2019 Fall National Meeting  
Austin, Texas  

NAIC/STATE GOVERNMENT LIAISON COMMITTEE  
Saturday, December 7, 2019  
8:30 – 9:30 a.m.  
JW Marriott Austin—JW Grand Ballroom 5-8—Level 4  

ROLL CALL  

Eric A. Cioppa, Chair  
Maine  
Steve Kelley  
Minnesota  
Raymond G. Farmer, Vice Chair  
South Carolina  
John G. Franchini  
New Mexico  
Jim L. Ridling  
Alabama  
Mike Causey  
North Carolina  
Lori K. Wing-Heier  
Alaska  
Jon Godfread  
North Dakota  
Elizabeth Perri  
American Samoa  
Jillian Froment  
Ohio  
Allen W. Kerr  
Arkansas  
Glen Mulready  
Oklahoma  
Ricardo Lara  
California  
Andrew Stolfi  
Oregon  
Michael Conway  
Colorado  
Larry Deiter  
South Dakota  
Trinidad Navarro  
District of Columbia  
Hodgen Mainda  
Tennessee  
Stephen C. Taylor  
Kent Sullivan  
Texas  
Dean L. Cameron  
Idaho  
Todd E. Kiser  
Utah  
Robert H. Muriel  
Illinois  
Michael S. Pieciak  
Vermont  
Nancy G. Atkins  
Kentucky  
Mike Kreidler  
Washington  
James J. Donelon  
Louisiana  
James A. Dodrill  
West Virginia  
Al Redmer Jr.  
Maryland  
Jeff Rude  
Wyoming  
Gary Anderson  
Massachusetts  

NAIC Support Staff: Mark Sagat/Chara Bradstreet  

AGENDA  

1. Welcome from the President—Superintendent Eric A. Cioppa (ME)  

2. Consider Adoption of its 2018 Summer National Meeting Minutes —Superintendent Eric A. Cioppa (ME)  
Attachment One  

3. Reaffirm the Committee’s Mission Statement for 2020—Superintendent Eric A. Cioppa (ME)  
Attachment Two  

4. Discuss Health Insurance Issues—Director Raymond G. Farmer (SC)  

5. Discuss Long-Term Care Insurance (LTCI)—Commissioner Scott A. White (VA)  

6. Discuss Big Data and Data Privacy—Commissioner Jon Godfread (ND)  

7. Discuss the Group Capital Calculation (GCC) and Macroprudential Initiative (MPI) —Superintendent Eric A. Cioppa (ME)  

8. Discuss Any Other Matters Brought Before The Committee——Superintendent Eric A. Cioppa (ME)  

9. Adjournment  

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The NAIC/State Government Liaison Committee met in Boston, MA, Aug. 4, 2018. The following Committee members participated: Julie Mix McPeak, Chair (TN); Eric A. Cioppa, Vice Chair (ME); Lori K. Wing-Heier represented by Anna Latham (AK); Allen W. Kerr represented by Zane Chrisman (AR); Michael Conway represented by Peggy Brown (CO); Dean L. Cameron (ID); Jessica Looman (MN); Jon Godfried (ND); Jillian Froment represented by Meredith Alexander (OH); John D. Doak represented by Buddy Combs (OK); Andrew Stolfi (OR); Larry Deiter (SD); and Kent Sullivan (TX). Also participating were: Gordon I. Ito (HI); Marie L. Ganim and Paula M. Pallozzi (RI); Raymond G. Farmer (SC); Todd E. Kiser (UT); Donald Beatty (VA); Michael S. Pieciak (VT); and Ted Nickel (WI). The following state legislators and government officials participated: Rep. Deborah Ferguson (AR); Rep. Steve Riggs (KY); Micki Mullen (ME); Sen. Cary Smith and Rep. George Keiser (ND); Sen. Jay Hottinger and Sen. Bob D. Hackett (OH); Rep. Glen Mulready (OK); Rep. Brian Patrick Kennedy (RI); Steven Gilbert (SC); Rep. Ron Travis (TN); Rep. Tom Oliverson (TX); Del. Terry Kilgore (VA); and Jaye Pershing Johnson (VT).

1. **Adopted its 2017 Summer National Meeting Minutes**

Superintendent Cioppa made a motion, seconded by Director Farmer, to adopt the Liaison Committee’s Aug. 6, 2017, minutes (see NAIC Proceedings – Summer 2017, NAIC/State Government Liaison Committee). The motion passed unanimously.

2. **Reaffirmed its Mission Statement for 2019**

The mission of the NAIC/State Government Liaison Committee is to discuss issues of common interest to state insurance regulators and state officials.

Commissioner McPeak asked Liaison Committee members if there were any objections to reaffirming the Liaison Committee’s mission statement for 2019. Hearing none, the Liaison Committee’s mission statement was reaffirmed for 2019.

3. **Discussed Health Insurance Developments**

Director Cameron provided an update on health insurance developments. He stated that the health insurance market continues to be extremely volatile, which has led to higher rates, fewer plan options, higher cost sharing for consumers and carriers leaving the market. He stated that the federal government has posted initial rate submissions, and unlike the previous two years, rate increases seem to be more moderate. However, he stated that rates are still too high for those individuals who are unsubsidized in the individual marketplace. Therefore, many states are seeking ways to make coverage more affordable and to stabilize their respective markets. Director Cameron then discussed the Final U.S. Department of Labor (DOL) Association Health Plans (AHP) rule and the Final Short-Term Limited Duration Plans (STLD) regulation. He next discussed how states have attempted to protect consumers from the air ambulance balance billing issue and federal initiatives that the NAIC supports. He stated that the real drivers on health insurance cost increases are actual healthcare costs themselves, and that the NAIC is studying healthcare cost drivers in an effort to gain insight and provide information and recommendations to the states.

