NAIC/CONSUMER LIAISON COMMITTEE

NAIC/Consumer Liaison Committee Aug. 12, 2022, Minutes
NAIC/American Indian and Alaska Native Liaison Committee Aug. 11, 2022, Minutes

Draft Pending Adoption

Draft: 8/23/22

NAIC/Consumer Liaison Committee
Portland, Oregon
August 12, 2022

The NAIC/Consumer Liaison Committee met in Portland, OR Aug. 12, 2022. The following Liaison Committee members participated: Andrew R. Stolfi, Chair (OR); Grace Arnold, Vice Chair (MN); Alan McClain (AR); Andrew N. Mais represented by George Kurt Swan (CT); Trinidad Navarro (DE); David Altmaier (FL); Colin M. Hayashida represented by Martha Im (HI); Dean L. Cameron represented by Randy Pipal (ID); Vicki Schmidt (KS); James J. Donelon represented by Ron Henderson (LA); Kathleen A. Birrane represented by Alexander Borkowski (MD); Anita G. Fox represented by Renee Campbell (MI); Chlora Lindley-Myers represented by Carrie Couch (MO); Mike Chaney represented by Andy Case (MS); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by Janell Middlestead (ND); Chris Nicolopoulos represented by David Bettencourt (NH); Barbara D. Richardson represented by David Cassetty (NV); Adrienne A. Harris represented by Sumit Sud (NY); Michael Humphreys (PA); Cassie Brown (TX); Scott A. White represented by Don Beatty (VA); and Mike Kreidler (WA).

1. Heard Opening Remarks

Commissioner Stolfi said the NAIC Consumer Board of Trustees met Aug. 1, 2022 to: 1) discuss next steps for adopting proposed revisions to NAIC Consumer Participation Plan of Operation; 2) receive an update on the survey to NAIC Consumer Liaison Committee members and NAIC consumer representatives on how to enhance the level of dialogue at NAIC Consumer Liaison Committee meetings, and 3) hear an update on the criteria and procedures the NAIC consumer representatives use to determine what NAIC Member should receive the Excellence in Consumer Advocacy Award.

2. Adopted its Spring National Meeting Minutes

Commissioner Arnold made a motion, seconded by Commissioner Schmidt to adopt the Committee's April 8 minutes (*see NAIC Proceedings – Spring 2022, NAIC/Consumer Liaison Committee*). The motion passed unanimously.

3. Discuss Recommendations for the Enhancement of the Consumer Liaison Committee Meetings and Consumer Liaison Engagement in NAIC Activities

Commissioner Stolfi said consumer protection is at the core of the mission for state insurance regulators and the input of the NAIC consumer representatives is very important to this mission. Because of this, Commissioner Stolfi said there was a survey of NAIC Consumer Liaison Committee members and NAIC consumer representatives on how to improve the Consumer Liaison Committee meetings and dialogue between the NAIC Member and NAIC consumer representatives.

Commissioner Stolfi said the survey results reflect three themes. There is a desire to broaden the perspectives shared at NAIC meetings and encourage more robust consumer representative participation, with some responses noting that participation sometimes feels repetitive or that not all consumer voices are heard. It is important that all commissioners, especially new commissioners, be well informed about the work of consumer representatives and have opportunities to collaborate with them. Many regulators would like to see more active and visible consumer representative participation in NAIC work outside the Consumer Liaison Committee.

Ken Klein (California Western School of Law) said it would be helpful if Commissioners would reach out to consumer representatives for input on topics that are of a sensitive nature and may not be appropriate for public

discussion in a large NAIC meeting. Birny Birnbaum (Center for Economic Justice) said NAIC consumer representatives do not attend NAIC meetings as individual consumers and attend NAIC meetings as experts representing consumers on insurance issues. Because of this, NAIC Members are going to hear from the same consumer representatives on certain issues. Mr. Birnbaum said the NAIC meetings are extremely important because consumer representatives do not have the same resources as industry representatives to engage with NAIC Members outside of NAIC national meetings. Mr. Birnbaum said he is concerned with the increasing number of regulator-to-regulator meetings and said there needs to be more open meetings for more stakeholder participation. Bonnie Burns (California Health Advocates) said she has specific expertise and NAIC Members are not likely to see her engage NAIC Committees addressing issues outside of her expertise. At the same time, Ms. Burns said she can call an insurance department to obtain assistance for a consumer or can assist an insurance department on an issue within her scope of expertise.

