

OUR MEETING WILL BEGIN SHORTLY



WELCOME TO THE CANNABIS INSURANCE (C) WORKING GROUP

11/29/22

VIRTUAL ATTENDEES

- Audio will be muted upon entry
- If virtual attendees would like to speak, please use the "Raise Hand" feature and we will let the Chair know you'd like to speak
- Enter with video on or off (your choice)
- Use the "Chat" feature for questions, comments, or assistance
- If you have joined by phone, to mute and unmute your line, press *6
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Date: 11/28/22

Virtual Meeting

CANNABIS INSURANCE (C) WORKING GROUP

Tuesday, November 29, 2022

12:00 – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 am – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

Ricardo Lara, Chair	California	Marlene Caride	New Jersey
Michael Conway, Vice Chair	Colorado	Glen Mulready	Oklahoma
Lori K. Wing-Heier	Alaska	Andrew R. Stolfi	Oregon
Jimmy Harris	Arkansas	Michael Humphreys/ Sebastian Conforto	Pennsylvania
Christina Miller	Delaware	Carlos Vallés	Puerto Rico
Angela King	District of Columbia	Elizabeth Kelleher Dwyer	Rhode Island
C.J. Metcalf	Illinois	Karla Nuissl	Vermont
Gennady Stolyarov	Nevada	Michael Walker	Washington

NAIC Support Staff: Anne Obersteadt/Aaron Brandenburg

AGENDA

1. Consider Adoption of its Oct. 19, 2022 Meeting Minutes Attachment A
—Commissioner Ricardo Lara (CA)

2. Receive an Update on the Drafting the *Understanding the Market for Cannabis Insurance 2.0* White Paper—*Commissioner Ricardo Lara (CA)*

3. Hear a Panel Discussion on Recent Federal and State Political Movements (Including the Federal Pardon on Simple Marijuana Possession) and How They May Impact the Industry — *Brooke Stringer (NAIC), Nicole C. Austin (Reinsurance Association of America — RAA), Michael Correia (National Cannabis Industry Association —NCIA) and Morgan Fox (NORML)*

SharePoint/NAIC Support Staff Hub/Member Meetings/C CMTE/2022 Fall/Cannabis/11-29-22/Cannabis Agenda

Consider Adoption of its Oct. 19,
2022 Meeting Minutes

—Commissioner Ricardo Lara (CA)

Draft: 11/1/22

Cannabis Insurance (C) Working Group
Virtual Meeting
October 19, 2022

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Oct. 19, 2022. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael (CA); Angela King (DC); Christina Miller (DE); C.J. Metcalf (IL); Marlene Caride represented by Randall Currier (NJ); Gennady Stolyarov (NV); Sebastian Conforto (PA); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Karla Nuisl (VT); and Michael Walker (WA).

1. Adopted its Summer National Meeting Minutes

Currier made a motion, seconded by Walker, to adopt the Working Group's July 12 minutes (*see NAIC Proceedings – Summer 2022, Property and Casualty Insurance (C) Committee, Attachment TBD*). The motion passed unanimously.

2. Discussed its 2023 Proposed Charges

Michael stated the Working Group's 2023 proposed charges are: 1) assess and periodically report on the status of federal legislation that would protect financial institutions from liability associated with providing services to cannabis businesses operating legally under state law; 2) encourage admitted insurers to ensure coverage adequacy in states where cannabis, including hemp, is legal; 3) provide insurance resources to stakeholders and keep up with new products and innovative ideas that may shape insurance in this space; 4) explore potential sources of constraint to coverage limits and availability of cannabis insurance products within the admitted and non-admitted market; 5) explore the effect of the use of cannabis on property/casualty (P/C) insurance lines of business; and 6) use information gained to develop an appendix to the *Understanding the Market for Cannabis Insurance 2.0* white paper.

The first proposed charge remains the same as the Working Group's current charge. Federal legislative activities remain an important component to the availability of insurance in the cannabis space. Under this charge, the Working Group should continue receiving reports on cannabis-related legislative activities, including the federal Secure and Fair Enforcement Act (SAFE) Banking Act and federal Clarifying Law Around Insurance of Marijuana (CLAIM) Act, from Government Relations (EX) Leadership Council staff and other relevant parties as needed.

