

Life & Health Guaranty Association Model Act Changes: Balancing the Burden



- ❖ Christine Cappiello
Anthem
- ❖ Nick Thompson
UnitedHealth Group
- ❖ Bart A. Boles
Texas L&H GA



Systemic Changes Underway

□ Guaranty Association Changes – Two Parts

- Changes in health industry require new thinking
- Changes in LTC industry also require revisions to ensure future stability

□ Health Care Marketplace Profoundly Different

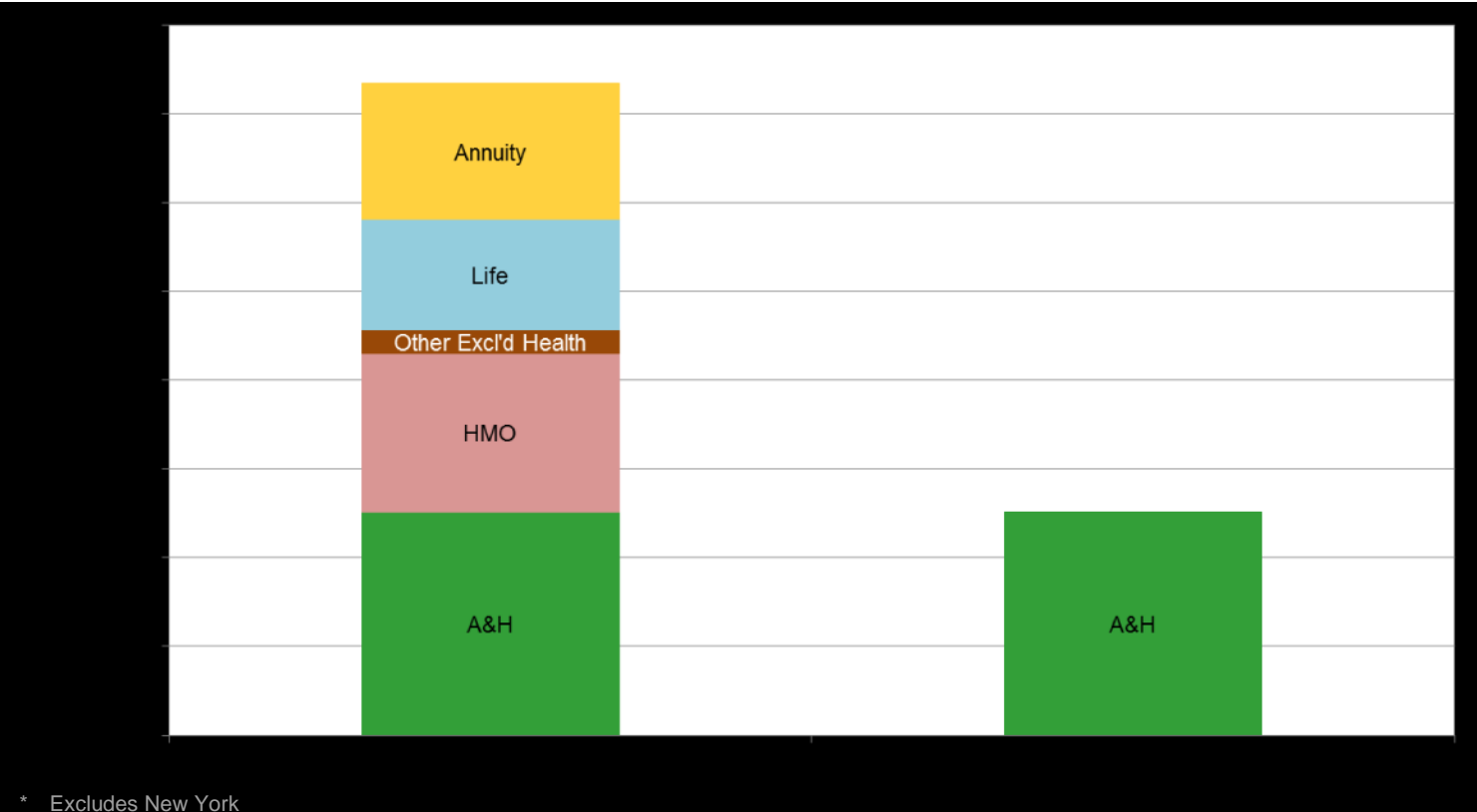
- Historically, health carriers wrote major medical health insurance – 80/20, no network and HMOs in the late '80s, early '90s sprang up with new “network” options.
- HMOs for the most part were small, local operations, given a boost by federal legislation giving them tax breaks (for “Federally Qualified Health Plans.”)
- They had lower solvency standards, but also had network physicians, hold harmless agreements and objected to being included in guaranty associations.