Amy Bach (United Policyholders) said it is important for consumer representatives to provide organized, specific presentations on issues for the Consumer Liaison Committee meeting. In addition, Ms. Bach said panel discussions, which include industry, academia, and consumer representatives may be beneficial at other NAIC committee meetings. Harry Ting (Consumer Advocate Volunteer) said it can be difficult for a new consumer representative to understand the best way to engage at NAIC meetings and additional assistance should be provided to help new consumer representatives understand the NAIC structure. Mr. Ting said consumer representatives may also be engaged with NAIC task forces and working groups.

Commissioner Stolfi said the survey feedback reflects three goals to guide changes. The first goal is to maximize the value of Consumer Liaison Committee meetings and presentations for members and consumer representatives. The second goal is to use diverse approaches to further encourage all consumer representatives, especially those not often heard from, to actively participate in all NAIC activities, not just Consumer Liaison Committee meetings. The third goal is to create more opportunities for meaningful interactions between regulators and consumer representatives, both at national meetings and elsewhere.

Commissioner Stolfi reviewed the following proposed changes for consideration:

a. Distribute a one-page preview of consumer representative presentations at each national meeting, with links to presentation slides and supporting materials, one week in advance of each meeting to help regulators and their staffs prepare for a discussion.
b. Distribute a summary of all presentations given at each national meeting, with links to presentation materials, after each national meeting.
c. Give consumer representatives time at each Consumer Liaison meeting to briefly highlight presentations being given at that national meeting, other than those given at the Consumer Liaison meeting.
d. Schedule the Consumer Liaison Committee meeting earlier in the national meeting week. Also begin the meeting later in the day to promote greater attendance.
e. Increase the time of the Consumer Liaison meeting to 2 hours from 1.5 hours.
f. Provide no less than 20 minutes (15-minute presentation, 5 min Q&A) for each presentation at national meetings (unless presenter requests less time, e.g., for an update).
g. Ensure appropriate split of time between presentations on a range of topics, including health and non-health issues, without having pre-determined time allocations.
h. Conduct post-meeting regulator surveys to provide consumer representative presentation feedback.
i. Find a more intimate meeting room set up.
j. Encourage consumer representatives to include local consumer organizations in presentations/discussions at national meetings when feasible.
k. Hold interim hybrid meetings when needed to discuss issues of interest.
l. Organize a themed consumer-focused symposium once a year, later in the day during a national meeting (comparable to CIPR events).

m. Schedule a meeting at each national meeting where several (2-3) states can present to consumer representatives (over a meal) on what is happening in their states.
n. At least once a year, poll regulators on the topics they would like to hear about from consumer representatives; share results with consumer representatives.
o. Assign each consumer representative, at least during their initial term, a regulator mentor.

Mr. Birnbaum said the NAIC Consumer Liaison Committee will be hearing a lot about health insurance if the Committee wants to hear from more consumer representatives since many consumer representatives have expertise in health insurance. Mathew Smith (Coalition Against Insurance Fraud) said consumer representatives do not always know what is most important to insurance regulators and feedback from insurance regulators on what topics are most important would be beneficial. Eric Ellsworth (Consumers' Checkbook/Center of the Study of Services) said it would be helpful to have meetings with NAIC Committee staff support. Wayner Turner (National Health Law Program) suggested the NAIC post the many reports and presentations from NAIC consumer representatives on a more visible NAIC Weblink so regulators and others could use these materials as resources.

Commissioner Stolfi said there will not be a formal vote on these ideas but recognized there was general agreement among NAIC Consumer Liaison Committee members and NAIC consumer representatives on the ideas presented today.

