

Draft Pending Adoption

Draft: 8/30/21

Innovation and Technology (EX) Task Force
Columbus, Ohio
August 14, 2021

The Innovation and Technology (EX) Task Force met in Columbus, OH, Aug. 14, 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 represented by Sarah Bailey (AK); Jim L. Ridling (AL); Alan McClain (AR); Evan G. Daniels (AZ); Ricardo Lara represented by Lucy Jabourian (CA); Michael Conway and Peg Brown (CO); Andrew N. Mais and George Bradner (CT); Karima M. Woods (DC); Trinidad Navarro (DE); David Altmaier represented by John Reilly (FL); Colin M. Hayashida (HI); Doug Ommen and Johanna Nagel (IA); Dean L. Cameron (ID); Dana Popish Severinghaus represented by C.J. Metcalf (IL); Vicki Schmidt (KS); Sharon P. Clark represented by Rob Roberts (KY); James J. Donelon represented by Tom Travis (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Eric A. Cioppa (ME); Anita G. Fox represented by Chad Arnold (MI); Grace Arnold (MN); Chlora Lindley-Myers represented by Cynthia Amann (MO); Mike Chaney (MS); Troy Downing (MT); Mike Causey represented by Tracy Biehn (NC); Eric Dunning (NE); Chris Nicolopoulos represented by David Bettencourt (NH); Russell Toal (NM); Barbara D. Richardson (NV); Judith L. French (OH); Glen Mulready (OK); Andrew R. Stolfi and TK Keen (OR); Jessica K. Altman and Michael McKenney (PA); Raymond G Farmer (SC); Larry D. Deiter (SD); Carter Lawrence (TN); Doug Slape (TX); Jonathan T. Pike and Tanji J. Northrup (UT); Scott A. White represented by Eric Lowe and Rebecca Nichols (VA); Michael S. Picciak represented by Chris Rouleau (VT); Mike Kreidler and Molly Nollette (WA); Mark Afable and Nathan Houdek (WI); and James A. Dodrill represented by Joylynn Fix (WV).

1. Adopted its Spring National Meeting Minutes

Superintendent Toal made a motion, seconded by Ms. Biehn, to adopt the Task Force's April 9 minutes (*see NAIC Proceedings – Spring 2021, Innovation and Technology (EX) Task Force*) with one revision to add Connecticut to the list of states on page 1 participating in the artificial intelligence (AI)/machine learning (ML) survey drafting group. 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 the Working Group met July 9 and discussed a draft survey to conduct analysis on private passenger automobile (PPA) insurers' use and governance of big data, as used in an AI and ML system. He said as part of that discussion, the Working Group received comments from Working Group members and interested parties. He reviewed the components of the survey and noted that it is being conducted under the examination authority of Connecticut, Illinois, Iowa, Louisiana, Nevada, North Dakota, Pennsylvania, Rhode Island, and Wisconsin and is being sent to insurers writing PPA insurance in at least one of these nine states. He reviewed the timeline, including completing the work by the NAIC Fall National Meeting and what content is and will be available on the associated web page, and he reminded the Task Force members that the Working Group will likely expand the survey work to other lines of insurance in the future.

b. Speed to Market (EX) Working Group

Ms. Nichols gave the report of the Speed to Market (EX) Working Group. She said the Working Group met June 30 and June 29 and took the following action: 1) adopted its March 10 minutes; and 2) heard an update from the Information Technology Group (ITG). She said part of that update included discussion regarding the low adoption rate for changes to the Product Coding Matrix (PCM) over the last couple of years and the reason why. She said the requests for changes are more specific to a particular state, so solutions for those states are usually provided using filing labels when needed, rather than creating new categories that would not apply to most states. Ms. Nichols said the ITG update also explained that when the System for Electronic Rate and Form Filing (SERFF) redesign begins, the intent is to have one set of types of insurance (TOIs), sub-TOIs, and filing types; but submission requirements that vary for states would be reflected. She said states are encouraged to be sure to respond to any correspondence received regarding the PCM, so that a clear understanding of their needs can be documented

