**The Regulators S4E2: Give me a “H”- Introducing NAIC’s Innovation, Cybersecurity, and Technology (H) Committee – Maryland Insurance Administration Commissioner Kathleen A. Birrane**

**Mike Consedine, NAIC CEO:** Welcome to *The Regulators*, a podcast where we break down important insurance issues facing consumers, regulators, and the industry. I'm your host, Mike Consedine, CEO of the NAIC. Today, I'm joined by Kathleen Birrane, Maryland's insurance commissioner. And those who listened to our Season Three podcast with Commissioner Birrane and Director Wing-Heier know that Commissioner Birrane has an extensive background as a principal counsel for the Maryland Insurance Administration and was a partner at a global firm, where she focused on regulatory compliance and insurance and reinsurance transactions. And, as we talked about in that podcast, she has a long history with the NAIC, dating back to her childhood, when she attended our meetings with her dad, who also served as Maryland insurance commissioner from 1976 to 1982. So, very much a family business. And welcome back, Commissioner.

**Commissioner Kathleen Birrane:** Thank you very much. It's always delightful to be here.

**Mike Consedine, NAIC CEO:** Yeah. And we actually have the benefit of being here in person, live from the sidelines of the Spring National Meeting in the NAIC's hometown of Kansas City. And so, if we have time, we'll get to how your experience with Kansas City has gone thus far, and how much barbecue you've eaten. But really what I'd love to talk to you a little bit about is the newly formed H Committee. And for those of our listeners, our letter committees are our biggest and most significant committees. And this new H Committee was formed really to focus on data, technology, and cybersecurity issues. And you have the privilege of chairing this as the inaugural chair of this committee. And this is our first committee, letter committee, that we've formed since 2004, and it had its public kickoff meeting here in Kansas City. It was a packed room. I don't think I've seen a room that packed certainly in the last two years. And you really laid out what I think is a very impressive and ambitious vision and plan for the H Committee, where you talked about a number of those workstreams. But, I'd like to get into some of those. And you talked about a new workstream focused on technology implications for insurance regulators, which is huge. I mean, there isn't a member I've talked to who has not brought up this issue and their concern about really keeping up with what's happening out there in this sector. Can you talk a little bit about that emerging area and share with us some of the key priorities for that workstream and others?

**Kathleen Birrane, Maryland Insurance Commissioner:** Absolutely. So, it's been a pleasure to jump into the H Committee and really work through some of the infrastructure, and we have just tremendous folks who are part of the H Committee. Director Daniels, who's the Arizona director, will be leading up one of the workstreams that will be focused on this particular issue, which is our Innovation Working Group that will be newly formed. That is a place where we intend to reach out to the industry, to innovators, and welcome them to bring us their products, their ideas, their thoughts so we can stay ahead of what's emerging, not just in technologies, but the uses and unique and innovative applications of technology in the insurance space. You might recall, you know, the time when the Innovation Technology Task Force was first formed, that there were lots of events that were sponsored or that we participated in. So, we're going to kind of bring those ideas back, have the roundtables. I think of it as kind of like speed dating, where you get to talk to different, you know, regulators in different states. So that's one big area of that. The other big area is at the committee level, where we will enable regulators to talk among themselves to discuss what they're seeing in their market and also, frankly, to be educated about their own uses of technology. So, two, I think, really complementary areas there.

**Mike Consedine, NAIC CEO:** So, on that latter initiative, those are the collaboration forums that you've been talking about in the meetings? And how, I mean, how really will those work, and why do you think those are so important?

**Kathleen Birrane, Maryland Insurance Commissioner:** So what I was just referring to was what we've been thinking of as a regulator roundtable that would be regulator only. That's sort of educational in nature. But the collaboration forums are a really important concept. So, one of the foundational charges of the H Committee, frankly, part of its reason for existence, is to create a place within the NAIC where there is coordination within the NAIC of work that's being done on innovation and cybersecurity, technology, data privacy, etc. kinds of issues. There are certain topics that are important across the entire food chain. So, they touch all areas of insurance and therefore insurance regulation. And, so, you will have A Committee, B Committee, C Committee, D Committee. Every committee has some touchpoint on certain topics. And we need to work to have a coordinated effort in making sure that the sort of foundational issues, definitions, approaches that will ultimately impact the work of all of those workstreams is decided collaboratively among those workstreams, so that one is not ahead of the other. So that's what the collaboration forum is for. We're setting up that function at the H Committee level, and when there is identified a topic that meets that criteria, there will be an invitation for the workstreams to come together. And, if we agree, then we will form a project within the collaboration forum. We'll scope that out, and it will become a public, transparent process. But the idea will be to have a common framework that's developed with all of the disciplines present as part of that, the evolution of that, so that when we move forward, we do so with consensus.

