
COMMENTS
COVID-19 Regulatory Relief Related to
Innovation and Technology

American Council of Life Insurers (ACLI)

American Property and Casualty Insurance Association (APCIA)

Blue Cross Blue Shield Association (BCBSA)

Insured Retirement Institute (IRI)

Lloyd's of London

McDermott Will & Emery

National Association of Mutual Insurance Companies

National Association of Professional Insurance Agents (PIA National)

Wholesale & Specialty Insurance Association

Robbie B. Meyer
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November 4, 2020

Commissioner Jon Godfread
Chair, NAIC Innovation and Technology (EX) Task Force
North Dakota Insurance Department
Via-email with copy to Denise Matthews (dmatthews@naic.org)

Re: NAIC Innovation and Technology (EX) Task Force request for comments related to regulatory relief or regulatory accommodations related to innovation and technology

Dear Commissioner Godfread:

The American Council of Life Insurers (ACLI) appreciates the opportunity to submit these comments in response to the request of the NAIC Innovation and Technology (EX) Task Force (Task Force) for comments relating to regulatory relief or accommodations related to innovation and technology and the Task Force's engagement on this issue.

Navigating the COVID-19 pandemic has highlighted the need to enhance outdated regulatory requirements, that do not reflect recent transformative advances in online technologies and hinder life insurers' ability to serve consumers and conduct the business of insurance as effectively and efficiently as possible. Fortunately, the state regulatory community, governors and state insurance commissioners, have recognized and granted accommodations to temporarily ameliorate inefficiencies, particularly those associated with document delivery, wet signature, and in-person notarization and producer licensing requirements. The country's instant move to a "work from home," touchless society, during the pandemic has proven that electronic communications technology can be both safe and effective for personal tasks and for functions vital to our economy, including insurance and financial services.

ACLI recommends that the recent temporary accommodations relating to electronic delivery of documents, electronic signatures and notarization and online fulfillment of producer licensing requirements, be made permanent. ACLI believes that the temporary relief given by the regulatory community and the rapid change in business and personal interactions has proven that such enhancements continue to protect consumers and provide consumers with greater access to the critical financial protection products and services they need especially during times of uncertainty.

Current State E-Commerce Laws

The Uniform Electronic Transactions Act (UETA) was adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in 1999. UETA allows regulated entities to

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

conduct business electronically with consumers who have “opted-in” and provides for legal recognition of electronic signatures, records, and transactions. Forty-seven states have adopted UETA. State UETA’s apply to insurance documents and transactions, the electronic creation of insurance contracts and electronic delivery of insurance documents and disclosures, unless the state UETA or other state law expressly provides otherwise.

As indicated above, all the states have not adopted UETA. Also, there are variations in the scope of state UETA’s. Additionally, there are approximately 30 state insurance specific laws or regulations that impose requirements for e-delivery or other e-commerce activities in connection with the business of insurance that vary from state to state. As a result, current state law governing insurers’ right to engage in various e-commerce activities is not as clear, nor as uniform, as desirable. Also, as noted above and discussed further below, state, as well as federal, e-commerce laws continue to include “opt-in” and related requirements that significantly inhibit life insurers’ ability to engage in e-commerce and to implement and use newer, online technologies broadly accepted and desired by consumers.

Recommendation of Model State Insurance Department E-Commerce Bulletin(s)

To most expeditiously make permanent key temporary accommodations offered by the state regulatory community during the pandemic and to provide necessary clarity and uniformity with respect to state law applicable to life insurers’ ability to engage in e-commerce, ACLI suggests adoption of a state insurance department bulletin or bulletins.

Attached to this letter is a draft model state insurance department bulletin. The key purposes of the draft bulletin are to:

- (1) Clarify that the requirements of any state statute, regulation, or guidance that a signature, document, communication, disclosure, delivery or transaction, relating to the conduct of the business of insurance, be in written/tangible form or performed in person are satisfied by a signature, document, communication, disclosure, delivery or transaction that is in electronic form or performed electronically consistent with the requirements of the state UETA or similar law, unless the statute, regulation or guidance expressly prohibits such electronic signature, document, communication, disclosure, delivery or transaction;
- (2) Clarify the requirements for electronic delivery of documents in connection with insurance transactions;
- (3) Permit remote examinations of and by insurance companies to meet examination and investigation requirements; and
- (4) Permit/clarify that insurance agents may meet pre-licensing and continuing education requirements via electronic/online instruction.

Appended to the draft bulletin is a list of typical state insurance laws that may require signatures, notarizations, documents, communications, disclosures, deliveries or transactions, relating to the conduct of the business of insurance, to be in written/tangible form or performed in-person. Under the bulletin, the requirements of these laws would be satisfied by electronic signatures, notarizations, documents, communications, disclosures, deliveries, etc., as described above. The list is not intended to be an exclusive list and is intended to be modified to reflect the adopting state’s laws.

Laws That Prohibit or Limit Insurers and Producers from Implementing or Using Newer Technologies

The Innovation Task Force also asked for comments relating to other laws, regulations, or regulatory guidances that prohibit or limit insurers or producers from implementing newer technologies necessary to continue to serve customers and maintain operations. We note that the federal Electronic Signatures in Global and National Commerce Act (E-Sign), and the NCCUSL UETA and state UETA's, that generally track the federal law, require an opt-in as a prerequisite to engaging in e-commerce with a consumer. The federal E-Sign and UETA also requires that a consumer consent electronically or demonstrate his or her ability to consent or retain records electronically. Many of the state insurance specific e-delivery laws also include a similar opt-in requirement.

These opt-in and related requirements, coupled with other outdated regulatory requirements described above, jeopardize life insurers' ability to take advantage of transformative changes in online technologies, noted above, and consumers' use and expectation of insurers' and other financial institutions' use of these technologies, to serve consumers in the fastest, safest and most effective manner possible.

Conclusion

Federal regulators, including the Department of Labor and the Securities and Exchange Commission (SEC), also provided accommodations during the pandemic, and are engaged in ongoing regulatory modernization efforts. In furtherance of these efforts, in late October, ACLI and the Committee of Annuity Insurers submitted a white paper to the SEC with insurance-specific recommendations for ways to modernize e-delivery of documents.

ACLI believes that our transition to a touchless society has accelerated consumers' and business' use and acceptance of electronic commerce and electronic delivery of all forms of documents. ACLI believes it is time for the state and federal regulatory communities to create paradigms that treat paper and electronic documents as being equal; today the paradigms consider paper to be "normal" and create exceptions for electronic documents. That is simply inconsistent with technology and consumer preferences.

ACLI looks forward to working with the NAIC to help modernize outdated regulatory requirements that have adversely impacted life insurers' businesses and made their interactions with consumers less efficient and effective.

Most immediately, we encourage the NAIC to adopt a model state insurance department e-commerce bulletin(s) to most expeditiously make permanent key temporary accommodations offered by the state regulatory community during the pandemic and to provide necessary clarity and uniformity with respect to state law applicable to life insurers' ability to engage in e-commerce,

Again, we thank you for the opportunity to submit these comments and would be glad to answer questions relating to any of the above.

Sincerely,



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INSURANCE DEPARTMENT BULLETIN/ORDER

ELECTRONIC TRANSACTIONS & COMMUNICATIONS IN CONDUCT OF THE BUSINESS OF INSURANCE
REMOTE EXAMINATIONS OF AND BY INSURANCE COMPANIES
ELECTRONIC INSTRUCTION OF INSURANCE AGENTS

Various provisions of the [insert name of state] insurance code require: (a) signatures, documents, records, communications, or activities related to insurance transactions to be in written/tangible form or performed in person; (b) examinations or investigations of or by insurance companies to be performed on site; and (c) insurance agents' pre-licensing or continuing education instruction to be in person or in a classroom. Often these provisions do not expressly permit or otherwise contemplate electronic signatures, documents, communications, disclosures, or transactions in connection with the conduct of the business of insurance, remote examinations of or by insurance companies, or electronic or online instruction of insurance agents.

The recent COVID-19 pandemic and associated "shelter in place" orders have highlighted certain outdated regulatory requirements as regulators, insurers and consumers navigate and adapt to this new environment. Now, more than ever, the insurance industry has a critical need to engage in electronic communications and transactions to conduct the business of insurance and serve consumers effectively and efficiently. Navigation of the pandemic also has demonstrated the benefits of remote examinations of and by insurance companies under certain circumstances and of electronic or online instruction for insurance agents seeking to meet pre-licensing and continuing education requirements.

[Insert title and citation to state UETA or similar law] expressly allows regulated entities to conduct business with consenting consumers electronically and provides for legal recognition of electronic signatures, records, and transactions. The provisions of [insert title of state UETA or similar law] apply to electronic insurance documents and transactions, the electronic creation of insurance contracts, and the transmission of insurance notices or disclosures in this state unless [insert reference to state UETA or similar law] or other law of this state expressly provides otherwise.

Various provisions of the [insert name of state] insurance code both grant the Commissioner authority to and set the parameters for the conduct of financial and market conduct examinations and investigations of insurance companies. These various provisions also require insurance companies to perform examinations of certain third-party administrators.

[Insert citation to appropriate provisions of state insurance code] require insurance agents to meet certain pre-licensing and continuing education requirements.

The purposes of this Bulletin/Order are to:

1. clarify that the requirements of any [insert name of state] insurance statute, regulation, or guidance that a signature, document, communication, disclosure, delivery or transaction, relating to the conduct of the business of insurance, be in written/tangible form or performed in person are satisfied by a signature, document, communication, disclosure, delivery or transaction that is in electronic form or performed electronically, consistent with the requirements of [insert reference to

state UETA or similar law], unless the statute, regulation or guidance expressly prohibits such electronic signature, document, communication, disclosure, delivery or transaction;

2. clarify the requirements for electronic delivery of documents in connection with insurance transactions;

3. provide guidance for insurers, producers, and other regulated insurance entities regarding other issues related to the electronic transaction of the business of insurance and provision of insurance products and services to consumers;

4. permit remote examinations of and by insurance companies to meet examination and investigation requirements; and

5. permit/clarify that insurance agents may meet pre-licensing and continuing education requirements via electronic/online instruction.

