

Draft Pending Adoption

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Innovation and Technology (EX) Task Force
Virtual 2021 Spring National Meeting
April 9, 2021

The Innovation and Technology (EX) Task Force met April 9, 2021. The following Task Force members participated: Jon Godfread, Chair, and Chris Aufenthie (ND); Elizabeth Kelleher Dwyer, Vice Chair, and Matt Gendron (RI); Lori K. Wing-Heier, Anna Latham and Chris Murray (AK); Jim L. Ridling represented by Dan Gates, Gina Hunt and Jimmy Gunn (AL); Alan McClain represented by Letty Hardee (AR); Peni Itula Sapini Teo represented by Elizabeth Perri (AS); Evan G. Daniels represented by Tom Zuppan (AZ); Ricardo Lara represented by Ken Allen and Lucy Jabourian (CA); Michael Conway represented by Peg Brown and Eric Unger (CO); Andrew N. Mais and George Bradner (CT); Trinidad Navarro represented by Tim Li (DE); David Altmaier (FL); Colin M. Hayashida represented by Martha Im and Kathleen Nakasone (HI); Doug Ommen and Travis Grassel (IA); Dean L. Cameron and Weston Trexler (ID); Dana Popish Severinghaus and C.J. Metcalf (IL); Stephen W. Robertson represented by Karl Knable (IN); Vicki Schmidt and LeAnn Crow (KS); Sharon P. Clark (KY); James J. Donelon represented by Rich Piazza and Tom Travis (LA); Gary D. Anderson and Rachel M. Davison (MA); Kathleen A. Birrane (MD); Eric A. Cioppa (ME); Anita G. Fox represented by Karen Dennis (MI); Grace Arnold, Tammy Lohmann and Phil Vigliaturo (MN); Chlora Lindley-Myers and Cynthia Amann (MO); Mike Chaney and Andy Case (MS); Troy Downing represented by Bob Biskupiak (MT); Mike Causey represented by Tracy Biehn (NC); Bruce R. Ramge and Martin Swanson (NE); Chris Nicolopoulos represented by David Bettencourt and Christian Citarella (NH); Marlene Caride represented by Randall Currier (NJ); Russel Toal, Leatrice Geckler and Anna Krylova (NM); Barbara D. Richardson and Gennady Stolyarov (NV); Judith L. French represented by Lori Barron (OH); Glen Mulready (OK); Andrew R. Stolfi and TK Keen (OR); Jessica K. Altman, Michael Humphreys and Michael McKenney (PA); Raymond G. Farmer and Michael Wise (SC); Larry D. Deiter and Maggie Dell (SD); Carter Lawrence represented by David Combs, Bill Huddleston and Patrick Merkel (TN); Doug Slape (TX); Jonathan T. Pike (UT); Scott A. White, Vicki Ayers and Rebecca Nichols (VA); Michael S. Pieciak represented by Rosemary Raszka (VT); Mike Kreidler represented by Molly Nollette (WA); Mark Afable, Nathan Houdek and Timothy Cornelius (WI); and James A. Dodrill and Joylynn Fix (WV).

1. Adopted its 2020 Fall National Meeting Minutes

Superintendent Toal made a motion, seconded by Ms. Biehn, to adopt the Task Force's Dec. 4, 2020, minutes (*see NAIC Proceedings – Fall 2020, Innovation and Technology (EX) Task Force*). The motion passed unanimously.

2. Adopted its Working Group Reports

a. Big Data and Artificial Intelligence (EX) Working Group

Commissioner Ommen gave the report of the Big Data and Artificial Intelligence (EX) Working Group. He said it held its first meeting March 29. During this meeting, the Working Group: 1) reviewed the key accomplishments of the Big Data (EX) Working Group and the Artificial Intelligence (EX) Working Group; 2) noted the merging of these working groups into the new Big Data and Artificial Intelligence (EX) Working Group; 3) reviewed its 2021 charges; and 4) focused on its charge to research where the industry is applying the use of big data, algorithms and artificial intelligence (AI), while simultaneously studying model governance structures.

