

Draft Pending Adoption

Draft: 10/3/22

Producer Licensing (D) Task Force
Virtual Meeting
May 5, 2022

The Producer Licensing (D) Task Force met May 5, 2022. The following Task Force members participated: Larry D. Deiter, Chair (SD); Sharon P. Clark, Vice Chair (KY); Lori K. Wing-Heier represented by Kayla Erickson (AK); Jim L. Ridling represented by Jimmy Gunn (AL); Alan McClain represented by Peggy Dunlap (AR); Ricardo Lara represented by Charlene Ferguson (CA); Andrew N. Mais represented by Jill Marocchini and Kurt Swan (CT); Trinidad Navarro represented by Frank Pyle and Susan Jennette, and Robin David (DE); David Altmaier represented by Matt Guy and Matt Tamplin (FL); Doug Ommen represented by Jackie Russo (IA); Vicki Schmidt represented by Monica Richmeier (KS); James J. Donelon represented by Lorie Gasior (LA); Kathleen A. Birrane represented by Mary Kwei (MD); Anita G. Fox represented by Michele Riddering (MI); Chlora Lindley-Myers represented by Carrie Couch and Jo LeDuc (MO); Mike Chaney represented by Vanessa Miller (MS); Troy Downing represented by Mary Arnold (MT); Jon Godfread represented by Chris Aufenthie and John Arnold (ND); Eric Dunning (NE); Chris Nicolopoulos represented by Joan LaCourse and Christie Rice (NH); Marline Caride represented by Joe McDougal (NJ); Barbara D. Richardson represented by Jacob Roberts (NV); Judith L. French represented by Tynesia Dorsey (OH); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Carter Lawrence represented by Kim Biggs (TN); Cassie Brown represented by Randall Evans (TX); Jon Pike represented by Heidi Petermann (UT); Scott A. White represented by Mike Beavers and Richard Tozer (VA); Michael S. Pieciak represented by Mary Block (VT); Mike Kreidler represented by Jeff Baughman and Todd Dixon (WA); Nathan Houdek represented by Rebecca Rebholz (WI); Allan L. McVey represented by Greg Elam and Robert Grishaber (WV); Jeff Rude represented by Bryan Stevens (WY). Also participating were: Michael Conway represented by Steven Giampaolo (CO); and Barbara D. Richardson represented by Jacob Roberts (NV).

1. Adopted its 2021 Fall National Meeting Minutes

Mr. Boughman made a motion, seconded by Ms. Dunlap, to adopt the Task Force's 2021 Fall National Meeting Minutes (see *NAIC Proceedings – Fall 2021, Producer Licensing (D) Task Force*) minutes. The motion passed unanimously.

2. Adopted its 2022 Revised Charges

Director Deiter said the next item is to consider the appointment of a new Adjuster Licensing (D) Working Group, which requires some minor edits to the Producer Licensing Task Force charges. He said the proposed revisions move the existing charge of the Task Force to a new Adjuster Licensing (D) Working Group. This charge is to "monitor state implementation of adjuster licensing and reciprocity and update, as necessary the NAIC adjuster licensing standards." Director Deiter said adjuster licensing uniformity and reciprocity were being discussed prior to the COVID-19 pandemic but have not been discussed due to other priorities during the pandemic.

Director Deiter said the focus of this new Working Group would be on the licensing standards for independent adjusters, which 34 jurisdictions license. He said the following states do not license independent adjusters: Colorado, the District of Columbia, Illinois, Iowa, Kansas, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, and Wisconsin. Director Deiter said the new Working Group would research ways to leverage electronic efficiencies to improve reciprocal adjuster licensing; explore effective options to reduce the number of variations in lines of authority that are not part of the independent adjuster guidelines; and, where necessary, open the independent adjuster guidelines for review and

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amendment. Prior to consideration by the Task Force, Director Deiter said he asked Rachel Chester (RI) to chair the new Working Group and is deferring to Ms. Chester on the selection of a vice chair.

Mr. Stevens made a motion, seconded by Commissioner Clark, to adopt the revised charges and appoint a new Adjuster Licensing (D) Working Group. The motion passed unanimously.