Rep. Kennedy asked how much regulatory authority states have over AHPs. Director Cameron replied that most states will have the authority to review rates and forms that are deemed harmful to consumers; however, they may not have the ability to deny them in some cases. He encouraged every legislator to work with their department and commissioner to review the language of their rule to determine that authority. Commissioner McPeak also stated that the NAIC’s frequent dialogue with the DOL has supported preservation of state authority in the regulation of AHPs. Rep. Riggs pointed to President Trump’s Executive Order and voiced concerns about the definition of “geographical regions.” Rep. Keiser asked about the use of general terms in the Final AHP Rule and who will have the authority to determine their meaning. Director Cameron replied that state regulators will implement the rule within their jurisdiction and will work with regulators in neighboring states if it is a multi-state issue. He agreed that there is some vagueness in the definitions but that interpretation is left to the commissioner and their legal staff. Sen. Hackett voiced concern about the development of a two-tiered system, where the Multiple Employer Welfare
Draft Pending Adoption

Arrangements (MEWA) and the associated plans are going to take the majority of healthy participants, and individuals who have bad health/costly claims are going to stay in the existing system.

4. Discussed the SEC, DOL and NAIC Best Interest Standard State of Play

Director Cameron discussed regulatory developments regarding the standard of conduct for the sale of annuity products. He said state regulators along with the federal government have an important role to play in the administration and enforcement of standards within their jurisdictions. He discussed how the DOL-issued regulations broadened the definition of fiduciary investment advice under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (IRC), but that the 5th Circuit Court of Appeals vacated the rule in its entirety and found that it exceeded the agency’s regulatory authority under ERISA. Separately, he discussed the U.S. Securities and Exchange Commission’s (SEC) proposed rule that updates the standard of care that broker/dealers and advisers would apply for retail investors. He discussed how the SEC Regulation Best Interest rule would require broker/dealers to disclose to consumers key facts about the relationship, including material conflicts of interest; exercise reasonable due diligence, care, skill and prudence to act in the retail consumer’s best interest; and disclose and mitigate or eliminate, for the first time, material conflicts of interest arising from financial incentives. With regard to NAIC activities, he said the NAIC’s Life Insurance and Annuities (A) Committee has charged the Annuity Suitability (A) Working Group with reviewing and revising, as necessary, the NAIC model act on annuity suitability as a result of increasing requests from state insurance regulators, the insurance industry and consumers, for an updated and consistent standard of care.

5. Discussed the NAIC Macro Prudential Initiative and Group Capital Calculation

Superintendent Cioppa gave an overview of the NAIC’s Macro Prudential Initiative (MPI) and Group Capital Calculation (GCC). He stated that the goal of the MPI is to develop new and improved tools that can be used to better monitor and respond to external risks from firms the NAIC/states supervise. He discussed how the Financial Stability (E) Task Force plans to achieve these goals by identifying potential enhancements in: capital stress testing, recovery and resolution, counterparty exposure/concentration, and liquidity risk. He also discussed the development of a GCC, which will be an analytical tool that is intended to provide additional information for lead states to use in assessing group risks and capital adequacy. He emphasized that the GCC is not a numerical requirement, but a tool that will help regulators evaluate what is going on at the group level from a legal entity perspective. Rep. Keiser asked about the need for GCC following the implementation of Principle Based Reserving (PBR). Superintendent Cioppa stated that they are two different issues. He said PBR relates to reserving requirements at the legal entity level, while the GCC looks at the group level and is not going to be a requirement.

6. Discussed InsurTech Innovations and Cybersecurity Developments

Commissioner Ito discussed how innovation and technology are reshaping the insurance marketplace and how state insurance regulators are approaching these changes. He said state insurance regulators have reached out to startups and incumbent insurers to initiate dialogue between innovators and regulators in order to better understand the products being developed as well as the regulatory landscape. He also discussed the formation of the NAIC’s Innovation and Technology (EX) Task Force and the Task Force’s work navigating this new and developing space.

Director Farmer discussed cybersecurity developments and provided an update on the NAIC’s Insurance Data Security Model Law (#668), which seeks to establish data security standards for regulators and insurers in order to mitigate the potential damage of a data breach. He also discussed draft federal legislation that would establish federal standards for data security and breach notification and preempt all state laws and regulations in these areas. He stated that the NAIC would oppose such preemptive proposals, which would undermine state insurance regulators’ authorities to protect insurance consumers. Rep. Kennedy asked for confirmation that there is federal legislation being drafted that would preempt all state legislation on data breaches. Director Farmer replied that is his understanding.

7. Discussed State Ahead

Michael F. Consedine (NAIC, Chief Executive Officer) discussed State Ahead, a three-year strategic plan for the NAIC to build the regulatory support organization that state insurance regulators need in a fast-changing marketplace. Mr. Consedine said State Ahead is a blueprint for how the NAIC will support its members over the next three years in order to give state insurance regulators the tools, talent and technology they need to make informed regulatory decisions.
Draft Pending Adoption

8. Discussed Other Matters

Rep. Kennedy asked where things stand regarding the long-term care (LTC) insolvency issue. Superintendent Cioppa stated that the NAIC has formed the Long-Term Care Insurance (B/E) Task Force that coordinates all aspects of the NAIC's work regarding the long-term care insurance (LTCI) market. He stated one of the major areas of focus is understanding each company's reserves and their reserving methodology, as well as actively communicating and engaging with the domiciliary states to make sure they understand what is going on with their insurers.

Having no further business, the NAIC/State Government Liaison Committee adjourned.
2020 Mission Statement

NAIC/STATE GOVERNMENT LIAISON COMMITTEE

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NAIC Support Staff: Mark Sagat and Chara Bradstreet