ELECTRONIC SIGNATURES, DOCUMENTS, COMMUNICATIONS, & DELIVERY

Any insurance statute, regulation or guidance of this state, including the statutory provisions listed in Appendix A, that requires a signature, document, communication, disclosure, or delivery to be in written/tangible form or to be performed in person is satisfied by a signature, document, communication, disclosure, or delivery that is in electronic form or performed electronically, consistent with the requirements of [insert reference to state UETA or similar law], unless the statute, regulation or guidance expressly provides otherwise.

Nothing in this Bulletin/Order requires a regulated party, insured, consumer or third party to conduct insurance transactions electronically.

A consumer retains full rights to accept certain transactions by electronic means and refuse other transactions by electronic means.

Electronic transactions and communications are subject to the record keeping requirements of the [insert name of state] insurance code and regulations.

Insurance transactions, records, and communications may be retained in electronic form.

ADDITIONAL CLARIFICATION RELATING TO ELECTRONIC DELIVERY

[Insert citations to appropriate sections of state UETA] do not list all the commonly used methods of electronic communication in its broad definitions of 'electronic record' and 'electronic signature'. These common methods include insurance records created, generated, sent, communicated, received or stored by electronic means, including email, voice signature, and web or Internet based submissions or communications between insurers and consumers, insurance agents and regulated insurance entities.

Delivery of an insurance document in accordance with this Bulletin/Order shall be considered the equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

Unless expressly provided otherwise in relevant insurance law of this state, any notice or other document required in an insurance transaction may be delivered, stored, or presented by electronic

means so long as the delivery, storage or presentation meets the requirements of [insert reference to state UETA].

The burden is on the regulated insurance entity to meet all existing requirements for delivery regardless of the method by which the policy or other record(s) are delivered to the recipient.

Any policy, other record or communication delivered to a person must be maintained by the regulated insurance entity in accordance with applicable retention schedules and the regulated entity must be able, within applicable timeframes and as prescribed by the relevant law or regulation, to provide an easily readable electronic or paper copy of the policy or document.

If an applicable insurance law or regulation requires a record, notice, or document to be attached to or enclosed with other records, documents, or notices, the law or regulation can be satisfied electronically so long as it is clear that the attached or enclosed record, document, or notice is logically associated with or linked to the same electronic record as the principal record, document, or notice.

ORAL COMMUNICATION

Except as otherwise expressly provided by law, if an oral communication or a recording of an oral communication received from a party can be reliably stored and reproduced by an insurer, the oral communication or recording qualifies as a notice or document delivered electronically.

NOTARIZATION & ATTESTATION

In line with [insert citation to appropriate section of state UETA], if a provision of any law or regulation of this state requires a signature, notice or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

Remote electronic notarization (RON), conducted remotely over the internet using digital tools and live audio-video technologies, is permitted to be used in lieu of an electronic signature or notarization provided all requirements for notarization, other than any physical presence requirements, are met.

CLARIFICATION REGARDING JURISDICTION AND LICENSING, ADVERTISING, FORMAT, RECORD RETENTION, AND PRIVACY RELATED TO THE ELECTRONIC TRANSACTION OF THE BUSINESS OF INSURANCE

JURISDICTION AND LICENSING

The Department does not consider the mere maintenance or availability of a web site that contains insurance content, where the site owner has done nothing through such web site to purposely avail himself of the benefits of doing insurance business in this state, to alone constitute 'doing business.' Operating a web site, regardless of whether compensation is received, that includes insurance advertising does not constitute the transaction of insurance, provided that the operator does not otherwise solicit, sell or negotiate insurance. The Department will not assert jurisdiction over a web site in cases where consumers who visit the site are provided reasonable access to information indicating that the advertised products and services are not available in all states.

ADVERTISING

Subject to the above policy on jurisdiction, advertising on a web site is generally subject to the same rules as advertising in other media. For example, if changes in the content of a web site are of the type that would require re-approval of a print advertisement, then the web site changes require re-approval as well. Changes in the appearance of a website, with no changes in substantive content, would not generally require re-approval or separate recordkeeping.

FORMAT

As the graphical display presented on a consumer's monitor is, in large part, beyond the direct control of the regulated entity, the Department finds that specific format requirements, including fonts and paper size, originally established for printed documents are satisfied for electronically transmitted or displayed records by using characteristics that are designed to meet the same regulatory objective. For example, a requirement to use a specific color or font can be met so long as it has the same emphasis or distinguishing percentage proportions for the characters relative to the rest of the document.

RECORD RETENTION

Unless specifically required otherwise, electronic recordkeeping is generally subject to the same timelines and other standards as recordkeeping in other media. In [insert name of state], a regulated entity is in compliance with the state's recordkeeping requirements if it can reassemble the original information upon request. In cases where there is no paper document, a regulated entity shall be in compliance if it can produce the information or data that accurately represents the record of the information or data.

PRIVACY

[Insert title and appropriate citation to state insurance privacy laws relating to the confidentiality and security of consumers' personal information] and other applicable privacy laws are equally applicable to all media, including electronic media.

In line with statements above relating to electronic documents, communications and delivery, the requirements of any statute, regulation or guidance of this state for privacy notices and disclosures to be in written/tangible form are satisfied by a document, communication, disclosure or notice that is in electronic form or performed electronically, consistent with the requirements of [insert reference to state UETA] and the specific requirements of relevant state insurance privacy laws. The burden is on the regulated entity to meet all existing requirements of any statute, regulation or guidance of this state to protect the security, as well as the confidentiality, of any insurance privacy notice or other disclosure delivered in this state, regardless of the method by the privacy notices or other disclosure document is delivered.

Any privacy notice delivered to an individual in this state must be maintained by the regulated insurance entity in accordance with applicable retention schedules, and the regulated entity must be able, within applicable timeframes prescribed by relevant law, to provide an easily readable electronic or paper copy of the policy or document to the Department or other party entitled to the information on request.

REMOTE FINANCIAL AND MARKET CONDUCT EXAMINATIONS OF OR BY INSURANCE COMPANIES

The requirements of any statute or regulation of this state, including the statutory provision(s) listed below, that a financial or market conduct examination or other investigation of an insurance company be performed onsite, or that an insurance company conduct an onsite examination of certain third party administrators, may be satisfied by an examination or investigation that leverages existing, proven processes performed remotely by the Commissioner or his/her delegates, as applicable:

[INSERT INSURANCE CODE CITATIONS] directing the insurance commissioner to conduct of financial and market conduct examinations and investigations of insurance companies.

Waiver of On-Site Review Requirements

Pursuant to (insert reference to applicable state law based on Section 5(C) of the NAIC Managing General Agents Model Act (#225)) insurers are required to, at least semiannually, conduct an on-site review of the underwriting and claims processing operations of a managing general agent.

Pursuant to (insert reference to applicable state law based on Section 7(H) of the NAIC Third Party Administrator Model Act (#1090)) insurers are required to, at least semiannually, conduct a review of the operations of its third-party administrator in cases where an administrator administers benefits for more than one hundred (100) certificate holders, subscribers, claimants, or policyholders on behalf of an insurer, and at least one such review must be conducted on site.

Insurers may conduct reviews of managing general agents or third-party administrators through electronic information to satisfy their on-site review obligations under (insert reference to applicable state law based on Section 5(C) of Model #225 and Section 7(H) of Model #1090).

AGENTS' PRE-LICENSING & CONTINUING EDUCATION REQUIREMENTS

The requirements of any statute or regulation of this state, including the statutory provision(s) listed below, that an insurance agent fulfill certain pre-licensing or continuing education requirements by classroom or in person instruction may be satisfied by electronic or online instruction that otherwise meets the specified pre-licensing and continuing education requirements:

[INSERT INSURANCE CODE CITATION] imposing prospective insurance agents' pre-licensing requirements

[INSERT INSURANCE CODE CITATION] imposing insurance agents' continuing education requirements

APPENDIX A

COMMUNICATIONS BETWEEN AN INSURER OR PRODUCER AND CONSUMERS

- [INSERT STATE INSURANCE CODE CITATION] - Delivery of policies and contracts
- [INSERT STATE INSURANCE CODE CITATION] - Delivery of notices and disclosures related to insurance.
- [INSERT STATE INSURANCE CODE CITATION] - Delivery of privacy notices related to insurance
- [INSERT STATE INSURANCE CODE CITATION] - Evidence of insurance.
- [INSERT STATE INSURANCE CODE CITATION] - Complaints.
- [INSERT STATE INSURANCE CODE CITATION] - Surplus lines broker's notice to insured.
- [INSERT STATE INSURANCE CODE CITATION] - Health discount plans.
- [INSERT STATE INSURANCE CODE CITATION] - Disclosures and notices related to portable electronic devices insurance.
- [INSERT STATE INSURANCE CODE CITATION] - Assignment of policies.
- [INSERT STATE INSURANCE CODE CITATION] - Consumer request for copy of application, alteration
- [INSERT STATE INSURANCE CODE CITATION] - Minor may give acquittance.
- [INSERT STATE INSURANCE CODE CITATION] - Forms for proof of loss to be furnished.
- [INSERT STATE INSURANCE CODE CITATION] - Notice of long-term care benefits denial.
- [INSERT STATE INSURANCE CODE CITATION] - Disclosures, notices and other communication regarding long-term care benefits.
- [INSERT STATE INSURANCE CODE CITATION] - Notice of election by attorney in fact.
- [INSERT STATE INSURANCE CODE CITATION] - Consumer information notice for multiple employer welfare association.
- [INSERT STATE INSURANCE CODE CITATION] - Applications for insurance in formation of mutual insurer.
- [INSERT STATE INSURANCE CODE CITATION] - Reciprocal insurer authority of attorney-in-fact.
- [INSERT STATE INSURANCE CODE CITATION] - Forms for customer service requests

