

Date: 7/30/2019

2019 Summer National Meeting
New York, New York

NAIC/INDUSTRY LIAISON COMMITTEE
Monday, August 5, 2019
10:30 – 11:30 a.m.
New York Hilton Midtown—Gramercy—2nd Level

ROLL CALL

James A. Dodrill, Chair	West Virginia	Bruce R. Ramge	Nebraska
John G. Franchini, Vice Chair	New Mexico	Jon Godfread	North Dakota
Jim L. Ridling	Alabama	Jillian Froment	Ohio
Lori K. Wing-Heier	Alaska	Glen Mulready	Oklahoma
Peter Fuimaono	American Samoa	Andrew Stolfi	Oregon
Trinidad Navarro	Delaware	Jessica Altman	Pennsylvania
Stephen C. Taylor	District of Columbia	Larry Deiter	South Dakota
David Altmaier	Florida	Kent Sullivan	Texas
Dean L. Cameron	Idaho	Todd E. Kiser	Utah
Nancy G. Atkins	Kentucky	Michael S. Pieciak	Vermont
James J. Donelon	Louisiana	Scott A. White	Virginia
Mike Chaney	Mississippi	Mark Afable	Wisconsin
Chlora Lindley-Myers	Missouri		

NAIC Support Staff: Mark Sagat/Chara Bradstreet

AGENDA

1. Consider Adoption of its Spring National Meeting Minutes
—*Commissioner James A. Dodrill (WV)* Attachment One
2. Reaffirm the Committee's Mission Statement for 2020
—*Commissioner James A. Dodrill (WV)* Attachment Two
3. Discuss Supplemental Health Insurance Products
—*Heather Jerbi (America's Health Insurance Plans—AHIP) and*
Chuck Piacentini (American Council of Life Insurers—ACLI) Attachment Three
4. Discuss Marijuana and the Insurance Industry
—*David F. Snyder (American Property Casualty Insurance Association—APCIA)* Attachment Four
5. Discuss New Auto Repair Practices—*David F. Snyder (APCIA)* Attachment Five
6. Discuss the NAIC *Credit for Reinsurance Model Act (#785)*
—*Dennis Burke (Reinsurance Association of America—RAA) and Karalee Morrell (RAA)*
7. Discuss Any Other Matters Brought Before the Liaison Committee
—*Commissioner James A. Dodrill (WV)*
8. Adjournment

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Draft Pending Adoption

Draft: 4/22/19

NAIC/Industry Liaison Committee
Orlando, Florida
April 8, 2019

The NAIC/Industry Liaison Committee met in Orlando, FL, April 8, 2019. The following Liaison Committee members participated: James A. Dodrill, Chair (WV); John G. Franchini, Vice Chair (NM); Lori K. Wing-Heier represented by Michael Ricker (AK); Jim L. Ridling (AL); Trinidad Navarro represented by Fleur McKendell (DE); David Altmaier represented by Erin VanSickle (FL); Dean L. Cameron represented by Elaine Mellon (ID); Nancy G. Atkins (KY); Chlora Lindley-Myers (MO); Jon Godfread represented by Chrystal Bartuska (ND); Bruce R. Ramge represented by Peg Jasa (NE); Glen Mulready represented by Buddy Combs (OK); Andrew Stolfi represented by Dennis Powell (OR); Jessica Altman represented by Katie Dzurec (PA); Larry Deiter (SD); Scott A. White represented by Don Beatty and Rebecca Nichols (VA); and Mark Afable (WI). Also participating was: Ken Allen (CA).

1. Adopted its 2018 Summer National Meeting Minutes

Commissioner Atkins made a motion, seconded by Director Lindley-Myers, to adopt the Liaison Committee's Aug. 6, 2018, minutes (*see NAIC Proceedings – Summer 2018, NAIC/Industry Liaison Committee*). The motion passed unanimously.

2. Discussed the Private Flood Market and New Federal Banking Regulatory Rules

John M. Huff (Association of Bermuda Insurers and Reinsurers—ABIR), Ted Nickel (ABIR) and Dennis C. Burke (Reinsurance Association of America—RAA) discussed the issue of flood risk in the U.S. and next steps to improve the flood insurance market and address the vast number of uninsured Americans.

