

## Draft Pending Adoption

Draft: 1/4/22

Special (EX) Committee on Race and Insurance  
San Diego, California  
December 14, 2021

The Special (EX) Committee on Race and Insurance met in San Diego, CA, Dec. 14, 2021. The following Special Committee members participated: David Altmaier, Co-Chair (FL); Dean L. Cameron, Co-Chair (ID); Raymond G. Farmer, Chair Emeritus (SC); Andrew N. Mais, Co-Vice Chair (CT); Chlora Lindley-Myers, Co-Vice Chair (MO); Lori K. Wing-Heier (AK); Jim L. Ridling (AL); Alan McClain (AR); Peni Itula Sapini Teo represented by Elizabeth Perri (AS); Evan G. Daniels (AZ); Ricardo Lara (CA); Michael Conway (CO); Karima M. Woods (DC); Trinidad Navarro (DE); Colin M. Hayashida (HI); Doug Ommen (IA); Dana Popish Severinghaus (IL); Amy L. Beard (IN); Vicki Schmidt (KS); Sharon P. Clark (KY); James J. Donelon (LA); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Eric A. Cioppa (ME); Anita G. Fox (MI); Grace Arnold (MN); Edward M. Deleon Guerrero (MP); Mike Chaney (MS); Mike Causey represented by Michelle Osborne (NC); Jon Godfread (ND); Eric Dunning (NE); Marlene Caride (NJ); Russell Toal (NM); Barbara D. Richardson (NV); Adrienne A. Harris represented by My Chi To (NY); Judith L. French represented by Tynesia Dorsey (OH); Glen Mulready (OK); Andrew R. Stolfi (OR); Jessica K. Altman (PA); Elizabeth Kelleher Dwyer (RI); Larry D. Deiter (SD); Carter Lawrence (TN); Cassie Brown (TX); Jonathan T. Pike (UT); Scott A. White represented by Rebecca Nichols (VA); Tregenza A. Roach (VI); Michael S. Picciak represented by Rosemary Raszka (VT); Mike Kreidler (WA); Mark Afable (WI); Allan L. McVey (WV); and Jeff Rude (WY).

### 1. Adopted its Summer National Meeting Minutes

Director Lindley-Myers made a motion, seconded by Ms. Osborne, to adopt the Special Committee's Aug. 15 minutes (*see NAIC Proceedings – Summer 2021, Special (EX) Committee on Race and Insurance*). The motion passed unanimously.

### 2. Received a Status Report on Workstream One

Superintendent Cioppa reported that Workstream One is charged with continuing research and analysis to identify issues and develop specific recommendations on action steps state insurance regulators and companies can take to improve the level of diversity and inclusion in the industry, including: 1) seeking additional engagement from stakeholders to understand the efficacy of diversity-related programs, how companies measure their progress, and what state insurance regulators can do to support these efforts; and 2) collecting input on any existing gaps in available industry diversity-related data.

Since the adoption of its 2021/2022 charges, the Workstream met in regulator-only session three times and held one open call with stakeholders. The Workstream initially met in September to regroup and discuss its updated charges and next steps.

In October, the Workstream heard a presentation from California and New York regarding their respective diversity, equity, and inclusion (DE&I) efforts and the diversity-related industry data that these states are collecting.

In November, the Workstream held a public call with stakeholders to better understand industry diversity-related programs, how companies are measuring progress, and what state insurance regulators can do to support these efforts. Representatives from several companies and trades spoke, including: the American Property Casualty Insurance Association (APCIA); Blue Cross and Blue Shield of Illinois (BCBSIL); Cambia; CUNA Mutual Group; the Greater New York Mutual Insurance Company; the National Association of Mutual Insurance Companies (NAMIC); Shelter Insurance; and Zurich North America (Zurich). Their testimonies were encouraging, and state insurance regulators are pleased by the industry's willingness to step up and take action. The Special Committee asked three of the presenters—APCIA, Dr. Leroy David Nunery (Plus Ultr LLC), BCBSIL, and Zurich to provide an update to the Special Committee, as it believes their testimony will benefit the full Special Committee.

The Workstream is now discussing next steps. State insurance regulators want to support the insurance industry in increasing diversity and inclusion at all levels of their organizations and be of assistance in bringing more and diverse talent into the applicant pool. The Workstream looks forward to continuing this important work.