INSURERS' & PRODUCERS' COMMUNICATIONS WITH THE DEPARTMENT OF INSURANCE

- [INSERT STATE INSURANCE CODE CITATION] - Certificate of Compliance
- [INSERT STATE INSURANCE CODE CITATION] – Reinsurance Attestation
- [INSERT STATE INSURANCE CODE CITATION] – Certificate of Investment in PR securities
- [INSERT STATE INSURANCE CODE CITATION] – Schedule of Excess Risks
- [INSERT STATE INSURANCE CODE CITATION] – Officer Filing (president authorizing specific officers to certify that reporting is accurate)
- [INSERT STATE INSURANCE CODE CITATION] – Officers and Directors Insurance Coverage
- [INSERT STATE INSURANCE CODE CITATION] – Certificate of Authority Renewal
- [INSERT STATE INSURANCE CODE CITATION] – Ordinary and Extraordinary Dividend
- [INSERT STATE INSURANCE CODE CITATION] – Concentration of Risk
- [INSERT STATE INSURANCE CODE CITATION] – Surplus Note
- [INSERT STATE INSURANCE CODE CITATION] – Application for Certificate of Authority
- [INSERT STATE INSURANCE CODE CITATION] – UCAA Filing
- [INSERT STATE INSURANCE CODE CITATION] – Registration Statement
- [INSERT STATE INSURANCE CODE CITATION] – Application required, life and health insurance
- [INSERT STATE INSURANCE CODE CITATION] - Filing and approval of forms.
- [INSERT STATE INSURANCE CODE CITATION] – Form filing, subject to prior approval
- [INSERT STATE INSURANCE CODE CITATION] – Form filing, subject to file and use; penalties
- [INSERT STATE INSURANCE CODE CITATION] - Application to the director for a hearing on a disapproved filing.
- [INSERT STATE INSURANCE CODE CITATION] - Application to the director to file a deviation.
- [INSERT STATE INSURANCE CODE CITATION] - Rate filings, supplementary rate information, supporting information, application to director to make rate effective before expiry of waiting period, and application to director to extend to time to provide information.
- [INSERT STATE INSURANCE CODE CITATION] - Demand for hearing.
- [INSERT STATE INSURANCE CODE CITATION] - Application for certificate of authority.

- [INSERT STATE INSURANCE CODE CITATION] - Application for voluntary surrender of certificate.
- [INSERT STATE INSURANCE CODE CITATION] - Statement of actuarial opinion and supporting documents.
- [INSERT [STATE INSURANCE CODE CITATION] - Insurer's required notice of change to the division.
- [INSERT STATE INSURANCE CODE CITATION] - Biographical affidavits.
- [INSERT STATE INSURANCE CODE CITATION] - Risk based capital reports.
- [INSERT STATE INSURANCE CODE CITATION] – Quarterly and annual statutory financial statements, whether audited or unaudited.
- [INSERT STATE INSURANCE CODE CITATION] –Statutory management discussion and analysis reports
- [INSERT STATE INSURANCE CODE CITATION] - Risk based capital report for foreign insurers.
- [INSERT STATE INSURANCE CODE CITATION] - Consent of insurer to release of report.
- [INSERT STATE INSURANCE CODE CITATION] - Written explanation of failure to file report by due date.
- [INSERT STATE INSURANCE CODE CITATION] – Statement regarding the acquisition of control of or merger with a domestic insurer on Form A (or any comparable form)
- [INSERT STATE INSURANCE CODE CITATION] - Registration of insurers who are members of an insurance holding company system and disclaimer of affiliation on Form B (or any comparable form).
- [INSERT STATE INSURANCE CODE CITATION] – Prior notice of an affiliate transaction on Form D (or any comparable form)
- [INSERT STATE INSURANCE CODE CITATION] – Pre-acquisition notification form regarding the potential competitive impact of a proposed merger or acquisition by a non-domiciliary insurer doing business in this state or by a domestic insurer on Form E (or any comparable form)
- [INSERT STATE INSURANCE CODE CITATION] – Enterprise risk report on Form F (or any comparable form)
- [INSERT STATE INSURANCE CODE CITATION] – Own risk and solvency assessment reports, or similar reports
- [INSERT STATE INSURANCE CODE CITATION] – Corporate governance annual disclosure reports, or similar reports
- [INSERT STATE INSURANCE CODE CITATION] - Written consent to public release of confidential information.

- [INSERT STATE INSURANCE CODE CITATION] - Notice to director by domestic insurer of assignment of assets.
- [INSERT STATE INSURANCE CODE CITATION] - Licensee's required notice of change to the division.
- [INSERT STATE INSURANCE CODE CITATION] - Termination of appointment.
- [INSERT STATE INSURANCE CODE CITATION] - Controlling insurance producers.
- [INSERT STATE INSURANCE CODE CITATION] - Acting as a managing general agent.
- [INSERT STATE INSURANCE CODE CITATION] - List of supervisors and current insurers for third-party administrators.
- [INSERT STATE INSURANCE CODE CITATION] - Third-party administrator contract.
- [INSERT STATE INSURANCE CODE CITATION] - License exceptions reinsurance intermediary broker.
- [INSERT STATE INSURANCE CODE CITATION] - Reinsurance intermediary manager contract.
- [INSERT STATE INSURANCE CODE CITATION] - Report to director of surplus lines insurance placement.
- [INSERT STATE INSURANCE CODE CITATION] - Report to director of placement of insurance with non-admitted insurer.
- [INSERT STATE INSURANCE CODE CITATION] - Surplus lines transaction report.
- [INSERT STATE INSURANCE CODE CITATION] - Insurer or licensee notice to the division of fraud.
- [INSERT STATE INSURANCE CODE CITATION] - Application to the director to authorize a filing to become effective before the waiting period has expired.
- [INSERT STATE INSURANCE CODE CITATION] - Actuarial certification to the director for small employer health insurance.
- [INSERT STATE INSURANCE CODE CITATION] - Application to the director for a hearing.
- [INSERT STATE INSURANCE CODE CITATION] - Trust agreement for formation of mutual.
- [INSERT STATE INSURANCE CODE CITATION] - Filing domestic mutual insurer reinsurance contract with director.
- [INSERT STATE INSURANCE CODE CITATION] - Notice of election by attorney in fact.
- [INSERT STATE INSURANCE CODE CITATION] - Joint insurance cooperative agreement
- [INSERT STATE INSURANCE CODE CITATION] - Examination of producers, adjusters &

promoters

- [INSERT STATE INSURANCE CODE CITATION] – Examination reports
- [INSERT STATE INSURANCE CODE CITATION] - Certificate of Compliance / Certification of Compliance
- [INSERT STATE INSURANCE CODE CITATION] – Certificate of Investment in PR Securities

COMMUNICATIONS BETWEEN AN INSURER AND ITS PRODUCERS

- [INSERT STATE INSURANCE CODE CITATION] - Insurer's notice of suspension or revocation to agents and MGAs.
- [INSERT STATE INSURANCE CODE CITATION] - Termination of an appointment.
- [INSERT STATE INSURANCE CODE CITATION] - Controlling insurance producers.
- [INSERT STATE INSURANCE CODE CITATION] - Managing general agents.
- [INSERT STATE INSURANCE CODE CITATION] - Insurer's third-party administrator.
- [INSERT STATE INSURANCE CODE CITATION] - Reinsurance intermediary brokers.
- [INSERT STATE INSURANCE CODE CITATION] - Reinsurance intermediary manager contract.
- [INSERT STATE INSURANCE CODE CITATION] – Application for agent's contract and/or appointment.
- [INSERT STATE INSURANCE CODE CITATION] – Onboarding forms and agreements for appointed producers.



November 6, 2020

Commissioner Jon Godfread, Chair
Superintendent Elizabeth Kelleher Dwyer, Vice Chair
Innovation and Technology (EX) Task Force
National Association of Insurance Commissioners
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Via Electronic Mail: dmatthews@naic.org

Re: COVID-19 Regulatory Relief/Accommodations Related to Innovation and Technology

Dear Commissioner Godfread and Superintendent Dwyer:

The American Property and Casualty Insurance Association (APCIA) appreciates the opportunity to provide feedback on the Innovation and Technology (EX) Task Force's (Task Force) open request for comments on regulatory relief and regulatory accommodations offered by states as a result of the COVID-19 pandemic (pandemic), which should be continued or be made permanent. COVID-19 forced regulators and insurers to change the way we service customers, so that the insurance industry could meet the customer's needs in a timely and efficient manner while protecting the health and safety of employees and customers. In retrospect, many of these changes were possible because of technological advances and the industry's innovative drive to continually provide better service to customers.

The pandemic resulted in over 800 orders and bulletins being issued with immediate implementation of unclear requirements necessitating numerous follow-up guidance. APCIA applauds the Task Force for reflecting on the past few months to identify lessons learned and how to add certainty and reform on a permanent basis. We encourage other National Association of Insurance Commissioner (NAIC) committees to engage in similar exercises.

Included below are APCIA's recommendations for consideration as important innovation and technology related reforms. These reforms can be categorized in three main buckets: electronic commerce; regulatory capabilities; and claims facilitation. APCIA recognizes this is just the initial step in promoting regulatory advancements in innovation and technology and looks forward to continued dialogue and assisting in developing solutions.

Electronic Commerce

Customers want and need electronic communications and transactions that move at the speed of commerce. Customers have filed insurance department complaints in the past claiming that they did not receive electronic notice; meanwhile, physical notices are in the customer's possession but unopened. Importantly, the pandemic cemented the reality of this need and desire for electronic commerce in an urgent manner. Additionally, there are positive environmental impacts that flow from the faster electronic interactions that customers often prefer.

Of interest, in March of 2000, the NAIC released the "Electronic Commerce & Regulation Issue Paper,"¹ (Issue Paper) which noted "the benefits of uniformity across the various states is essential in helping facilitate the use of electronic commerce in the insurance marketplace."² That paper is now 20 years old and UETA and ESIGN have both been enacted and there are many new technology solutions available, but the objectives and premise of that paper may serve as a foundation for exploring how the laws and regulations have adapted and evolved in that timespan and where there remains a need for improvement.

