

Draft: 12/16/19

Producer Licensing (D) Task Force
Austin, Texas
December 7, 2019

The Producer Licensing (D) Task Force met in Austin, TX, Dec. 7, 2019. The following Task Force members participated: Larry Deiter, Chair (SD); Mike Kreidler, Vice Chair, represented by Jeff Baughman (WA); Lori K. Wing-Heier represented by Jacob Lauten (AK); Allen W. Kerr represented by Letty Hardee (AR); David Altmaier represented by Matt Tamplin (FL); Doug Ommen represented by Andria Seip (IA); Vicki Schmidt (KS); James J. Donelon represented by Barry Ward (LA); Anita G. Fox represented by Michele Riddering (MI); Chlora Lindley-Myers represented by Carrie Couch and Marjorie Thompson (MO); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by John Arnold (ND); Bruce R. Ramge represented by Peg Jasa (NE); Marlene Caride represented by Phil Gennace (NJ); John G. Franchini represented by Victoria Baca (NM); Jillian Froment represented by Jana Jarrett (OH); Glen Mulready represented by Teresa Green (OK); Elizabeth Kelleher Dwyer represented by Beth Vollucci (RI); Raymond G. Farmer represented by Lee Hill (SC); Kent Sullivan represented by Chris Herrick (TX); Todd E. Kiser represented by Randal Overstreet (UT); Scott A. White represented by Mike Beavers (VA); James A. Dodrill represented by Ellen Potter (WV); and Jeff Rude (WY).

1. Adopted its Oct. 25 Minutes

The Task Force met Oct. 25 and took the following action: 1) adopted its Summer National Meeting minutes; 2) adopted its 2020 proposed charges; 3) discussed amendments to the NAIC Uniform Licensing Standards (ULS) for surplus lines; 4) discussed the role of chatbots in the distribution of insurance; and 5) discussed NAIC/Financial Industry Regulatory Authority (FINRA) data sharing.

Mr. Hill made a motion, seconded by Mr. Baughman, to adopt its Oct. 25 minutes (Attachment One). The motion passed unanimously.

2. Adopted Revisions to the Handbook

Mr. Beavers said the Producer Licensing Uniformity (D) Working Group reviewed the *State Licensing Handbook* (Handbook) during conference calls, with all comments and drafts being shared with interested parties on the NAIC website. The first conference call occurred Aug. 21, and the Working Group met six more times via conference call. The Working Group adopted the revised Handbook during its Oct. 30 conference call.

Mr. Beavers said some of the more significant changes include: 1) exact language of the *Producer Licensing Model Act* (#218), when referenced, was added to the Handbook; 2) the appendix was removed from future hard copy publications and will be made available in an electronic format on the NAIC website; 3) a link was added to the NAIC web page for current information about the National Association of Registered Agents and Brokers (NARAB); 4) language was removed regarding the National Insurance Producer Registry's (NIPR) implementation of the Contact Change Request application; and 5) the licensing reciprocity examples were clarified.

Mr. Overstreet made a motion, seconded by Mr. Lauten, to adopt the revised *State Licensing Handbook* (see *NAIC Proceedings – Fall 2019, Market Regulation and Consumer Affairs (D) Committee, Attachment Four*). The motion passed unanimously.

3. Adopted the 2019 CER Agreement

Mr. Beavers said the form was created by combining information from the 2004 Continuing Education Declaration regarding continuing education (CE) reciprocity course approval and the 2004 Continuing Education Reciprocity (CER) Agreement. Mr. Beavers said the Uniform Education (D) Working Group adopted the CER Agreement during its Oct. 31 conference call. This agreement is used to support the use of the Uniform Continuing Education Reciprocity Course Filing Form, which CE providers may use to streamline the course-approval process in multiple states. Through the reciprocal approval process, the CE provider's home state conducts a substantive review of the CE course; therefore, non-resident states do not need to perform a similar review.

Ms. Potter made a motion, seconded by Mr. Hill, to adopt the 2019 CER Agreement *Handbook* (see *NAIC Proceedings – Fall 2019, Market Regulation and Consumer Affairs (D) Committee, Attachment Five*). The motion passed unanimously.

4. Discussed Amendments to the NAIC ULS for Surplus Lines

Director Deiter said the Surplus Lines (C) Task Force sent a request to the Producer Licensing (D) Task Force Aug. 4, 2018, to consider whether the requirement of a resident producer to hold underlying property/casualty (P/C) licenses before a surplus lines license is issued should be expanded to permit an accident and health (A&H) license to fulfill this underlying license requirement.