4. Hear Presentation on Updates to Section 1557 and the Role of State Insurance Regulators

Yosha Dotson (Georgians for a Health Future) said Section 1557 of the ACA prohibits discrimination against protect classes by health programs receiving federal funding. Ms. Dotson said the 2016 interpretation of Section 1557 provided nondiscrimination protections for gender identity, sex stereotypes, and pregnancy status but that a narrower interpretation in 2020 eliminated these protections. Ms. Dotson said the 2022 proposal seeks to reinstate the scope of Section 1557 to include all health and human services programs and activities. Ms. Dotson said the 2022 proposal goes further than the previous rule by requiring entities with fifteen or more employees to have a Section 1557 coordinator and prohibits discrimination in the use of algorithms to support decision making. Ms. Dotson said the 2022 proposed rule has explicitly recognized how individuals can experience compound discrimination and how network inadequacy can cause alienation from care and poor health outcomes.

Kellan Baker (Whitman-Walker Institute) said he wants to focus on one of the most substantial changes in the rule, which relates to the scope of sex nondiscrimination provisions. Mr. Baker said the ACA prohibits discrimination on the basis of sex, among other covered bases, and the 2016 rule indicated that gender identity sex stereotypes and pregnancy status were included under the definition of sex. The 2016 rule also included specific examples of gender identity nondiscrimination in coverage and care.

Mr. Baker said there are issues in coverage that affect the ability of transgender and other gender diverse people and populations to access appropriate care and services, including preventive screenings. This includes gender affirming care, such as hormone therapy or surgeries, as well as mental health counseling and any other type of healthcare that a transgender person might need. Mr. Baker said the 2016 rule was based on the concept of parity, meaning anything covered for a non-transgender person must be covered for a transgender person as well. The action in 2016 followed actions by more than twenty states to prohibit discrimination against transgender people, particularly in benefit design.

Mr. Baker said the 2020 rule eliminated gender identity, sex stereotyping and pregnancy nondiscrimination protections, and nondiscrimination protections in the marketing of qualified health plans, as well as in the essential health benefits. The 2022 rule is based on the 2020 Supreme Court decision of *Bostock v. Clayton County*, which re-establishes gender identity nondiscrimination protections under the basis of sex, adds sexual orientation, and re-establishes protections on the basis of sex stereotypes and pregnancy status. The rule clarifies that

religious/conscience exemptions will be considered on a case-by-case basis by the Office of Civil Rights under existing federal laws. The rule does not require providers to perform services outside of their scope of practice or area of specialty.

Mr. Baker said the rule requires the collection, analysis, and reporting of demographic data for various purposes, including civil rights enforcement, which is why the Office for Civil Rights includes a number of provisions and questions for commenters related to data collection and use. Several other provisions relate to data through research and clinical algorithms. Covered entities may not discriminate in federally supported research (e.g., in study enrollment). Clinical decision-making algorithms cannot incorporate bias that results in reduced access to health care or coverage benefits or services.

Mr. Baker said network adequacy is a major consideration in advancing health equity and ensuring high quality of coverage. This is a major consideration in advancing health equity and ensuring high quality of coverage. The Office of Civil Rights does not propose to establish a single network adequacy standard but notes that narrow networks may pose discrimination concerns.

Silvia Yee (Disability Rights Education and Defense Fund) said another key provision of the proposed rule is that it generally restores the breadth of application of the 2016 rule, including all the operations of entities that provide for or administer health insurance. This includes issuers of Medicare Advantage Plans. Ms. Yee said the proposed rule expands the scope of Section 1557 beyond the 2016 rule by including Medicare Part B providers, and this is often particularly important for people with disabilities, who need to see specialist who may not accept Medicare patients. The rule also provides for meaningful access and effective communication for persons with limited English proficiency. The proposed rule maintains the structural accessibility obligations of the 2020 rule and reaffirms that covered entities must provide reasonable modifications to people with disabilities unless doing so would be an undue burden or fundamentally alter the nature of the service. The proposed rule does not set an explicit requirement for accessible web content, but request comments on this issue. Ms. Yee said blind persons and people who have experienced vision loss have limited independence and choice when using Websites that other consumers use to make appointments, look up and compare insurance coverage, and find self-care information.