Electronic Signatures

APCIA strongly encourages the Task Force to consider how to promote clear uniform acceptance of electronic signatures wherever a wet signature is required. During the pandemic many states including Georgia, Michigan, Kentucky, New Hampshire, and Virginia issued statements allowing for the acceptability of electronic signatures. Some insurance departments, like Delaware, Florida and New York, not only clarified the acceptance of electronic signatures but encouraged insurers to accept electronic signatures in lieu of a wet signature. As it relates to surety bonds, The Federal General Services Administration issued a memo authorizing deviation from Federal Acquisition and General Service Administration regulations to expressly allow for electronic signatures on bonds and eliminating seal requirements. This activity suggests that even if a state believes their laws permit electronic signatures, certainty can provide insurers the type of comfort to more readily use these tools, because signatures that are deemed invalid can have significant consequences. The Task Force may also consider how to promote acceptance of verbal confirmation with verified statements where digital signatures are allowed.

APCIA began to identify a list of forms and documents that could benefit from electronic signatures, including: Uninsured/Underinsured (UM/UIM) rejection forms, surety bond forms, applications, any option form, and Power of Attorney documents. In the end though, the list is endless and reforms should focus on enhancing state recognition of UETA, so that every statutory or regulatory signature requirement can be met through electronic signatures without reservation. The Issue Paper's recommended approach was to enact legislation which globally allows the interpretation of existing statutes and regulations in such a way as to embrace electronic commerce and technology. It went on to provide an example that legislation could be enacted to allow all statutory and regulatory requirements for handwritten signatures to appear on documents to be optionally satisfied by verifiable electronic signatures on electronic records. The Task Force should explore this recommendation as an option to enhance the benefits of UETA and to promote certainty in today's market.

¹ NAIC Electronic Commerce & Regulation Issue Paper, March 2020 – https://www.naic.org/prod_serv/ECR-OP.pdf (last accessed: November 5, 2020)

² Id. at pg. 6

Notably, the Issue Paper indicates that “a review of authentication requirements in all insurance transactions should be conducted to identify and remove unnecessary inhibitors to electronic commerce. Electronic authentication should be permitted (but not required, except as the parties may agree) wherever “signatures” are required, including processes such as application and claims submittal.”³

E-Delivery/E-Posting

Many policyholders prefer to receive notices and policy documents electronically and the pandemic necessitated electronic delivery and posting in many situations. In some circumstances website notification as opposed to paper or email delivery is equally important to quickly communicate changes. For example, the flexibility to utilize website notifications to transmit specialized billing information to impacted customers was a welcome accommodation. These website notifications are particularly helpful in the commercial context.

States have taken steps on a document by document basis to alleviate paper and mail-in requirements. Most recently, New Hampshire introduced SB579 in 2020 to effectuate electronic delivery options for the insurer. We encourage this effort to continue in a more expansive way in every state. The Issue Paper noted that while the insurer must let the consumer know prior to the purchase of a policy how it will be delivered, laws and regulations need to allow for electronic delivery. Additionally, the Issue Paper stated “it is preferable to specify the parameters for document delivery rather than trying to predict all of the ways in which policies may be delivered electronically in the future, or developing requirements for each method of delivery.”⁴ Similar to the recommendation identified above from the Issue Paper, this may be an opportunity for the Task Force to develop a comprehensive solution for globally permissive e-delivery and e-posting language.

Given the evolving nature of the technology, APCIA believes it also makes sense to review the processes and procedures for permitting electronic delivery. Current requirements can be overly cumbersome and not necessarily consumer friendly, i.e. requiring policyholders to confirm their electronic method of delivery in the same manner they selected this option.

Notarization Requirements

Eliminating in-person notarization requirements and giving businesses the ability to remotely notarize certified policy requests, affidavits, injury releases, statements, settlement offers, etc., was a significant relaxation during the pandemic that APCIA strongly believes should continue. Today’s technology solutions, to include an influx of audio-video communication platforms, has made in-person notarization antiquated. Remote notarization provides greater efficiency to insurance transactions without sacrificing security, and will promote customer satisfaction.

Thirty-six states and the District of Columbia issued executive orders or guidance to suspend in-person notarization requirements in favor of remote on-line services: AL, AR, AZ, CO, CT, DE, DC, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NV, NH, NJ, NM, NY, NC, PA, RI, TN, TX, VT, VA, WA, WI, WV and WY. A review of the guidance and executive orders notes that in many circumstances the guidance required the notary must be in the same state (i.e. CT, GA, KS, ME, and others), while states like Delaware required the notary to be out of state, often meaning a Delaware notary was not allowed to utilize remote

³ Id. at Pg. 9

⁴ Id. at Pg. 12

online notarization. In considering the practical implications and the technology tools available today, APCIA recommends that on a permanent basis in-state or out-of-state remote notarization should be permitted. It seems logical that a document notarized in one state should be accepted in any state.

Another positive development is that some states waived notarization requirements altogether for certain documents. For example, Texas usually requires Consent Agreements to be notarized, but waived that requirement during the pandemic. It would have been difficult to find a notary because most administrative staff were not coming into the physical office.

APCIA recognizes that notarization relaxation is an issue that can be effectuated through insurance laws, in some instances, and in others by a broader state-wide initiative. Broader state-wide circumstances represent an opportunity to partner and together advance change that will benefit consumers.

Total Loss/Salvage Vehicle Use Case

The total loss/salvage vehicle scenario is one example where use of electronic signatures and relaxed notarization merge to create a complete solution. Movement to a completely digital total loss experience will better serve consumers through ease, efficiency, and speed. The following are two elements necessary to achieve this goal:

(1) Waiver of notarization requirements. During the pandemic Hawaii waived notarization requirements on the Bill of Sale and Power of Attorney for total loss vehicles where the owner is transferring the title to the insurance company. The West Virginia DMV amended the Motor Vehicle Power of Attorney Form to remove the notary requirement. Notarization of these documents especially for an insurance company is not necessary. An insurer is going to make sure they are obtaining the needed signed documents from the correct person because that is the person that receives payment for the vehicle. Even if a state felt that documents for individual private transactions should have notarization, the state should exempt insurers. In addition to Hawaii and West Virginia's actions during the pandemic, existing laws in Ohio and Kentucky exempt insurance companies from the notarization requirements. Ohio Rev. Stat. §4504.11(C)(1)(a) states, "This certificate of title, any supporting power of attorney, or application for a salvage certificate of title shall be exempt from the requirements of notarization and verification..."

(2) Allow Electronic Signatures - The Truth in Mileage Act (TIMA) requires transfers of vehicles of a certain age (currently 10 years and newer but is slated to be expanded next year to vehicles 20 years and newer) to have an odometer disclosure from the transferor to the transferee. The disclosure may be e-signed; however, if electronic signatures are used, it must go through an e-sign process that meets the National Institute of Standards and Technology (NIST) Level 2 for identification and authentication. Also, the Florida Department of Highway Safety and Motor Vehicles has issued Information Notice INFO20-013. Effective March 27, 2020, the notice allows insurers to use electronic signatures in association with total loss transactions at Level 2 assurance. NIST Level 2 requires much higher security than current e-sign processes that are maintained through organizations such as DocuSign. The Issue Paper notes that not all insurance transactions require the ultimate in security and regulatory systems should not dictate levels of security that are beyond the need. It is important to not only allow electronic signatures, but to avoid requirements that make it difficult to utilize.

DMV Reforms

Another example of where industry and regulators can partner to advance broad e-commerce reforms is in the area of encouraging state DMV's to digitize car titles and driver's license renewals. The Ohio legislature has been working on a pilot project with a vendor to digitize car titles, a modernization effort that will speed various processes significantly.

In some instances, the partnership could also encourage the DMV to follow the example of the rest of the state. For instance, the New York Department of Financial Services and State encouraged acceptance of electronic signatures; however, the New York DMV was not willing to accept an electronic signature. This left customers and insurers in the same difficult pre-pandemic situation.

Regulatory Capabilities

During the pandemic many but not all states were willing to be flexible with regards to corporate governance and regulatory filing issues. Provided below are a list of regulatory efficiency issues that should be considered going forward:

- (1) Several states allowed for in-person classroom licensing requirements to be met by attending a webinar and electronically signing into the class.
- (2) Consumer Affairs' divisions in most states started sending complaints via email instead of US mail. This change has been invaluable because it prevented having to have an individual physically come into the office and then scan and distribute complaints in a timely manner.
- (3) Permitting financial and market conduct exams to be conducted remotely is an important pandemic development. Video platforms allow for the same in-person communication that examiners were looking for and many companies may be able to allow auditors and examiners secure remote access to documents.
- (4) The ability to electronically file with state regulators is widely permissible for forms and rates, but it is not as common for financial, tax, and corporate governance filings. For instance, holding company filings, dividend requests, annual and quarterly statements and other filings require wet signatures. We do not see why electronic signatures could not be permitted for these documents going forward.
- (5) Instead of requiring physical checks (e.g., for premium taxes, assessments, and fees), regulators should consider allowing electronic payments.
- (6) Biographical affidavits typically require wet signatures and notarization with a hard copy to be delivered by mail. Going forward, on-line notarization, electronic signatures, e-delivery and extending the 6-month renewal of biographical affidavits and fingerprints would be helpful.

Claims Facilitation

The remote interactions necessitated by the pandemic illustrated the importance of innovation and technology solutions for claims handling. Digital adjusting and photo inspection/claim services, drone usage, electronic payments, telemedicine and remote hearings all help facilitate the efficient and timely management of the claims process for the benefit of the consumer.