Commissioner Ommen said the Working Group had a more in-depth discussion about developing an industry survey to research how insurance companies are using big data, algorithms and AI, while protecting the confidentiality of individual company practices. He said the Working Group agreed to limit the scope and the initial research, with the likely focus being on private passenger automobile insurance, and it directed a small group of subject matter experts (SMEs) to coordinate with NAIC staff to draft an industry survey for further review by the Working Group. He said Superintendent Dwyer and Commissioner Afable will lead that effort with SMEs from Illinois, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island and Wisconsin.

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Commissioner Ommen said the Working Group also heard a presentation introducing the components of a model governance framework based on other models, such as capital and catastrophe models, and how to minimize risks arising from models. He said the presentation explained the benefits of model governance and the key components, including oversight, controls and validation.

b. Speed to Market (EX) Working Group

Ms. Nichols gave the report from the Speed to Market (EX) Working Group. She said the Working Group met March 10 and discussed the results of the Product Requirements Locator (PRL) survey and next steps. She said this topic was part of a bigger study to determine what speed to market tools state insurance regulators find most useful. She said the results indicated that states fall into three categories. She said the first is a group of states who will have their PRL information removed as they are not using it and have no intention to going forward. She said the second group are states that are using the tool, and their support of it will continue until integration to System for Electronic Rate and Form Filing (SERFF) modernization is complete. She said the third group are undecided states, and the SERFF team will be reaching out to states based on the survey responses provided to gather additional information, as needed, to assist states using the PRL. She said it is unlikely that the PRL tool will be available beyond the completion of the SERFF modernization project, as the SERFF modernization project anticipates including ways for states to provide their filing requirements within SERFF, making it easier for states to keep their requirements up to date and satisfy the need for those requirements to be easily accessible to SERFF users.

Ms. Nichols said the Working Group received updates on SERFF, including recent and upcoming releases and projects and an update on the Interstate Insurance Product Regulation Commission (Compact). She said the Working Group discussed the annual review of the product coding matrix (PCM) and uniform transmittal document (UTD) suggestions, and proposed revisions or changes can be submitted at any time throughout the year. However, for suggestions to be considered to go in effect for next year, the deadline is May 31. Ms. Nichols said an alert will be sent out to remind users of that deadline, and a meeting set up to discuss those submissions will be arranged.

Commissioner Godfreed asked if there were any questions regarding any of the Working Group reports. Hearing none, Commissioner Clark made a motion, seconded by Ms. Biehn, to adopt the following reports: 1) Big Data and Artificial Intelligence (EX) Working Group, including its March 29 minutes (Attachment One); and 2) Speed to Market (EX) Working Group, including its March 10 minutes (Attachment Two). The motion passed unanimously.

3. Received an Update on the Innovation and Technology State Contacts Activity

Denise Matthews (NAIC) provided a report from the Innovation and Technology State Contacts Roundtable meeting that was held April 1. She said the roundtable is led by Mr. Aufenthie and Mr. Bradner. She said 43 state insurance regulators from 35 states participated in the roundtable. During the meeting, the co-leaders solicited interest regarding helping to lead the group. Ms. Matthews said the agenda included a discussion on strategies for improving state insurance regulators' access to data from an insurer's perspective and a discussion related to parametric products led by a presentation from Commissioner Hayashida. She said other topics were on the agenda, but these two generated a lot of discussion, so they will be put on a future agenda. She said guests from Travelers and Hartford presented on the open Insurance Data Link (openIDL) solution and discussed the benefits and challenges associated with getting more carriers to participate. She said the presenters talked about the pandemic having slowed the process to gain more participation. She said Commissioner Hayashida gave a presentation on parametric insurance products, discussing the pros and cons and where it can be helpful in filling insurance coverage gaps. She said the state insurance regulators suggested that there may be a need to draft principles and standards or guidelines around these types of products, particularly in the area of transparency and the provision of clear information to consumers.