Mr. Huff said half of the U.S. population is at risk of serious flooding, noting that flooding can happen anywhere. He highlighted issues with the current flood insurance market, including that flood insurance is not included in standard homeowners coverage, the National Flood Insurance Program (NFIP) only has a relatively small number of individuals covered in the program despite being the dominate provider in the market, and NFIP customers are not protected by state-based insurance regulation.

Mr. Huff stated that despite an increasing number of flood events each year, the overall number of NFIP policies has been decreasing since 2008. He said, in order to reach the Federal Emergency Management Agency's (FEMA) goal of doubling the number of properties with flood insurance policies from 4 million in 2019 to 8 million by 2022, a collaborative effort is needed between the private industry and the NFIP. He listed some favorable conditions that can help grow the private flood market, including consumers wanting more options in their insurance products and well capitalized insurance and reinsurance markets.

Mr. Nickel discussed opportunities for next steps in building a strong private flood market for consumers.

Commissioner Afable asked how much of the direct written premium in the private market is being written by surplus lines carriers. Mr. Huff said the data presented only captures surplus line carriers that write in more than one state because of the way it is collected.

Commissioner Afable then asked the presenters to discuss the general differences in coverage between the private market and the NFIP. Mr. Huff said there are threshold limits built into the NFIP, noting that there is a significant amount of innovation within the private markets that is not available through the NFIP.

3. Discussed Litigation and Liability Developments

David F. Snyder (American Property Casualty Insurance Association—APCIA) discussed litigation and liability developments and concerns that could impact the insurance industry.

Mr. Snyder stated that recently he has seen efforts to erode statutes of limitation, which sometimes arise out of sympathetic circumstances, but tend to cause opportunities for litigation and potential cost increases that were not predicted or expected.

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To that point, he said the uncertainty that it creates directly contributes to costs in the industry, as well as potential future costs. He described the American Law Institute's (ALI) "Restatement of the Law, Liability Insurance" as a usurpation of the legislative and regulatory authority of state insurance regulators and legislators, noting that he is encouraged that the National Council of Insurance Legislators (NCOIL) and a number of the states have acted on it as an unjustified intrusion of the states' authority.

Mr. Snyder also discussed the sudden increase of litigation financing and how that, as well as other liability developments, are already negatively impacting certain lines of insurance. He said there is always a constant danger of new exposures and uncertainty that raise underlying costs. He asked that state insurance regulators work with insurers to account for and understand these trends, as well as share information from the perspective of state insurance regulators in the public policy debate.

4. Discussed Domestic and International Reinsurance Regulation Improvements

Mr. Snyder and Edward J. Kelley (Transatlantic Reinsurance Company—TransRe) discussed recommendations for improving the domestic and international reinsurance marketplace in order to create a more efficient and effective regulatory process for reinsurers.

Mr. Kelley discussed the challenges of the domestic system for reinsurers. He said definitions differ from state to state, creating complications in compliance, and various state mandates being applied to reinsurers are irrelevant to their operations. He said, from a reinsurance perspective, a lot of the current regulations are extraneous, and the industry would like to see improvements in the licensing and regulation of reinsurance to streamline the process. He recommended providing a passport system that recognizes regulations from one state to another or giving companies the option to purchase a reinsurance-only license.

Mr. Snyder then addressed the growing international barriers to global reinsurance companies. He said certain countries, such as India and Indonesia, are increasingly discriminating against global reinsurers by forcing international reinsurers to comply with the locally owned reinsurer(s). He said the self-defeating nature of these policies is that global reinsurers allow diversification of risk and capital. By requiring reinsurance to be localized, countries put themselves at higher risk of financial crises when catastrophes occur and losses are localized. Mr. Snyder recommended that the NAIC and state insurance regulators engage in a dialogue with the industry on the streamlining of domestic reinsurance. He also recommended that they continue working with reinsurers in international forums and trade discussions.

Commissioner Dodrill asked what the long-term impact of the "Bilateral Agreement Between the United States and the European Union on Prudential Measures Regarding Insurance and Reinsurance" (U.S./EU Covered Agreement) and the "Bilateral Agreement Between the United States and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance" (U.S./UK Covered Agreement) is.

