryland premiums excluded from assessments*

* Life and Annuity capacity as estimated and published by NOLHGA; A&H, HMO and Other Excl'd Health capacity estimated based on review of guaranty association statutes and financial data from SNL Financial.

Current LTC assessment mechanism distorts markets and penalizes policyholders

- **Current system impacts the GA assessment capacity**
  - Recent co-op insolvencies that are part of the guaranty association system demonstrate the need for additional assessment capacity within the A&H Account
    - IA/NE (Co-Opportunty)
    - CO (Colorado COOP)
  - The Penn Treaty insolvency put pressure on A&H assessment capacity in many states
  - The California Guaranty Association has seen significant decreases in its assessment capabilities due in part to the imbalance in assessments in that state.
  - HMOs: not subject to assessment – skews market competition

Life Carriers Agree to Assist Market Stability

- **Life carriers accepted responsibility for GA assessments**
  - Rate regulation, medical loss ratios, essential health benefits, and guaranteed issue requirements have disproportionate impact on health carriers' ability to respond to the market
  - Life carriers voluntarily agreed to come to the table to accept 50% of the risk of long-term care insolvencies
  - HMOs have not

HMO Members Deserve Guaranty Association Protections

- **HMO insolvencies leave policyholders and providers without the same protections as commercial members**
  - **Evergreen (MD):** $15.9M in cash, receivables and other assets, $39.5M in unpaid claims, as of 3/31/19
  - **Health Republic (NY):** $38.8M in assets, $701.4M in liabilities, including $201M in claims that had to be disallowed
  - **Kentucky Health Cooperative (KY):** $23.5M in assets, $104.7 in liabilities, including $81.6M in claims for members and providers

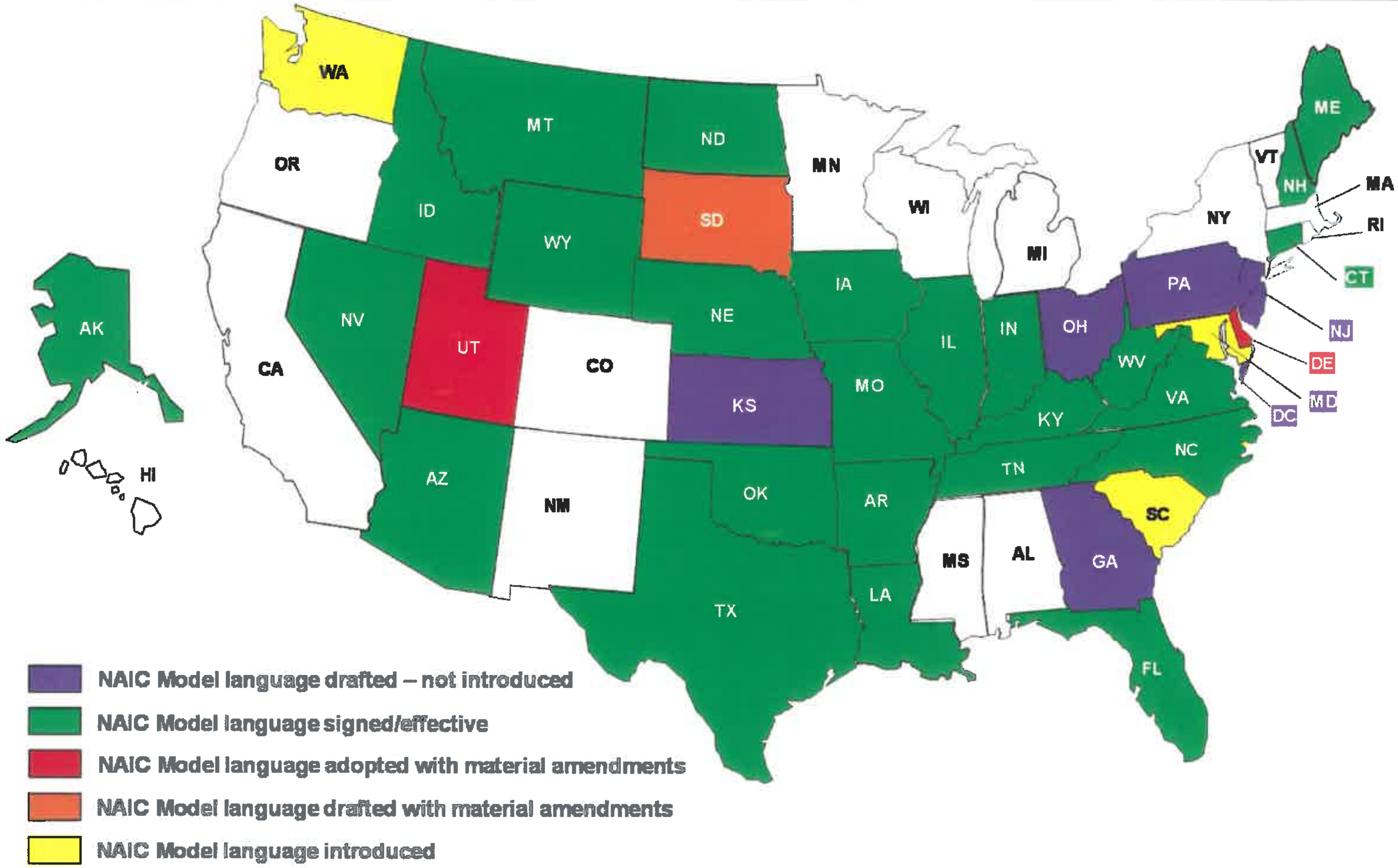
- **As opposed to other health insolvencies:**
  - **WinHealth (WY):** providers and members paid in full through WY guaranty association
  - **Seechange Health Insurance Company (CA):** providers and members paid in full through assessment by twenty-five guaranty associations