**Mike Consedine, NAIC CEO:** I think it really is an elegant solution to one of the challenges I think we've had in this, you know, burgeoning area of technology as so many of our committees and task forces and working groups, you know, take on these issues. And I think we've recognized, and you've certainly, I think, led the charge here to, you know, gather these up, organize them, and allow us to move forward in a really more focused way, particularly given the speed of things happening in the world around us with that sector. But maybe let's talk a little bit, do a little bit deeper dive on one of the collaboration forms that you talked about during the H Committee meeting, which is on the topic of algorithmic bias. And, you know, we had a screening of a documentary last year about [*Coded Bias*], which was very popular. And certainly, you know, since then and even before then, you know, this has been the topic of a lot of discussion, certainly amongst our membership. It's an issue at a federal level. It's an issue in an international level. And I think the sector itself realizes, you know, the need for greater transparency and accountability. But talk a bit again about that particular forum on that topic.

**Kathleen Birrane, Maryland Insurance Commissioner:** Sure. Algorithmic bias, from my perspective, describes systematic errors in AI-ML-driven computing systems that result in discriminatory outcomes. So, at a high level, I think that's what it is. And insurers make important decisions about marketing, underwriting, pricing, claim processing, fraud detection using predictive models that are developed through the application of machine-learning-supported, you know, computing, applying that to data. So, we know that unfair bias can creep in, and it does creep in. And the question is, you know, what is the best governance and hygiene around mitigating that risk? And then what are the best methodologies, reliable methodologies, for detecting it and then addressing it? So that concern stretches across many, many groups. And so, we're bringing all of those groups together with the idea of saying, okay, let's step back, and let's sort of look at this continuum of activity from data creation to data collection to data analysis to extrapolation and the development of models and then the application of those models. And let's see where along that continuum we know that we need to have foundational, common understanding, terminology so that you don't have, you know, one committee that has taken many, many steps while another committee is taking those same steps, and they're reaching different conclusions. So, let's bring everybody together. So, we have reached out to a number of committees, the scoring work streams, you know, obviously big data, AI, and the workstream that's focused, being led by the New York Department, on AI and data usage. We're talking to CASTF, accelerated underwriting, and a bunch of other [sub] committees, MCAS, to come together, and we will scope our projects. So, we're going to start with a little foundational education, and then we will identify what we think we need to start on first and what the framework needs to look like. And then what our deliverables out of that will be with our timeframes and our work product. So, there's, there's a lot more to come on that. We're kind of building this plane as we're flying it. So, you know, more to come as we go. But I think this is a really important and timely topic. And it's one we have to get right, and it's one that we have to build consensus on.

**Mike Consedine, NAIC CEO:** Yeah. No, certainly, it is an important topic. And, you know, I mentioned that a lot of these issues are not limited to just the U.S. And you recently spoke on an artificial intelligence panel for the Geneva Association's Program on Regulation and Supervision. So, I'd be interested to hear what you're hearing from your counterparts in other countries. You know, are these shared challenges? Are we unique in in some ways? What was your sense from those discussions on how we fit in with the global sector?