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### 3. Received a Status Report on Workstream Two

Commissioner Stolfi reported that Workstream Two continues gathering responses to the survey intended to examine, at the zone level, best practices and initiatives state insurance departments may consider when promoting DE&I in their departments.

The Workstream will meet to discuss a method and forum to share diversity and inclusion best practices among state insurance regulators. So far, 26 responses have been received. The Special Committee sent a reminder email earlier this week with a link to the survey, and it encourages every state to respond as soon as possible.

The NAIC continues with its work implementing diversity initiatives. Previously, the Special Committee asked members to share their diversity contacts with Evelyn Boswell, NAIC Director of Diversity, Equity, and Inclusion.

Ms. Boswell convened the first State Diversity Leader's Forum held on Oct. 18. This Forum provides a space for diversity leaders in each state to come together and discuss best practices in promoting diversity in their respective insurance departments. Ms. Boswell also convened the DE&I table talk during this meeting. If anyone would like to be included in these efforts, they should please send diversity contact information to Ms. Boswell.

### 4. Received a Status Report on Workstream Three

Commissioner Schmidt reported that Workstream Three met Dec. 1 and heard from interested parties about its Charge F to: 1) continue research and analysis of insurance, legal, and regulatory approaches to address unfair discrimination, disparate treatment, proxy discrimination, and disparate impact; and 2) make recommendations for statutory and regulatory changes and additional steps, including developing analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination.

The Workstream believes an important first step to address this charge is to consider the drafting of a white paper to define some of these terms, as well as to set forth next steps for the Workstream.

During its Dec. 1 conference call, the Casualty Actuarial Society (CAS) previewed several papers it will be releasing in early 2022 that will: 1) define discrimination in insurance; 2) understand potential influences of racial bias on property/casualty (P/C) insurance; 3) provide approaches to address racial bias in financial services, including lessons learned for the insurance industry; and 4) assess methods for quantifying discriminatory effects on protected classes in insurance. The CAS provided the Workstream with an overview of those papers, and the Workstream believes the papers will be useful in drafting the white paper.

The Workstream also heard from several other consumer and industry groups about how to define these terms, as well as how to audit algorithms to ensure there is no disparate impact. The presentation slides and audio are posted on the NAIC website. The Workstream will continue these discussions with a goal of drafting a white paper outline and taking comments on that outline.

### 5. Received a Status Report on Workstream Four

Commissioner Afable reported that Workstream Four held a regulator-only session in October to discuss how best to develop a work plan related to its charges. After reviewing its charges, the Workstream members concluded that there is a need for data to drive discussion and advance the understanding of these issues and next steps. The Workstream, in conjunction with the other workstreams, needs to explore how best to move forward with identifying data that may already exist, in addition to collecting data going forward.

The Workstream will meet in open session in January to review how it fits into the larger work of the Special Committee and the other workstreams as it moves forward to address the issues identified in its charges.

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### 6. Received a Status Report on Workstream Five

Commissioner Altman reported that since Workstream Five's last update to the Special Committee at the Summer National Meeting, the Workstream met Dec. 3, Nov. 18, Oct. 14, Sept. 9, and Aug. 26. Most of these meetings have focused on the Workstream's draft "Principles for Data Collection" document.

As currently drafted, the "Principles for Data Collection" document provides high-level guiding principles for the collection and treatment of data on race, ethnicity, and other demographic characteristics in the health insurance business. The document reflects the Workstream's discussions and recommendations from various stakeholders provided during several of the Workstream's meetings. Commissioner Altman said one consistent theme expressed by stakeholders is that robust data collection is a key to both quantifying existing disparities and evaluating the effectiveness of initiatives to address those disparities.

In developing the document, the Workstream worked to include high-level principles to guide in the collection, maintenance, protection, and reporting of enrollee demographic data, while acknowledging the regulatory barriers to such collection and the sensitive nature of collecting and using such data from enrollees.

Commissioner Altman noted that the Workstream received robust feedback, much of which has been accepted and thoroughly discussed. She thanked the stakeholders from industry, the consumer representatives, the state insurance regulators, and all for the level of discussion the Workstream has been able to have so far.

During its Dec. 3 meeting, Commissioner Altman said the Workstream almost completed its discussions on the draft document, including potential revisions based on the comments received. The Workstream plans to hold one last meeting to finalize the document before the end of the year or early next year. After the data collection document is finalized, the Workstream will forward it to the Special Committee for consideration.