□ The Market Today

- Most all health plans, whether HMO or not, have hold harmless provisions in their provider contracts
- Almost all health plans have networks
- The distinction between HMO/PPO/EPO have all but disappeared.
- The ACA made whatever distinctions there were in benefits disappear even more.

□ Consumers today deserve the same protections regardless which health plan they – or their employers -- choose

66% of national premiums excluded from assessments*

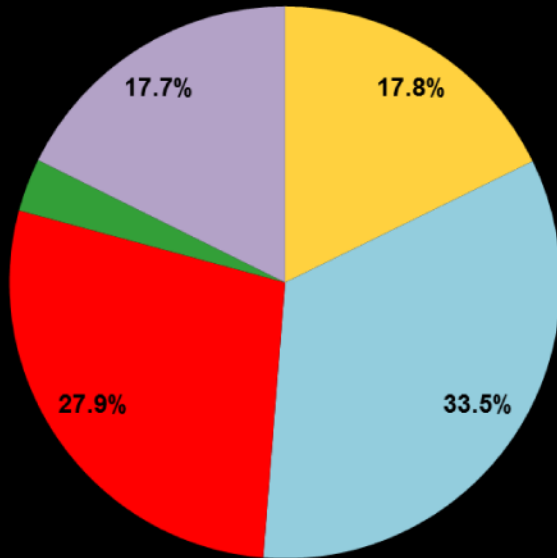


* Excludes New York

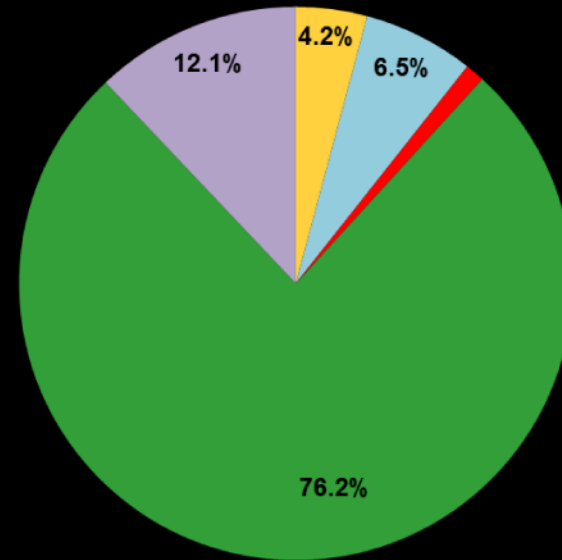
** Life, Annuity, and A&H capacity as estimated and published by NOLHGA; HMO and Other Excl'd Health capacity estimated based on review of guaranty association statutes and financial data from SNL Financial

HMO Inclusion is Part of the Equation: Spread LTC Assessments to Stabilize GA System Nationally

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



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



Note: Insurer type determined by examining 2015 group level data at the national level and assigning a group type based on the category with the plurality of premium.

Current LTC assessment mechanism distorts markets and penalizes policyholders

- **Mandatory surcharges in some states (CA/CO) can put assessable health carriers at an unfair competitive disadvantage**
 - Not all carriers in the market are assessed for LTC insolvencies, placing those who are assessed at a competitive disadvantage

- **Current system impacts the GA assessment capacity**
 - Recent co-op insolvencies demonstrate the need for additional assessment capacity within the A&H Account
 - The Penn Treaty insolvency put pressure on A&H assessment capacity in many states

- **Life and LTC carriers more readily manage long-term insolvencies**
 - Rate regulation, medical loss ratios, essential health benefits, and guaranteed issue requirements have disproportionate impact on health carriers' ability to respond to the market
 - Assessments have a more immediate and irreparable impact on health carriers
 - In some states, while life carriers are permitted to offset against premium taxes, health carriers are not. Even where they are, short-tailed health business undermines effectiveness of offset.
 - Health carriers are expert at managing risk and claims. Life carriers have expertise and processes in place to invest for obligations that span decades.