The second proposed charge for 2023 is also a continuation from the Working Group's current charges. The cannabis space is evolving rapidly. As part of this charge, the Working Group could seek information on how a potential U.S. Food and Drug Administration (FDA) cannabis regulatory structure could help inform insurers' coverage offerings.

Likewise, the third proposed charge is also a continuation of the Working Group's existing charge. As part of this charge, the Working Group could hold an educational roundtable with states sharing how cannabis is regulated in their states and any related issues. It could also explore the impact of reinsurance. To provide state insurance regulators with information on who is writing cannabis in their state, the Working Group could contemplate surveying managing general agents (MGAs). It could also contemplate requesting the Surplus Lines Association survey its members for such information.

The fourth proposed charge is new for 2023. The white paper is anticipated to go before the full Working Group at its next meeting, with consideration of adoption during the 2023 Spring National Meeting. This new charge replaces the existing charge of updating the white paper. The intent behind the addition of a charge to add an appendix to the newly adopted white paper is to provide time for the Working Group to look into issues that are still emerging while getting out the rest of the information before it becomes stale. Emerging issues would include social consumption lounges (Ian Stewart [Wilson Elser]), delivery and social equity (Cannabis Regulators Association—CANNRA), and cannabis-infused food and beverage products (FDA). The Working Group could also contemplate if it wants to extend its focus beyond commercial insurance and look into cannabis intoxication and the incidence of accidents (American Property Casualty Insurance Association—APCIA).

The 2023 proposed charges do not include the existing charge to “collaborate with the Producer Licensing (D) Task Force to study, in states where cannabis is legalized for medical and/or recreational use, whether cannabis-related convictions are preventing individuals from being licensed as an agent or broker.” After discussing this with the Producer Licensing (D) Task Force, it does not seem like there is much room to pursue this. The Working Group could always reinstitute this charge should the circumstances change.

Walker asked if the second proposed charge would include things such as California’s fair plans or safe harbor for certain cannabis insurance providers. He said he supports the idea of getting state insurance regulators together around a table to share experiences. Michael stated the work plan item contemplated for that charge was focused on informing the appendix to the white paper. However, the charge is broad, so the Working Group could contemplate looking into these as well.

Currier asked if the fourth charge should be broken into two charges. Michael stated the charge was one thought.

NAIC staff asked if the second proposed charge should be amended to reflect that the Working Group’s role would be to support state insurance regulators rather than directly influence insurers.

Thomas Buchan (Park Strategies-D’Amato Law Group LLC) stated his organization submitted a comment letter ([Attachment A](#)) recommending the second charge be expanded to include the following language: “encourage the development of admitted market insurers, as well as the expansion of existing admitted market insurers, and reinsurers supporting the market, to ensure coverage and rate stability in states where cannabis, including hemp, is legal.” Park Strategies is currently consulting with a potential newly formed insurer that would like to enter the cannabis space. The requested expansion reflects that both existing and new insurers should be encouraged to enter the market.

Walker stated he agrees the second charge should be amended to say that states should “encourage admitted insurers to ensure coverage adequacy.” He also agreed that the second charge should be expanded to include new insurers and reinsurers.

Nuissl stated the adoption of Buchan’s proposed language “encourage the development of admitted market insurers” may be sufficient to address the comment on revising to state “encouraging regulators.”

Currier stated he likes the suggestion to revise the second charge to focus on the state insurance regulators as it reflects that the Working Group’s role is to support state insurance regulators in their efforts to grow coverage in this space, where it is legal.

Michael stated that the two revision suggestions could be merged together to say: “Support insurance regulators’ efforts to encourage the development of admitted market insurers, as well as the expansion of existing admitted market insurers, and reinsurers supporting the market, to ensure coverage adequacy and rate stability in states where cannabis, including hemp, is legal.” The remaining proposed charges would remain unchanged. The revised 2023 proposed charges are as follows:

1. Assess and periodically report on the status of federal legislation that would protect financial institutions from liability associated with providing services to cannabis businesses operating legally under state law.
2. Support insurance regulators’ efforts to encourage the development of admitted market insurers, as well as the expansion of existing admitted market insurers, and reinsurers supporting the market, to ensure coverage adequacy and rate stability in states where cannabis, including hemp, is legal.
3. Provide insurance resources to stakeholders and keep up with new products and innovative ideas that may shape insurance in this space.
4. Explore potential sources of constraint to coverage limits and availability of cannabis insurance products within the admitted and non-admitted market. Explore the effect of the use of cannabis on property/casualty (P/C) insurance lines of business. Use information gained to develop an appendix to the *Understanding the Market for Cannabis Insurance 2.0* white paper.