Commissioner Lara reported that in addition to discussions on the data collection document, the Workstream's Sept. 9 meeting focused on other issues identified in the Workstream's report to the Special Committee as areas it wanted to obtain more information around maternal health disparities and coverage losses among children. The Workstream heard a presentation on maternal health disparities and how state insurance regulators can improve maternal health disparities, such as more enhanced data collection and ensuring network adequacy standards provide access to quality providers and culturally competent care.

The presentation on coverage losses among children highlighted the benefits to children of being insured and pointed out the adverse effects to maternal and infant outcomes for uninsured mothers. The presenters also highlighted the increase in the rate of uninsured children in recent years, particularly for Latinx children. To address these issues, the presenters had several recommendations, including enhancing outreach to community-based organizations.

The Workstream also moved forward with another area it identified in its report to the Special Committee as being extremely important—provider networks, provider directories, and cultural competency. During the Workstream's Oct. 14 meeting, it reviewed a draft Provider Network white paper outline. The outline reflects the Workstream discussions during its July 8 meeting. The Workstream exposed the outline for a public comment period ending Nov. 8. As part of that exposure, the Workstream asked for volunteers based on the outline to draft sections of the white paper. In looking ahead, the Workstream plans to finalize the Provider Network white paper outline early next year and assign volunteers to draft sections.

Birny Birnbaum (Center for Economic Justice—CEJ) thanked the members of the Special Committee for its work on race and insurance. He noted that with the DE&I framework, it is important to measure in order to track progress, just as important as identifying the right things to measure is critically important. The CEJ suggests that it is not sufficient to simply measure activities. Outcomes should also be measured so it can be determined if progress is being made (e.g., whether NAIC events feature speakers and participants from communities of color and whether the NAIC and state insurance departments increase the number of people of color in senior management).

Mr. Birnbaum said while the NAIC DE&I framework and report highlights the NAIC's activities, no metrics were seen for measuring success. He noted that in some areas, progress has been slow. For example, today's Center for Insurance Policy and Research (CIPR) event on lessons learned from the pandemic includes no consumer stakeholders or stakeholders from communities of color.

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Mr. Birnbaum said he mentions this to raise awareness, not to criticize, and to make the point that to know progress is being made on DE&I, measurables should be identified to measure outcomes. He said his final point is that DE&I is obviously critical to offer opportunities to members of communities of color, but DE&I alone cannot address structural racism. He said it does not matter how many people of color you have in senior management if you are not taking the steps to address the structural forces that disproportionately affect communities of color. He urged NAIC members to put some metrics in place for DE&I and set up other work to make progress in the Special Committee's efforts.

### 7. Heard an Update on CO SB 21-169 – Restrict Insurers' Use of External Consumer Data

Commissioner Conway provided an update on Colorado Senate Bill 21-169. He said the core goal of the legislation is to protect Colorado consumers from insurance practices that result in unfair discrimination based on race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression. He said the law is focused on ensuring external consumer data is not used in a way that unfairly discriminates against consumers. He said the core idea came from recognizing that the insurance department would not have the resources or expertise to compete with insurance companies and state insurance regulators and the industry need to find a way to ensure the industry is using big data components responsibly. He said the intention is to find ways for the industry to stress test their own systems, identify issues that may be occurring with big data systems and algorithms, and take corrective action to address consumer harms identified. To address questions about there being a potential problem requiring legislation, he shared a few examples of different studies that have been performed over the year. He noted that this has been a well-documented issue where there are potential issues with big data and artificial intelligence (AI) not only within the insurance industry but outside the insurance industry. The auto insurance study cited is a ProPublica study. The life insurance study was done by Haven Life. The homeowners insurance study was done by St. John's University. The studies will be posted on the Colorado Division's website.

Commissioner Conway said at its core, the law says a simple correlation to risk will not be sufficient if the underlying insurance practice also correlates to a protected class and negatively affects that class. He said it will be a balancing test that the law requires to be defined through a stakeholder process. He said the law is primarily focused on personal lines of insurance, life, health, property, and casualty. He said the insurance practices subject to the law are marketing, underwriting, pricing, utilization management, reimbursement methodologies, and claims management. He said the risk management framework required by the law includes providing information on the external consumer data and information source used, explaining how it is used, establishing and maintaining a risk management framework, attesting to its implementation, and providing an assessment of the results of the framework or a similar process. He said the plan is to begin stakeholder meetings in mid-January 2022, and the rules will be effective, at the earliest, Jan. 1, 2023. He encouraged all stakeholders to engage with him in the process and check the Division's website regularly for updates.