NAIC Recognized Industry Vulnerability – Moved Swiftly to Fix

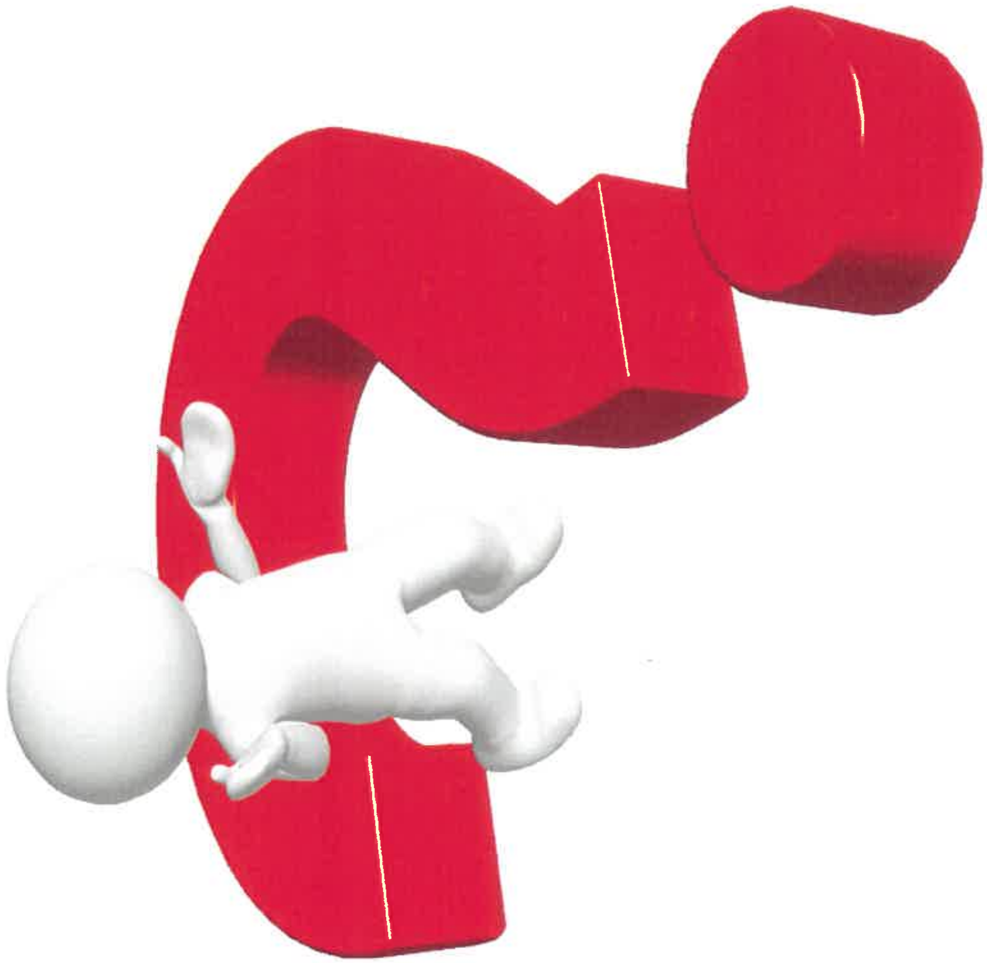
- **NAIC Moved in Record Time**
  - NAIC Receivership & Insolvency Task Force recognized the need to stabilize guaranty associations nationwide
  - Adopted the amendments to Model #520 in six months
  - The Model does a number of important things:
  - Includes HMOs as members of the guaranty association, thereby protecting HMO consumers
  - Includes life carriers in the formula to split future LTC assessments
  - Expands the board membership to add additional seats for new HMO members