**Kathleen Birrane, Maryland Insurance Commissioner:** Sure. So, you know, the topic for my session was what are appropriate regulatory models for artificial intelligence. And sort of the prompt for that discussion, the basis for the discussion is a proposal in the EU to look at a particular risk analysis framework for AI that's kind of premised on a GDPR kind of approach, which is looking at, you know, what are the risk levels and areas in different use cases and then having the degree of, kind of regulatory oversight and the degree of punishment, if you will, sanctioning, be commensurate with the level of risk. So, this framework that's being debated there was the topic of discussion. And obviously the U.S. takes a very different approach in many ways to these types of processes and is sort of more principles based in its approach than their sort of very strict and prescriptive approach. And so, we had the opportunity to chat through, you know, what those differences mean. And, you know, my approach was to share with them, you know, our AI principles and how, you know, we are working through those on the ground, the survey work that Big Data/AI is doing and how that will inform the work of the subgroup that's going to be converting the AI principles, if you will, more into guidelines. While there may be specific use cases where tight regulation is appropriate, what we really need in our approach in the U.S. has always been to be flexible. And, you know, as I said, more principles based. So, really trying to understand what the risk profiles are and thinking about how different, you know, countries have approached this differently.

**Mike Consedine, NAIC CEO:** Yeah. I mean, we could spend a lot more time talking about the principle-based approach. And certainly an issue I hope we get a chance to revisit here. Let's stay on the, sort of the international arena. And, as we mentioned, one of the areas that the H Committee is somewhat responsible for is also cybersecurity. And that is a threat that has certainly been highlighted over the last few months with the situation in Ukraine. And, again, I think the pretty significant threats that we've heard domestically about, increased potential for cybersecurity attacks. You know, that's an issue, obviously, for big companies. But, as I'm sure you hear from consumers, it's an issue for individual consumers. So, you know, when you get those calls, or when your team gets those calls, you know, what advice do you give to those consumers and to our listeners about the steps they can take to protect themselves against potential threats?

**Kathleen Birrane, Maryland Insurance Commissioner:** So I think it occurs at two levels, right? So, I'm going to focus on sort of more of an organizational, business, commercial venture. I mean, obviously for individuals, have to be thoughtful and careful all the time about how they deal with emails, and, you know, what they open and phishing schemes and phone calls and those kinds of things that happen. But with respect to these particular cybersecurity threats, which are really, you know, predicated on trying to take down, you know, organizations, infrastructure, etc. We deal with this at the state. I mean, we have a, you know, a very, very robust protocol that we're going through right now at the direction of our governor specifically to make sure that we safeguard our processes. But the approach that we're taking, I think, really applies to really any organization, whether it's a tiny business or whether, you know, it's a Fortune 50 company. And that is really sometimes basic concepts. First of all, review your cyber hygiene, right? So, what is your cybersecurity hygiene, and are you doing the things that you need to do to assure your IT department is walking through, you know, very basic kinds of steps, like ensuring that your software is updated and patched. You know, we've had municipalities go down for just that reason. You know, simple things like disabling, you know, unnecessary ports and protocols. Checking on your, essentially checking your vulnerabilities. And I think the other big area is preparing the organization for rapid response. So, what are all of the things that you're doing in advance to try to assure that you are as secure as you can be? But then the second piece, because it's really not about “whether”; it's really just about “when.” And so, when something happens, then the issue is, are you really prepared? So, have you really gone through your continuity plan? Have you gone through your recovery plan? Do you check your backups? So, when's the last time you restored data from backup? So walking through, you know, once you've assessed your vulnerabilities, and you've made sure your IT team and your personnel and your staffing, you know, have been appropriately trained, that they're on high alert, they're aware, that it's having all of that infrastructure in place. That you have rapid response and that you have what your alternatives are when your system's down. I lived this at my former law firm, where we went from, you know, as a major global law firm that did everything virtually and with great use of technology and, you know, were caught up in that terrible, you know, event several years ago where so many companies just went completely dark in a second. But, fortunately, we had the infrastructure in place that we were able to up and run. But it it's all about that planning.

**Mike Consedine, NAIC CEO:** Yeah. And that’s great advice. And as you rightly said, it is not a question of “if,” but “when” for a lot of business, particularly businesses in the financial sector, which seem to be high on the target list.

**Kathleen Birrane, Maryland Insurance Commissioner:** Well, it’s teaching my staff in ways that seem counterintuitive, right? So, it's technology, technology, technology, virtual, virtual, virtual. But at the same time, we have to have everything that's critically important in a modality that we can grab it if we need it. So, yes, you know, I had to finish my contract, but guess what? I had a paper copy.