Commissioner Altman asked if Commissioner Conway plans to share aggregate information, broad outcomes, or lessons learned from the process, either publicly or with fellow state insurance regulators. Commissioner Conway said at a bare minimum, the information will be shared on an aggregated level.

### 8. Heard Comments from Interested Parties

#### a. APCIA/Plūs Ultré LLC

Jessica Hanson Hanna (APCIA) provided an introduction on the APCIA's industry initiatives to promote and advance a more diverse and inclusive industry. She said the APCIA cofounded the insurance careers movement, a global grassroots initiative that brings together more than 1,000 insurance companies, agents and brokers, trade associations, and other industry partners to inspire more people to choose insurance as a career and remain working in the insurance industry. Other initiatives she listed include the APCIA Board of Directors' DE&I strategic priority, the APCIA's Emerging Leaders program, and a board level APCIA working group on social equity and inclusion established in 2020 to oversee the APCIA's initiatives and long-term planning. Finally, the APCIA created its DE&I catalog created in partnership with Dr. Nunery to catalog its members' diversity and inclusion programs at the workforce level, the board level, and the supply chain level on an anonymized basis. The APCIA's four key goals are to: 1) establish DE&I investment and commitment among its membership; 2) understand the depth of DE&I practices among its member companies; 3) be able to provide guidance and insights to members as a trusted industry repository

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of information; and 4) inform the PC industry on advocacy and reputational positioning on DE&I issues at the local, regional, and national levels.

Dr. Nunery noted that the DE&I catalog assessed and captured aggregated P/C insurance DE&I practices on a voluntarily basis from 52 different organizations and a number of small, medium, and large companies based on direct premiums written. The catalog captured information on diversity, market served, employee bases, geography, size, and infrastructure. Dr. Nunery reviewed slides showing how the participating companies have adopted and implemented DE&I practices.

Dr. Nunery noted that DE&I is an emerging discipline; just a few years ago no one was really talking about it as a professional practice or approach, and these practices vary depending on the company's clients, the board makeup, who the employees are, and the adoption rate. In essence, there is a mixture of results, and the larger companies, those with 1 billion or more direct premiums written, tend to have a deeper embedding likely because they have the infrastructure to do so. Dr. Nunery said if DE&I is embedded as either a core value or strategic element, it should go to a depth that includes personal accountability. Regarding DE&I alignment to objectives and compensation, he said 73% of companies did not have DE&I metrics included as part of organizational key performance indicators, and 85% have not done that in terms of compensation. He said the more executives and managers that are measured on DE&I practices, the more progress will be made.

Dr. Nunery went on to cover conducting and responding to employee surveys, recruiting challenges in hiring practices, and having a chief diversity office on staff with the authority to ensure that implementation moves forward and DE&I is embedded. Dr. Nunery talked in more detail about recruitment, retention policies and practices, and the importance of sharing information and practices. He said the challenge is putting diversity into practice and measuring outcomes. Regarding diverse recruiting strategies, he said a big challenge is making insurance a destination students and career changers should be aware of. It is important to quantify recruiting practices and efforts by doing things such as asking interviewed candidates and hiring managers for feedback. Dr. Nunery concluded with the impact and engagement of DE&I on governance and boards of directors by sharing the importance of bringing board members, managers, executives, and commissioners into the conversation so there is a sense of what can be accomplished beyond hiring diverse employees and engaging every community so they feel a part of what is being done.

### b. BCBSIL

Harmony Harrington (BCBSIL) said the Health Care Service Corporation (HCSC), which includes BCBSIL, supports an environment where all 24,000 employees and nearly 17 million members and community members should feel valued, empowered, and recognized for their unique talents, perspectives, and differences. DE&I really permeates all areas of the company and is part of the fabric of how the company has been built.