Need for Modernization of the Guaranty System

- ❖ Health Insurer Coalition approached ACLI
- ❖ Health, Life Insurers and ACLI began discussions/negotiations
- ❖ Result
 - 50/50 Split for LTCi
 - HMOs added
 - Preserve Premium Tax Credits
- ❖ Proposed Changes to NAIC

NAIC Referrals to Receivership Model Law Working Group (RMLWG)

Charges adopted in response to Penn Treaty and other potential LTCi insolvencies:

- ❖ Evaluate and consider the changing marketplace of LTCi products and the potential guaranty fund impact.
- ❖ Evaluate the need for amendments to the NAIC Life and Health Insurance Guaranty Association Model Act to address issues related to the insolvency of LTCi insurers.

Identification of Issues

- ❖ RMLWG requested comments regarding issues to address in new charges
- ❖ Primary concerns raised by commenters involved guaranty association assessments on LTCi insolvencies and coverage of LTCi
 - Sufficiency of assessment base
 - HMO membership
 - Allocation of assessments between Life and Health insurers
 - Guaranty associations' ability to modify LTCi insurance benefits
 - Clarifying the application of the “Moody's Limitation” to LTCi
 - Premium rate increases by guaranty associations

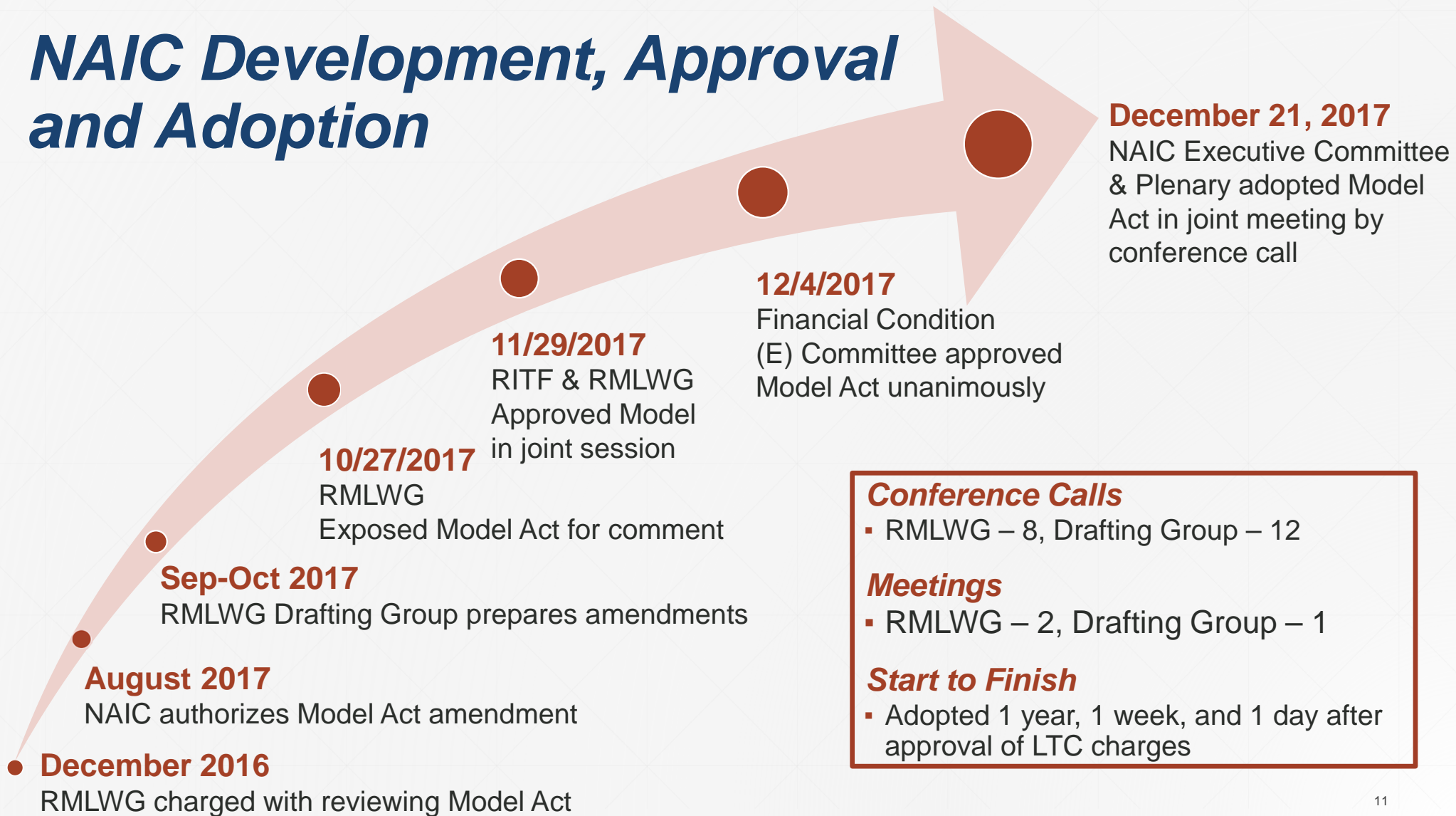
Request for Model Law Development

- ❖ June 2017 *Request for Model Law Development* proposed revisions regarding:
 - Assessments
 - Coverage
 - Potential inclusion of HMOs as Guaranty Association members
- ❖ 2017 Summer Meeting - NAIC approved request to revise Model
- ❖ RMLWG considered different options for changes to assessments in the Model:
 - Alternative approaches considered for aggregating the life/annuity and health insurance accounts for Class B assessments on LTCi insolvencies
 - One option was based on proposed legislation in Colorado, which included HMOs in Guaranty Association and assessed life and health accounts for an LTCi insolvency

RMLWG Drafting Group

- ❖ RMLWG formed Drafting Group in July 2017
- ❖ Any RMLWG members, interested regulators and stakeholders could participate
- ❖ 12 states and 35 interested parties participated, including:
 - Insurers