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and accounted for in the redesign. She reviewed other suggestions that the Working Group members chose not to adopt and the reasons why. The details are documented in the minutes from the meeting.

c. E-Commerce (EX) Working Group

Commissioner Birrane gave the report of the E-Commerce (EX) Working Group. She said the Working Group met June 30 and took the following action: 1) discussed the establishment of the Working Group and the background that led to its formation; 2) reviewed the Working Group's 2021 charges; and 3) began outlining and discussing the work to be accomplished. She said the Working Group discussed and agreed that understanding the current legal landscape and identifying any key legislation should come first, and the first step in that process is to examine the states' adoption of the Uniform Electronic Transactions Act (UETA) and review any gaps there may be or exceptions they may have in place. She said to do so, the Working Group discussed surveying the states in this regard and asking what laws, rules, regulations, and bulletins were put in place during the pandemic that temporarily suspended or waived state law by allowing for the electronic exchange of information. She said the Working Group also anticipates asking the states of those provisions that were put in place which ones remain, which ones have expired or been rescinded, and for an explanation as to why the state took the action it did.

Commissioner Birrane said the Working Group learned through this discussion that some states have already started this process on their own, and they would be willing to share their results, which will serve as a good starting point for the Working Group. She said the Working Group also discussed what type of deliverable its work will result in, and the options of both a model bulletin and a white paper were explored; however, before the Working Group can decide on how best to move forward in this regard, the Working Group is now focused on gathering this information from the states then determining how best to move forward, as well as what the timeframe for a deliverable may be. She said the Working Group intends to meet in September 2021 to continue its work.

Commissioner Godfreed asked if there were any questions regarding any of the working group reports. Hearing none, Superintendent Dwyer made a motion, seconded by Commissioner Mulready, to adopt the following reports: 1) the Big Data and Artificial Intelligence (EX) Working Group, including its July 9 minutes (Attachment One); 2) the Speed to Market (EX) Working Group, including its June 30 and June 29 minutes (Attachment Two); and 3) the E-Commerce (EX) Working Group, including its June 30 minutes (Attachment Three). The motion passed unanimously.

3. Received an Update on NAIC Cybersecurity Workstreams and Priority

Commissioner Godfreed said one of the charges to the Task Force is to serve as a coordinating body for workstreams related to cybersecurity. He said the workstreams currently being tracked total 12 and include work being done related to tracking the *Insurance Data Security Model Law* (#668), updating NAIC handbooks, working with industry on tabletop exercises and incident response, international work, and domestic work related to data privacy and the cybersecurity insurance market. He said Model #668 has been adopted by 18 states who have either already implemented it or are in the process of doing so, and two more states have action under consideration.

Commissioner Godfreed said tools associated with the *Financial Condition Examiners Handbook* continue to be updated, and in 2021, the Information Technology (IT) Examination (E) Working Group is developing new guidance and procedures for state insurance regulators to use in evaluating an insurer's response to vulnerabilities. The *Market Regulation Handbook*, providing guidance and checklists, was updated in 2019.

Commissioner Godfreed said while cybersecurity tabletop exercises experienced a bit of a slowdown because of COVID-19, they are getting rolling again, and Connecticut will be hosting one in November 2021. He said the Center for Insurance Policy and Research (CIPR) developed a survey related to insurer cybersecurity preparedness, and it was implemented in Connecticut and will help inform the tabletop. He said due to the rise in ransomware events, that tabletop will focus on that issue. He said through tabletops and work with the Financial and Banking Information Infrastructure Committee (FBIIC) and others, incident best practices guidelines are being developed, and NAIC staff have already collected best practices from the U.S. Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), the FBIIC, and state insurance departments to see where updates to the *Market Regulation Handbook* and the *Financial Condition Examiners Handbook* might be helpful.