- **States have acted in record time**
  - 27 states have adopted the NAIC model in only two years' time

NAIC Model Act Introduction and Adoption 2019



As of January 24, 2020



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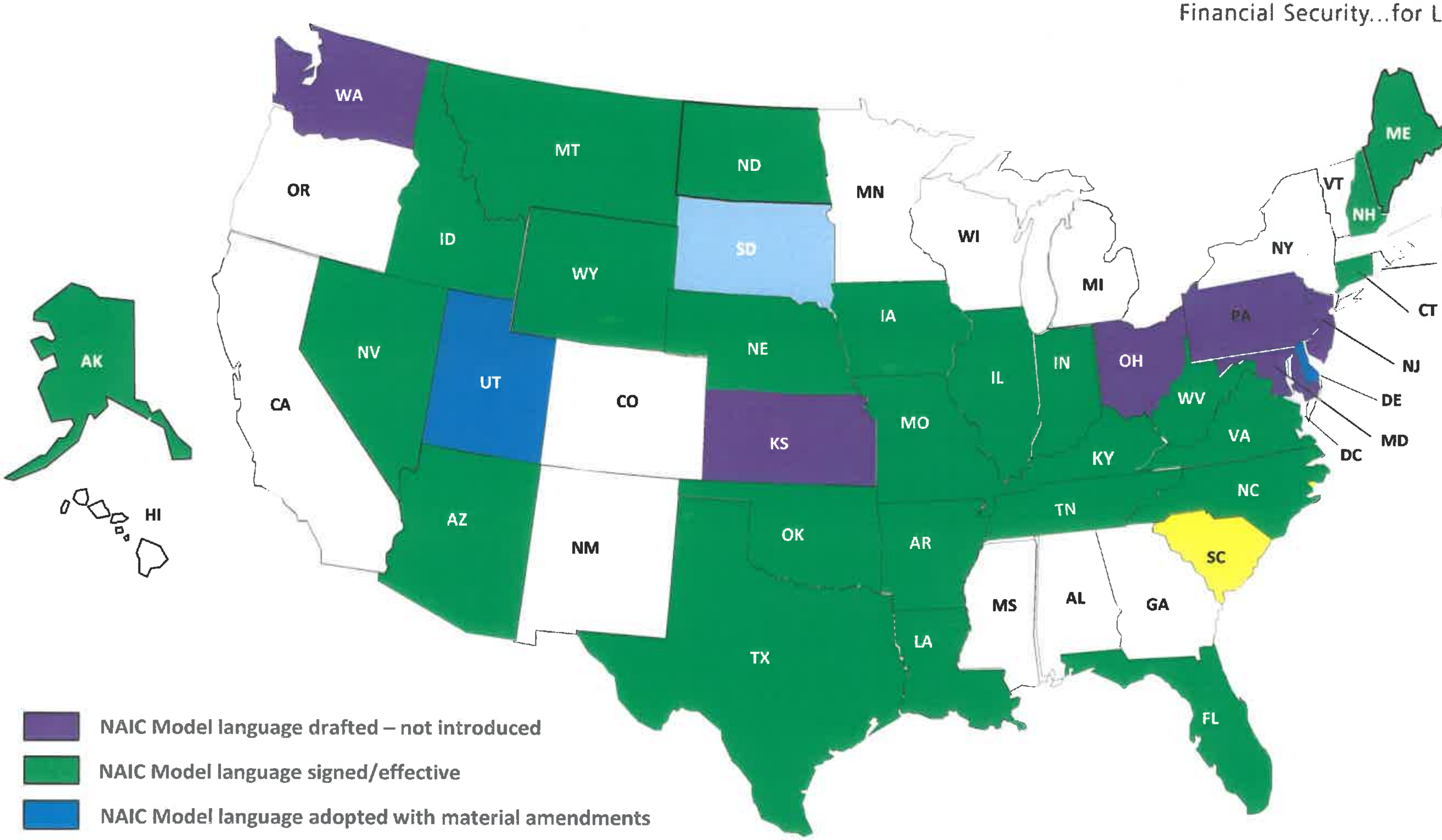
NAIC Model Act Introduction and Adoption 2019



