



October 18th, 2021

NAIC Privacy Protections (D) Working Group
NAIC Central Office
1100 Walnut Street
Suite 1500
Kansas City, MO 64106

Attn: Lois Alexander, NAIC Market Regulation Manager
Via email: lalexander@naic.org

Dear Chair Amann, Vice Chair Kreiter and Members of the Privacy Protections Working Group:

Thank you very much for the continued opportunity to provide comments on your ongoing review of past and current consumer privacy frameworks. We very much appreciate the extensive work that the NAIC Privacy Protections Working Group is doing to develop their Privacy Policy Statement. ACLI appreciates this opportunity to participate in the process, as our members are deeply engaged.

As mentioned in our July remarks, we are proud of the fact that the insurance industry has long been a consumer privacy leader in adhering to clear obligations in the appropriate collection, use, and sharing of personal information. Keeping our policyholders' personal information private and protected is at the core of what we do. Life insurers believe that it is important for consumers to have certain rights with respect to personal information that companies maintain about them. At the same time, companies need the ability to maintain and process such personal information to provide consumers with the affordable products and services they request, as well as to ensure the accuracy and integrity of information they use and to comply with applicable laws and regulations.

We respectfully submit the following thoughts to the Working Group on the "Right to Delete Information" provisions of the Privacy Policy Statement.

Right to Request Deletion

ACLI recognizes consumer's legitimate interest in requesting deletion of personal information. Insurers are committed to maintaining the integrity of the personal information used to provide products and services to consumers. As we have noted before, existing Model 670 currently provide consumers with robust rights to request correction, amendment, or deletion of personal information, while still recognizing that insurance companies may deny those requests when retention is legally or practically required. We believe that the California Consumer Privacy Act (CCPA), Virginia Consumer Data Protection Act (VDPA), and Colorado Privacy Act (CPA) have appropriately addressed this issue. We believe that exceptions to the right to deletion should be

clear to consumers and that the exceptions included in the CCPA, VDPA, and CPA are instructive, and may be reasonably used to guide efforts on this issue.

We specifically note that businesses are often required to comply with laws or regulations that necessitate maintaining data regarding consumers' contracts that may endure many decades and that may become subject to litigation for years in the future. We support the approach of existing frameworks, which acknowledge those realities and provide appropriate exceptions. For example, the CCPA states that a business is not required to comply with a request to delete personal information if it is necessary for the business to complete the transaction for which the personal information was collected, provide a good or service requested by the consumer or reasonably anticipated within the context of a business' ongoing relationship with the consumer, perform a contract between the business and the consumer, detect fraudulent or illegal activity, and comply with a legal obligation, among other things. Additionally, the CCPA includes the concept that nothing in the law "shall restrict a business's ability to exercise or defend legal claims." This list of reasons, while not comprehensive, illustrates several of the reasons an insurer may need to deny a request to delete information, and why that right must be tempered by legal and practical realities.

Additionally, we note that while it may be possible to request downstream service providers with whom we have an existing written agreement or affiliates with whom we share information to delete data related to the individual consumer, it may not always be possible to do so. Any regulation should take these limitations into account.

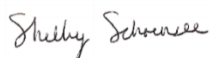
Insurers and other financial services companies are subject to a complex array of federal and state laws and regulations that compel them to maintain records, documentation, and audit trails to prevent and report fraud, money laundering and other financial crimes. As noted by the Working Group, insurers are also compelled to retain to maintain books, records, documents and other business records so that their claims, rating, underwriting, marketing, complaint, and producer licensing, records, rates and forms filings and other records are readily available for examination. Most of the products offered by life insurers have long durations over many decades such as life insurance and long-term care insurance. The need for insurers to retain customer personal information in order to comply with such rules, administer their business, and pay claims is critical.

ACLI supports reasonable laws and regulations giving consumers the ability to request deletion and believes that the necessary exceptions should be clear and consistent for consumers. We recommend that existing Models and several enacted state privacy laws should be relied upon in developing a comprehensive list of exceptions, in order to provide that clarity and consistency to insurers and consumers alike.

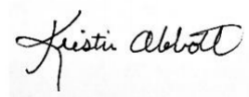
Conclusion

Thank you for your continued consideration of our comments. We look forward to continuing to collaborate with the Working Group as we move through this review process.

Sincerely,



Shelby Schoensee
Associate Counsel



Kristin Abbott
Counsel