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Director Farmer noted the importance of getting Model #668 passed in each of the states. He said getting back to the tabletop exercises, he would encourage each state to consider doing a tabletop exercise, and he said the NAIC has participated with the U.S. Department of the Treasury (Treasury Department) on two tabletop exercises, including one in South Carolina in 2019 that was extremely helpful to its local industry. He said that template is now available to other states to use to host their own.

Commissioner Godfreed asked Commissioner Mais if other states could join the Connecticut tabletop to observe. Commissioner Mais said yes, and all state insurance regulators are welcome to participate. He said that should be relatively easy to do since it will be virtual.

Commissioner Godfreed said regarding the cybersecurity insurance market, the NAIC began capturing data from insurers via the Cybersecurity Annual Statement Supplement back in 2018, and each year produces a report based on that data and includes data collected from the surplus lines market. He said that work is under the purview of the Property and Casualty Insurance (C) Committee and will be discussed during a cybersecurity “mini-series” session at the NAIC’s September Hybrid Insurance Summit: Part 2, and there will be two other cybersecurity sessions that will be part of that series.

Commissioner Godfreed said the Task Force members would hear an update later in the agenda related to the Privacy Protections (D) Working Group, and he said state insurance regulators, through the NAIC, are also tracking closely with international colleagues on cyber issues, including work with the European Union (EU), European Insurance and Occupational Pensions Authority (EIOPA), and the International Association of Insurance Supervisors (IAIS) Operational Resilience Task Force (ORTF). He said the ORTF is working on gathering existing materials that will inform a paper on how standard setters and jurisdictional supervisors are approaching risks associated with operational resilience for IT third-party outsourcing, cyber risk, and related lessons learned from the COVID-19 pandemic on business continuity planning over the long term, and that paper is scheduled for public consultation in the second quarter of 2022.

Commissioner Godfreed said the NAIC continues to stay diligent in terms of internal cybersecurity and data security, privacy and field work on the first cloud System and Organization Controls (SOC) 2 review has been completed, and follow-up work is underway. He said the NAIC maintains a security posture communication using the Shared Information Gathering (SIG) questionnaire.

4. Discussed Consumer Data Ownership Issues and Potential Guidance

Superintendent Dwyer reviewed the presentations received by the Task Force during the Spring National Meeting from Daniel Demetri, the founder and chief executive officer (CEO) of Trellis Connect, and Ali Safavi, the co-founder and CEO of Vero. She said Trellis Connect helps consumers navigate insurance as they move online using apps to allow their information to be shared with the advisor app they have selected and provides consumers the ability to rely on and share data, allowing them to share their insurance information for many different purposes. She said Mr. Demetri suggested that 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. She said he also noted that 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 of our states and how they translate to the online environment.

Superintendent Dwyer said Mr. Safavi also talked about making insurance cheaper, faster, and quicker, as well as putting more focus on bringing the advice piece online, and Mr. Safavi said Vero augments the agent channel, making products more affordable with better service and better risk management through risk mitigation. Superintendent Dwyer said Mr. Safavi also noted that one of the biggest challenges to being able to do this is getting access to the consumer’s information, and enforcing insurers through regulation to give better access to consumer data could boost innovation as opposed to being a barrier.

Superintendent Dwyer noted these as examples of begging the question of how to address the questions of who owns consumer data and who owns access to consumer data. She said the Privacy Protections (D) Working Group is investigating consumer rights, so that may be where this matter should be addressed, possibly in its Privacy Policy Statement.

In addition, Superintendent Dwyer said there is the question of what rights independent agents have compared to what they consider to be data that belongs to them regarding their customer’s data and access to that data, particularly if they are to assist their customer/policyholder in determining the best and appropriate coverages or products to consider. She said these are not

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the only scenarios under the heading of “consumer data ownership and access,” and she asked if there truly are significant security issues with allowing a consumer to give their credentials to a third party to offer services to them and analyze information on their behalf. She asked what the other scenarios are regarding ownership and access to this data.