Mr. Kelley replied that he personally sees a further strengthening of the domestic reinsurance market, as well as regulatory certainty for U.S. operations in the EU and UK, which are two significant international reinsurance markets.

5. Discussed Dental Network Leasing Restrictions and Provider Network Legislation

Charles Piacentini (American Council of Life Insurers—ACLI) and Eme Augustini (National Association of Dental Plans—NADP) discussed the impact of network leasing legislation on consumers and state dental markets, and they suggested alternatives to the bans that address concerns but do not prevent carriers from accessing these markets.

Ms. Augustini detailed legislation being introduced that would restrict or prohibit the leasing of dental networks, which hinders a carrier's ability to provide employers and consumers with adequate networks. She discussed how network leasing has the potential to enhance the existing structure of preferred provider organizations (PPO) and create additional value for employers, providers and consumers. She explained that leasing arrangements allow providers to reduce redundant contracting and credentialing paperwork, as well as obtain access to new market segments and patients. She said better access to care with network leasing increases convenience and affordability for consumers. She said individuals with dental benefits are twice as likely to visit the dentist and take their children to the dentist due to the strong link between oral health and overall health. She emphasized that maximizing consumer access to care is an important objective, and leasing arrangements can help in this endeavor.

Draft Pending Adoption

Mr. Piacentini discussed concerns regarding legislation prohibiting the practice of network leasing due to dental health connections with other medical conditions. He said such legislation can trigger additional health care costs for individuals and negatively impact consumers. He highlighted the importance of having robust dental markets with providers that are deeply imbedded in the states.

Superintendent Franchini asked why these networks are being rejected in these states. Mr. Piacentini replied that it is sometimes driven by dentists who believe they are being subjected to agreements they do not have input in and that determine how much they can charge consumers. He said better disclosure requirements are needed, which would help dentists understand the benefits and conditions of being leased.

Mr. Beatty said legislation banning network leasing was introduced in Virginia, but the dentists and health insurers in the state were able to collaborate with one another on a solution to bring to the Virginia General Assembly. He emphasized the opportunity for dentists and providers to work together for a joint solution to the issue.

Having no further business, the NAIC/Industry Liaison Committee adjourned.

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2020 Mission Statement

NAIC/INDUSTRY LIAISON COMMITTEE

The mission of the NAIC/Industry Liaison Committee is to meet at least twice a year to discuss issues of common interest to state insurance regulators and insurance industry representatives.

NAIC Support Staff: Mark Sagat and Chara Bradstreet

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The Value of Supplemental Benefits

Heather Jerbi
Executive Director, Product Policy
America's Health Insurance Plans

Chuck Piacentini
Vice President, Insurance Regulation
American Council of Life Insurers

August 5, 2019
Washington, DC

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Supplemental Benefits

- Supplemental to, but not a substitute for, comprehensive major medical coverage
- Pays directly to covered individual
- Can be renewed as long as premiums are paid
- Pays benefits associated with triggering events, regardless of treatment expense or other coverage
- Available directly to consumers, to individuals through their worksite, or as group coverage
- An effective way for consumers, bearing increasing share of health expenses, to protect their finances in the event of illness or injury

- Accident-Only
- Hospital/Other Fixed Indemnity
- Critical Illness
- Specified Disease
- Cancer-Only

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Fixed Indemnity Supplemental Benefits

- Supplemental products, also known as HIPAA-excepted benefits, were exempted from HIPAA and ACA market reforms because they are not comprehensive medical coverage
- Unlike STLDI, supplemental products are not meant to serve as primary medical coverage
- Supplemental benefits are triggered by a qualifying event (accident, hospitalization, diagnosis of certain diseases)
- Benefits are used at consumer's discretion against unexpected costs of being sick or injured that are not covered by major medical coverage:
 - Out-of-pocket expenses (co-pays, deductibles, coinsurance)
 - Household expenses
 - Travel expenses
 - Unpaid time off work



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Fixed Indemnity Supplemental Benefits (cont.)