Digital Adjusting and Photo Inspection/Claim Service

Some states issued bulletins encouraging, or even directing to the extent possible, insurers to allow policyholders to take advantage of virtual adjustment opportunities as opposed to in-person relief. The ability to use alternative methods of inspection for valuation and verification via photograph or via video platform were critical to moving a claim forward and to fruition without waiting for an appraiser to visit in-person. The existing regulatory structure that presented challenges to the insurers deployment of these tools was primarily related to auto insurance where some states prohibited virtual claims handling. The other challenge for both auto and property claims is in defending that the virtual inspection represents a thorough investigation. In nearly every auto or property claim there is additional damage that can not be seen or assessed on inspection, regardless of whether the inspection is done in person or not, and can only be found as the damaged vehicle or property is taken apart during the repair process. It does not, as some have alleged, represent an attempt to underpay claims.

As such, there are at least two issues the Task Force could tackle to promote digital adjusting and photo inspection/claim servicing. First, develop and encourage express authorization for virtual claims handling in all states. Second, Section 4 of the NAIC Unfair Claims Practices Model law prohibits, refusing to pay claims without conducting a reasonable investigation. Establishing uniform and consistent guidance as to what is perceived as “reasonable” could help avoid the uncertainty that legal challenges present, which in turn promotes more widespread use of these tools for the betterment of the consumer.

Relatedly, several states limit the use of technical assistance during the claim handling process. For example, states prohibit a non-licensed claims adjuster from taking photos. During remote inspections, such assistance can be very helpful for the policyholder.

Drones

Natural catastrophes continue to occur regardless of the pandemic and the challenges that it presents. Allowing drone operators to fly beyond their line of sight would be helpful for efficient claim handling, particularly when there is significant pressure and demand on the limited human resources available. For instance, flying over 10 houses in a neighborhood during a single flight instead of having to fly over them one by one can be an important time saver. The pandemic also raised challenges for accessing buildings and other commercial locations to perform inspections, such that drone usage should be permitted in these circumstances as well.

Certified letters for Reservation of Rights Letters and Coverage Denials

There are no regulatory requirements that mandate insurers send reservation of rights letters or coverage denial correspondence via certified mail; rather, it is a legal concern that the proper paper trail would not be captured on our claims. So, while not a regulatory barrier, it is an electronic commerce issue that is worth exploring for a regulatory solution.

Remote Administrative Hearings

Permitting depositions, hearings, mediations, etc. for any line of insurance to occur via an electronic platform helps the claim continue to move forward efficiently and in a timely manner. APCIA is aware that video depositions were permitted in some jurisdictions for workers compensation claims, but not in every jurisdiction. This is a relaxation that would be helpful across jurisdictional lines.

Electronic Payments

There are states that have provided beneficial statutory or administrative language that permits electronic delivery, however, some laws like N.J.A.C. 11:2-17.10 and N.J.A.C 11:2-17.10(c) require that where payment is made by electronic means, whenever possible the statement setting forth coverage under which the payment is made must be sent at the same time the payment is paid. The “at the same time” language could become problematic in remote work environments where variation in process is inevitably required. For these reasons, APCI recommends language that will allow insurers to send proof of payments ‘contemporaneously’ or ‘in the same time frame’ and clarify that these statements can be sent separately electronically or via mail.

In some states, Workers’ Compensation benefit checks must contain specific fraud language on the reverse side of the check itself. See for example 19 Del. Stat. §2344 and R.I. Gen. Stat. §28-35-39. This creates challenges when the insured would prefer payment via electronic fund transfer or debit card. Regulators may consider how to allow electronic payment with an electronic notice of the warning.

Proof of Loss Forms

Consistent with the move toward promoting e-commerce, proof of loss statements are another example where states still require physical U.S. mail. For example, some states will not deem compliance with the proof of loss requirements until sent US mail with first class postage.

Medical Treatment Options

In some instances, injured workers postponed independent medical examinations because the injured worker did not want to go to the doctor’s office during the pandemic. Regulators should consider relaxing regulations that present challenges to receiving telemedicine.

Thank you for your proactive effort to help promote long-term meaningful change that has been shown to be beneficial to consumers. APCI welcomes the opportunity to work with the Task Force to make innovation and technology related pandemic relief permanent.

Respectfully,



Angela Gleason
Senior Director, Cybersecurity & Counsel



**BlueCross BlueShield
Association**

An Association of Independent
Blue Cross and Blue Shield Plans

June 22, 2020

Commissioner Marie L. Ganim, Ph. D
Chair of Health Innovations (B) Working Group
National Association of Insurance Commissioners
444 North Capitol Street, NW
Suite 700
Washington, D.C. 20001-1512

Submitted via email to Joseph Tuschner (jtuschner@naic.org)

RE: Health Innovations Working Group Discussion on Telemedicine

Dear Commissioner Ganim:

The Blue Cross Blue Shield Association (BCBSA) understands the NAIC Innovations Working Group is interested in telehealth coverage issues related to the COVID-19 public health emergency. BCBSA appreciates the opportunity to share a set of guiding principles to inform the discussion and development of these policy proposals. We recognize the pandemic has changed the way healthcare is delivered and that many of the policies implemented during the pandemic may be under consideration for permanent adoption. As states consider how telehealth can be used in a post-pandemic world, BCBSA strongly encourages policymakers to promote appropriate access, administrative efficiency, maximum flexibility and consumer trust.

BCBSA is a national federation of 36 independent, community-based and locally operated Blue Cross and Blue Shield companies (Plans) that collectively provide healthcare coverage for one in three Americans. As a representative of Plans with deep experience in the transformative powers of technology in healthcare, BCBSA recognizes the promise of telehealth and how appropriate remote care presents the possibility to improve healthcare access¹, bend the cost curve² and promote positive health outcomes.³ In March, Blue Cross and Blue Shield companies announced a new policy to cover telehealth services at no cost to members to encourage social distancing and promote public health for 90 days during the pandemic.⁴

As the nation has grappled with the pandemic, policymakers, providers and Plans have taken extraordinary steps to expand access to telehealth. Federal and state policies have greatly

¹ <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2018.05089>

² [https://www.ajemjournal.com/article/S0735-6757\(18\)30653-3/fulltext](https://www.ajemjournal.com/article/S0735-6757(18)30653-3/fulltext)

³ <https://effectivehealthcare.ahrq.gov/sites/default/files/pdf/cer-216-telehealth-final-report.pdf>

⁴ <https://www.bcbs.com/press-releases/media-statement-blue-cross-and-blue-shield-companies-announce-coverage-of-telehealth-services-for-members>

relaxed existing restrictions on the use and reimbursement of telehealth in the United States. Historically, telehealth utilization has been greatly limited by statutes and regulations, including restrictions on technology, patient location, existing provider relationship or type, and allowable services. Telehealth serves a distinct purpose during the public health emergency by mitigating the spread of disease by infected individuals and limiting the risk of infection for others. Moving forward, policymakers will be faced with the dilemma of how to regulate telehealth. BCBSA strongly recommends that policymakers incorporate the following set of principles as a guiding framework while considering new laws and regulations around telehealth.

Access and Efficiency: Improved access to care for patients and increased efficiency for providers and plans should be an underlying goal of all telehealth policies.

- *Expansion of Coverage* - Plans should be empowered and encouraged—not mandated—to use technologies like telehealth to expand access to their members. Specific coverage and reimbursement needs may differ across communities and states, so policies should not specify nor limit services in a way that restricts patients' access to care.
- *Administrative Burden* - Access to care through telehealth has been possible because of lawmakers' waiving certain administrative barriers during the pandemic. Moving forward, the regulatory framework should not add additional administrative burdens and requirements to telehealth services that are not also expected for in-person care. Administrative burdens can stifle provider efficiency, and additional requirements that do not correlate to improved patient care should not be unnecessarily mandated for remote care. Policies should balance effectiveness with patient access and ensure additional burdens that ultimately limit care and efficiency are removed. For example, site restrictions, patient/provider relationship requirements, out-of-state licensure and modality limitations should not be legislated.

Flexibility: Telehealth and other healthcare policies should remove arbitrary restrictions, limitations and mandates in order to empower plans, providers and patients to make the ultimate decision around appropriate care.

- *Arbitrary Restrictions* - The regulatory framework should remove arbitrary restrictions that dictate how, when and where a provider can treat his or her patient. For example, geographic and originating site requirements are not evidence-based and should not be included in state laws or regulations. While telehealth is often seen as a promising tool for expanding access to care in underserved rural areas, there is no evidence that telehealth works better in rural areas than urban ones. In fact, the Centers for Medicare & Medicaid Services has stated that urban beneficiaries experience some of the same barriers to care as their rural counterparts and that telehealth can help overcome these barriers for both patient populations.⁵ As such, neither federal nor state policies should restrict the provision of care based on arbitrary criteria such as a patient's geographic location.
- *Maximum Flexibility and Cost Efficiency* - Flexibility around coverage and payment policies allows for meaningful cost savings that could be achieved through the use of telehealth. While some health plans have provided payment at parity with in-person visits during the COVID-19 emergency to support healthcare providers who cannot

⁵ <https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Information-on-Medicare-Telehealth-Report.pdf>

practice from their normal place of business, opportunities exist to leverage technology to drive cost efficiencies (i.e., less overhead for office space, staff, etc.) once the public health emergency is lifted. Competition to provide better quality and more efficient care through the use of telehealth should be encouraged to bend the cost curve.

The regulatory framework should also recognize the unique needs and perspectives of providers, plans and patients in different communities and states and not assume a one-size-fits-all approach. Instead, lawmakers should advance laws and regulations that promote flexibility and choice, not those that add restrictions and tie health insurers' hands. Health plans, not government, should be empowered to determine the needs and benefits of the communities they serve. Further, policies that include too-specific limitations on services, payment decisions, care modalities or technologies do not take into account the speed of innovation and could inadvertently stifle the evolution of care delivery. For example, mandating payment parity could create a market disincentive to offering telehealth and ultimately limit access for many consumers. This could be especially damaging for underserved populations and those seeking specialty care. For telehealth to succeed as a reliable, safe and appropriate tool for healthcare delivery after the public health emergency, policymakers must remove regulatory barriers that limit free market practices.

Consumer Trust: The regulatory framework for telehealth must assure patient privacy and avoid fraud and abuse.