Ms. Harrington went on to share more about HCSC's DE&I efforts. She said all HCSC employees complete an annual DE&I education course designed to meet employees where they are in their journey and build each year. The HCSC also offers a monthly speaker series with topics that include how to be an inclusive ally, what the difference is between equity and equality and why it matters, and even generational diversity at work. Ms. Harrington said BCBSIL continues to advance its ability to collect data internally and create diverse pipelines through annual talent reviews and succession planning efforts. She shared metrics of the diverse workforce. She shared more about employee-initiated business resource groups where employees participate in mentoring, develop professionally, educate the company on culture, and get involved in the community. She talked about BCBSIL efforts in Chicago opening two multipurpose community centers in partnership with local nonprofit organizations offering employee workspace and a community health and wellness hub, as well as launching a high school student development program with local nonprofits providing mentorship and job shadowing designed to address social determinants of health, including education, access, and equity economic stability and emotional and social support.

Ms. Harrington went on to talk about BCBSIL efforts addressing health equity, cultural competency, and implicit bias in health care. BCBSIL created the Institute for Physician Diversity (IPD) to strategically partner the payer with academic medical schools, teaching hospitals, and nonprofit associations to contribute to the systematic increase in the number of underrepresented minority physicians through innovative alliances and collective accountability with medical schools, graduate medical education programs, and other medical education stakeholders. Ms. Harrington said BCBSIL also developed the Health Equity Hospital Quality Incentive Pilot Program with the goal to improve care and quality by reducing racial and ethnic health disparities for members who get care at participating health systems that demonstrate a commitment to pursuing health equity

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and reducing health disparities for members served at the hospital. She said other BCBSIL health equity work with providers includes grants awarded to organizations to support health care organizations and hospitals in eliminating an identified health care disparity in their local community, as well as BCBSIL-funded cultural competency and implicit bias education, including incentives for value-based care arrangements to complete the trainings.

Ms. Harrington said BCBSIL is focused on and committed to not only the physical health improvement of communities, but also the economic health improvement; understanding an individual's geography can also determine their best health. She provided examples of community engagement like health education and outreach teams, employee engagement through volunteerism, the neighborhood community centers, and community grants and sponsorship supporting frontline community organization that support access to care, shelters, behavioral health care, maternal health supports, and COVID-19 health education and access.

Commissioner Lara noted the Special Committee has seen a language barrier in terms of access to health care, especially for immigrant communities that do not feel comfortable speaking in English or have the translation. He asked what strategies BCBSIL is implementing to be able to eliminate that language barrier.

Ms. Harrington noted that from a BCBSIL perspective, it has member facing customer advocates who speak or help translate in a variety of languages to best serve diverse members. From a community perspective, BCBSIL partners with nonprofit local organizations on the ground that can help educate and support community members on their health journey. For the community centers, BCBSIL hired from the community, with employees who speak Spanish and can work with Spanish speaking community members.

### c. Zurich

Jose Ramos (Zurich) noted that in conversations about race and insurance, it is important to talk about representation. He said within the actuarial profession there is not a lot of black and Hispanic representation, specifically it is a combined less than 5%, and the representation of people of color in the insurance industry drops off at progressive levels of leadership. He said as he advanced in his career, it was very rare for him to work with colleagues who were black or Hispanic or who had his background or looked like him.

Mr. Ramos went on to talk about Zurich's diversity and inclusion efforts, which includes an Executive Diversity and Inclusion Council chaired by the chief executive officer (CEO), a DE&I office, nine employee resource groups, and DE&I councils within different business units in the organization. He said Zurich is continuing to make progress on DE&I and is focused on strategically aligning and connecting DE&I efforts across the organization to maximize impact. He said Zurich is looking to embed DE&I throughout the organization. For employees, Zurich has leadership programs with a focus on diverse representation, development programs at mid-career levels, and an apprenticeship program for employees that are starting out their insurance career. Mr. Ramos said to accelerate progress, Zurich is looking to have greater levels of accountability in the business units and leadership across their organization.

Mr. Ramos concluded his remarks talking about representation, transparency, and metrics measuring progress. Regarding transparency, he said Zurich released to employees and externally gender, race, and ethnic representation at different levels of the organization, including senior leadership and management. In terms of analytics metrics insights, he said Zurich is focused on turning data into insights and having an evidence-based approach where it can prove or disprove assumptions based on a combination of quantitative and qualitative evidence allowing the organization to focus on the behaviors that lead to meaningful change. He said Zurich will keep working to understand the trends, patterns, and drivers to better understand the different dimensions of diversity and trends that Zurich is seeing in representation.

Commissioner Altmaier noted that CEJ and NAMIC had submitted additional comments that are available on the website.

Having no further business, the Special (EX) Committee on Race and Insurance adjourned.

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