



Colorado Division of Insurance

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:

<https://doi.colorado.gov/for-consumers/sb21-169-protecting-consumers-from-unfair-discrimination-in-insurance-practices>

- 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 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



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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



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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



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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