- *Privacy and Security* - The patient-provider relationship and associated communication must remain private regardless of care modality. As telehealth becomes more commonplace, it will be essential to maintain consumer trust by ensuring innovative tools are secure and private. Privacy experts have raised concerns over the use of non-HIPAA-compliant telehealth communication tools, especially since these tools often use audio and visual data that transmit or exchange patients' protected health information without HIPAA protections.⁶ To safeguard against potential privacy and security concerns, regulatory policy should seek to align HIPAA standards on all telehealth communication tools.
- *Control Fraud and Abuse* - Policymakers must strike a balance between care utilization, improved access and the risk of fraud and abuse. Removing restrictions and expanding reimbursement for telehealth services could invite bad actors who take advantage of a new opportunity to defraud payers at the cost of patients.⁷ To safeguard patients, plans and providers, regulatory policies must recognize the opportunity for fraud and abuse and ensure innovation is incentivized, but program integrity is maintained. Health plans need the ability to conduct claims analyses of telehealth providers and implement utilization management programs in order to promote appropriate services and examine potential fraud and abuse.

As our nation enters this new normal, policy debates around the future of telehealth will continue. As such, the above policy framework should guide decision-makers to ensure new laws and regulations expand access to care, remove administrative burdens and arbitrary restrictions, empower the private market to make coverage decisions, and maintain consumer

⁶ <https://www.natlawreview.com/article/ocr-s-relaxed-enforcement-hipaa-during-covid-19-paves-way-increase-telehealth>

⁷ <https://khn.org/news/coronavirus-fuels-explosive-growth-in-telehealth---and-concern-about-fraud/>

trust. We appreciate your consideration of our comments as NAIC looks to identify best practices and principles for the regulation of telehealth during and after the current public health emergency.

If you have questions or want additional information, please contact Lauren Choi, Managing Director of Health Data and Technology Policy at lauren.choi@bcbsa.com.

Sincerely,

A handwritten signature in black ink that reads "Clay S. McClure". The signature is written in a cursive, flowing style.

Clay S. McClure
Executive Director, State Relations
Blue Cross Blue Shield Association

Cc:
Commissioner Andrew R. Stolfi, Vice Chair
Mr. Martin Swanson, Vice Chair
Mr. Michael F Consedine, CEO



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www.IRIONline.org
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November 4, 2020

Commissioner Jon Godfread, Chair
NAIC Innovation and Technology Task Force

VIA Mail: dmatthews@naic.org

**RE: Request for Interested Party Comments: Innovation and Technology COVID Related
Regulatory Relief or Accommodations**

Dear Chairman Godfread,

On behalf of our members, the Insured Retirement Institute (IRI)¹ appreciates the opportunity to respond to the September 28, 2020, request by the NAIC Innovation and Technology Task Force for comment on regulatory relief and accommodations provided by the state insurance departments in response to the COVID-19 pandemic. We commend the Task Force for taking the time to review and consider whether and to what extent the states should undertake rulemaking to permanently adopt any of the relief or accommodations provided in response to the unprecedented needs of consumers and the industry over the past several months. Our thoughts on this important topic, based on input from across our membership, are presented below.

Regulatory Relief Uniformity

IRI and our members reviewed and responded to over 200 state directives across a variety of operational areas. Generally speaking, we found these directives, including, for example, those requiring consumer payment relief and prohibiting policy cancellations, to be timely and appropriate. However, given the rapid pace of activity, these actions were not taken in a

¹ The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., include the top 10 distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

consistent and uniform way across the states. Looking ahead, we respectfully urge the states to collaborate through the NAIC to establish uniform approaches for any regulatory relief or accommodations to be adopted on a permanent basis to ensure consistent consumer treatment and easier administration for insurers.

Regulatory Exams

The pandemic made it necessary for professional licensing exams to be conducted remotely. Prior to the pandemic, many states were already using or expanding their use of remote examination. Industry responded to the remote licensing process as opportunity to hire and retain staff and keep up with customer service. The use of data and document sharing solutions now allows regulators and companies to move exam documentation efficiently. Moreover, remote examinations present significant cost-saving opportunities for insurers and producers. IRI respectfully recommends that the states continue to move towards greater utilization of remote examinations in lieu of onsite examinations.

Remote/Electronic Notary

Remote notarization accommodations are an excellent example of leveraging technology to maintain commerce and consumer protection. States such as California and Louisiana could expand the use of remote notary for their filing affidavit forms.

E-Signature/eDelivery

After years of stalled adoption, the pandemic necessitated industry accelerated adoption of electronic signatures. Industry responded to the opportunity to implement E-signature into their product application process. E-signature is a significant technology application that should continue as standard practice to meet customer needs and modernize business operations.

IRI notes, for example, that the New York Department of Financial Services (DFS) provided accommodation for carriers to utilize electronic signatures during the Regulation 60 (life and annuities) replacement form process. Given the response and experience with e-signature, IRI respectfully recommends that other state regulators adopt this accommodation for carriers on a broad and permanent basis. In New York, this should extend to carriers that have filed their revised Regulation 60 procedures and are awaiting review by the DFS.

Electronic delivery (eDelivery) of forms, applications and filings expanded during the pandemic. IRI encourages our members to utilize eDelivery as an efficient, contact-free delivery method for policies and supporting documents. We respectfully encourage the states to pursue rulemaking as needed to establish eDelivery as the preferred method of document delivery.

Conclusion

IRI appreciates the effort and responsiveness of state regulators and the NAIC during the early months of COVID. As we enter nine months of conducting business during a pandemic, many of the experiences of regulators, industry and consumers are forever changed. These changes have pushed the industry to modernize how we do business and how we engage with consumers. Ultimately, we believe regulators, carriers, producers, and consumers will all reap the benefits of this evolution.

To that end, we encourage the NAIC Innovation and Technology Task Force to build off the opportunities of temporary relief measure and continue to explore and pursue efforts to modernize the regulatory framework to allow for all industry participants to leverage the opportunities presented by electronic, remote and virtual engagement tools.

Thank you in advance for considering these comments. Please contact either of the undersigned if you have questions about any of the views and recommendations presented above, or if we can be of any further assistance in connection with this effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Berkowitz". The signature is stylized with a large, sweeping initial "J" and a long horizontal line extending to the right.

Jason Berkowitz
Chief Legal & Regulatory Affairs Officer

A handwritten signature in black ink, appearing to read "James P. Quinn". The signature is written in a cursive style with a large initial "J" and a long horizontal line extending to the right.

Jim Quinn
Chief Technology and Innovation Officer

November 2, 2020

Via Email

Commissioner Jon Godfread, Chair
Innovation and Technology (EX) Task Force
National Association of Insurance Commissioners

Re: Covid-19 Related Regulatory Accommodations

Dear Commissioner Godfread:

This comment letter is submitted on behalf of Underwriters at Lloyd's, London ("Lloyd's") in response to the referenced request for comments. Lloyd's is the largest writer of surplus lines insurance in the United States as well as a leading reinsurer. In 2019, Lloyd's wrote more than \$12 billion in surplus lines premium and nearly \$6 billion in reinsurance premium, encompassing business from all 50 states. We appreciate the opportunity to provide comments on innovation and technology related regulatory accommodations in the wake of the covid-19 pandemic.

Like many companies, Lloyd's has leaned heavily on technology to maintain our business and essential operations throughout the coronavirus pandemic. Our underwriters and staff have deployed new ways of working that would not have been thought possible at the start of the year. Throughout the pandemic, regulators have been a key partner in this process of unintended innovation by providing flexibility with regard to outdated regulations that were rooted in a time of physical proximity and paper-based operations, and most of which were decades old.

With the perspective of nearly eight months of "work from home" operations and the related regulatory accommodations, Lloyd's believes that many of these accommodations can be made permanent. As one of the oldest regulated industries, many of the pertinent insurance regulations were written before the dawn of the internet, and the pandemic has made clear that these regulations either offer no present utility or can be more efficiently accomplished through updated technology.

Specifically, Lloyd's suggests the following:

Electronic Payments

Most states allow electronic payments for regulatory filings and tax payments. However, despite some improvements during the pandemic, a minority of states still require paper checks for regulatory and tax payments. Paper checks have been especially problematic during the pandemic because check printing capabilities are typically only available in corporate offices, not in work from home environments. Additionally, after going to great lengths to send paper checks, Lloyd's encountered some problems with checks not being received by state DOI offices, presumably because DOI staff were themselves working from home and not regularly receiving physical mail. Lloyd's urges the NAIC to encourage all its members to accept electronic payments in all regards.

Wet Signatures

Most states have permanently eliminated wet signature requirements on regulatory filings, however a handful of states still require them. Lloyd's appreciates that many of these regulators have relaxed wet signature requirements since the onset of the pandemic, and we would strongly suggest that the elimination of wet signatures should be made permanent. In the year 2020, a myriad of alternatives to ink and paper signatures exist, and the past eight months have confirmed once again that these alternatives are safe, reliable, and offer sufficient assurances that the regulatory filing has been signed off by senior management, which was the original goal of a wet signature requirement.

Notarizations

Like wet signature requirements, state regulators have thankfully relaxed many notarization requirements for regulatory filings since the onset of the pandemics. Lloyd's is grateful for this deference because traditional notarizations in a work from home and socially distanced context have proved extremely challenging. Lloyd's has made several regulatory filings since the onset of the pandemic, and we have not been made aware of any issues stemming from a lack of notarization.

The ease with which both regulators and industry have moved away from notarization raises the question of whether it is necessary to reinstitute notarization once the pandemic is behind us. Lloyd's believes the answer is no. Notarization requirements for regulated entities are an unnecessary inefficiency that can now be eliminated. The traditional rationale for notarization is that it ensures the person signing the document is actually who they say they are, it ensures the person signing the document is doing so under their own free will, and it ensures the signature can be independently verified after the fact.