Director Deiter said the Task Force had multiple discussions on this topic at NAIC national meetings and during an interim conference call in October. Upon the last review of comments submitted Nov. 15, Director Deiter said there continues to be divergent views on what, if any, changes should be made to the ULS. Because of this, Director Deiter suggested it may be premature to modify the ULS for surplus lines and the chapter of the *State Licensing Handbook* that addresses surplus lines licensing. Director Deiter said he believes it would be better for consumers and the industry if each state implements changes to state laws, as needed, as the market for A&H surplus lines products develops.

Director Deiter asked if there were any objections or comments regarding his suggested direction.

John Fielding (Council of Insurance Agents & Brokers—CIAB) said the CIAB does not object to this direction and requested the Task Force be willing to address this issue in the future if there is a need for states to move in uniform direction.

Director Deiter said the Task Force could revisit this issue in the future, if needed, to ensure the necessary consumer protections are in place and the regulatory framework is appropriate to facilitate the delivery of needed insurance products through the surplus lines market.

Hearing no other comments, Director Deiter said there is not a need for a motion since the Task Force is not taking any affirmative action to change the ULS. Director Deiter said this concludes the Task Force's discussion of the request.

5. Adopted the Reports of the Producer Licensing Uniformity (D) Working Group and the Uniform Education (D) Working Group

Director Deiter said Chris Murray, Producer Licensing Uniformity (D) Working Group chair, and Rachel Chester, Uniform Education (D) Working Group chair, were not able to attend this meeting and that written reports have been made available. Director Deiter asked if there were any questions or comments on the reports.

Commissioner Schmidt made a motion, seconded by Mr. Hill, to adopt the reports of the Producer Licensing Uniformity (D) Working Group, including its Oct. 30 (Attachment Two), Oct. 10 (Attachment Three), Sept. 26 (Attachment Four), Sept. 12 (Attachment Five), Aug. 29 (Attachment Six) and Aug. 21 (Attachment Seven) minutes, and the Uniform Education (D) Working Group, including its Oct. 31 (Attachment Eight) and Aug. 22 (Attachment Nine) minutes. The motion passed unanimously.

6. Heard a Report from the NIPR Board of Directors

Director Deiter said the NIPR Board of Directors met Dec. 6. During this meeting, the Board heard a report from the NIPR Audit Committee, which reported NIPR's total revenues are \$3,555,225 (10.2%) above budget through October and 13.9% above the prior year. The Board approved NIPR's 2020 budget, with projected revenues of \$46.1 million and projected expenses of \$43.3 million. The Board heard an update on the progress of implementing NIPR's strategic plan, which will be completed in 2020. In addition to the general progress on the plan, two major strategic initiatives have been accomplished this year. NIPR implemented Florida for resident licensing for its individual insurance producers, and it is anticipated Florida's resident business entities will be available before year-end.

Having no further business, the Producer Licensing (D) Task Force adjourned.

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Best Practices for Temporary Producer Licenses due to COVID-19 April 17, 2020

Business Problem Facing Industry. Due to state and municipal stay-at-home orders, most examination centers for state resident producer licenses are closed temporarily. Examination companies currently have limited online testing available for their states. Industry representatives have asked state insurance commissioners for regulatory relief, which will facilitate onboarding of new producers. To implement temporary licenses on an expedited basis, NIPR asks states to follow the following practices.

Best Practice Recommendations

1. *Temporary Resident Producer License must be time limited.* The temporary license should have a consistent and limited duration period not to exceed 180 days, which is eliminated once COVID-19 restrictions are lifted and/or once examination centers develop a method for testing and proctoring examinations online.
2. *States may issue a bulletin.* See the attached for a recommendation.
3. To implement a *Temporary Resident Producer License* on an expedited basis, the states should adhere to the following requirements:
 - a. NIPR validates a minimal set of requirements including RIRS and 1033 checks.
 - b. Utilize the NAIC Uniform Application as is, without:
 - State Specific Questions
 - Exam Checks
 - Supervising Agent and/or Sponsoring Company Validation
 - c. Charge the Resident License fee for a *Temporary Resident Producer License*
 - d. Limit the holder of a *Temporary Resident Producer License* to sell in the issuing state; the holder cannot receive a non-resident license in another state.
 - e. Pend the electronic temporary resident producer application to the state for review and issuance.
 - f. Manually process, by the state departments of insurance, any additional business requirements.
 - g. Appointments – optional. If allowed, its recommended states utilize the existing insurance producer appointment business requirements and process electronically through NIPR.