4. Discussed RFIs Related to Continuing Specific "Regulatory Relief" or "Regulatory Accommodations" Offered by States Related to the COVID-19 Pandemic

Commissioner Godfreed reminded the members of the Task Force that a Request for Information (RFI) was sent to interested parties in 2020, asking for information related to specific "regulatory relief" or "regulatory accommodations" offered by states as a result of the COVID-19 pandemic, that they would recommend be continued or made permanent, related to innovation and technology. He said the RFI asked whether there was some type of regulatory relief or accommodation offered or if there continues to be a law, regulation, regulatory guidance or established practice in place that prohibits or limits

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insurers or producers from implementing or using newer technologies, data, methods or processes that is now necessary in order to continue to serve customers and maintain operations. He said the responses to that RFI were compiled into a summary presented during the 2020 Fall National Meeting, and they were grouped into four categories, including which organizations offered a similar or the same suggestion. He said those categories were:

- Electronic Commerce
- Regulatory Capabilities
- Claims Facilitation
- Items Specific to Surplus Lines

Commissioner Godfreed said while most of the responses did not include the specific statutes or statutory language the American Council of Life Insurers (ACLI) recommended eliminating or revising, it did send a specific recommendation suggesting developing a bulletin or bulletins to address concerns related to existing issues with the state-by-state implementation of e-signature laws, including the Uniform Electronic Transactions Act (UETA) and existing obstacles to moving e-commerce forward. He said it was decided that more information is needed to move into specific actions, so another RFI was sent to the respondents of that initial RFI and a consumer representative, asking them to provide more specific information as to where the issues are more interpretative or lack a uniform interpretation, versus it being a legislative issue. He said the intention was to identify which should be a priority to address in 2021. He said a summary compilation of those responses (Attachment Three) are in the materials, showing that respondents prioritized e-commerce, including allowing for e-signatures, e-delivery of documentation and information, e-notary, and changing the paradigm from what is mostly an “opt-in” scenario today to an “opt-out,” where getting and exchanging information electronically or digitally would be the default, with consumers having the ability to “opt-out” of that option. He said the ACLI and the American Property Casualty Insurance Association (APCIA) suggested forming a working group to survey states about UETA exceptions to begin work on any laws and regulations that need to be changed to accommodate this and work on interpretive guidance where legislation changes are not needed.

Commissioner Godfreed said the second category represents regulatory capabilities and covers a list of items related to allowing online continuing education (CE) and training, allowing electronic filings for regulatory filings, and eliminating wet signature requirements. He said there were no specific action suggestions for this category, but deferring the education and training item to the Producer Licensing (D) Task Force may be appropriate. He said claims facilitation was a category of responses from the first RFI, but it did not appear to “make the cut” when this second group of respondents was prioritizing. He said the last category is specific to surplus lines, and a couple of the respondents noted that the Surplus Lines (C) Task Force is currently working to amend the *Nonadmitted Insurance Model Act* (#870), and it may be appropriate to defer this to it as a part of that work. He said an interested party noted that some of the areas to address include home state taxation, insurer eligibility, exempt commercial purchaser, and diligent search.

Commissioner Godfreed said three respondents—the ACLI, the APCIA, and the Professional Insurance Agents (PIA)—indicated support for the drafting of a model bulletin to cover some of the non-legislative issues. He said while not included in the summary document, a letter from the Center of Economic Justice (CEJ) was received. He said the letter notes the successes in terms of the response to the pandemic to continue services to consumers, but it also notes a few problems around a lack of tools to oversee and monitor these sudden changes and digital interactions. He said it covers the issues related to risk exposure changes, such as in personal auto insurance and the impact of credit-based insurance scores, and a lack of regulatory data collection should be noted. A lack of clear guidance related to consumer-generated data and ownership and consent to use issues needs to be considered.

5. Discussed an Approach to Drafting a Guidance Document/Bulletin

Commissioner Godfreed said he heard several options for how to move forward with addressing these issues. He said he would be comfortable with a motion to look at creating a working group that would examine the issues identified; working on a bulletin; and referring specific issues, as appropriate, to the Producer Licensing (D) Task Force and the Surplus Lines (D) Task Force. Superintendent Dwyer made a motion, seconded by Commissioner Birrane, to form such a group. In response to a question in the chat, Commissioner Godfreed said the group would be open to feedback, and regarding this topic, the Innovation and Technology (EX) Task Force has been very responsive to the stakeholders and would continue to be. He said whether it is a drafting, working or best practices group, that engagement will continue to be encouraged. The motion passed unanimously.