 - Trade groups
 - HMOs
 - Provider groups
 - Special Deputy Receivers
 - Guaranty Associations
 - Academics
 - Consumer representatives

NAIC Development, Approval and Adoption



2017 Amendments to Model Act

Key Areas of Amendments

- ❖ Adding HMOs as member insurers
- ❖ Changing/Reallocating LTCi assessments
- ❖ Coverage exclusions/adjustments
- ❖ Other

Model Act Amendments: Adding HMOs

- ❖ Previous Model Act excluded HMOs from Guaranty Associations but a couple of states already had laws including HMOs (or separate GAs)
- ❖ Members recognized opportunity to address anomaly that HMOs offer products similar to health insurance, but are (usually) not protected by Guaranty Associations
- ❖ Ensures protection of HMO members & enrollees
- ❖ Expands assessment base for health account (discussed later)

Model Act Amendments: Assessments

- ❖ HMOs included
 - ❖ Separate process for assessing funds to meet LTCi obligations
 - ❖ New allocation formula for assessing LTCi obligations
 - Segregate member insurers into life/annuity or health category
 - 50/50 split of assessments for LTCi between the two categories (Model Act includes a drafting note with the suggested formula)
 - A formula and defined terms are detailed in the Model Act or in a Guaranty Association's Plan of Operations
 - ❖ Elimination of \$300 limit on Class A assessments
 - ❖ Optional provision allowing surcharges
-

Model Act Amendments: Coverage Exclusions/Adjustments

- ❖ Statutory interest limitation (Moody's) is not applicable to LTCi or health policies
- ❖ Medicaid excluded from guaranty association coverage
- ❖ Hybrid products - Life or annuity policies with LTCi riders will be considered the same as the underlying policy – not as a health insurance product

Model Act Amendments: Other

- ❖ Clarifies guaranty associations' authority to file for actuarially justified premium rate increases, unless prohibited by law
- ❖ Expansion of guaranty association boards of directors (not less than 7 nor more than 11, previously 5-9)

Legislative Activity

Lesson Learned: Every State is Different

The Model Act has been adopted in one form or another in 27 states:

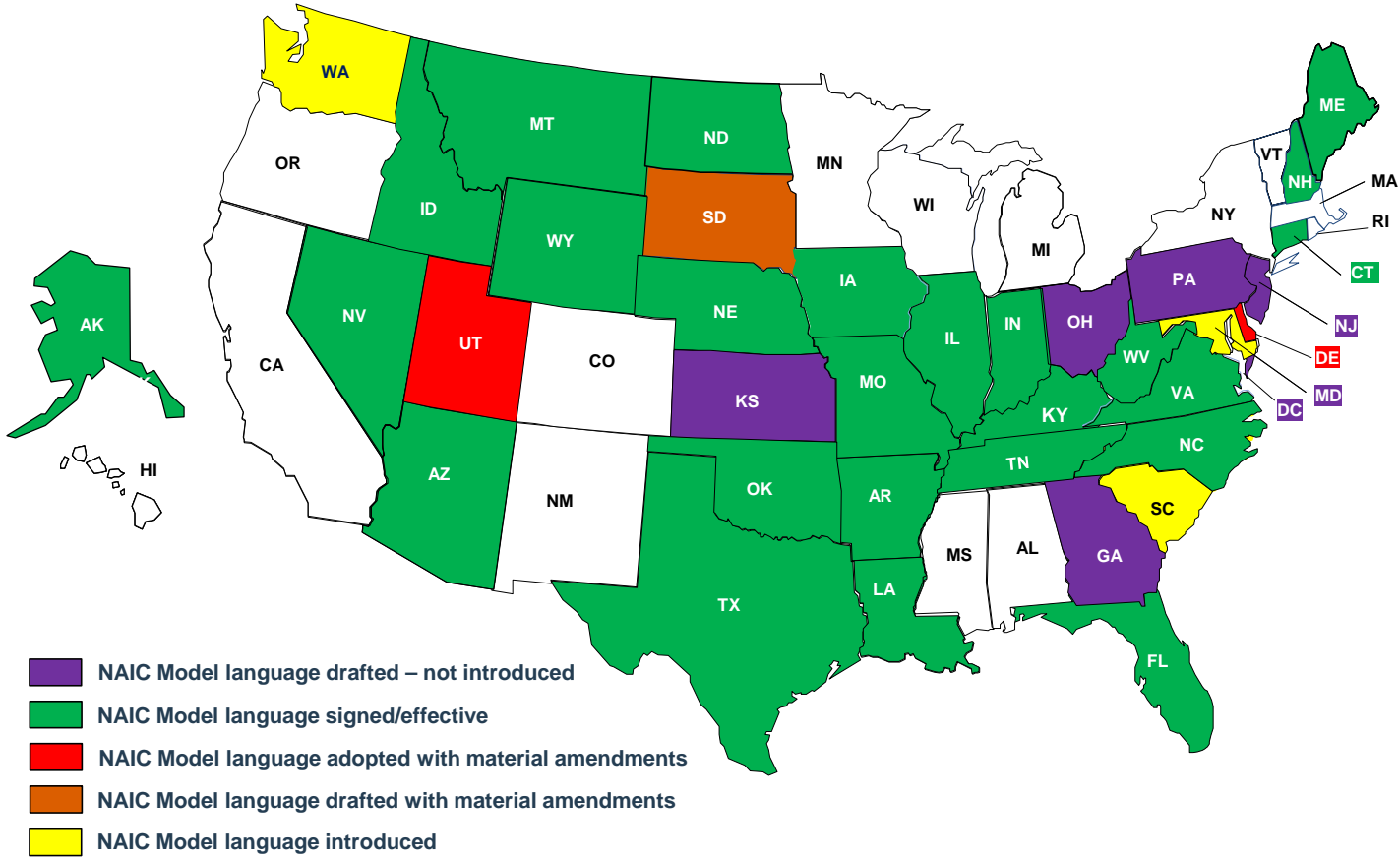
We have faced various challenges in each state:

- ❖ Opponents tried to get carved out of the Model Act.
- ❖ Opponents tried to engage unions to help them by implying union member would pay more.
- ❖ Opponents tried to engage advocates implying their members would be negatively impacted by passage of the Model Act.

We found success in states:

- ❖ Proponents showed the Model Act helps seniors with LTCi policies to have benefits they have paid for.
- ❖ Commissioners' support

NAIC Model Act Introduction and Adoption 2019



As of January 24, 2020

NAIC Post Model Act

Commissioner Eric Cioppa, NAIC Chair in 2019, choose LTCi issue during his presidency.

Long Term Care Exec Task Force began its work immediately.

Two specific goals:

- 1) to develop a consistent national approach for reviewing LTCi rates that result in actuarially appropriate increases being granted by the states in a timely manner; and,
- 2) to focus on ensuring consumers are provided with meaningful options to reduce their benefits in situations where the premiums are no longer affordable.

The Work Continues at the NAIC...

Implementation Efforts by Guaranty Associations

- ❖ Revisions to Plans of Operations
- ❖ Revisions to Summary Document/Disclaimer Notice that is delivered with new policies
- ❖ Outreach to new HMO members
- ❖ Revisions to systems/software for assessment calculation changes
- ❖ Gathering revised assessable premium data

Questions/Contacts

Christine Cappiello
christine.cappiello@anthem.com

Nick Thompson
nick.thompson@uhg.com

Bart A. Boles
bboles@txlifega.org