Superintendent Dwyer said this seems like an area that needs to be addressed, especially considering that innovative technologies being brought to bear that, with access to this information, could benefit consumers; and bottom line, this seems like an area to dig into. She said questions should be asked like whether consumers should be able to allow access to that information to a third party, who “owns” the data, and what the associated risks might be.

Superintendent Dwyer said the question to the members of the Task Force is whether it should take this on and if so, what the best approach is. She asked if the best approach is to study it more at the Task Force level or refer it to another committee. She said it makes sense to coordinate with the Working Group, but she would like to hear what the will of the Task Force members is.

Commissioner Godfread said when North Dakota picked up this issue, he was interested to learn that it was not so much about who owned the data as much as it was about how and what format a consumer could get it if requested. He said the consumer may ask for it digitally, but the insurer gets to decide how the data gets transmitted. He said that was a bit troubling to him. He said their work in this area was met with heavy resistance, and understandably so, as it is a new issue; and everyone is still working through it and associated security issues, but it is a solvable problem, as the banking industry seems to have done so, as there are a number of different applications that can analyze multiple accounts that include consumers giving credentials to a third party in order to see the full picture. He said some antiquated laws potentially need to be reviewed in this area, and that is the kind of thing the Task Force looks at.

Ms. Amann said this is becoming an underlying issue that the Working Group is identifying in consumer rights that it is trying to address. She said if given the direction from the Market Regulation and Consumer Affairs (D) Committee, this could be an issue that the Working Group could take on. She said the Working Group is starting to see more issues around health apps where a consumer may want to share information from multiple online sources, allowing it to analyze the data in aggregate, but there is no accountability regarding the advice given based on that data. She said the app could tell someone to do something that may not be appropriate. She said there seems to be no regulatory authority to oversee this area, but the Working Group is starting to work on recommendations regarding where states might improve their laws and regulations.

Commissioner Lawrence noted that data ownership issues are a large macro issue when considering a look across all parts of our society, and this topic is worthy of taking up for review.

Director Daniels asked for clarification regarding what the deliverable might be in addition to continuing the work that is already underway in the Working Group, asking if it would be a model law, guidance, or something else. He said it would be helpful to understand the scope of that work.

Commissioner Godfread said he really does not know just yet, and it is a matter of looking to see where the gaps are and then seeing what the best way would be to address it. He said he does not prefer the model law approach generally, because that can be difficult to get adopted everywhere. He said with some of these issues, bringing it to light helps to sometimes start the process of getting the issue solved. He said every state should look where their laws are and where they might be causing an impediment, but at this point, everything is on the table. He said in North Dakota, antiquated laws likely need to be updated. Superintendent Dwyer said she does not think it would be good to start with a specific direction, and she suggested that the first step is to determine the status and get an overall understanding of laws that currently exist. She said they likely exist regarding the agents versus the companies, but no one has moved forward on these in a long time, so step one is to do the research, see where they stand, and then decide the best approach.

Ms. Amann said the Working Group has reviewed the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672), and she redlined edits to make it more technologically correct, made some other recommended changes, and did a gap analysis to the other data privacy laws in place today, such as the General Data Protection Regulation (GDPR), the Gramm-Leach-Bliley Act (GLBA), the California Consumer Privacy Act (CCPA), the Fair Credit Reporting Act (FCRA), Virginia and Colorado’s laws, and others. She said

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after all of that they have concluded they need to either draft a new model law or go back to Model #672 and make updates to it, which would likely be a complete rewrite.