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Commissioner Godfread encouraged anyone interested in participating in the process to notify Ms. Matthews so it can get moving forward.

6. Heard InsurTech Presentations

a. State Farm/USAA Auto Subrogation Blockchain Solution

Commissioner Godfread introduced the first presenters from State Farm and the United States Automobile Association (USAA), saying these two legacy carriers and competitors have joined forces to create something using blockchain technology that makes sense for consumers. It demonstrates how it can make them more efficient and minimize cost through the development of a subrogation blockchain solution. He said Beth Carter, the Director of P&C Claims Business Technology at State Farm, and Luke Harris, Assistant Vice President and Senior Experience Owner in USAA's Claims Organization, will present on this topic.

Ms. Carter said State Farm recognizes that the partnership with USAA on this blockchain solution is important to innovate and build for the future. She provided the background and history behind the project, and she said after extensive testing, it is now in full production and serving to settle claims between the companies using blockchain, representing the first of its kind. Mr. Harris said it provides data security and data control, as well as oversight and validation also leveraging Distributed Ledger Technology (DLT) to offer a secure and immutable record of transactions that can be validated and confirmed through consensus. He said there is no need to transmit Personally Identifiable Information (PII), and it removes a lot of cost from the process. Ms. Carter said it also makes processes more efficient and secure; eliminates manual steps, allowing them to get the deductible back to the consumer faster, reducing external disruptions with processing single check recoveries; and minimizes the amount of subrogation funds floating through the industry. Mr. Harris said State Farm and USAA have created something that can be adopted by the entire industry, and they are on a quest to bring in additional carriers to this platform, as the more that participate, the greater the benefit.

Commissioner Godfread said North Dakota is working on blockchain solutions, and he asked if there is anything state insurance regulators can do to encourage more companies to get involved. Mr. Harris said discussions like this are helpful, and providing forums to help and educate regarding this solution is beneficial.

b. Trellis Connect

Commissioner Godfread said Daniel Demetri, the Founder and Chief Executive Officer (CEO) of Trellis, will talk about what Trellis is, what it does, and the issue of consumer data ownership. Mr. Demetri said Trellis is a technology company in San Francisco operating nationally out of Arizona, Florida, Indiana, New York and Tennessee, offering in all 50 states and Washington, DC. He said it helps consumers navigate insurance as they move online using apps to allow their information to be shared with the advisor app they have selected. He said consumers need personalized insurance experiences online and digital experiences in the way they work with agents. He said Trellis provides consumers the ability to rely on and share data, allowing them to share their insurance information for many different purposes. He said it does not require any changes to producer licensing, and Trellis only allows licensed producers to get access to the information. He said state insurance regulators should determine what the parameters around this should be and what rights consumers should have to their insurance data in terms of who owns it and how they can access it. He said many insurers elect to block consumer access for security or competitive purposes, and he urged state insurance regulators to consider what the data access rights are in each state and how they translate to the online environment.

Commissioner Godfread said North Dakota took a run at this during the current legislative session, but it was unsuccessful. He said even so, this is interesting, important, and likely something the Innovation and Technology (EX) Task Force will need to consider.

c. Vero

Commissioner Godfread introduced the next presenter, Ali Safavi, Co-Founder and CEO of Vero. Mr. Safavi said the future of guidance and advice is exciting, and making insurance cheaper, faster, quicker, and with more focus on guiding and bringing the advice piece online is the goal of Vero. He said consumers need protection and guidance; risk is changing, and insurance

