SB21-169: Draft Proposed Governance and Risk Management Regulation

March 22, 2023
Introduction: SB21-169

- Designed to protect Colorado insurance consumers from insurance practices that result in unfair discrimination
- Applies broadly to insurers that use external consumer data and information sources ("ECDIS") as well as the algorithms and predictive models that use ECDIS
- Requires carriers to test whether ECDIS and the algorithms and predictive models utilizing ECDIS results in unfairly discriminatory outcomes and to establish a risk management framework
Stakeholder Process

- Initiated the stakeholder process in February 2022
- Focused on life insurance underwriting and has held six meetings thus far and each of these are posted on the Division’s website here:

- Presentations by ACLI, American Academy of Actuaries, and the Consumer Federation of America
Life Insurance Survey

- Conducted a survey of ten life insurers regarding current risk management and governance practices related to the use of ECDIS, algorithms, and predictive models.

- A wide range of insurer preparedness with insurers in various stages of developing their governance and risk management processes.

- Some have begun exploring the type of testing contemplated by SB21-169.
Survey

- Unevenness of algorithm, predictive model, and Big Data governance suggested that insurers need a runway to build the necessary compliance infrastructure.
- Division bifurcated our approach to address the required risk management framework and testing components contemplated by SB21-169 through two regulations.
Survey: Lessons Learned

- Iterative reporting mechanism to ensure progress
- Multi-disciplinary, cross-functional team
- Clearly defined roles and responsibilities for evaluating data and models and developing risk mitigation measures
- Comprehensive and detailed documentation of policies and procedures as well as thorough record keeping
Draft Regulation
Section 5 - Governance Framework

- Scaffolding that includes documenting governing principles, and the necessary components and internal organizational structures
- Establishes accountability, clear roles and responsibilities, and the need for a cross-functional governance team
- Makes clear that insurers are responsible for compliance when third-party vendors are used
Draft Regulation
Section 6 - Documentation

- Comprehensive documentation requirements
- Model inventory, tracking model changes, model purpose(s) and limitation(s), problem meant to be solved
- Description of the testing for unfair discrimination
- Decision-making process including who and the rationale used related to model design, testing, deployment, operation, and monitoring
Draft Regulation
Section 7 - Reporting

- Six month progress report
- Full report due one year after regulation effective date
- Abbreviated report due every two years thereafter
- Insurers that do not use ECDIS or models that use ECDIS are exempt from the governance and documentation requirements
Next Steps

● Digesting comments received
● Expose a revised draft for an additional round of comments
● Expose the companion testing regulation
Thank You