

PRODUCER LICENSING (D) TASK FORCE

Producer Licensing (D) Task Force Aug. 4, 2021, Minutes

Draft Pending Adoption

Draft: 8/15/21

Producer Licensing (D) Task Force
Virtual Meeting (*in lieu of meeting at the 2021 Spring National Meeting*)
August 4, 2021

The Producer Licensing (D) Task Force met Aug. 4, 2021. The following Task Force members participated: Elizabeth Kelleher Dwyer, Co-Chair (RI); Larry D. Deiter, Co-Chair (SD); Ricardo Lara represented by Charlene Ferguson and Tyler McKinney (CA); Michael Conway represented by Steven Giampaolo (CO); Trinidad Navarro represented by Ashley Webb (DE); David Altmaier represented by Matt Guy and Matt Tamplin (FL); Doug Ommen represented by Jackie Russo and Andria Seip (IA); Sharon P. Clark (KY); James J. Donelon represented by Barry Ward (LA); Mike Causey represented by Angela Hatchell (NC); Eric Dunning represented by Kevin Schlautman and Martin Swanson (NE); Chris Nicolopoulos represented by Joan Lacourse (NH); Judith L. French represented by Tynesia Dorsey (OH); Andrew R. Stolfi represented by Kirsten Anderson (OR); Jessica K. Altman represented Christopher Monahan (PA); Doug Slape represented by Chris Herrick (TX); Scott A. White represented by Richard Tozer (VA); Mike Kreidler represented by Jeff Baughman (WA); Mark Afable represented by Rebecca Rebholz and Melody Esquivel (WI); and James A. Dodrill represented by Greg Elam and Robert Grishaber (WV).

1. Adopted its March 26 Minutes

Commissioner Clark a motion, seconded by Ms. Ferguson, to adopt the Task Force's March 26 minutes (*see NAIC Proceedings – Spring 2021, Producer Licensing (D) Task Force*). The motion passed unanimously.

2. Heard an Update on the State Implementation of Online Examinations

Director Deiter said 40 jurisdictions offer online examinations. He said South Dakota implemented online examinations in April, and 28% of the exams since April have been administered online. He said the pass rate for online examinations is a little higher than in-person examinations. Mr. Tozer said Virginia implemented online examinations in June 2020, and approximately 40% of its examinations are administered online. Ms. Ferguson said California administers 35–40% of its examinations in the online format and has not seen any difference in pass rates from in-person examinations. She said the online format has provided candidates with greater access to examinations with online examinations being available seven days a week and 24 hours a day. Mr. Baughman said Washington began offering online examinations in October 2019 and has not seen any difference in pass rates from in-person examinations. He said 80% of Washington's exams are administered online. Superintendent Dwyer said Rhode Island has had a similar experience, and she questioned if any states have had security issues.

Joel Norris (Pearson VUE) said the security of online examinations is very important, and while a camera and microphone can pick up what can be seen and heard in view of the camera, there are instances where a candidate leaves the view of the camera. He said there are also instances where a candidate does not follow the proctor's instructions, and there is the possibility that an applicant has another person present outside the view of the camera. He said the physical management of the remote exam environment is very important, and the proctor can revoke the administration of an exam if the candidate leaves the view of the camera and does not follow the proctor's instructions. He said proctors have escalated issues, and Pearson VUE has both an incident level response and a broader review of how to curtail certain behavior for all online exams. He said incidents are reported to the client, and the client can then share the information with other states. He said Pearson VUE supports transparency, but it also has contract obligations with clients.

In response to Commissioner Clark's question about what percentage of candidates have their online exam revoked, Mr. Norris said Pearson VUE keeps track of specific incidents and reports, and exams may also be revoked due to technology issues. Commissioner Clark said she would like to know what percentage of all online exams are revoked because of security concerns.

3. Discussed a Referral from the Special (EX) Committee on Race and Insurance

Superintendent Dwyer said she anticipates the Special (EX) Committee on Race and Insurance to refer the following change to the Producer Licensing (D) Task Force: "The Producer Licensing (D) Task Force will receive a report on the availability of producer licensing exams in foreign languages, the steps exam vendors have taken to mitigate cultural bias, and the number and location of producers by company compared to demographics in the area."

Superintendent Dwyer said the Task Force has solicited examination vendors on the processes they follow to eliminate bias in examinations. She said the Task Force does not plan to circulate information about specific vendors. She said information is being sought from continuing education (CE) providers. She said there would be more detail shared at the next Task Force

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meeting. Mr. Tozer said Virginia reviews examinations for bias on an annual basis and works with their examination vendor to identify questions that should be revised.

4. Discussed the Review of the NAIC's *Guidelines for State Insurance Regulators to the Violent Crime Control and Law Enforcement Act of 1994*

Superintendent Dwyer suggested that the Task Force review the guidelines to create a more user-friendly resource for states to create greater consistency in how states review 1033 waiver requests. She said the Task Force should also be reviewing how criminal convictions affect producer licensing applicants, and she referenced a new pilot program implemented by the Pennsylvania Department of Insurance (DOI) for prospective insurance agents with criminal records.

Mr. Monahan said the Pennsylvania DOI allows a person with a criminal conviction to voluntarily provide criminal record information through an electronic portal. The Pennsylvania licensing and legal teams review the information and provide non-binding feedback on how the criminal activity might affect his/her ability to obtain a producer license. This helps the person determine if he/she should spend time and effort with pre-licensing education. Mr. Monahan said Pennsylvania had 10–20 people use this service in the first two weeks. He said the service is free, and nobody, to date, has had a conviction that would have prohibited the issuance of a license. Superintendent Dwyer said Rhode Island has had a similar program for 10 years, and she said the program in Pennsylvania is very nicely done.

David Leifer (American Council of Life Insurers—ACLI) said the ACLI is supportive of the NAIC looking at how criminal background checks and the 1033 waiver process affects applicants for producer licenses. He said the ACLI also supports the implementation of online examinations, and this has benefited applicants in geographic areas where there is not easy access to examinations centers. He said the ACLI supports licensing standards that ensure qualified producers, but he believes it is important to look at licensing practices that create unnecessary barriers to individuals seeking a producer license.

Mr. Tozer said Virginia has a 1033 waiver process and is working with other states that contract with Sircon to develop best practices for the review of 1033 requests. He said Virginia does not require a separate application for a 1033 waiver if the disclosure of the criminal information is part of the normal, electronic application process. He said the NAIC Uniform Producer Licensing Applications have a question relevant to 1033 waivers, and Virginia can review court records without requiring the resident applicant to submit additional information to Virginia. If needed, he said Virginia may look at a non-resident candidate if there is a 1033 waiver concern and the resident state did not issue a waiver. Superintendent Dwyer encouraged Mr. Tozer to provide additional information on the recommendations from the states that contract with Sircon.

5. Discussed Procedures for Amending Uniform Applications

Director Deiter said the draft procedures are being developed to ensure that the consideration of changes to the uniform applications support the NAIC members' goal of providing stable applications and encourage the use of electronic technology for licensing. The Task Force is seeking comments on the procedures through Sept. 3.

6. Received Reports from the Producer Licensing Uniformity (D) Working Group and the Uniform Education (D) Working Group

Superintendent Dwyer said the chair position for the Producer Licensing Uniformity (D) Working Group remains open, and the leadership for both working groups continues to be in a state of flux. She said Director Deiter and she are working to transition to new leadership for the working groups.

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

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