3. Adopted Guidelines for Amending the NAIC Uniform Applications

Director Deiter said the Guideline for Amending the Uniform Licensing Application was circulated with the notice for this meeting. He said there were technical edits made to the draft discussed during the Task Force's Nov. 29, 2021, meeting. Director Deiter said substantive edits were made to subpoint 6 to clarify that NAIC staff for the Producer Licensing (D) Task Force will coordinate with the National Insurance Producer Registry (NIPR) and all states, which will include back-office system support vendors, during the next 45-day period to provide a time and cost estimate for the Task Force to review. The time frame of this coordination was extended from 30 days to 45 days. The Market Regulation and Consumer Affairs (D) Committee should consider the adoption of any revisions by Oct. 15 rather than Oct. 1. The Producer Licensing Uniformity (D) Working Group and the Producer Licensing (D) Task Force should still adopt any changes to the uniform applications by the close of the Summer National Meeting.

Ms. Ferguson questioned how the Producer Licensing (D) Task Force would address the proposed edits from 2018. Director Deiter said those proposed edits would be considered within the Guideline being considered today. Mr. Mullen explained that the Market Regulation and Consumer (D) Committee, the Executive (EX) Committee, and NAIC Plenary will need to adopt the Guideline, and he said he believes their consideration and adoption could occur by the close of the Summer National Meeting. To proceed with some initial work, Director Deiter requested Mr. Mullen to begin outreach to jurisdictions that requested the proposed amendments in 2018 to assess whether the amendments are still necessary.

Mr. Tozer made a motion, second by Ms. Ferguson, to adopt the Guideline for Amending the Uniform Licensing Applications. The motion passed unanimously.

4. Received a Report from the NIPR Board of Directors

Director Deiter said he serves as the president of the 2022 NIPR Board of Directors. He said NIPR began offering the processing of appointments and terminations for Massachusetts. With the addition of Massachusetts, NIPR is now processing appointments and terminations for all states. Massachusetts is now offering the full array of NIPR's online licensing services to all its producers, public adjusters, and auto damage appraisers, as well as several other license types. Director Deiter said NIPR continues to implement the Contact Change Request (CCR) application for business entities. To date, NIPR has 31 states in production and has processed more than 20,000 transactions on behalf of those states. The CCR application provides an additional electronic solution for the states and industry streamlining the licensing process. Director Deiter said NIPR continues to have another successful year, with revenues 5.8% over budget through the end of March.

5. Discussed the Status of the Draft NAIC Pet Insurance Model Act

Director Deiter said Commissioner Clark and he met with the leadership of the Property & Casualty (C) Committee and the Pet Insurance (C) Working Group regarding next steps regarding the provisions of the model act addressing producer licensing and training requirements. Director Deiter said the Pet Insurance (C) Working Group and the Property and Casualty Insurance (C) Committee would be taking the lead on making some minor edits to

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the draft model law and finalizing the model law for future consideration by the NAIC Members. Director Deiter encouraged any Task Force members or interested parties following this issue to engage directly with the Pet Insurance (C) Working Group and the Property and Casualty Insurance (C) Committee.

6. Discussed Other Matters

Director Deiter said NAIC staff have been working with representatives at Prudential to clarify industry's request and potential next steps regarding simplification of the 1033 waiver process. John Feeney (Prudential) said Prudential wants to enhance access to the 1033 waiver process and create more uniformity among states on how individuals obtain access to 1033 waiver forms. Mr. Feeney said the goal is to simplify the 1033 waiver process and not to have states issue more 1033 waivers or lower the standards for review. Mr. Tozer said Virginia incorporates the review of 1033 waivers into its licensing process and does not require the submission of a separate form. He said many applicants are not aware of the need to request a waiver and suggested eliminating the use of a separate form. Director Deiter said he understands Prudential has discussed this issue with Connecticut, Missouri, Pennsylvania, and Virginia and requested Mr. Mullen to coordinate with Prudential and a small group of regulator subject matter experts (SMEs) to develop some suggested next steps or proposal for the Producer Licensing (D) Task Force to review during its next meeting. Director Deiter said the Producer Licensing (D) Task Force will coordinate with the Antifraud (D) Task Force since the Antifraud (D) Task Force was responsible for the development of the *NAIC's Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994*.

