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Big Data and Artificial Intelligence (H) Working Group
Virtual Meeting
September 29, 2025

The Big Data and Artificial Intelligence (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met Sept. 29, 2025. The following Working Group members participated: Michael Humphreys, Chair, Shannen Logue, and Michael McKenney (PA); Doug Ommen, Co-Vice Chair (IA); Mary Block, Co-Vice Chair (VT); Molly Nollette (AK); Richard Fiore (AL); Lori Dreaver Munn (AZ); Ken Allen (CA); Michael Conway and Jason Lapham (CO); Wanchin Chou (CT); Stuart Jones (FL); Weston Trexler (ID); Jack Engle (IL); Victoria Hastings (IN); Caleb Malone (LA); Caleb Huntington (MA); Raymond Guzman (MD); Sandra Darby (ME); Kate Stojsih (MI); Jacqueline Olson (MN); Brad Gerling (MO); Jacqueline Obusek (NC); Colton Schulz (ND); Connie Van Slyke (NE); Christian Citarella (NH); Brandon Rocchio (NV); Judith L. French and Matt Walsh (OH); Teresa Green (OK); John Haworth (OR); Matthew Gendron (RI); Andreea Savu (SC); Haelly Pease (SD); Carter Lawrence (TN); Rachel Cloyd (TX); Eric Lowe and Michael Peterson (VA); Nathan Houdek and Timothy Cornelius (WI); and Joylynn Fix (WV).

1. Adopted its Spring National Meeting Minutes

Schulz made a motion, seconded by Munn, to adopt the Working Group's Aug. 12 minutes (*see NAIC Proceedings – Summer 2025, Innovation, Cybersecurity, and Technology (H) Committee, Attachment X*). The motion passed unanimously.

2. Heard an Update on the Proposed NCOIL AI Model Act

Taylor Walker (NAIC) provided an update on the proposed National Council of Insurance Legislators (NCOIL) artificial intelligence (AI) model act. She stated that during its July 17 meeting, the NCOIL Financial Services & Multi-Lines Issues Committee introduced a draft model act titled "NCOIL Model Act Regarding Insurers' Use of Artificial Intelligence," dated June 17. The draft requires human oversight when insurers use AI in their claims handling decisions, specifically when denying or adjusting a claim. The model is sponsored by New York Assembly member Erik Dilan (D-NY-54) and Oklahoma state Rep. Forrest Bennett (D-OK-92). The draft model is based on Florida Senate Bill 794 and Florida House Bill 1555, which were introduced this year but did not pass. During the NCOIL meeting, the model sponsors noted that several states have begun considering and passing legislation to address concerns in the AI space, especially about unchecked AI use in health insurance claims and prior authorization requests.

Walker summarized the key provisions of the draft model. The focus and scope are on claims handling across all lines of insurance. Decisions to deny claims must be made by a qualified human professional, defined as "an individual under the state insurance code who has the authority to address or deny a claim or a portion of a claim, and may exercise such authority over a particular claim." Steps that the qualified human professional must independently take before denying a claim include: 1) analyzing the claim facts and policy terms; 2) reviewing the AI-generated outputs for accuracy; and 3) reviewing previous human-made decisions on the claim. AI cannot be the sole basis for claim denials or adjustments. Insurers are required to maintain detailed records of human reviews and decisions. They must maintain documentation on the basis for the denial, including information provided by the algorithm or AI system. Denial notices must provide a point of contact and a process for claimants to get more information from an insurer and must clearly state in their denial that AI was not the sole basis for that denial.

Insurers using AI must document in their claims handling manual how AI systems are used in the claims process and how the insurer complies with NCOIL's model act requirements. Industry opposition is strong at this point. The American Council of Life Insurers (ACLI), National Association of Mutual Insurance Companies (NAMIC), American Property Casualty Insurance Association (APCIA), and AHIP submitted a joint letter, publicly posted on NCOIL's website, objecting to the model and arguing that: 1) a one-size-fits-all approach is inappropriate given that insurance lines use AI in different ways; 2) existing technology-neutral laws and regulations are sufficient to govern AI use; and 3) NCOIL should assess whether there are specific risks of adverse outcomes that are not already covered by current federal and state laws and regulations. The American Medical Association (AMA) spoke in support of the model, citing the need for patient protections, particularly in health insurance, where AI has been used to deny coverage without, or with limited, human oversight. NCOIL will continue discussions on this model at its November meeting. The NAIC does not typically comment on NCOIL proposals.

Commissioner Humphreys asked whether there was much conversation at the meeting or if it was primarily just to introduce the proposal and take initial feedback. Walker responded that there was initial feedback. She said that industry and/or trades noted their concerns, summarized from their written comments, but a number of other groups spoke in favor of the need for a model act.

