

ANTIFRAUD (D) TASK FORCE

Antifraud (D) Task Force Aug. 12, 2025, Minutes

Improper Marketing of Health Insurance (D) Working Group, Minutes (Attachment One)

Draft Pending Adoption

Draft: 8/17/25

Antifraud (D) Task Force
Minneapolis, Minnesota
August 12, 2025

The Antifraud (D) Task Force met in Minneapolis, MN, Aug. 12, 2025. The following Task Force members participated: Trinidad Navarro, Chair (DE); John F. King, Vice Chair (GA); Heather Carpenter represented by Alex Romero (AK); Maria Ailor (AZ); Ricardo Lara represented by Eric Charlick (CA); Andrew N. Mais represented by Kurt Swan (CT); Doug Ommen represented by Jordan Esbrook (IA); Dean L. Cameron represented by Shannon Hohl (ID); Vicki Schimdt represented by Monicka Richmeier (KS); Sharon P. Clark represented by Juan Garrett (KY); Timothy J. Temple represented by Nina Hunter (LA); Marie Grant represented by Robert Guynn (MD); Angela L. Nelson represented by Marjorie Thompson (MO); Grace Arnold represented by Jacqueline Olson (MN); Mike Chaney represented by Vanessa Miller (MS); Alice T. Kane represented by Devin Chapman (NM); Glen Mulready represented by Rick Wagnon (OK); Judith L. French represented by David Barney (OH); TK Keen represented Dorothy Bean (OR); Michael Humphreys represented by Joseph Garcia and David Buono (PA); Michael Wise represented Melissa Manning (SC); Larry D. Deiter represented by Diane Cooper, Justin Underwood, and Travis Jordan (SD); Cassie Brown represented by Rick Watson (TX); Jon Pike represented by Armand Glick (UT); Scott A. White represented by Juan A. Rodriguez Jr. and Richard Tozer (VA); Patty Kuderer represented by Christina Keeley (WA); and Nathan Houdek represented by Lela D. Ladd (WI). Also participating was Martin Swanson (NE).

1. Adopted its Spring National Meeting Minutes

Commissioner King made a motion, seconded by Tozer, to adopt the Task Force's March 25 minutes (*see NAIC Proceedings – Spring 2025, Antifraud (D) Task Force*). The motion passed unanimously.

2. Heard a Presentation from the UBC on Workers' Compensation Premium Fraud

Matthew Capece (United Brotherhood of Carpenters—UBC) provided a presentation on workers' compensation premium fraud. Capece highlighted the fraud schemes taking place within the construction industry and how the standard insurance practices enable these fraud schemes to take place. He explained that honest contractors are priced out of the market, and nefarious contractors dominate the market, so the status quo becomes unsustainable, and consumers suffer. The construction industry witnesses lucrative and successful fraud schemes, with premium fraud in this industry accounting for \$5 billion in lost compensation premiums. Capece said a change is needed to help protect the industry. To help fight against this type of fraud, a prototype of a secure, encrypted platform for insurers has been created to share employer audit data and return red flag reports. This data would be available to audit, special investigative unit (SIU), and underwriting units. Capece said the goal is to pilot the new service this fall.

The Task Force discussed the presentation and the efforts being made to fight workers' compensation premium fraud. Commissioner Navarro said the Task Force will discuss this further and would like to receive an update at future meetings.

3. Discussed the LTCI Category in the OFRS

Commissioner Navarro said in June, the Coalition Against Insurance Fraud (CAIF) presented a letter to the Task Force requesting the addition of long-term care insurance (LTCI) as a fraud category with the NAIC Online Fraud Reporting System (OFRS). He said the request to add this category would enable insurers to report long-term care (LTC)-specific fraud more accurately, improve national visibility into emerging LTC fraud trends, support targeted antifraud strategies and regulatory response, enhance state and industry collaboration on prevention and

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enforcement, and provide a more complete and credible data set for future policymaking and antifraud education initiatives. The Working Group discussed adding LTC as a fraud category and received a unanimous agreement for NAIC staff to add this category.

4. Received an Update from the Improper Marketing of Health Insurance (D) Working Group

Swanson said the Working Group met May 22 (Attachment One) and has continued to meet in monthly regulator-to-regulator sessions to discuss specific companies and market conduct practices. He said the Working Group has been working with the federal Centers for Medicare & Medicaid Services (CMS) regarding agent transfer schemes. He said these discussions will continue in the Working Group's regulator-only meetings that will continue on the fourth Thursday of each month throughout 2025. Swanson said the Working Group will continue to provide assistance and guidance in monitoring the improper marketing of health plans and coordinate appropriate enforcement action at the state and federal levels.

5. Heard Reports from Interested Parties

A. CAIF

Brent Walker (CAIF) provided updates on CAIF initiatives. Walker advised that during the Spring National Meeting, the CAIF shared results from the state of insurance fraud technology study, highlighting the adoption of technology among insurers and the challenges they face. Walker said the CAIF is also tracking several antifraud legislative efforts and researching artificial intelligence (AI) usage in antifraud efforts. He said the end-of-year meeting hosted by the CAIF will take place in December and encouraged Task Force members to attend.

