

Appendix 2

Comments on the Exposure Draft and Responses

The exposure draft of the repeal of ASOP No. 16, *Actuarial Practice Concerning Health Maintenance Organizations and Other Managed-Care Health Plans*, was issued to the membership by blast e-mail in November 2006 with a comment deadline of January 15, 2007 that was subsequently extended to February 1, 2007. Thirteen comment letters were received, one of which was submitted on behalf of multiple commentators, such as a firm or committee. Seven commentators stated they agreed with the repeal of this ASOP. Four commentators did not make any affirmative statement either for or against the repeal but did not raise any opposition to the repeal. Two of these raised certain process issues and are not included in the responses below, while the other two offered comments and suggestions. Two commentators either opposed or offered an alternative to repealing ASOP No. 16. The ASB, Health Committee, and Task Force to Revise ASOP No. 16 carefully considered all comments received. Summarized below are the significant issues and questions contained in the comments and responses to each.

GENERAL COMMENTS	
Comment	One commentator suggested that ASOP No. 16 be retained with all text being deleted except the references to the ASOPs that are appropriate to HMOs and other managed-care health plans.
Response	This repeal document lists the ASOPs that provide guidance for HMOs and other managed-care health plans. In addition, appendix 1 has been added, which shows sections 2 and 5 of ASOP No. 16, and whether guidance is provided in other ASOPs, by NAIC instructions, or by the Code of Professional Conduct, or the material is considered educational and is not appropriate for inclusion in an ASOP.
Comment	One commentator opposed repeal of ASOP No. 16. The commentator expressed concern regarding certain regulatory issues and statutory reserve requirements. The commentator also stated that he/she believes the purpose of an ASOP is to inform/educate actuaries of past and current risks that have been identified and urged the task force to revise ASOP No. 16 rather than repeal.
Response	The reviewers believe that instruction on regulatory and statutory requirements should not be explicitly incorporated in an ASOP. All ASOPs require that the actuary comply with applicable law. Both ASOP No. 5, <i>Incurred Health and Disability Claims</i> , and ASOP No. 42, <i>Determining Health and Disability Liabilities Other Than Liabilities for Incurred Claims</i> , which deal with actuarial liabilities, cover this topic. The reviewers believe that the purpose of ASOPs is to give guidance on appropriate practices, not to educate and inform.

Comment	One commentator expressed concern that statutory minimum reserves for uncovered claims, which are mentioned in ASOP No. 16, are not covered in ASOP No. 42 and thus not identified as a standard of practice.
Response	The reviewers note that the concern expressed by the commentator is implicitly covered in NAIC Blank Instructions. As noted in the previous response, the reviewers believe that instruction on regulatory and statutory requirements should not be explicitly incorporated in an ASOP. All ASOPs require that the actuary comply with applicable law. Both ASOP Nos. 5 and 42, which deal with actuarial liabilities, cover this topic.
Comment	One commentator suggested certain items from ASOP No.16 be incorporated into other ASOPs, namely, handling of risk sharing-capitation, withholds, and stop loss provisions; financial conditions of risk sharing providers; experience rating as it compares to community rating; PCP financial incentives; and effect of data monitoring. The commentator also suggested adding or expanding comments on reliance on clinic data and personnel, highlighting differences between the different types of managed-care health plans, and risk based capital.
Response	The reviewers believe that the other ASOPs noted in the repeal document adequately address the items from ASOP No. 16 as noted above. The reviewers note that appendix 1 has been added, which indicates where these items are covered in other ASOPs or are considered educational material and would not have been included in any revision to ASOP No. 16. The task force also believes the other items that the commentator suggested be added to any revision are considered educational and are not appropriate for inclusion in an ASOP.