3. Discussed Next Steps Regarding the Consideration of an AI Model Law

Commissioner Humphreys noted that the Working Group met in regulator-to-regulator session Sept. 9. During this meeting, the Working Group discussed written feedback received from the request for information (RFI). He summarized that the RFI was issued not to come to a foregone conclusion to pursue a model law, but rather to determine whether existing laws and regulations are sufficient, and if not, which concepts should be considered in a model law if it were to be pursued, and whether governance requirements should be tailored to different products or different types and sizes of companies.

Commissioner Humphreys said the Working Group received 33 comment letters, which are posted on the Working Group's web page. The Working Group also met at the Summer National Meeting and heard comments from interested parties summarizing their feedback on the RFI.

Commissioner Humphreys stated that the purpose of this meeting is to open up the conversation to decide whether to pursue a model law or wait for feedback from piloting the AI Systems Evaluation Tool. He noted that four hours will be set aside for the Working Group to discuss the tool at the Fall National Meeting.

The next steps on an AI model law could include transparency disclosures to provide more information on what AI systems and data are used and how. A model law could also focus on just health insurance, as many states are currently looking at health insurance AI models. Some of the feedback suggested that instead of pursuing a model law, states should be encouraged to adopt the NAIC's *Model Bulletin on the Use of Artificial Intelligence Systems by Insurers* (AI Model Bulletin).

Schulz stated that North Dakota is working on a version of the AI Model Bulletin, but it is interested in a gap analysis of what the AI Model Bulletin does not have that an AI model law could address.

Block stated that Vermont has been considering the idea of policyholder disclosures on the data used in AI systems. She said that Vermont has a generic disclosure statute that allows the commissioner to create disclosure regulations. She said it would be easier if there was a model law to reference.

Commissioner Ommen commented that there is some interest in talking about disclosures; however, moving forward on an AI model law is premature, given the bulletin's expectations on principles of governance and the

work developing the AI Systems Evaluation Tool, which puts regulators in a good place to better understand what is needed to inform a decision.

Schulz commented that regulators are expressing interest in some sort of standardization and disclosure templates if those could be made available. Commissioner Conway said it is important to move forward with some action relating to a model law or regulation to prevent other regulatory bodies at the state and federal levels from stepping in. He said it is vital for state insurance regulators to fill that void. He said disclosures are a logical first step, but the Working Group should go further.

Commissioner Humphreys asked Miguel Romero (NAIC) to poll the Working Group members on what form disclosures could look like and how they could build toward developing additional tools or guidance for next year. He stated that the U.S. Congress (Congress) debated H.R.1, which restricts what a state could do in the AI space. State regulators were a strong voice in convincing Congress to strike the moratorium. To continue the conversation, the Working Group will take an internal survey focused on transparency as the next step.

Peter Kochenburger (Southern University Law Center—SULC) commented that there is a lack of consumer disclosures on rights, expectations, and treatment by AI systems in underwriting and claims. He said the next step should be to address consumer policy and rights. He said that starting with transparency is a good way to proceed because there is currently virtually no transparency, as the only transparency given to insurance consumers is that afforded by the 1970s Fair Credit Reporting Act, which covers a limited amount of consumer data that is now being used for underwriting.

4. <u>Discussed Next Steps Regarding the Development of the AI Systems Evaluation Tool</u>

Commissioner Ommen stated that the Working Group has been working on a draft of the AI systems evaluation tool, which is designed to provide state insurance regulators with an immediate resource for examining AI systems through five optional exhibits that can be incorporated into market conduct or financial examinations, as more permanent solutions are being developed. The goal is to provide regulators with an efficient and standardized information collection tool that can be used to assess and evaluate risks and the guidance needed to align regulator expectations on the information needed from companies during an examination or analysis-related inquiry.

The tool allows state insurance regulators to progressively investigate AI governance, testing protocols, high-risk models, data sources, and financial implications while serving as a checklist for insurers. This tool and each exhibit are optional and offered to help regulators assess risk as they see fit to use them. Regulators may tailor questions as needed. The Working Group exposed a draft of the tool on July 7 for a 60-day public comment period ending Sept. 5. The Working Group received 20 comment letters, which are being reviewed. The comment letters have been posted to the Working Group's web page.

The Working Group is planning an interim meeting around the week of Nov. 17 to walk through the changes for the second version of the tool, and will again meet for a half day at the Fall National Meeting in open session to talk through the edits. At the Fall National Meeting, the Working Group also plans to have a 90-minute breakout session for groups to get together and go through the tool in greater depth, then, after a short break, another 90 minutes will be devoted to a full group discussion working toward the third version of the tool to pilot in early 2026.

Commissioner Humphreys noted that Pennsylvania is already using versions of these tools in financial exams and analyses. The idea is not to have regulator-only breakout groups but rather to have regulators, industry representatives, and consumer representatives at each breakout table to develop those conversations.

Having no further discussion, the Big Data and Artificial Intelligence (H) Working Group adjourned.

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