**Mike Consedine, NAIC CEO:** Yeah

**Kathleen Birrane, Maryland Insurance Commissioner:** So, it's figuring out all of your systems, figuring out what are the things that you have to have in literal form if your virtual doesn't work.

**Mike Consedine, NAIC CEO:** We've gotten a lot of practice on that over the last couple of years, which I'm sure will be well applied going forward. Commissioner, I'm going to have one final question before we move on to sort of a little fun here, but I'm going to ask you to kind of step into your DeLorean time machine and transport yourself five years into the future here and without any benefit of hindsight or a crystal ball. But, maybe talk a little bit about, you know, the insurance regulatory community, the sector at that point in time, and where you hope they will be in terms of the issues that the H Committee is focused on.

**Kathleen Birrane, Maryland Insurance Commissioner:** So I'm going to say convergence. You know, without getting into any particular topic, whether it's AI or data security or privacy protection, and, you know, kind of where we're going in a particular area, what I would like to see is greater convergence and kind of consensus among regulators and being able to get to that place that I think is beneficial to us and consumers and the industry, which is reasonable consistency and consensus across areas. And, you know, I think we are working hard at the NAIC to see that happen. I think, you know, President Cameron's message at the opening session was, you know, particularly instructive and inspiring in that way. And I think that's ultimately what we need to get to. Not everybody has to be the same. Not everybody has to agree on every single issue. But we do need to have enough of a common framework, not just here in the U.S. but nationally that companies can function effectively.

**Mike Consedine, NAIC CEO:** Well, I think we've laid an excellent foundation for that here at this meeting and with the work that's been done. And certainly with your leadership and that of all of the members who collectively seem to be very involved in the H Committee. So, Commissioner, we're at that point in our podcast where we get to be a little less serious. And, I know, I've already got you worried. And we like to play a little game. It's a chance for our listeners to get to know a different side of our guest, and we call it “Regulator Risk Roulette.” Because we know how much regulators enjoy risk. There are six categories to this game: Risky Business; Keep It Professional; Childish Things; Very Interesting; Getting Personal; and That's Entertainment. So, we get to actually spin the wheel, live and in person, and then the category it lands on will be a question that I will throw out for you to answer. So, are you ready to play?

**Kathleen Birrane, Maryland Insurance Commissioner:** I’m game.

**Mike Consedine, NAIC CEO:** All right. So, Alana, let's spin that wheel.

**Alana:** Very Interesting is the category.

**Mike Consedine, NAIC CEO:** Very Interesting. Okay. That's fun. So, I've got a few that I can pick from. This is a good one, because I know you are voracious just in terms of your engagement on any number of issues, but, you know, what are you most curious about, well, you know, personal or professionally?

**Kathleen Birrane, Maryland Insurance Commissioner:** So in the area of insurance, you know, I think that I'm fascinated and probably the most intellectually engaged with the climate issues. So, I find that fascinating and critically and existentially, you know, compelling. So that's probably what engages me the most. I love everything that I'm doing, but that probably engages me the most. And then I would say the other piece of the professional piece is the power of health insurance to transform communities and to really make such a difference in people's lives. So, I'm very excited about the work that I'm doing on the special committee in the health workstream and the listening sessions, the opportunity for product design. On a personal level, I'm an artist, so I sculpt, and I paint. And so I'm always engaged, I guess, in, you know, sort of making art and new ways to make art. So that's how I, I guess, express my personal creativity. My intellectual creativity is deeply satisfied here at the NAIC and at the M.I.A.

**Mike Consedine, NAIC CEO:** Well, see that is actually very interesting. And I did learn something new. And now I have to see what kind of pieces you focus on. I mean, obviously, Maryland, you have a lot of inspiration to take from in terms of the landscape and the city and everything else. Well, thank you for sharing that with us, Commissioner, and thank you for joining me on *The Regulators* here live and in person at our Kansas City Spring National Meeting. Even with all of the noise and craziness around us, you've taken time to, I think, provide some great insights on the important work of the H Committee. And thank you all for listening to *The Regulators* and join us each week and month and subscribe to *The Regulators* wherever you get your podcasts. See you next time.