Draft: 4/17/20

TEMPLATE FOR TEMPORARY INSURANCE PRODUCER LICENSES DUE TO COVID-19

DATE: (Insert Date)

TO: All Producers and Insurers Transacting the Business of Insurance in (Inset Name of State)

FROM: (Insert Name of Commissioner, Director or Superintendent)

RE: Temporary Insurance Producer License for New Resident Applicants

(Insert Name of Governor) declared a State of Emergency due to the 2019 Novel Coronavirus (COVID-19) on (XX, XX, 2020). The COVID-19 emergency has caused the suspension of insurance producer licensing exams and limitations on background check services. The suspension of producer licensing exams and limitations on background check services has resulted in some prospective new applicants being unable to obtain an insurance license and secure employment.

Effective immediately, the Department will issue Temporary Insurance Producer Licenses in accordance with (insert reference to state law) to applicants meeting the requirements for licensure without requiring examination or fingerprinting. The stipulations regarding this temporary license are set forth below.

Drafting Note: The bulletin does not eliminate background checks which do not require a fingerprint. The bulletin eliminates the fingerprint requirement in states that require fingerprints if not available.

Qualifications of Applicants for a Temporary Insurance Producer License

1. Must be a resident of (insert name of state).
2. Must be appointed by an insurer who assumes responsibilities for all acts of the temporary licensee. This temporary appointment will coincide with the duration of the temporary license.

Drafting Note: Subpoint 2 is only applicable in states that require appointments.

Limitation of Temporary Insurance Producer License

1. Temporary Insurance Producer Licenses shall automatically expire (insert appropriate timeframe) days after the State of Emergency is lifted by the Governor and examinations and background check services are available. Temporary Insurance Producer Licenses shall not exceed 180 days from the date of issue (no exceptions). A Temporary Insurance Producer License is not renewable.
2. Temporary Insurance Producer Licenses are subject to cancellation or revocation if the temporary licensee violates the insurance laws of this state or if the interests of insureds or the public are endangered.
3. A Temporary Insurance Producer License allows the producer to operate in (insert name of state) as a resident temporary producer. Temporary producers are not eligible for non-resident licenses in other states.
4. A Temporary Insurance Producer License is convertible to an equivalent traditional insurance producer license by completion of all prerequisites of a license for the desired line or lines of insurance, including meeting all examination and background qualification requirements pursuant to (insert applicable state law) prior to the expiration of the Temporary Insurance Producer License. No additional fee shall be required in association with the issuance of the regular producer license.
5. Recipients of a Temporary Insurance Producer License will be subject to any and all limitations on the authority of such temporary licenses pursuant to (insert name of state)law.

How to Apply for a Temporary Insurance Producer License

1. Until further notice, applicants for a temporary producer license must submit the following:
 - A. A hard-copy application with a check via United States mail for (*insert state license fee*).
 - B. A hard-copy appointment form completed by the insurer with the appropriate fee of (*insert state fee*).
2. The producer application and insurer appointment form may be found on our website at (*insert state Weblink*).
3. The application will not be automatically approved. To expedite the temporary licensing process, insurers should mail the completed producer application, appointment form, and required fees in one package. If available, insurers may electronically submit appointments through NIPR. This will enable the Department to timely process Temporary Insurance Producer License applications.

*The Department is currently working with the National Insurance Producer Registry (NIPR) to enable electronic applications for a Temporary Insurance Producer License via their website at www.nipr.com. New applicants should continue to check our website at (*insert state Website address*) for updates regarding the availability of online applications.*

Drafting Note: This section may need to be modified based upon each state's ability to process applications electronically through their own back office system. Subpoint 1.B is only applicable for states that require formal appointments.

Duties of Insurer or Responsible Licensed Producer

The insurer must maintain a record of all producers operating under a temporary license and business transacted by them. Insurers should assist producers with moving through the examination and background check process more quickly once the current State of Emergency has been lifted. The Insurance Commissioner may require the temporary insurance producer to have a responsible licensed producer or insurer who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect the insureds and public.

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MEMORANDUM

To: NAIC Producer Licensing Taskforce
Fr: Association of Claims Professionals
Re: Recommendations -- Key Independent Adjuster Licensing Issues
Date: March 17, 2020

Introduction: The Association of Claims Professionals (ACP) has worked with the National Association of Insurance Commissioners (NAIC) for the past fifteen years on a range of adjuster licensing issues. Among other efforts, in 2007-08 the ACP (then called the American Association of Independent Claims Professionals, or AAICP) worked closely with the NAIC to promulgate the NAIC's Independent Adjuster Licensing Model Guideline. ACP has also worked with the NAIC's Producer Licensing Group on uniform applications and a number of other industry initiatives over the past fifteen years. In response to the NAIC's efforts to convene a new Taskforce focused on adjuster licensing issues, and in response to the NAIC's solicitation of ACP's input on adjuster licensing issues that the Taskforce should address, ACP offers the following recommendations to modernize and streamline adjuster licensing in the 34 states that require an adjuster to secure and maintain a license.