B. NICB

Craig Sepich (National Insurance Crime Bureau—NICB) said NICB has been in existence for over 110 years with more than 1,200 members. He said the NICB helps facilitate fraud reporting in 48 states. Sepich said in 2024, the NICB assisted with 180,000 claims, identified 1,600 new organized crime rings, and recovered \$92 million. Its focus is to protect consumers against insurance fraud, as fraud reporting benefits every state by preventing and convicting bad actors. Sepich said the NICB has been seeing an uptick in insurance fraud concerning roofing, towing, and auto quality control. The NICB will be hosting its National Conference of Insurance Crime Attorneys on October 7–8 in Schaumburg, IL.

Having no further business, the Antifraud (D) Task Force adjourned.

SharePoint/NAIC Support Staff Hub/Committees/D CMTE/2025 Summer/AFTF Minutes 8.12.25

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Improper Marketing of Health Insurance (D) Working Group
Virtual Meeting
May 22, 2025

The Improper Marketing of Health Insurance (D) Working Group of the Antifraud (D) Task Force met May 22, 2025. The following Working Group members participated: Martin Swanson, Chair (NE); David Buono, Vice Chair (PA); Maria Ailor (AZ); Kurt Swan (CT); Susan Jennette (DE); Andria Seip (IA); Erica Weyhenmeyer (IL); Craig Van Aalst (KS); Joseph Garcia (MI); T.J. Patton (MN); Patrick Smock (RI); Jill Kruger and Travis Jordan (SD); Matthew Tarpley (TX); John Haworth (WA); and Bryan Stevens (WY).

1. Heard a Presentation from BCBSA on Market Destabilizing Schemes

Sarah Heard (Blue Cross Blue Shield Association—BCBSA) said her focus will be on residential treatment center (RTC) fraud, broker-driven risk shifting, and Data Marketing Partnership. She said RTC fraud impacts hundreds of millions of dollars in exposure across plans. Fraudulent claims vary from hundreds to tens of thousands of dollars, and the impact is largely concentrated in the Affordable Care Act (ACA). Heard said state action to address this fraud is to use media to engage with the public and promote awareness, provide lists of known providers with fraudulent activities, legislation that makes patient brokering a felony, and legislation that allows insurers to afford auditing rights for non-participating providers.

Heard said broker-driven risk shifting from employers to the individual market has continued to be an issue. She said insurers report brokers charging employers a fee to move their high-cost employees off their group plan and onto individual market coverage, which is threatening the long-term stability of the individual market. Heard said per 45 CFR 156.1250, these third-party premium payments are not permitted, and it is difficult to detect because they are paid using preloaded debit cards. She said employers can see large savings as high-dollar claimants leave their plan. Heard said that a presentation was given to a Wisconsin school district board showing the savings by paying \$220,000 to remove \$1.2 million in claims expenses from the district's employer health plan. The open enrollment materials from employers offering these programs describe them as financial relief for employees and their dependents who are facing a difficult illness.

Heard gave a litigation update on Data Marketing Partnership. She said the partnership was an arrangement where individuals agree to download an application on their phone and allow the application maker to track certain information for potential marketing purposes. Heard said that individuals become "limited partners" with the application maker and are eligible to participate in a self-insured group health plan, which is protected from state regulation via the Employee Retirement Income Security Act (ERISA) preemption. She said in 2020, the U.S. Department of Labor (DOL) issued an advisory opinion that the health benefits offered under this limited partnership arrangement did not qualify as an ERISA-covered group health plan due to the limited partners not being "employees" as required by ERISA. Heard said that Data Marketing Partnership sued in response, and litigation has been ongoing. Earlier this month, the BCBSA met with DOL career staff and political leadership to encourage the continuation of their litigation position in the case. Heard said on May 5, the required court filing was made, and the DOL asked to proceed with the case, which indicates the historical litigating position will remain in support of its 2020 advisory opinion.

The Working Group discussed Heard's presentation, and several states reported challenges accessing encrypted documentation from the Centers for Medicare & Medicaid Services (CMS). Swanson said these challenges have complicated the investigations on behalf of the states.

Heard said she will continue to gather feedback from states regarding actions taken against residential treatment center fraud and risk-shifting schemes. She said she would send a list of entities mentioned during this meeting to the Working Group. The Working Group and interested regulators discussed the encrypted documents. Harry Ting (Health Care Consumer Advocate/NAIC Consumer Representative) said there is a need to continue monitoring marketing practices by health care sharing ministries (HCSMs) and report any significant findings.

Swanson said the Working Group would continue discussions with BCBSA to monitor these issues. Discussions will take place during its monthly regulator-to-regulator meetings, and it will hold another open meeting in the future.

Having no further business, the Improper Marketing of Health Insurance (D) Working Group adjourned.

SharePoint/Support Staff Hub/Committees/D CMTE/2025 Summer/AFTF/ Minutes /IMHIWG Minutes 5.22.25