Commissioner Godfread asked that work be distributed to the Task Force members. Commissioner Birrane noted support for this as well and pointed out that data ownership, use, and access is often one of the most complicated contract negotiations with third parties regarding consumer facing apps. She said it is important to determine what pieces of this, within what context, are being taken up at what point in time. Mr. McKenney said he would encourage whatever group that looks at this to also consider the tying of eligibility to use of a third-party app because that is a part of this conversation as well. Superintendent Toal echoed Commissioner Godfread's comment about preferring not to take the approach of drafting a model law, and he said he believes this would be better done through regulation.

Angela Gleason (American Property Casualty Insurance Association—APCIA) said the proprietary nature of the information and the associated data security and privacy issues are critical. She said the Working Group has already started this conversation and is looking at gaps, but there are definitely issues in the privacy and cyber world, and choosing the format for transmitting data to a consumer can pose significant challenges for data security in terms of how to ensure systems can accommodate that and protect the data at the same time. She said these are important and complex issues.

Birny Birnbaum (Center for Economic Justice—CEJ) said before selecting tools, it is important to examine the values they will need to represent. He said along those lines, he would suggest characterizing this slightly different from data ownership and characterize it as defining what consumer-generated data an insurance or producer collects, for what purpose, how it is used, what access a consumer has to their data, and how a consumer can take their data from one vendor to another. He said he concurred with focusing on data ownership and several of the issues raised about existing laws, but stating what data is being collected from consumers, what it can be sued for, and how it must be made available to a consumer is a more straight forward approach as opposed to just addressing it as issues of ownership. He said that is really a proxy for all the other issues that might be better addressed more directly.

Chris Petersen (Arbor Strategies LLC), speaking on behalf of a collation of health insurers, said the group should consider state laws that have data retention requirements during which the data are not portable, as it must be kept by the insurer, as required by state law, and consider the Health Information Portability and Accountability Act of 1996 (HIPAA) that has severe restrictions on what health insurers can and cannot do. He said that law preempts state laws that have less favorable privacy protections. He said because of these other laws being in place, including the GLBA, the portability issue is different in health insurance than the tech company arena.

Following discussion of the topic, Commissioner Godfread asked the Task Force members if it would make sense to refer this item to the Committee to consider and possibly add it to the charges of the Working Group. Hearing no objection from the Task Force members, he said it would be referred to the Committee.

5. Heard Updates from Other Committees and Working Groups on Related Activities

Commissioner Godfread asked representatives from other committees whose charges involve related workstreams to those the Task Force is addressing to provide updates.

a. Special (EX) Committee on Race and Insurance

Commissioner Mais said there are several charges under the Special (EX) Committee on Race and Insurance that relate closely to what the Task Force is working on, and it will be paramount to communicate and engage with one another as these workstreams develop. He said the charges for the Special Committee specifically note that it should coordinate with groups such as the Big Data and Artificial Intelligence (EX) Working Group and encourage groups to continue their work on issues that affect people of color and historically underrepresented groups, particularly in predictive modeling, price algorithms, and AI. He said Charge F spreads across the lines of business and calls for continuing research and analysis of insurance, legal, and regulatory approaches to addressing unfair discrimination, disparate treatment, proxy discrimination, and disparate impact. He said a subset of Charge F, F2 is specific to Workstream Three and calls for the development of analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination in property/casualty (P/C) insurance.

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Commissioner Mais said the Special Committee and its workstreams will look to define those terms, but as it turns to developing analytical and regulatory tools, ensuring that the line of business workstreams are communicating and working closely with the Task Force and groups like the Accelerated Underwriting (A) Working Group who have researched these sorts of tools already will be imperative.

Commissioner Mais said with the adoption of charges, the workstreams will look to create workplans to develop priorities and timelines and ensure continued communication with the Task Force.

b. Accelerated Underwriting (A) Working Group

Commissioner Arnold said she is the vice chair of the Accelerated Underwriting (A) Working Group and the chair of an informal state insurance regulator drafting group that is drafting the educational report that is the Working Group's work product. She said the drafting group is made up of state insurance regulators from approximately six states and has been meeting on a weekly basis.