In the context of entities that are already licensees of state DOIs, these traditional purposes fall away. Notarization of licensees is not necessary because DOIs already have the license number to verify the identity. Furthermore, licensees are subject to the unfair trade practices act which requires licensees to honestly submit a legitimate signature with the signee's consent. With respect to independent verification of a signature, Lloyd's submits dozens of regulatory filings each year, and we have never once had a DOI ask our notaries to verify a signature. In our experience, this is simply not a feature of notarization that is still needed.

For these reasons, Lloyd's believes that the elimination of notarization requirements for licensees and other regulated entities should be made permanent. In situations where notarization is still deemed necessary, Lloyd's supports electronic notarization where both parties can convene online to present proper identification and apply a digital signature.

Diligent Search Requirements

The coronavirus pandemic has dramatically increased the scope of what consumers purchase online, and insurance is no different. The pandemic has accelerated the shift toward insurance coverages purchased entirely online or via a smart phone application. Indeed, it is difficult to be a successful business in 2020 without the ability to sell products instantaneously over the internet. However, diligent search requirements present a practical barrier to surplus lines brokers selling products online and offering the instantaneous transactions desired by all consumers. Diligent search requirements were built around a pre-pandemic concept of surplus lines insurance, whereby coverages were annual policies which were not commoditized and were purchased through a visit to a broker's office.

Timothy W. Grant
Associate General Counsel

LLOYD'S

Lloyd's believes that diligent search requirements should be modernized to account for internet-based sale trends. Surplus lines carriers and brokers now offer commoditized coverages which are not yet available from admitted markets – for example, low limit parametric earthquake and hurricane insurance purchased through an app or on demand insurance coverage turned on and off by a phone. Without regulatory accommodations, it is extremely challenging for surplus lines brokers to conduct a per-policy diligent search every time a consumer requests a policy on a phone, tablet, or computer. Lloyd's suggests that for commoditized, internet-based products where there is no known admitted market, a quarterly diligent search for the product type is more appropriate than requiring a diligent search of the admitted market for each and every policy. A quarterly diligent search requirement would allow surplus lines insurers and brokers to better offer products over the internet and on smartphones, just as all businesses must in order to thrive in the age of covid-19.

Lloyd's appreciates the ability to offer these comments and would be glad to discuss these proposals further.

Very truly yours,

A handwritten signature in black ink, reading "Timothy W. Grant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.



mwe.com

Michael Byrne
Attorney at Law
mbyrne@mwe.com
+1 212 547 5388

November 4, 2020

VIA EMAIL

Denise Matthews - Director, Data Coordination and Statistical Analysis
National Association of Insurance Commissioners
1100 Walnut Street
Suite 1500
Kansas City, MO 64106-2197

Re: Request for Information – Innovation and Technology (EX) Task Force and the Innovation and Technology State Contacts

Dear Denise,

I hope you and your family are safe and healthy and managing okay with everything going on.

We are writing in response to the request for information from the Innovation and Technology (EX) Task Force and the Innovation and Technology State Contacts (the “NAIC Innovation Team”) to support making permanent various “regulatory relief” and “regulatory accommodations” related to innovation and technology granted during the pandemic. We believe making these measures permanent will benefit consumers and strengthen the competitive marketplace.

By way of background, our firm represents a large and diverse client base in the industry that includes traditional and emerging/start-up re/insurers, agents, brokers, MGAs, TPAs, program administrators, investors, and other stakeholders. Our practice spans all lines of business.

You may recall our correspondence and meeting in Kansas City in 2019 around these issues with you and your team and representatives from several InsurTech firms. Thank you for the opportunity to offer these comments and for your continuing engagement with the industry on these important matters.

First, we appreciate the work of the NAIC and state insurance regulators to date in modernizing various legal requirements to facilitate innovation, such as in the rebating-related amendments to the Unfair Trade Practices Model Act. The focus and commitment needed to complete that work during the pandemic is not lost on us or our clients.

Second, we support the comments submitted by the Wholesale & Specialty Insurance Association, and likely comments that we have not yet reviewed from other industry trade associations supporting such regulatory modernization efforts.

Below is a high-level summary of the regulatory relief and accommodations we believe should be made permanent, in no particular order.

1. Wet signatures, paper notices, and notarization. Many of these requirements would seem to have little benefit to consumers, provided the same verification and other substantive standards can be satisfied through other means. For example, it seems that regular mail, especially uncertified mail, may not be any more reliable than electronic mail; in our view, receipt of electronic mail would appear much easier to verify than paper mail. Notarization, if/when required to protect consumers and insurer solvency, should be able to be performed virtually. These requirements create extra compliance costs and can be especially burdensome to smaller regulated firms including start-ups. Consumers and the market as a whole would benefit greatly from modernization of these requirements in a uniform and consistent manner across the states that recognizes many consumers wish to transact electronically. Consumers that prefer paper such as payment by check should still be able to do so, but such individual needs should not prevent innovation efforts that benefit the broader industry and consumer base.

2. Regulatory paper filings. Many a tree has suffered unnecessarily at the hands of state insurance regulatory filings, particularly requirements to file multiple copies of the yellow and blue books. We understand states, while having access to such filings electronically, do not wish to incur the cost to print financial statements and other materials when regulators wish to review away from the computer, in which we would suggest modernizing (i.e., increasing) filing fees to account for such cost. We respectfully suggest regulators accept as compliant any filing that can be made electronically by any regulated entity, for efficiency, public health and many other reasons.

3. New products. Certain states have facilitated an expedited review process for new products. For example, one state expedited its review of a new no-cost guaranteed issue three-year term life insurance policy for front-line health workers. Consumers around the country would also benefit from the expedited review and approval of many other products currently being developed or awaiting regulatory approval, for example, life products incorporating health and wellness factors into underwriting and rating. Short of an expedited review/approval process, or in the meantime during such process, consumers interested in new products would also benefit from any combination of rate and form filing exemptions, file and use, and expansion of automatic surplus lines export, as applicable.

4. Expedited filings. Expanding on Item 3 above, and further to our discussions in 2019, we respectfully request the NAIC Team consider the merits of a pre-filing (virtual) meeting, possibly with the participation of one or more insurance departments, to discuss new/novel products. The regulated entity would be able to provide greater transparency around the proposed new product, while receiving more transparency into the filing process and a potentially definitive (e.g., 30 day) timeline for resolution of a complete filing. Such pre-filing meetings could be facilitated through the members of the NAIC Team,

using the SERFF platform to flag filings that go through this process. In the meantime, and in addition, companies may also wish to work with individual states, e.g., those that might have an interest in expediting approval of a particular product due to local need or specific innovation initiative.

5. In-person/physical presence. States have waived requirements that would necessitate in-person presence as well as encouraged insurers to use remote options for functions such as adjusting or inspecting claims. In instances where a personal physical presence or office location is not necessary to protect consumers and the regulatory process, it seems appropriate to repeal all such requirements to avoid unnecessary gatherings and the cost of time and travel. These include physical office requirements (e.g., where a copy of a producer's license must be displayed prominently for the hypothetical consumer who will never visit the office in person), in-person continuing education and licensing/proctored examinations, as well as in-person audits of MGAs and TPAs, though there will of course be instances where in-person audits and other meetings are warranted. A permanent repeal would avoid the need to issue new Orders/Notices re-instituting such accommodations in any next wave of COVID-19 or the next novel virus or other emergency such as natural catastrophes. In addition, many start-up producers would benefit from express regulatory permission to maintain a purely digital presence, as appropriate, including from outside the U.S. where a good amount of new investment in the industry originates. None of these measures would seem to us to impede regulators' ability to regulate these entities.

6. Real-time insurance transactions. Various states have indicated during the pandemic that certain activities will not be deemed unfair trade practices/methods of competition or otherwise in violation of existing state laws such as those governing policy cancellation and nonrenewal. These include (i) mid-term retroactive refunds and other premium adjustments; (ii) temporary termination of coverage; (iii) virtual and self-audits of premium; (iv) limited extensions of coverage in lieu of non-renewal or cancellation; and (v) mid-term coverage extensions (e.g., food delivery for commercial or charitable purposes). Beyond the pandemic, there are many uses for such accommodations, including on-demand, or episodic, insurance and products serving the gig economy. The availability of such real-time insurance products is especially important for small businesses, temporary workers, and the construction industry as the economy builds back. Such accommodations should also extend to real-time, live declinations by admitted insurers for purposes of state surplus lines diligent search requirements, which some states have sought to apply on a risk by risk basis for products widely known to be unavailable from admitted insurers.

* * *

Ms. Denise Matthews
November 4, 2020
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We believe the above accommodations are reasonable and intuitive. The past eight months have essentially served as a pilot program, or “sandbox”, in which these accommodations were tested in many states in one form or another, with no discernible effect on solvency regulation or consumer protection. We would of course appreciate any opportunity to discuss our comments and for other opportunities to collaborate with the NAIC Innovation Team. Thank you again for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "M Byrne".

Michael Byrne

November 4, 2020

Commissioner Jon Godfread, Chair
NAIC Innovation and Technology (EX) Task Force
c/o Denise Matthews – dmatthews@naic.org
1100 Walnut Street, Suite 1500
Kansas City, MO 64106-2197

Re: Request for comments regarding regulatory relief or accommodations related to COVID-19

Dear Commissioner Godfread and Members of the EX Task Force,

Please find herein comments on behalf of the National Association of Mutual Insurance Companies (hereinafter “NAMIC”)¹ regarding the task force’s September 28, 2020 solicitation of comments from interested parties concerning specific “regulatory relief” or “regulatory accommodations” related to innovation and technology due to COVID-19 that might be recommended for continuation or permanency or other associated barriers. NAMIC sincerely thanks the task force for the inquiry and willingness to consider additional innovative criteria that will assist consumers, industry, and insurance marketplaces in general.

While the effects of COVID-19 continue to be experienced and analyzed, we do believe there have been some areas of positive achievement that should be considered to be made permanent in the regulatory realm. Some of the early lessons learned from COVID-19 reveals that some of the existing in-person requirements and regulations need to be more flexible in light of social distancing criteria and protection of insurance consumers, the industry, and the general public.