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products have traditionally been built around risks as opposed to people. He said Vero is investing in an AI risk and insurance advisor that would be unbiased with no incentive in terms of how the recommendation is given. He said it is holistic and automates making it easier to integrate online. He said it augments the agent channel, making products more affordable with better service and better risk management through risk mitigation. He said Vero is starting with the digitalization of the existing agent channel, but over time, it will likely move to full integration of agent and direct channels and then move to the consumer starting online with some human components. He demonstrated how the Vero product assists with this by providing a risk report and a recommendation based on a calculated protection score. He said the biggest challenge to being able to do this is not being able to get access to the consumer's information, as mentioned during Mr. Demetri's presentation. He said there are two big implications: 1) currently, state insurance regulators look at licensing as a way to protect consumers, ensuring that agents know what they are doing and know and understand the regulations; but Vero believes that if AI can provide guidance, present quotes, and do a better job than the agent—i.e., the agent is just doing marketing—the question would be if the licensing requirements need to be the same for that as for a traditional agent; and 2) while regulations can be a barrier, actually enforcing insurers through regulation to give better access to consumer data could boost innovation as opposed to being a barrier.

Ms. Jabourian asked how many and what the demographics were regarding the survey quoted. Mr. Safavi said it was in the thousands, but he would be happy to provide the actual report. Ms. Jabourian asked if Vero is licensed as a financial advisor, managing general agent (MGA), or something else in order to provide financial advice. Mr. Safavi said Vero is not providing financial advice at this time, but it does have both individual and company producer licenses. Ms. Jabourian asked what information Vero is gathering to assess what additional coverage is needed and how much information a consumer must divulge to get a recommendation. Mr. Safavi said most agents do not have this type of data. He said the biggest factor is net worth, and Vero uses an actuarial model to determine risk, using data that agents do not have.

In responding to questions in the chat, Mr. Safavi said Vero has life, health and property/casualty (P/C) producer licenses, and while currently working on personal lines, small commercial will be next. He said Vero is proud of its Errors & Omissions risk product because that area has a lot of human error, and by automating it, it is much improved.

7. Heard Updates from Committees and Working Groups

Commissioner Godfread asked representatives from other committees whose charges involve related workstreams to those the Innovation and Technology (EX) Task Force is addressing to provide updates.

a. Special (EX) Committee on Race and Insurance

Commissioner Mais said five workstreams have been set up and are working under the Special (EX) Committee on Race and Insurance to look at issues concerning race and insurance. He said the first two workstreams deal with diversity in the industry and the regulatory community, and the other three workstreams deal with issues of unfair treatment as it relates to the three major lines of business; i.e., life, health and P/C. He said each of the workstreams issued a draft report to the Special Committee, and the Special Committee has exposed a summary report that will be discussed during its April 12 meeting. He said generally, the exposed report currently calls for continued research and analysis of insurance legal and regulatory approaches to addressing unfair discrimination, specifically proxy discrimination and disparate impact, by defining the terms and determining appropriate steps to address, including: 1) the impact of traditional life insurance underwriting on minority populations; 2) considering the relationship between mortality risk and disparate impact; and 3) developing analytical and regulatory tools to assist state insurance regulators in determining unfair discrimination. He said the report also calls for enhanced data reporting and record-keeping requirements across product lines to identify race and other socio-demographic factors of insureds, and a data call may be considered to identify resources and products sold in specific zip codes to identify barriers to access. He said finally, the report calls for coordinating with existing groups, specifically the Big Data and Artificial Intelligence (EX) Working Group and the Casualty Actuarial and Statistical (C) Task Force, and encouraging the Casualty Actuarial and Statistical (C) Task Force to continue its work in predictive modeling, price algorithms and AI, with a particular focus on how race is affected.

b. Accelerated Underwriting (A) Working Group

Commissioner Afaible said the Accelerated Underwriting (A) Working Group last met March 19 in lieu of meeting at the Spring National Meeting. He said a drafting group made up of several state insurance regulators and led by Commissioner Arnold is coming up with a first draft of the Working Group's work product, and the Working Group has agreed to develop an educational

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report, the primary purpose of which is to offer guidance to state insurance regulators, industry, consumer advocates, and other stakeholders. He said the report will be narrowly focused on accelerated underwriting in life insurance and consider the work of other NAIC groups like the Innovation and Technology (EX) Task Force, the Big Data and Artificial Intelligence (EX) Working Group, the Casualty Actuarial and Statistical (C) Task Force, and the Privacy Protections (D) Working Group, and a draft outline of the report has been circulated. The outline includes three major issues as they relate to accelerated underwriting in life insurance: 1) input data; 2) algorithms and machine learning; and 3) transparency and privacy.