Accident-Only

Pays a benefit after an accident

Benefits are lump sum or incremental dollar amounts as specific services are received (indicative of severity of accidental injuries)

Hospital/Other Fixed Indemnity

Pays benefits when you are admitted to a hospital, have a diagnostic procedure, in/outpatient surgery, or other procedure performed in an office or outpatient setting

Critical Illness

Pays a lump sum benefit if you are diagnosed with one or more of a pre-determined list of critical illnesses (e.g., cancer, stroke, kidney failure)

Cancer-Only/ Specified Disease

Similar to Critical Illness but typically cover a more limited list of serious specified diseases



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Coverage Differences

Comprehensive Major Medical

- Primary medical insurance (includes short-term limited duration plans and mini-meds) covering a broad variety of health care services and treatment (e.g., essential health benefits, prescription drugs)
- Treatment expense-based
- Benefits paid directly to provider
- Network Adequacy & Essential Community Providers are required
- Cancellable

HIPAA Excepted Supplemental Benefits

- Not intended as primary medical coverage - marketed as supplement to, not substitute for, major medical coverage
- Scheduled/lump-sum benefits not dependent on incurred treatment expense
- Benefits paid directly to consumer; no coordination with other health coverage
- No required "networks"
- Guaranteed renewable



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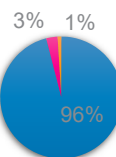
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Supplemental Benefits Value Survey

Conducted by AHIP in 2018

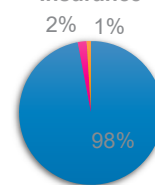
Overall, how satisfied are you with your...

Hospital and Other Fixed Indemnity Insurance



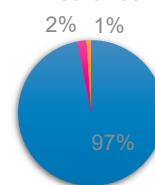
■ Satisfied ■ Neutral ■ Dissatisfied

Accident-Only Insurance



■ Satisfied ■ Neutral ■ Dissatisfied

Critical Illness Insurance



■ Satisfied ■ Neutral ■ Dissatisfied



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Supplemental Benefits Value Survey

96%

Percent of consumers that are satisfied with services/benefits covered by their plan

92%

Percent of consumers that are satisfied with the affordability of their insurance

92%

Percent of consumers that are satisfied with the value received for the premium paid for their insurance

50%

Percent of consumers who would have had to take on financial debt or experienced other financial hardship were it not for supplemental plans



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Questions?

AHIP

America's Health Insurance Plans (AHIP) is the national association whose members provide coverage and health-related services that improve and protect the health and financial security of consumers, families, businesses, communities and the nation.

ACLI

The American Council of Life Insurers (ACLI) is made up of 280 member companies dedicated to providing products and services promoting consumers' financial security. 90 million American families depend on ACLI members for financial security including fixed indemnity supplemental benefits, dental and vision coverage.



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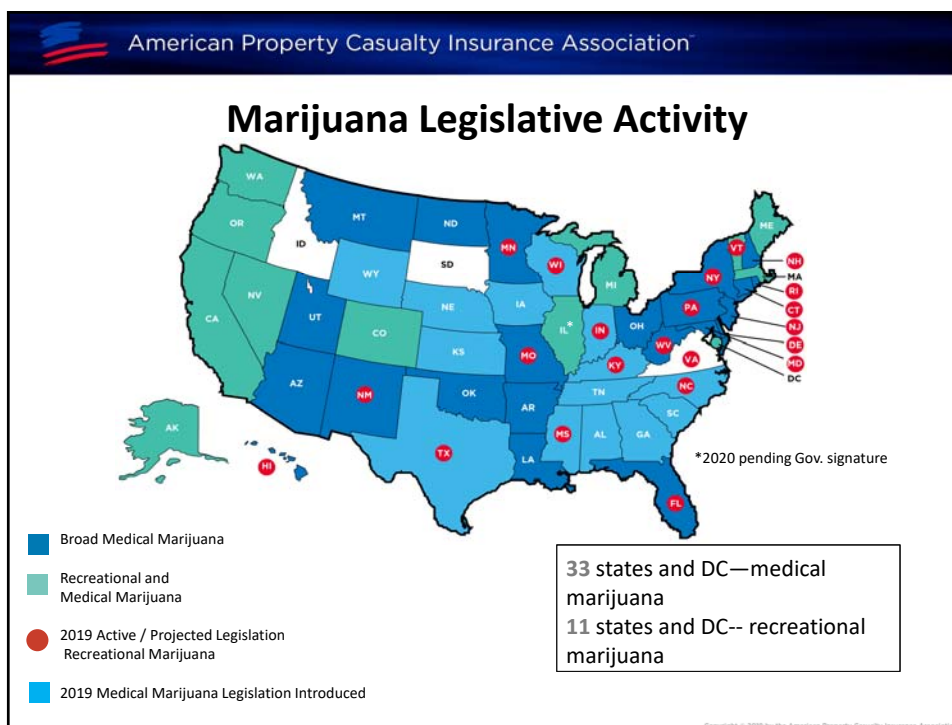
Marijuana and the Insurance Industry