Ms. Yee said regulators should support health access during the comment period and have a broad perspective of what access means, including language accessibility, and diversity. Ms. Yee urged regulators to strengthen legal protections for consumers, including monitoring and enforcement against discrimination

5. Heard a Presentation Unpacking the Impact of Recent Federal Court Decisions on Consumers

Dorianne Mason (National Women's Law Center) said the decision in *Dobbs v. Jackson Women's Health Organization* is a devastating opinion that overturns *Roe v. Wade* and nearly 50 years of precedent. Ms. Mason said the Dobbs decision and subsequent state abortion bans dismantle patient care and force an uncertainty into the lives of all healthcare providers. This threatens the health and well-being of women. Ms. Mason said the Dobbs decision will disproportionately harm people who are already faced with unequal access to health care. Ms. Mason said patients may incur debt or lose income by taking leave from their jobs without pay because of the need to travel for care. Ms. Mason said others may be forced to carry pregnancies against their will and put their lives at stake.

Ms. Mason said insurance regulators should ensure compliance with existing laws and regulations, such as access to women's preventive services. Ms. Mason said insurance regulators should also reject regulations of reproductive care that inadvertently restrict access to reproductive healthcare. Ms. Mason said the National Women's Law Center has experts that can assist state insurance regulators in being innovative to address deficiencies to reproductive healthcare.

Jackson Williams (Dialysis Patient Citizens) said the United States Supreme Court decision in *Marietta Memorial Hospital v DaVita* involved the end stage renal disease provisions of the Medicare Secondary Payer Act, which allows enrollees to keep a group health plan for 30 months before Medicare becomes their primary payer. The language challenged in this case carved out dialysis treatment from the Preferred Provider Organization so there was no in network provider. Mr. Williams said the Supreme Court decision provided the need for maintenance dialysis was not the same as having end stage renal disease and permitted the carve out. Mr. Williams said insurance regulators should be concerned any time a change in insurance is triggered by an illness. Mr. Williams said there are two potential paths forward. The first path is to continue to pursuing population health strategies, such as health plans having prioritized detection and treatment of chronic kidney disease. The second path is to allow benefit consultants to aggressively sell dialysis carve outs to employers.

Katie Keith (Out2Enroll) said Section 2713 of the ACA requires health plans to cover a wide range of more than one hundred preventive services, such as cancer screenings, hypertension screening, tobacco cessation, immunization, contraception, and other preventive services for women. Ms. Keith said more than 150 million Americans benefited from this requirement in 2020 because it applies to all non-grandfathered plans, including both ERISA plans and fully insured plans. Ms. Keith said these requirements have led to a narrowing of health disparities.

Ms. Keith said there is a Federal court case in Texas, *Kelley v. Becerra (now known as Braidwood v. Becerra)*, in which the plaintiffs are arguing Section 2713 is unconstitutional. If this statutory provision is deemed unconstitutional, Ms. Keith said there would be no standard requirement for preventive services and consumers would see significant variations. Ms. Keith said this would lead to the widening of health disparities. Ms. Keith said insurers would not likely stop covering all one hundred preventive services but said she has concerns about ongoing coverage for contraceptives, screening colonoscopies, and HIV prevention medication. Ms. Keith said many states passed their own versions of Section 2713 in state law to protect the fully insurance market and encouraged all states to extend these protections.

Commissioner Stolfi said Oregon adopted a Reproductive Health Equity Act that went into effect in 2019, which had a list of required services to be covered at no cost. Commissioner Stolfi said Oregon found indications of non-compliance with both the state law and Section 2713 preventive service requirements, especially around cost sharing requirements. In response to Commissioner Arnold's question regarding what are the most important areas for a state insurance department to review, Mr. Baker suggested the following four items: 1) require plans to meet or exceed ACA requirements; 2) require plans to include a wider variety of provider types, such as community health workers and non-physician members of the healthcare workforce; 3) ensure the accuracy and accessibility of provider directories; and 4) explore the potential of standardized plans and related networks for specific conditions.