Consequently, we believe some if not all of the following suggestions should be considered.

¹The National Association of Mutual Insurance Companies is the largest property/casualty insurance trade group with a diverse membership of more than 1,400 local, regional, and national member companies, including seven of the top 10 property/casualty insurers in the United States. NAMIC members lead the personal lines sector representing 66 percent of the homeowner’s insurance market and 53 percent of the auto market. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.



Model bulletins which alleviate the need for in-person audits for 2020 for Managing General Agents (MGA) and/or Third-Party Administrators (TPA) would be helpful. Mechanisms can and should be developed permanently such as this that would allow for remote auditing of entities without the need for an in-person touch. Additionally, concepts in this area would include allowance of virtual audits of employers and other compliance issues.

We strongly believe that UETA/ESIGN requirements should be uniform throughout all states and territories that satisfy the need for signatures through electronic means. Remote notarization is also an issue that needs to be further expanded.

Producers should be able to complete required continuing education and pre- and licensing exams online as virtual licensing can provide convenient and timely action for producers who in turn can provide needed products to consumers more readily. Reciprocity to the extent not in existence should be incorporated into these various areas as well. Flexibility with potential remote fingerprinting should be encouraged.

Finally, virtual claim handling processes and underwriting should be supported by regulators as a timely and efficient way to service policyholders.

In closing, NAMIC continues to support the task force's effort to modernize regulatory requirements and, we want to thank the Chair for his leadership in requesting and considering future modifications to regulatory barriers. We further look forward to assisting the task force where needed in this regard.

Sincerely,

Andrew Pauley, CPCU
Government Affairs Counsel
National Association of Mutual Insurance Companies (NAMIC)



Local
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Main Street
AmericaSM

November 5, 2020

Via email at dmatthews@naic.org to
Denise Matthews, Director, Data Coordination and Statistical Analysis

Commissioner Jon Godfread, North Dakota Insurance Department
Chair, Innovation and Technology (EX) Task Force

Superintendent Elizabeth Dwyer, Rhode Island Division of Insurance Regulation
Vice Chair, Innovation and Technology (EX) Task Force

National Association of Insurance Commissioners
444 N. Capitol Street, NW, Suite 700
Washington, DC 20001

Re: Request for Comments Related to Specific Regulatory Relief/Accommodations Related
to Innovation and Technology

Dear Commissioner Godfread and Superintendent Dwyer:

On behalf of the National Association of Professional Insurance Agents (PIA National)¹, thank
you for the opportunity to provide feedback on the need for ongoing regulatory relief and
accommodations related to innovation and technology.

We are pleased to have this chance to address the many multifaceted crises that have arisen from
the COVID-19 pandemic. We are looking forward to a fulsome discussion of the relief that could
be afforded to independent insurance agents, many of whom are small businessowners suffering
the consequences of the economic downturn caused by the pandemic.

Here are the innovation- and technology-related priorities we would like to see made permanent,
so that the urgent needs of independent insurance agents and their businesses can be met during
this challenging time:

1. Proctors/monitors should not be required to be present when a producer takes a
continuing education (CE) or pre-licensing exam. (See [New York Circular Letter No. 9](#)
and supplements thereto.)

¹ PIA is a national trade association founded in 1931, which represents member insurance agents in all 50 states,
Puerto Rico, Guam, and the District of Columbia. PIA members are small business owners and insurance
professionals who can be found across America.

2. If a proctor/monitor is required, a virtual monitor should be permitted. (See page 10 of [this Kansas Insurance Department COVID-19 FAQ](#).)
3. Producer licensing and continuing education courses and exams should be permitted to be taken online. (See October 21, 2020 [Bulletin from Wisconsin Office of the Commission of Insurance](#).)
4. All workers' compensation (WC) hearings should be conducted remotely. (See [New York Workers' Compensation Board Virtual Hearings](#) page.)
5. Remote notaries should be authorized for permanent use. (See [Bulletin from Wisconsin Department of Financial Institutions](#).)
6. Producer licensing exam providers should be permitted to deliver currently approved classroom courses via webinar without having to request additional commissioner approval. (See May 29, 2020 [Bulletin from Wisconsin Office of the Commission of Insurance](#).)

PIA National recognizes and appreciates the Task Force's recognition of the special challenges facing independent insurance agents during this unusual time and its willingness to accommodate those needs.

As always, we are grateful for the opportunity to provide the independent agent perspective. Please contact me at laurenpa@pianet.org or (202) 431-1414 with any questions or concerns. Thank you for your time and consideration.

Sincerely,



Lauren G. Pachman
Counsel and Director of Regulatory Affairs
National Association of Professional Insurance Agents



4131 N. Mulberry Drive, Suite 200
Kansas City, MO 64116
816.741.3910
F 816.741.5409

November 2, 2020

Commissioner Jon Godfread, Chair
Innovation and Technology (EX) Task Force
National Association of Insurance Commissioners

Re: Comments on regulatory relief and accommodations related to innovation and technology

Dear Commissioner Godfread:

The Wholesale & Specialty Insurance Association¹ (WSIA) appreciates the opportunity to comment on the regulatory relief and accommodations offered by the states because of the COVID-19 pandemic. We would offer the following suggestions to the Task Force that will facilitate seamless business operations for our membership in the wholesale and specialty insurance market segment throughout the remaining pandemic and beyond.

Diligent search in InsurTech

- The emergence of InsurTech innovations are sometimes not available to surplus lines brokers due to cumbersome diligent search requirements especially in case where the diligent search must be made for every policy. Placing "on-demand" insurance is made extremely difficult by a three-declination process that must be documented and filed with the state. We would suggest that departments consider relaxing these filing requirements especially for any business most consistently rejected by the admitted market. Efficiencies may also be achieved by automating the diligent search verification process.

Electronic Submissions

- **Electronic Filings**

Throughout the pandemic there have been various relaxation and accommodations provided related to form filings. We believe these have been successful for both the state and the industry and suggest it is appropriate to allow these to become permanent. We encourage the Task Force to consider allowing electronic filing options where hardcopies are exclusively required at this time.

¹ WSIA is the U.S. professional trade association representing the wholesale and specialty insurance market and the wholesale distribution system. WSIA presents approximately 400 wholesale broker member firms, 100 surplus lines insurance companies, and 200 associates and service providers to the surplus lines market, our membership operates in more than 1,500 offices representing tens of thousands of individual brokers, insurance company professionals, underwriters and other insurance professionals worldwide – all of whom are committed to the wholesale distribution system and U.S. surplus lines market.

- **Electronic payments**

We appreciate the flexibility that many states have offered during the pandemic, especially with regards to payments. Most states allow electronic payments for tax filings, however there are a handful of states that do not accept electronic payments for surplus lines tax filings. We encourage the Task Force to adopt recommendations that all states should allow electronic payments. Unfortunately, due to state lockdowns, many of our members were unable to process paper checks but where electronic payments were accepted, it has been tremendously beneficial and successful for both the state and the industry. We understand that some departments do not have direct control over this as it is a state administrative issue, but we believe it would be helpful if this Task Force recommend all departments work to allow this process. Additionally, we would ask for consideration that the Task Force recommend that states waive late filing fees and fines when electronic filing options are not made available in order to support the movement towards modernization and as acknowledgement of the difficulty of submitting physical checks during the pandemic.

Notarization

- Similar to eliminating wet signature requirements, we've seen significant efficiencies in states that have relaxed or eliminated some of the notarization requirements or made virtual processes acceptable. Now is the time to continue this transition and we encourage you to move forward with this as a recommendation. In situations where a notary is still deemed necessary, we ask to allow eNotary where both parties may be "present" online with proper ID and digital or electronic signature. When notarization no longer is truly necessary, we recommend eliminating these requirements altogether.

Producer Licensing Requirements

- **Continuing Education**

A number of accommodations related to continuing education and producer licensing have been made throughout the pandemic and we believe the positive responses have demonstrated it is appropriate to continue waivers and relaxations of requirements. We encourage the Task Force to work with the Producer Licensing Task Force to facilitate this transition.

- **Location-based work requirements**

Given the success of remote working structures during the pandemic, we believe now is the appropriate time to transition state location-based work requirements to allow for remote working and reporting structures. Some states continue to require customer representatives to work in a physical office with general lines licensees. Some states have suspended or relaxed these requirements through the pandemic, but we encourage the Task Force to consider recommendations to permanently remove these requirements to support the modernization of remote working structures that are rapidly becoming more and more desired by employees and employers.

Surplus lines export lists

- We appreciate that several states have recently taken steps to expand their surplus lines export lists to include coverages that are typically unavailable in the admitted markets including certain cyber coverages, cannabis operations and private flood insurance. We would encourage other states to consider expanding the use of surplus lines export lists for coverages that are most commonly written in the surplus lines market. Obtaining declinations for risks that are consistently rejected by the admitted market can be tedious and especially onerous to document in a work from home scenario so expanding the ability to export certain risks will provide efficiencies for agents and consumers at a time when they need it most.

Virtual Examinations

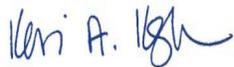
- We believe virtual interactions have proven to be beneficial in operating businesses during the pandemic. Some states have allowed financial and market conduct examinations and related activity to be conducted virtually. We encourage states to continue allowing these alternatives to the industry and ask for the Task Force to strongly consider making this same recommendation.

Wet signatures

- Many states still require insurance forms in the wholesale distributions system to be signed with a wet signature, including applications, diligent search affidavits and tax forms. We believe that now is the optimal time to modernize signature requirements. We believe the recent move by some states to relax or eliminate wet signature requirements has shown the ease and success for moving away from these requirements in favor of digital or electronic signatures. We strongly encourage the Task Force to consider recommending all states eliminate unnecessary wet signature requirements.

WSIA stands ready to assist the NAIC and its members on more specific items related to our suggestions above. Thank you for the opportunity to comment and your consideration of these matters. Please let us know if we can answer any questions.

Sincerely,



Keri A. Kish
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