NAIC /Industry Liaison Committee
August 5, 2019

David F. Snyder, APCIA

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Some Questions

- Marijuana is still classified as a Schedule 1 drug under the Controlled Substances Act—same category as heroin, LSD and ecstasy
- So, do use and sale violate federal law—no exception for medical use or state legalization
- Federal treatment of marijuana varies
- Could services provided be subject to prosecution in the future
- Federal safe harbor is desired and needed for clarification

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Some Questions

- Other questions that arise from marijuana legislation
 - Potential Coverage Mandates
 - General Liability/Property
 - Auto
 - Workers Compensation

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Coverage Mandate Questions

- Coverage for the Marijuana Industry
 - As more states legislate, is it possible that some may seek to force the industry to provide coverage
 - Insurers have been publicly encouraged to write insurance for the marijuana industry
 - Exclusion concerns

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Liability/Property Questions

- Criminal liability
 - Federal / state conflict
- Liability arising from third parties
- Other collateral exposures

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Auto Safety Questions

- Increased Accident Frequency
 - Increase in collision claim frequency in states where recreational marijuana is legal⁷
 - Increase in traffic deaths involving drivers who tested positive for marijuana⁸
- Public Awareness of the Dangers of Marijuana Impairment

⁷Crashes rise in first states to begin legalized retail sales of recreational marijuana, IIHS News, April 28, 2018
⁸The Legalization of Marijuana in Colorado: The Impact Volume 5, Update, Rocky Mountain High Intensity Drug Trafficking Area, September 2018

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Impairment Questions

- Measuring Impairment
 - No objective impairment standard or reliable test
 - No clear correlation with impairment
 - Per se limits
- Michigan's Impaired Driving Safety Commission advised against establishing a per se limit⁹
- NHTSA¹⁰ concluded that there is currently no evidence based methods to detect marijuana impaired driving

⁹Report from the Impaired Driving Safety Commission, March 2019 at https://www.michigan.gov/documents/msp/Impaired_Driving_Report_650288_7.pdf
¹⁰Marijuana-Impaired Driving: A Report to Congress, National Highway Transportation Safety Administration (July 2017)

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Reimbursing for Medical Marijuana

- Federal / State Conflict
- State Approaches Vary
 - Some states exclude reimbursement under medical marijuana statute
 - Most guidance is coming from the courts

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Medical Marijuana as Treatment

- Limited Scientific Research
 - Recommendations are based on anecdotal evidence
- Physician Recommends, Does Not Prescribe
- Significant Variances in Purity and Potency
- High Quality Scientific Study Needed

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Drug-Free Workplace / Workplace Safety

- Medical Marijuana Accommodation
- Potential for Increased Recreational Use
- Drug Testing
 - Nevada Bill¹¹ – Unlawful to refuse to hire candidates who test positive for marijuana
- Lack of an Objective Impairment Standard
- More Scientific Research is Needed

¹¹Nevada Bill AB132, signed in June 2018 with an effective date of January 1, 2020

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Potential Coverages Needed for Legal Marijuana

Auto (Commercial and Personal)	Businessowners
Commercial Property	Crime
Crop	Directors & Officers
General Liability	Homeowners
Inland Marine	Product Liability
Professional Liability	Workers Compensation

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APCIA's Marijuana Policy Elements

- Oppose reimbursement mandates
- Support Federal safe harbor
- Support increased scientific research
- Oppose state coverage mandates
- Support employers' right to a drug free workplace
- Support strongest marijuana best practices
- Support strong law enforcement and safety standards
- Promote awareness and education

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Some Current Auto Repair Issues

NAIC/Industry Liaison Committee
August 5, 2019

David F. Snyder, APCIA

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American Property Casualty Insurance Association (APCIA)