6. Heard a Presentation on Unpacking Social Inflation

Mr. Klein said there is a general assertion by industry that social inflation is causing insurance premiums and loss ratios to increase. Mr. Klein said social inflation is allegedly caused by plaintiff lawyers involved in insurance claims and Millennials having a sense of entitlement. Mr. Klein said insurers have claimed social inflation exists because incurred losses are rising faster than general inflation. The Casualty Actuarial Society recently issued a paper that identifies three lines of business that display characteristics of social inflation.

Mr. Klein said there is a misunderstanding of the litigation system that equates litigation with frivolous litigation. Mr. Klein said if a defendant loses a case this does not mean the verdict was wrong or the case was frivolous. Mr. Klein said litigation is only frivolous if it is unsupported by evidence and claims of social inflation often miss this

point. Mr. Klein said there is no compelling data that shows there is an overall increase in insurance litigation nationally and there is no compelling data reflecting an increase in frivolous insurance litigation by plaintiffs.

Mr. Klein said the insurance industry is claiming the following items as problematic: 1) rollbacks of enacted tort reforms; 2) third-party litigation financing; and 3) a proliferation of class actions. Mr. Klein said there is no evidence rollbacks of enacted tort reforms are impacting premiums and loss ratios. For example, Mr. Klein said the Kansas City metropolitan area is in both Kansas and Missouri and there is no data reflecting lower premiums and loss ratios in Kansas, which rolled back tort reforms. Mr. Klein said there should be data reflecting lower premiums and loss ratios between Kansas and Missouri residents within the Kansas City metropolitan area. Mr. Klein said finance professors from Harvard and Stanford issued a report that concluded third-party litigation financing is not driving up the cost of litigation and found litigation financing does deter defendants from engaging in aggressive settlement strategies. Mr. Klein suggested any increase in litigation costs may be caused by the increased costs of defense attorneys. Mr. Klein said funding of litigation may be leveling what was previously an unlevel playing field Mr. Klein said the court system is designed to punish those who cause injury to others and that larger verdicts do not equate to inaccurate verdicts. Regarding class action litigation, Mr. Klein said any proliferation of class actions suggests that defense attorneys are more aggressive in settling low value claims because class action litigation is a way for individuals to come together to seek appropriate remedies for low value claims.

Mr. Klein said the court system is designed to intentionally weed out frivolous claims. Mr. Klein said there is no evidence of social inflation, which is causing insurers to incur new, unusual, or higher expenses. Mr. Klein said insurance regulators should not permit premium increases or approve rate filings without confirming the assumptions about social inflation being presented.

Mike DeLong (Consumer Federation of America) said his organization completed a study in March of 2020, which concluded insurers' claims of increased costs were inaccurate. Mr. DeLong said insurers continued to earn profits throughout the pandemic. Mr. DeLong said the need for insurers to raise prices is questionable and any insurer, which is experiencing larger verdicts or more class action lawsuits, may be experiencing these things because of inappropriate behavior.

Mr. Smith said there is a crisis in the Florida insurance market with increased claim costs and litigation. Mr. Smith said one group should not be singled out as the cause and encouraged a review of the totality of issues to determine how all parties can better serve consumers.

Commissioner Schmidt said there is still more discussion occurring in Kansas regarding the Kansas Supreme Court case impacting tort reform and does not believe the Hilburn case is settled case law. Commissioner Schmidt also said there are many Kansas residents who do not live within the Kansas City metropolitan area. Because of this, Commissioner Schmidt said the comparison of Kansas and Missouri premiums within the Kansas City metropolitan area is not a fair comparison.

Commissioner Altmaier said he would strongly encourage the review of data from the regulatory community, which demonstrates a significant increase in litigation. Commissioner Altmaier said having additional costs within the claims settlement process is bad for consumers. Commissioner Altmaier said Florida is having a very challenged property insurance market and encouraged additional discussion on this issue using available, regulatory data.