- NAIC Model language drafted – not introduced
- NAIC Model language signed/effective
- NAIC Model language adopted with material amendments
- NAIC Model language drafted with material amendments
- NAIC Model language introduced

As of December 13, 2019

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Maryland Should Act Now to Protect Consumers, Providers, and the Guaranty Association Safety Net

The Guaranty Association system provides critical protections that all Maryland consumers and providers rely on in case of an insolvency. For the last 2 years, life and health carriers have worked together across the country to pass NAIC Model language in over 25 states to ensure stability. Maryland should be next.

Under the plan:

- Life and health insurers will split the assessment obligation 50/50.
- HMOs will be members of the Maryland Guaranty Association system for the first time, will share in the assessment obligation, and have a voice as they currently do in other states.
- Providers contracted with HMOs will be paid for claims submitted by long-term care policy holders.

- The 50/50 split works by calculating the percentage of total assessments that should be reallocated from the Health Account to the Life and Annuity Accounts split by company type. For this purpose, company types include (1) life and annuity carriers and (2) accident & health carriers.
- This formula is necessary to preserve the state-based solvency system and safety net, therefore protecting consumers.

- If states do not act, health insurers and consumers will pay for approximately 80% of all long-term care insolvencies . This threatens the stability of the state-based safety net.
- This is a unique opportunity to stabilize and rationalize the state-based health insurance and guaranty fund systems, in a manner that has broad support from the vast majority of the life and health insurance industries.

Including HMOs in Guaranty Associations is critical to preserving the safety net.

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Adopt Guaranty Association Legislation to preserve the Life and Health Guaranty Association safety net, protect consumers of long-term care insurance, and level the playing field for consumers of HMO and PPO/EPO plans.

There is no distinction between HMO products PPO/EPO plans and, therefore, no reason to exclude their members and providers from safety net protections.

- All plans compete with each other and use networks, financial incentives, capitated arrangements, quality standards, policy limits, gatekeepers, uilization management and other tools to manage care – regardless of whether or not they are licensed as an HMO.
- All health insurers, whether HMO or PPO/EPO, are highly regulated by states from solvency, rate and form, licensing, and market conduct perspectives.
- Integrated delivery systems do not pose a regulatory challenge for guaranty funds. Many states have carriers writing EPO which operate identically to an integrated delivery system. ACA rules impact all plans, HMO or not, the same way.

If HMOs are not members of the Guaranty Association system, providers will pay the price and the system will fail.

- Hold harmless provisions protect consumers from balance billing, they do not ensure providers get paid for their services.
- The statutory deposit similarly does not provide adequate protection in today's marketplace, as we learned with the Health Republic and Horizon insolvencies.
- In order to compete with HMOs in the marketplace, health insurers will have no choice but to consider moving to an HMO platform to remain competitive in the marketplace. This will leave the life insurance industry to bear the burden of long-term care insolvencies and would cause the safety net system to collapse -- leaving consumers of long-term care insurance without any recourse in the case of an insolvency.