Commissioner Arnold said to date, two parts of what is intended to be a five-part paper have been exposed for comment. She said the Working Group have employed an iterative process and been drafting and releasing sections of the draft for comment as the drafting group finishes them, and comments on the entire draft are welcome with each release of a new part. She said the drafting group intends to collect and review comments throughout the process, and it anticipates revisions to earlier sections as new sections are developed.

Commissioner Arnold highlighted some of the issues and feedback encountered so far, including:

- Receiving quite a few comments on the definition of accelerated underwriting after the release of the first part of the paper.
- Spending a lot of time on the definition and considering definitions from a number of sources, in addition to the comments.
- Concluding that the definition proposed for use in the educational paper was largely in the middle of all the options offered and deciding not to make any changes at this point.

Commissioner Arnold said the drafting group acknowledges that once the rest of the paper is drafted, there may be a need to reconsider the definition, and consideration of the issue of tone needs to be discussed. She said the drafting group tried to keep the tone of the paper neutral, but during presentations, the Working Group heard a lot about the advantages and disadvantages of accelerated underwriting. She said the drafting group tried to stay away from that in the report and stay focused on what accelerated underwriting is, what accelerated underwriting does, and what the regulatory structure is or should be in the context of current laws.

Commissioner Arnold said the matter of a glossary was also discussed, and the Working Group received several suggestions to create one but decided not to at this point for a few reasons, but largely because some terms are defined differently in different contexts and in different states.

Commissioner Arnold said another issue is ensuring the educational report builds on existing NAIC work products and the drafting group has tried to use terminology that builds on and is consistent with other NAIC documents, like the AI Principles and the Casualty Actuarial and Statistical (C) Task Force white paper. She said the drafting group specifically requests comments on the parts of the paper addressing, from a legal and practical perspective, the data used in accelerated underwriting programs and feedback on how the paper might achieve clarity describing the kinds of data being used, whether data sources or the scores that come from the sources, what those terms mean, what kinds of obligations flow from them, and what a consumer sees or should see.

Lastly, Commissioner Arnold said another area where the drafting group is requesting feedback are the sections discussing the distinctions between the types of data, including data covered under the FCRA, and what that means for state insurance regulators, companies, and consumers.

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c. Property and Casualty Insurance (C) Committee

Commissioner Schmidt said one of the main issues relevant to the Task Force that the Property and Casualty Insurance (C) Committee is working on is cybersecurity. She said the charge to study the cyberinsurance market and report on cyberinsurance data collected in the Annual Statement moved from the Task Force to the Committee this year, and the Committee will be hearing a report on the cyberinsurance data and a later update once the alien surplus lines data has been reviewed.

Commissioner Schmidt said there will be several sessions dealing with various aspects of cyber risk, security, and insurance in September at the NAIC Insurance Summit. She said another topic the Committee and the Task Force should be sure to communicate on relates to parametric insurance. She said the Climate and Resiliency (EX) Task Force has received several presentations related to parametric products and has more scheduled in the future. She said the Committee's interest in this topic goes beyond the focus of either the Climate and Resiliency (EX) Task Force, which would focus on covering specific coverage gaps, and the Innovation and Technology (EX) Task Force, which would probably be focused more on data and technology. She said it might make sense for the Committee to take a broad look at parametric insurance and produce some type of work product related to that type of innovative product.

d. Privacy Protections (D) Working Group

Ms. Amann said the Privacy Protections (D) Working Group reviewed the 2021 NAIC member-adopted strategy for consumer data privacy protections and discussed the 2020 Fall National Meeting verbal gap analysis of consumer issues. She said it also discussed the draft of the initial privacy policy statement. She reviewed the six areas covered by the policy statement and said the Working Group requested comments in the form of parameters and examples on the initial privacy policy statement for discussion during the Working Group meeting. She said this issue of consumer data ownership may possibly be a seventh, but it also underlies the others. She said during the June meeting of the Working Group, it discussed the initial draft of the privacy policy statement and requested comments in the form of parameters and examples on the initial privacy policy statement. She said the Working Group is also talking about how far the reach of this will be regarding whether it will pertain to a vendor, supply chain or third parties such as third-party administrators (TPAs), adjusters, and others.