7. Heard a Presentation on New Rules for Disaster Claims in California, Colorado, and Oklahoma

Ms. Bach said her organization has worked with industry, regulators, and legislators in California, Colorado, and Oklahoma to create new rules for disaster claims, primarily focusing on claims resulting from wildfires where there is not a causation question. Ms. Bach highlighted the following legislative reforms: 1) additional/temporary living

expense and replacement cost benefits must be available for at least 24 months and 36 months if reasonably necessary; 2) an underinsured homeowner can use "Other Structures" benefits toward the cost of rebuilding their dwelling even though "Other Structures" benefits are normally available only for garages and outbuildings, retaining walls, etc.; 3) a homeowner can opt to skip the challenges of rebuilding their home at its original location and instead access their dwelling, extended dwelling and building code and ordinance benefits toward the purchase of a replacement home; and 4) homeowners can avoid being underinsured by accessing their insurer's construction cost expertise and obtaining an estimate for insuring their home to its current replacement cost every other year or at inception.

Having no further business, the Consumer Liaison Committee adjourned.

SharePoint NAIC Staff Support Hub Meetings Consumer CMTE_Consumer_08min_final

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American Indian and Alaska Native Liaison Committee
Portland, Oregon
August 11, 2022

The American Indian and Alaska Native Liaison Committee met in Portland, OR Aug. 11, 2022. The following Liaison Committee members participated: Troy Downing, Chair (MT); Russell Toal, Vice Chair, Bob Biskupiak, and Jennifer A. Catechis (NM); Lori K. Wing-Heier and Anna Latham (AK); Dean L. Cameron represented by Shannon Hohl (ID); Grace Arnold represented by Peter Brickwedde (MN); Edward M. DeLeon Guerrero (MP); Mike Causey represented by Angela Hatchell (NC); Jon Godfread represented by John Arnold (ND); (NM); Glen Mulready represented by Brian Downs (OK); Andrew R. Stolfi represented by TK Keen (OR); Larry D. Deiter represented by Frank Marnell (SD); Mike Kreidler represented by Todd Dixon (WA); and Jeff Rude (WY). Also participating were Peg Brown (CO); Kathleen A. Birrane (MD); and Ryan Jabber, Tanji J. Northrup, and Reed Stringham (UT).

1. Adopted its June 28 Minutes

Commissioner Downing said the Liaison Committee met June 28. During this meeting, the Liaison Committee took the following action: 1) adopted its Spring National Meeting minutes; 2) heard a presentation on consumer outreach and education regarding fraud; 3) heard a presentation on "Maximizing Collaboration Between Health Insurers and Tribal Communities – What Blue Cross and Blue Shield of New Mexico and Blue Cross and Blue Shield of Oklahoma are Doing to Build Partnerships"; and 4) heard a presentation on "New Mexico's Health Insurance Exchange – American Indian Program."

Mr. Downs made a motion, seconded by Mr. Dixon, to adopt the Liaison Committee's June 28 (Attachment One) minutes. The motion passed unanimously.

2. Heard a Presentation on the SNHC and SNI

Commissioner Pike introduced the speaker for this presentation as they had been having conversations recently about today's agenda topic. Mark A. Echo Hawk (Sovereign Nations Health Consortium— SNHC) welcomed the Liaison Committee to Aboriginal territory as they were meeting on tribal lands—the land of the forever people. He said that due to federal oversight, tribes have remained underserved and underinsured. Mr. Echo Hawk said the tribes needed help with insurance needs as there were more people dying than being born currently. He said the Indian Health Service (IHS) funding is not adequate to provide for all native peoples. Mr. Echo Hawk said a supplemental insurance policy is needed to cover costs for services that the IHS does not cover. He described a three-tier program with SNHC as the regulatory consortium; the Native American Restoration Association (NARA) as a charitable, tribal nonprofit membership organization that uses some of its premium income to support Indian charitable programs; and Sovereign Nations Insurance (SNI), the "tribal health and insurance company."

Mr. Echo Hawk said the SNHC is a consortium of three federally recognized Utah based tribes: 1) the Kanosh Band of Paiutes; 2) the Confederated Tribes of the Goshute Reservation; and 3) the Shivwits Band of Paiutes. He said that SNI has operated for approximately one year under tribal code. Mr. Echo Hawk said the SNI is regulated under the SNHC tribal regulatory authority and is currently offering insurance products to both Indian and non-Indian members. He also said that the NARA is also a charitable organization that uses some of its premium income to support Indian charitable programs.