- APCIA represents more than 1000 insurers and reinsurers that provide nearly 60% of the property casualty insurance in the U.S.
- APCIA members range in size from one state companies to national and international companies
- Combined, they insure tens of millions of vehicles and finance millions of auto repairs and replacements annually

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Insurers and Auto Repair—Setting the Record Straight

- Many claims—29.5 million claims for all personal auto coverages
- Few complaints—299 thousand complaints for all insurance coverages (so, far less than 1% of personal auto claims give rise to complaints)
- State statutes and regulations—most states have specific laws relating to personal auto claims in addition to more general laws
- Competitive market imperative to treat customers fairly
- Insurers are safety advocates, and safety is number 1 priority
- Insurers are making the claims process easier through innovation

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Current Auto Repair Issues—Technical Repair Standards

- Insurers want to see technical repair standards followed, but often not clear what those are:
- One manufacturer: “in most situations” and “where appropriate”
- Another manufacturer: need for scans when damage “may affect the electrical system”
- Another manufacturer: define collision as “exceeding outer panel cosmetic distortion”
- Another manufacturer: scan “as appropriate”

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Current Auto Repair Issues—Apply Any Standards to All

- Some legislation varies standards based on who is paying
- Better approach is to apply any repair standards to the repair itself, regardless of who is paying,
- If safety and reliability after a repair are the real concerns, then it should not matter who pays for the repair
- Insurers want to comply, but selective or unclear standards do not benefit everyone

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Current Auto Repair Issues--Tariffs

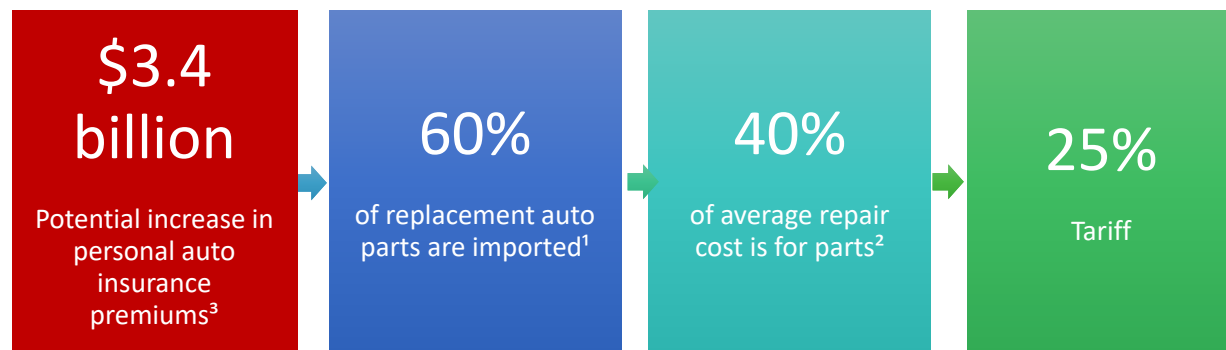
- Insurers strongly support:
 - Free trade
 - Private competitive marketplace
 - USG efforts to open markets for insurance and the goods and services we cover
 - Agreement language ensuring the free flow of data critical to insurance underwriting and claims settlement
- Insurers are concerned about the impact of auto parts tariffs will have on consumers and insurers

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Impact of Tariffs on Auto Insurance Premiums



¹ Sources: APCIA estimate, based on data from the U.S. Bureau of Economic Analysis

² Sources: CCC Information Systems "Crash Course 2018"

³ Sources: APCIA estimate

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Tariffs: Impact Beyond Direct Cost Increases

- Increase in "totals", less repairs causing losses to repairers and increases in rental days and costs
- Uninsured losses must be paid out of pocket
- Some consumers may be forced to delay repairs and drive unsafe cars
- Value chains cannot quickly or easily be replaced for more complex products
- Danger of thefts increasing due to more expensive parts

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Review and Conclusions

- Car repair claims are frequent, but complaints from consumers are not
- States already heavily regulate insurers' repair policies and practices
- Insurers make safety the number 1 priority
- Insurers are making the claims process better through innovation
- Desire for more clarity in repair standards
- To promote safety, any standards should apply to the repairs regardless of who pays
- Tariffs are adding to costs of insurers and policyholders