Director Deiter said the American Council of Life Insurers (ACLI) and National Association of Insurance and Financial Advisors (NAIFA) submitted a comment letter focusing on the 1033 waiver process, eliminating mandatory pre-licensing education, the process that exam vendors use to set exam difficulty and pass rates of different demographic groups, and encouraging the use of online examinations. In addition, Director Deiter said Financial Security for All (Finseca) submitted a comment letter focusing on eliminating mandatory pre-licensing education, eliminating any cultural bias in exams, and encouraging states to award continuing education (CE) credit for a producer's mentoring in the first five years of licensure.

David Leifer (ACLI) said the ACLI comments are not focused on changing the underlying standards states use to license individuals and are focused on exam accessibility and availability. The ACLI encourages further discussion on changes to the 1033 waiver process, the continuing use of online examinations, the elimination of mandatory pre-licensing education, and offering of examinations in languages other than English. Mr. Leifer said the elimination of unnecessary licensing barriers can benefit underserved communities and lead to greater diversity in the insurance marketplace. Mr. Leifer said the ACLI supports further discussion of these issues with the Producer Licensing (D) Task Force and suggested the NAIC *State Licensing Handbook* could be reviewed and updated to include best practices on the issues raised in the ACLI letter.

Melissa Bova (Finseca) said Finseca would like to work with the Producer Licensing (D) Task Force to address the low retention rate of insurance producers, which is 14% after the first five years of licensure. Ms. Bova said Finseca has seen a higher retention rate in companies that have mentoring and training programs for newly licensed producers. Commissioner Clark questioned what parameters are being suggested for the state insurance departments to award CE credits for mentoring during the first five years of licensure. Commissioner Clark said there would need to be more discussion, including who could be qualified to be a mentor. Ms. Bova said Finseca would welcome the opportunity to work with the Producer Licensing (D) Task Force on the issues outlined in the comment letter.

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Mr. Tozer said he would like to have further discussions about states receiving producer applications with errors or misstatements completed by authorized third-party submitters. Mr. Tozer suggested the development of best practices and a national solution to these issues. Ms. Ferguson agreed with Mr. Tozer and suggested the NAIC uniform applications could possibly be amended to help address this issue. Director Deiter recognized states have different views on this issue and agreed this could be a topic for discussion during a future meeting.

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

[ProdLic Min 5.5.22](#)

Draft: 10/4/22

2023 Proposed Revised Charges**PRODUCER LICENSING (D) TASK FORCE**

The mission of the Producer Licensing (D) Task Force is to: 1) develop and implement uniform standards, interpretations, and treatment of producer and adjuster licensees and licensing terminology; 2) monitor and respond to developments related to licensing reciprocity; 3) coordinate with industry and consumer groups regarding priorities for licensing reforms; and 4) provide direction based on NAIC membership initiatives to the National Insurance Producer Registry (NIPR) Board of Directors regarding the development and implementation of uniform producer licensing initiatives, with a primary emphasis on encouraging the use of electronic technology.