Ms. Amann said the Privacy Policy Statement template is on the Working Group's website and is being combined with comment received into a draft for exposure and accelerated review by the Working Group.

Harry Ting (Consumer Advocate Volunteer) said another privacy issue, somewhat peripheral but relevant for consumers, is research that indicates in some cases, sales of health insurance plans online involve using outside entities to collect data to market health plans and collecting private information the entity is later selling to other entities; in most cases, they are not insurance entities. He said this involves quite a bit of personal contact and health status information. He said that seems to be a privacy issue that should be addressed somewhere within the NAIC.

6. Received NAIC Reports on the Model Review Process and International Initiatives Relative to AI and Big Data

a. Received the NAIC Report on the Model Review Process

Kris DeFrain (NAIC) said the NAIC model review project officially began in April 2018 when the Executive (EX) Committee adopted the recommendation of the Big Data (EX) Working Group to direct NAIC management to "conduct research on the appropriate skills and potential number of resources for the organization to help NAIC members in coordinating their reviews of predictive models." She said NAIC senior management conducted the research and recommended gradual build-up of expertise at the NAIC to aid state insurance regulators' review of P/C rate models. She said in 2019, with existing actuarial, legal, and IT staff, the NAIC did three things:

- Drafted a contractual agreement called the Rate Review Support Services Agreement to be used so a state can gain access to the shared model database and request a rate model technical review from the NAIC.
- Developed the initial NAIC rate model technical review process with a consulting actuary.
- Created a shared model database for confidential regulatory communication.

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Ms. DeFrain said as of today, there are 31 states who have a Rate Review Support Services Agreement with the NAIC, and the NAIC has worked with 10 of the 31 states to produce 60 NAIC reports. She said most of the rate models reviewed have been the most common type of model, a generalized linear model (GLM). She said the GLM reviews are aligned with the Casualty Actuarial and Statistical (C) Task Force's white paper on the Regulatory Review of Predictive Models. She said other types of models have also been reviewed, adapting the white paper recommendations to fit the different models. She said the Task Force was asked to consider reviewing the approaches on these other types of models and offer guidance regarding the technical review reports to ensure that they help state insurance regulators.

Ms. DeFrain said as the database of model reviews at the NAIC grows, it is expected that there will be an expanding number of second state requests, or requests for review of a company's model the NAIC has already reviewed for another state. She said there is a substantive amount of analysis required to compare the models between the states and track the NAIC-identified issues to objections to state approval or disapproval and sometimes to company withdrawal. She said the NAIC will assist the second and subsequent states to use the first state's NAIC technical review and determine its next steps to take with its filing, and that may mean that sometimes the second state is satisfied with the objections and answers from the first state filing, yet other times that might mean the second state wants to pursue a different course of action. She said that may increase speed to market in the second and subsequent states.

Ms. DeFrain pointed out that the group continues to abide by the principles created by the Working Group, and the NAIC does not:

- Assume any regulatory authority.
- Create objections to be sent to the company.
- Recommend acceptance or rejection of the model or any specific rating variable.
- Do separate modeling to determine any correlation with unlawful characteristics or assess disparate impact.

Ms. DeFrain said the NAIC approved the addition of two new actuaries to join the rate review team, while simultaneously eliminating the assistance of the part-time consultant.