Commissioner Downing said this presentation is fascinating and that much of it resonates with him regarding collaboration opportunities. Director Wing-Heier said she has worked with Section 638 groups in Alaska and asked Mr. Echo Hawk if he was talking about health care insurance or property/casualty (P/C) insurance as she has

concerns about the federal government in this area. Mr. Echo Hawk said it is just health care and that tribes bring whatever health care resources they have to the table. He said it may be a diabetes clinic or program that is not a Section 638 group. Director Wing-Heier said this would not be beneficial if it is not addressed in a 638 contract; however, it is covered, or it can be, if it is in their 638 contracts, so she recommended that the tribes not give up on pursuing a 638 contract. Commissioner Mulready asked how long the SNHC had been operating; if the tribes had any state contracts; and where the tribes' financial standards came from. Mr. Echo Hawk said the SNHC had been operating about a year; that it did not have any state contracts yet; and that the SNHC had surveyed all state solvency and claims funds using state insurance department web pages to add the standards found there in their own tribal codes and internal regulations. Mr. Brickwedde asked what type of distribution network the tribes used. Mr. Echo Hawk said the SNHC had an internet site with companies that help sell policies, as well as tribal call centers on reservations. Ms. Hohl asked what provider networks were used. Mr. Echo Hawk said tribal health care claims are provided by the insurance company policy with off reservation group providers. Director Wing-Heier suggested coordination with the federal Affordable Care Act (ACA) and said the Indian Coordination Act should be pursued.

Mr. Echo Hawk said tribes typically fight against states when they should be collaborating with them. He emphasized a desire to work with state insurance regulators, as well as explore compacts and collaborations. He noted that this program may ultimately pose challenges requiring congressional solutions. He also said this is an important step because the SNHC is reaching out from tribal-owned insurance companies to suggest partnering with state insurance regulators to understand compliance standards for tribal-owned insurance companies and ensure company solvency to maintain their claims-paying ability and consumer protection issues, such as fraud. Commissioner Pike said he and Commissioner Stolfi met with Mr. Echo Hawk's clients briefly but that they just scratched the surface and that a better level of understanding would be needed to find a way to work together. Commissioner Pike said he is intrigued by the idea of a compact and that the Liaison Committee is a good place to start. He said there are currently three tribes in Utah; that the policies are being sold elsewhere already; and that this is a dual insurance universe. Matthew Smith (Coalition Against Insurance Fraud—CAIF) said state insurance departments have a whole litany of laws and asked what fraud laws the tribes have in place. Mr. Echo Hawk said this information is in the agreements that are part pf the consortium; there are ways to deal with complaints just as state insurance departments do. He said not all tribes will want to partner with states, but if a compact is built, the hope is that most tribes will decide to join it.

3. Discussed Survey Results of Growing Insurance Markets by Tribal Nations and SNI and its Business Model

Commissioner Downing said it is important for the Liaison Committee to discuss the survey results of growing insurance markets and insurance-related activities on and off reservations by tribal nations, as well as by SNI, and its business model so state insurance regulators can think of ways they might be able to work with such entities going forward. He said the survey inquired on whether tribal insurance programs were operating in state jurisdictions as admitted carriers and whether there was knowledge of state-licensed agents selling tribal insurance products. Liaison Committee members had no comments on the survey results.

4. Heard an Update on its Ad Hoc Drafting Groups

Commissioner Downing said the three ad hoc drafting groups have been consolidated into two groups. He said the ad hoc groups began working on their goals. He also solicited additional volunteers to join the ad hoc groups. Commissioner Downing said that Ad Hoc Group 1 has focused on cultural awareness and communication between tribal and non-tribal members. He said Ad Hoc Group 2 will produce a report on tribal access to the ACA, ACA navigation, and non-IHS insurance products. Commissioner Downing said this group would also report on "lessons learned" in Indian Country through the COVID-19 pandemic. He said that Montana is doing a lot of financial outreaches to tribal entities.

5. Discussed Other Matters

Commissioner Downing reminded attendees about the upcoming Insurance Summit, which will be held in Kansas City, MO, Sept. 19–23.

Having no further business, the Liaison Committee adjourned.

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