Ongoing Support of NAIC Programs, Products or Services

1. The **Producer Licensing (D) Task Force** will:
 - A. Work closely with NIPR to encourage the full utilization of NIPR products and services by all the states and producers, and encourage accurate and timely reporting of state administrative actions to the NAIC's Regulatory Information Retrieval System (RIRS) to ensure that this data is properly reflected in the State Producer Licensing Database (SPLD) and the Producer Database (PDB).
 - B. Facilitate roundtable discussions, as needed, with the state producer licensing directors for the exchange of views, opinions, and ideas on producer licensing activities in the states and at the NAIC.
 - C. Discuss, as necessary, state perspectives regarding the regulation and benefit of the activities of the federal Affordable Care Act (ACA), established enrollment assisters (including navigators and non-navigator assisters and certified application counselors), and the activities of producers in assisting individuals and businesses purchasing in the health insurance marketplaces. Coordinate with the Health Insurance and Managed Care (B) Committee and the Antifraud (D) Task Force, as necessary.
 - D. Monitor the activities of the National Association of Registered Agents and Brokers (NARAB) in the development and enforcement of the NARAB membership rules, including the criteria for successfully passing a background check.
 - E. Coordinate through NAIC staff to provide guidance to NIPR on producer licensing-related electronic initiatives. Hear a report from NIPR at each national meeting.
 - F. Coordinate with the Market Information Systems (D) Task Force and the Antifraud (D) Task Force to evaluate and make recommendations regarding the entry, retention, and use of data in the NAIC's Market Information Systems (MIS).
 - G. Coordinate with the Special (EX) Committee on Race and Insurance on referrals affecting insurance producers.
 - H. Discuss how criminal convictions may affect producer licensing applicants and review the NAIC's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994* to create a more simplified and consistent approach in how states review 1033 waiver requests.
2. The **Adjuster Licensing (D) Working Group** will:
 - A. Monitor state implementation of adjuster licensing and reciprocity; update, as necessary, the NAIC adjuster licensing standards.

3. The **Producer Licensing Uniformity (D) Working Group** will:
 - A. Work closely with state producer licensing directors and exam vendors to ensure that: 1) the states achieve full compliance with the standards in order to achieve greater uniformity; and 2) the exams test the qualifications for an entry-level position as a producer.
 - B. Provide oversight and ongoing updates, as needed, to the *State Licensing Handbook*.
 - C. Monitor and assess the state implementation of the Uniform Licensing Standards (ULS) and update the standards, as needed.
 - D. Review and update, as needed, the NAIC's uniform producer licensing applications and uniform appointment form. Provide any recommended updates to the Producer Licensing (D) Task Force by the NAIC Summer National Meeting.
4. The **Uniform Education (D) Working Group** will:
 - A. Update, as needed, the reciprocity guidelines, the uniform application forms for continuing education (CE) providers, and the process for state review and approval of instructors and courses. Provide any recommended updates to the Producer Licensing (D) Task Force by the 2023 Fall National Meeting.
 - B. Coordinate with NAIC parent committees, task forces, and/or working groups to review and provide recommendations, as necessary, on prelicensing education and CE requirements that are included in NAIC model acts, regulations, and/or standards.

NAIC Support Staff: Tim Mullen/Greg Welker

[PLTF Proposed 2023 Charges](#)

Draft: 9/29/22

DISCUSSION DRAFT

Template for 1033 Consent Process

Suggestion on How to Make 1033 Consent Process Effective and Efficient

Language Based on Utah Process for Written Consent

<https://insurance.utah.gov/licensee/producers/exam/1033-consent-process>

1. Introduction

- A. Federal law provides penalties for a person who: (a) has been convicted of a felony involving dishonesty or breach of trust; and (b) willfully engages in the business of insurance affecting interstate commerce, unless the person receives written consent from the state insurance regulatory official with appropriate jurisdiction. See, Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. §§1033 and 1034.
- B. A person who has not obtained written consent and who has been convicted of a felony involving dishonesty or breach of trust is a “prohibited person.” A prohibited person who engages in the business of insurance faces possible federal criminal and civil action.
- C. The federal law also penalizes those in the insurance industry who willfully allow prohibited persons to engage in the business of insurance. They must notify the [Insert Jurisdiction Insurance Department] (“the Department”) in writing of an employee or agent who is a prohibited person.

2. A prohibited person may seek written consent

- A. A prohibited person may seek written consent to engage in the business of insurance in [Insert Jurisdiction]. The process for obtaining consent is set forth in this document. The process is available only to a [Insert Jurisdiction] resident who is seeking a [Insert Jurisdiction Insurance Department] insurance license or who wishes to be employed in the business of insurance in [Insert Jurisdiction Insurance Department] in a non-licensed capacity. A non-resident should consult her or his home state insurance department. The [Insert Jurisdiction Insurance Department] may require the prohibited person to provide a copy of the home state’s written consent.