- b. Received an Update on International Initiatives Relative to AI and Big Data

Ryan Workman (NAIC) provided a briefing on international initiatives relative to AI and Big Data. He said these initiatives are relevant for the Task Force to track and monitor. He said the IAIS FinTech Forum is currently focusing on AI, ML, and data analytics, application programming interfaces (APIs), open data, and distributed ledger technologies (DLTs). He said at the end of 2020, the Fintech Forum set up individual subgroups to consider each of these applications, respectively, and Commissioner Godfreed represents the NAIC as a member of the Fintech Forum and the subgroup on AI and ML.

Mr. Workman also discussed the work on big data/AI of the U.S. EU Insurance Dialogue Project. He said the U.S. EU Insurance Dialogue Project started in 2012, when the NAIC, the Federal Insurance Office (FIO), the European Commission (EC), and the EIOPA agreed to participate in a deeper dialogue project with the objective of enhancing the mutual understanding and cooperation between the EU and the U.S. for the benefit of insurance consumers, business opportunity, and effective supervision. He said as part of this project and for the last few years, there has been a working group on big data and AI, which included NAIC staff and state insurance regulators from the U.S., along with federal and European counterparts. He said the Working Group has:

- Focused on aspects of the relationship between innovation, technology, and insurance, specifically: 1) the increased use of big data by insurers; and 2) the use of advanced data analytics in the insurance sector.
- Published a paper in 2018 providing the reader with a better understanding of what data is collected, how data is collected, data portability, data quality, and how data is made available and used by both insurers and third parties.
- Focused, in 2019, on regulatory oversight of insurers' use of third-party vendors, the ability of insurance supervisors to monitor new vendors operating in the insurance marketplace, disclosures to applicants and policyholders about how rating factors and third-party vendor data are being used, and insurers' use of AI models that increasingly rely on the use of big data.
- Provided a summary of this work in a February 2020 paper that is available on the NAIC website under EU-U.S. Insurance Dialogue Project.

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- Worked on another published report providing a summary of the Big Data and Artificial Intelligence (EX) Working Group exchanges of supervisory experiences and regulatory environments since publication of the February 2020 paper in October 2021. He said this report will include: 1) further development of AI principles in the U.S. and EU, respectively, including ethical aspects; 2) regulatory review of predictive models, including but not limited to, assessing transparency and explainability issues arising from the use of AI, including ML algorithms; 3) industry use of big data for fraud detection and claims settlement; and 4) new developments on third-party vendors and consumer disclosure issues since the discussions in 2019.

Mr. Workman said the U.S. EU Insurance Dialogue Project will host a public virtual webinar Oct. 19 on its continued progress and future priorities, and representatives of the NAIC, including Commissioner Birrane and Commissioner Ommen; the FIO; and the EIOPA, will lead the webinar.

7. Discussed Other Matters

Commissioner Godfreed discussed the conversation that NAIC members have had concerning the creation of a new letter committee dedicated to Innovation, Technology, and Cybersecurity. He said based on today's meeting and the ongoing work of the Task Force and its working groups, as well as many other NAIC workstreams, the NAIC has and will continue to be involved in several workstreams regarding innovation, technology, and cybersecurity. He said coordination among these workstreams is critical and, in addition to the ongoing activities, there are any number of open questions as technology continues to advance, as cyber breaches continue to occur, and as state and federal entities continue to develop legislative and regulatory guidance to address these issues. He said the mission of the new committee will be to: 1) provide a forum for state insurance regulators to learn and have discussions regarding innovation, technology, and cybersecurity issues; 2) monitor developments in these areas that affect the state insurance regulatory framework; and 3) develop regulatory guidance, as appropriate. He said in terms of process, the Task Force will play an important role in finalizing a draft mission statement and set of charges for this new committee. He said he planned to appoint an ad hoc group to begin that work and seek input from interested parties. He said the charges will require Executive (EX) Committee and Plenary approval and an amendment to the NAIC bylaws to officially add the new committee. He said the goal is to take those actions at the Fall National Meeting in San Diego, CA, and more information about the next steps will be available via the Task Force in the coming weeks.

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

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