c. Property and Casualty Insurance (C) Committee

Commissioner Schmidt said the Property and Casualty Insurance (C) Committee will be involved with issues related to the Special (EX) Committee on Race and Insurance. She said it appears that the charges being discussed will stay with the Special Committee and not be referred to the Property and Casualty Insurance (C) Committee. She said there is a charge to look at the development of analytical and state insurance regulator tools to assist in determining unfair discrimination, specifically the use of socio-economic variables and identifying proxy variables for race; correlation versus causation; disparate impact considerations; the use of third parties; and the appropriate use of certain data, such as criminal history information. She said to expect that the first step after new charges are adopted will be convening chairs and vice chairs of the various committees to come up with a workplan, identifying the right people to work on them and ensuring that there is no duplication of work as relevant terms and processes are defined.

d. Privacy Protections (D) Working Group

Ms. Amann said the Privacy Protections (D) Working Group is looking at the overlap between cybersecurity and data protection. She said they are interrelated but two completely different issues. Other major issues continuing to develop is the ownership of data. Ms. Amaan said concerns about data privacy protections, as well as ownership and opting in and opting out, continue to be topics the Working Group is looking at. She said the Working Group received a report from NAIC staff on federal and state privacy legislation. She said the federal report indicated that the U.S. Congress (Congress) believes there is a need for federal data privacy legislation, but differences in approaches have thwarted efforts to enact comprehensive legislation thus far. The key points of contention include: 1) whether, and to what extent, federal legislation should preempt state laws; and 2) whether the legislation should include a private right of action. Ms. Amann said the NAIC continues to engage with Congress, oppose preemptive legislative proposals, and inform Congress of the Working Group's efforts to update NAIC models. She said the NAIC continues to underscore the importance of not disregarding the existing state regulatory framework or inhibiting ongoing efforts in the states to develop laws and regulations in the best interest of insurance consumers.

Ms. Amann said the state report indicated that at least 30 states have introduced some form of data privacy legislation in 2020. Most of them were comprehensive and similar to the California Consumer Privacy Act (CCPA), but very few of them were enacted due to the COVID-19 disruption of legislative sessions. Ms. Amaan said the Working Group continues to monitor this area. She said privacy bills have been introduced in 23 states that focus on business obligations stemming from consumer rights, but they vary in substance. Many of these bills apply to for-profit businesses, but all are over the board. She said no template has emerged yet, but some common issues have, such as: 1) a requirement that covered entities perform a risk assessment; 2) providing a private right of action; 3) addressing data security and data privacy; 4) resembling the General Data Protection Regulation (GDPR); and 5) exempting data collected in compliance with the Gramm-Leach-Bliley Act (GLBA), as well as entities subject to the GLBA.

Ms. Amann said the Working Group discussed comments received after the Working Group's Nov. 20, 2020, meeting in lieu of the 2020 Fall National Meeting. She said there was a verbal gap analysis from the ACLI, the Coalition of Health Carriers, the National Association of Mutual Insurance Companies (NAMIC), and the APCIA. She said the Working Group announced the consumer privacy protections panel scheduled for the virtual NAIC Insurance Summit in June. She noted that this is an ever-changing topic for the Working Group as the development of the cyber and data ownership issues have shown, and the Working Group will be reaching out to coordinate with other committees on these topics.

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8. Discussed Other Matters

Commissioner Godfread said the two agenda items the Innovation and Technology (EX) Task Force was unable to cover today, the discussion on consumer data ownership issues and potential guidance and the NAIC report on the Predictive Model Review Process, will be included in the agenda for the next meeting of the Task Force. He said the “Coded Bias” event hosted by the NAIC was an outstanding event, and he said it is an important film to see. He said 900 registered for the event, and 550 tuned in for the panel. He said it was a great panel session, and there was so much interest that there will be a follow-up of some kind to cover all the outstanding questions submitted. He said exactly what that will be has not yet been determined, but he said to stay tuned and any suggestions should be sent to himself or Ms. Matthews.

Having no further business, the Innovation and Technology (EX) Task Force adjourned.

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