3. Definition of relevant terms

- A. Breach of Trust. A crime involving breach of trust includes, but is not limited to, an offense constituting or involving misuse, misapplication or misappropriation of: (a) anything of value held as a fiduciary (including, but not limited to, a trustee, administrator, executor, conservator, receiver, guardian, agent, employee, partner, officer director or public servant); or (b) anything of value of any public, private or charitable organization.
- B. Business of Insurance. This term means the writing of insurance or the reinsuring of risks, by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.
- C. Conviction. This term includes, but is not limited to: (a) a plea in abeyance or other similar agreement that defers a criminal judgment, regardless of whether the criminal charges were dismissed pursuant to the terms of the agreement; and (b) an expunged conviction.

- D. Dishonesty. A crime involving dishonesty includes, but is not limited to, an offense constituting or involving perjury, bribery, forgery, counterfeiting, false or misleading oral or written statements, deception, fraud, theft, schemes or artifices to deceive or defraud, material misrepresentations and the failure to disclose material facts.
- E. Felony. A “felony” is an offense that is specifically classified as such in the section defining it. If there is no classification, an offense is a felony if the maximum term of authorized imprisonment authorized is more than one year, or if the maximum penalty is death.

4. Applying for written consent

- A. Each prohibited person seeking written consent must submit a completed Application for Written Consent to Engage in the Business of Insurance (“Application”) addressed to [Insert Individual Name to review request]. An Application shall be electronically submitted to [Insert Jurisdiction email address].
- B. A prohibited person has the responsibility to read the Application in its entirety and answer every question completely and accurately. Absolute and complete candor is required. Failure to complete the Application or submit any requested documentation shall result in denial of the Application. An amendment to the Application must be filed immediately upon the occurrence of any event or discovery or recollection of any fact that would change any answer on the Application. Failure to file a timely amendment may result in denial of written consent or withdrawal of previously granted consent.

5. Process for granting or denying an Application

- A. Each jurisdiction will establish a process for the review of an Application. This may include incorporating the 1033 consent process into the process a jurisdiction uses to issue an insurance producer license.

6. Standard by which an Application is evaluated

- A. An Application provides a prohibited person with the opportunity to demonstrate that, notwithstanding the conviction(s), he or she is sufficiently trustworthy to participate in the business of insurance without being a risk to consumers and/or insurers. A prohibited person has the burden of satisfying this standard. Factors that may be considered by the Commissioner include, but are not limited to, the following:
 - a. the nature and severity of the offense and sentence;
 - b. the date of conviction(s);
 - c. the age at the time of committing the crime(s);
 - d. the nature and extent of injury and/or loss caused by the act for which the prohibited person was convicted;
 - e. unpaid judgement(s);
 - f. whether the crime was related to the business of insurance or the exercise of any professional or other license or authority conferred by a federal, state or local governmental agency;
 - g. whether the prohibited person received a pardon from the sovereign that convicted him or her, and the reason for it;
 - h. whether the prohibited person successfully completed parole or probation without incident and whether payment of all fines, penalties or other assessments were satisfied;
 - i. any aggravating or mitigating factors;
 - j. whether other jurisdictions have granted or denied an 18 U.S.C. § 1033 consent;
 - k. the nature and strength of any letters of recommendation and other evidence of rehabilitation;
 - l. the prohibited person’s employment history before and after the commission of the crime(s);
 - m. the nature of any consumer complaints in the Department’s possession or reported by the prohibited person;

- n. whether and to what extent the prohibited person has made materially false statements in any license application or in any other documents filed with the Department;
- o. the prohibited person's proposed type of employment in the insurance industry;
- p. the extent to which the prohibited person will be supervised in that employment;
- q. whether and to what extent the prohibited person has made materially false statements in any application or in other documents filed with any other state or federal agency; and
- r. whether the prohibited person has had any professional license revoked or suspended by any state or federal agency.