1. Fingerprint/Background Requirements – Many states require that adjusters applying for a license provide original sets of fingerprints. Several states (NY and FL, for example), however, refuse to accept fingerprints procured for the adjuster's home state and others will only accept the fingerprints of an actual home state (AZ for example). Of course, fingerprints do not change from state to state, and the state-specific fingerprinting requirement causes unnecessary extra expense and delay in securing a license. We recommend that all states accept the fingerprints provided to a home state (Resident or Designated Home State ("DHS")) to meet background requirements for other states). Related, consistent fingerprinting and background check processes should be adopted by the states and permitted to be completed (i.e. send before application process or during application process for all states).
2. Licensing Reciprocity – States often recognize the home (or designated home) license status of numerous industries' professionals, and the same should occur for independent adjusters. An adjuster's license issued in the adjuster's home state should be recognized by all the other licensing states, and no additional exam should be needed to obtain additional licenses regardless if the home state license is a DHS or resident license. This is not a request to move to the lowest common denominator, but rather to find the appropriate level for all states that choose to license adjusters. As an example of the



problem today, individuals must test for NY/HI regardless of home state. Individuals with DHS license (but not those with a home state license) must also test in AZ. CA/NY residents currently must take additional exams in numerous states due to the lack of reciprocity. Across states there is also no consistency in the testing by line of authority (only Liability, only WC, and All Lines options). Some states have their own breakout/description of line of authority and list “same as home state” or show “none” on state website which is often ambiguous. This creates a confusing mess for adjusters who, in this national economy, are always adjusting across state lines.

3. Continuing Education (“CE”) Reciprocity – If an adjuster completes CE requirements in his or her home state, the adjuster should be in considered in good standing in additional licensing states and non-resident licenses should be renewed. We also recommend all licensing states have CE requirements to avoid confusion when CE is not available in an adjuster’s home state. Finally, we urge the states to adopt a consistent CE requirements of 24 hours per year, to include 3 hours of ethics training (this is the standard that most states have today or are considering adopting).
4. Bond Requirements/Financial Responsibility – Four states (CA, KY, NM, and NY) require individual adjusters to personally procure a small bond (often \$1,000 or \$2,000). While ACP members expend considerable time and effort on procuring thousands of these little bonds, we are unaware of any state ever calling upon a bond. No bond should be required at all, but if one is required, no bond should be required from an adjuster who is working exclusively for an adjusting company already holding its own bond (or Errors & Omission insurance policy) and license in the state.
5. Name/Address Changes – States have inconsistent requirements for name and address changes. For example, most, but not all, states require a report with a new name/address within 30 days. Similarly, documentation is not consistent (some states accept Social Security cards, others accept driver’s license and/or birth certificates for name changes). We recommend that the states adopt uniform standards, and that the home state be the repository for any changes, which could then be shared with all other states in which the individual holds a license.
6. In-state Business Address -- Some states require an adjuster to have an individual business address in the same state as the adjuster resides. As companies are moving towards more teleworking options, this practice should be updated to reflect business addresses as the true branch/business address to which the adjuster reports. One state requires the adjuster to use their home address as the business address. We urge the states to adopt a consistent requirement on whether the states want a single business/home/mailling address that will serve across all state licenses. Ideally, we



recommend that only the home state (or DHS) license reflect the individual's current name/address and that be shared with all other states.

7. License Conversions – We urge the states to adopt a uniform system to transfer licenses when an individual moves from one state to another. We urge the states to allow all licenses to remain in good standing during the conversion process for a reasonable amount of time (60 days). Similarly, we urge the states to adopt a simplified transfer process to convert the prior resident license to a new resident license, and then allow the prior residence state to modify its license to a non-resident license.
8. Background Checks and Other Administrative Actions – States have not adopted consistent processes or documentation requirements for background checks. Indeed, although the NAIC years ago proposed a uniform license application, not all states even use the preferred NAIC document. Similarly, if an individual has been subject to administrative actions in a state, there are not consistent documentation requirements across the states for what the adjuster needs to provide to a state as part of the licensing process, or even when the information needs to be provided.

We appreciate the NAIC's consideration of the above proposals. We note that they are some, but not all, of the issues that adjusters face in applying for licensure across state lines. Many of these issues involve process questions that do not involve policy issues, and which the states could easily resolve. We welcome engagement with the NAIC Taskforce to address these issues in greater detail in the coming weeks and months.

For further information, please contact David Farber, 202.626.2941 or dfarber@kslaw.com, counsel to the ACP. We again thank you for your consideration of these issues.