Nuissl stated she liked the merged language on the second proposed charge.

Currier made a motion, seconded by Nuissl, to make a vote of consensus on the Working Group’s 2023 proposed charges, with the aforementioned revisions incorporated. The motion passed unanimously.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

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October 17, 2022

Commissioner Ricardo Lara, Chair
NAIC Cannabis Insurance (C) Working Group
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

RE: 2023 Charges of the Cannabis Insurance (C) Working Group

Dear Commissioner Lara:

A crucial element to standing up and growing the recreational cannabis industry in the United States is the provision of critical business services, such as insurance. More specifically, providing these new and burgeoning businesses—many of them small businesses—with the same protections of the admitted insurance market as are already provided to so many other business enterprises should be considered a mission critical objective.

On behalf of McNeil & Co Inc., we write to thank you for recognizing this important fact, as reflected in the proposed 2023 charge for the working group, which reads. **“2. Encourage admitted insurers to ensure coverage adequacy in states where cannabis, including hemp, is legal.”** McNeil, which recently sponsored the creation of a New York workers compensation safety group for recreational cannabis growers, producers, processors and retailers, and is currently working with the New York Department of Financial Services on the creation of an admitted market insurer serving the cannabis community, believes that the charge should not just encourage admitted writers to service this new industry but to also encourage the creation of new admitted insurers focusing on cannabis businesses to the market. Therefore, we respectfully request that the proposed charge be amended to read:

2. Encourage the development of admitted market insurers, as well as the expansion of existing admitted market insurers, and reinsurers supporting the market, to ensure coverage adequacy and rate stability in states where cannabis, including hemp, is legal.

As the landscape for a legal cannabis market expands throughout the states, including those with ballot initiatives due to be voted on within a few weeks, the demand for cannabis insurance is rapidly increasing. There remains, though, a “difficulty for businesses to receive inclusive,

affordable coverage,”¹ as you well know from the experiences in California as one of the pioneers in this area as well as through your work as chair of the working group. While the excess and surplus lines market has provided a first generation of coverage for cannabis entities, companies like McNeil & Co are working to create innovative admitted market-based products to offer an emerging market, to provide the coverages that these cannabis enterprises would enjoy but for the fact that they are operating in the cannabis space.

Therefore, we believe that it would be prudent to expand the charge encouraging new as well as existing admitted market carriers to ensure coverage adequacy in states with legal cannabis programs to also include reinsurers, and to also expand the charge to encourage insurers and supporting reinsurers to offer products with rate stability to better serve the market.

We appreciate the opportunity to submit this letter requesting an expansion of the Working Group’s 2023 charges and would welcome the opportunity to speak with the committee further in the future.

Thank you for your consideration in this matter.

Sincerely,



Gregory V. Serio
Partner



Thomas Buchan,
Managing Director

CC: Hon. Mike Chaney, Chair, NAIC Property/Casualty (C) Committee
Members of the Cannabis Insurance (C) Working Group
Aaron Brandenburg, Statistical Information Manager, NAIC
Anne Obersteadt, Regulatory Research Specialist, NAIC

¹ <https://content.naic.org/cipr-topics/cannabis-and-insurance>

Receive an Update on the Drafting of the
*Understanding the Market for Cannabis
Insurance 2.0 White Paper*

—*Commissioner Ricardo Lara (CA)*

Hear a Panel Discussion on Recent Federal and State Political Movements and How they May Impact the Industry

—Brooke Stringer (NAIC), Nicole C. Austin (Reinsurance Association of America — RAA), Michael Correia (National Cannabis Industry Association — NCIA) and Morgan Fox (NORML)

Q&A