7. Ongoing duties of person who Application is granted

- A. An Application granted by the Commissioner is conditioned on the truth of the documents and information submitted by or on behalf of the prohibited person. If a prohibited person has made materially false or misleading statements, has presented materially false or misleading information, or has failed to disclose material information, that may constitute a separate violation of law.
- B. A person whose Application is granted has the Commissioner's consent to engage in the business of insurance according to the terms and conditions of the written consent.

Proposed changes to Short Form Application are noted with revision marks.

**SHORT FORM APPLICATION
FOR WRITTEN CONSENT TO ENGAGE IN THE BUSINESS OF INSURANCE
PURSUANT TO 18 U.S.C. §§ 1033 ~~AND 1034~~**

Notice to Applicant: 18 U.S.C. § 1033 prohibits certain activities by or affecting persons engaged, or proposing to become engaged, in the business of insurance:

- (e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than five (5) years, or both.**

- (B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than five (5) years, or both.**

- (e)(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any regulatory official authorized to regulate the insurer, which consent specifically refers to this section.**

This Application will be reviewed by the chief insurance regulatory official in this state to determine whether the Applicant should be given written consent to engage in the business of insurance or participate in the business pursuant to 18 U.S.C. § 1033(e)(2).

You must answer every question on the Application. If a question does not apply, indicate N/A in the space provided for the answer. Your answers are not limited to the space provided on the Application. Attach additional pages as needed. The Department of Insurance will not process incomplete Applications. Additional information may be requested.

2. Provide details of the conviction for which you are seeking written consent and the final disposition of these matter(s) including sentence; dates of incarceration; dates of probation/parole (if you are currently under probation/parole, include the name and phone number of person supervising your parole or probation; restitution paid; fines/costs ordered: fines/costs paid; and pardons granted. Include information as to whether or not your civil and political rights have been restored. Attach additional pages if needed.

3. Have you ever applied for consent from an insurance regulatory authority? Yes No
If yes, provide details below:

State(s): _____

- Granted
 Denied
 Other _____

Please provide details of outcome of prior or pending applications for Consent:

SECTION III - PRESENT/PROPOSED INSURANCE EMPLOYMENT

1. Please specify the name and address of your current or proposed employer to which the requested ~~exemption~~-consent will apply.

2. Please describe in detail the office, position, and title to which the requested ~~exemption~~-consent will apply and a complete description of the activities, duties and responsibilities. Please attach or describe any proposed or current written or oral agreements, contracts, or understandings with any entity engaged in the business of insurance as defined by 18 U.S.C. § 1033. (If consent is given, it will be applicable to the activities described herein.) Please include your date of employment or proposed date of employment.



Virtual Meeting

ADJUSTER LICENSING (D) WORKING GROUP

Sept. 28, 2022

Summary Report

The Adjuster Licensing (D) Working Group met Sept. 28, 2022. During this meeting, the Working Group:

1. Established its members. The Working Group members are: Arkansas, California, Florida, Kentucky, Louisiana, Michigan, New Mexico, Oklahoma, Rhode Island, Texas, Utah, Virginia, Washington, and Wyoming.
2. Discussed designated home state (DHS) consistency and uniformity. The Working Group will continue these discussions in order to achieve uniformity.
3. Discussed the importance of data integrity within the State Producer Licensing Database.

*Virtual Meeting***UNIFORM EDUCATION (D) WORKING GROUP**

Sept. 29, 2022

Summary Report

The Uniform Education (D) Working Group met Sept. 29, 2022. During this meeting, the Working Group:

1. Discussed the draft NAIC Continuing Education (CE) Instructor Course Guidelines and determined that a new draft would be circulated for additional comment. The Working Group will meet by conference call on Nov. 8 to discuss the NAIC CE Instructor Course Guideline and potentially adopt the Guideline.
2. Discussed the 2019 Continuing Education Reciprocity (CER) Agreement. The Working Group chair and NAIC staff have continued their efforts to obtain the state signatures of the new agreement. To date, 47 jurisdictions have signed the Agreement.
3. Discussed exam pass rates. The Working Group discussed a new process of obtaining and posting annual state exam pass rates. The Working Group will work with testing vendors of Prometric, PSI, and Pearson VUE to establish an annual report, which will be posted on the NAIC website.