

Draft Pending Adoption

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Special (EX) Committee on Race and Insurance
Kansas City, Missouri
April 6, 2022

The Special (EX) Committee on Race and Insurance met in Kansas City, MO, April 6, 2022. The following Special Committee members participated: Dean L. Cameron, Co-Chair (ID); Chlora Lindley-Myers, Co-Chair (MO); Raymond G. Farmer, Chair Emeritus (SC); Andrew N. Mais, Co-Vice Chair (CT); Jon Godfread, Co-Vice Chair (ND); Lori K. Wing-Heier (AK); Jim L. Ridling (AL); Alan McClain (AR); Ricardo Lara (CA); Michael Conway (CO); Karima M. Woods (DC); David Altmaier (FL); Colin M. Hayashida (HI); Doug Ommen (IA); Vicki Schmidt (KS); Sharon P. Clark (KY); Gary D. Anderson (MA); Kathleen A. Birrane (MD); Timothy N. Schott (ME); Anita G. Fox (MI); Grace Arnold (MN); Edward M. Deleon Guerrero (MP); Troy Downing (MT); Mike Causey (NC); Eric Dunning (NE); Marlene Caride (NJ); Barbara D. Richardson (NV); Adrienne A. Harris represented by My Chi To (NY); Judith L. French (OH); Glen Mulready (OK); Andrew R. Stolfi (OR); Michael Humphreys (PA); Elizabeth Kelleher Dwyer (RI); Larry D. Deiter (SD); Carter Lawrence (TN); Cassie Brown (TX); Jon Pike (UT); Scott A. White (VA); Tregenza A. Roach (VI); Michael S. Pieciak (VT); Mike Kreidler (WA); Nathan Houdek (WI); Allan L. McVey (WV); and Jeff Rude (WY).

1. Adopted its 2021 Fall National Meeting Minutes

Commissioner McVey made a motion, seconded by Commissioner Mais, to adopt the Special (EX) Committee on Race and Insurance's Dec. 14, 2021, minutes (see *NAIC Proceedings – Fall 2021, Special (EX) Committee on Race and Insurance*). The motion passed unanimously.

2. Received a Status Report on Workstream One

Director Lindley-Myers said, "I hope that as you hear these reports you appreciate the continued work being done to identify barriers to access to insurance careers and insurance products and the challenging efforts towards identifying and removing any unfair discrimination."

Director Lindley-Myers noted that the NAIC is monitoring efforts by the U.S. House of Representatives (House) Financial Services Subcommittee on Diversity and Inclusion, which plans on having a hearing and producing a report on diversity, equity, and inclusion (DE&I) within the insurance sector. NAIC staff met with Chairwoman Maxine Waters' (D-CA) office about its efforts, and they are aware that letters and surveys went out to many in the industry. The NAIC plans to continue following the work of the Subcommittee in anticipation of the hearings and the subsequent report.

Executive Deputy Superintendent To 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 has met in regulator-only session three times and held two open calls with stakeholders.

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In October 2021, the Workstream heard a presentation from California and New York regarding their respective DE&I efforts and the diversity-related industry data that these states are collecting.

In November 2020, the Workstream held a public call with stakeholders to discuss actions companies can take to foster a more inclusive environment to gain more diverse executives and board members, as well as how state insurance regulators can support these efforts.

In November 2021, the Workstream held another 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.

State insurance regulators were pleased by the industry's willingness to step up, and they asked three of the presenters from the second stakeholder call to present to the full Special (EX) Committee on Race and Insurance during the 2021 Fall National Meeting: 1) the American Property Casualty Insurance Association (APCIA) and Dr. Leroy Nunery II; 2) the Blue Cross and Blue Shield of Illinois; and 3) Zurich.

In terms of next steps, the Workstream co-chairs are working to outline proposed recommendations and action steps for the Workstream to consider.

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.

3. Received a Status Report on Workstream Two

Commissioner Clark reported that Workstream Two has gathered responses to the zone-based survey examining best practices and initiatives state insurance departments may consider when promoting DE&I in their departments. The Workstream will soon meet to discuss a method and forum to share diversity and inclusion best practices among state insurance regulators.

Commissioner Mulready stated that the NAIC continues its work implementing diversity initiatives. Much of the Workstream's recent work has been conducted by Evelyn Boswell (NAIC), Director of Diversity, Equity, and Inclusion, through the State Diversity Leaders Forum. 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. Commissioner Mulready encouraged commissioners to send Ms. Boswell their department's diversity contact information.

4. Received a Status Report on Workstream Three

Director Wing-Heier reported on interactions the leadership and members of Workstream Three have had in recent months to address the Workstream's charges. Much of the focus of the Workstream has been on how to address Charge F, which addresses continuing research and analysis of insurance, legal, and regulatory approaches to addressing unfair discrimination, disparate treatment, proxy discrimination, and disparate impact, as well as making recommendations for statutory or regulatory changes and additional steps, including developing analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination.

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Leadership from the Workstream, the Innovation, Cybersecurity, and Technology (H) Committee, the Accelerated Underwriting (A) Working Group, the Big Data and Artificial Intelligence (H) Working Group, and the Casualty Actuarial and Statistical (C) Task Force met with Cathy O’Neil (O’Neil Risk Consulting & Algorithmic Auditing—ORCAA) earlier this year as a follow-up to a presentation she gave to the Workstream late last year. The primary focus of this discussion was on algorithmic auditing and what tools or education state insurance regulators might need to better identify and address any unfair bias that can occur in algorithms or other models.

From this discussion, this same group of commissioners had further conversations about how to meet with similar experts—i.e., academics, consultants, start-ups, or others—who have expertise in artificial intelligence (AI), machine learning (ML), and algorithms. The idea discussed on the March 22 Workstream call is that the Committee can create a forum where all groups can hear from subject matter experts (SMEs) in one forum; then, individual groups, such as the Workstream, can take that knowledge and apply it to their specific charges.

On the March 22 call, the Workstream also discussed recent papers from the Casualty Actuarial Society (CAS) released examining approaches to defining and measuring fairness in predictive models and examining issues of racial bias in the financial industry, and the Workstream explored at what stage the Workstream might want to understand the different ways these terms are defined. Finally, the Workstream reviewed the status of each of its charges and how best to address them.

5. Received a Status Report on Workstream Four

Director French reported that while Workstream Four has yet to meet in 2022, the co-chairs have been meeting to discuss how best to focus its efforts in 2022. This year, the Workstream will focus on the charge to “continue research and analysis related to insurance access and affordability issues, including the marketing, distribution, and access to life insurance products in minority communities, including the role that financial literacy plays,” exploring options for presentations to help the Workstream identify how state insurance regulators and the NAIC might be able to advance equity in the marketing and distribution of life insurance in underserved communities.

Director French has met with representatives from Nationwide, a charter member of the Financial Alliance for Racial Equity (FARE). FARE is a partnership of financial services organizations, associations, and historically black colleges and universities (HBCUs). The FARE mission statement is “to increase racial diversity, drive greater equity, and foster inclusion within the financial services industry and the communities served.”

Founding members of FARE include Morgan Stanley, M Financial Group, NFP, Miami Life, Huntington, the Employee Benefit Research Institute (EBRI), the American College of Financial Services, and Nationwide Financial in partnership with HBCUs, including Hampton University, Lincoln University, Virginia State University, Virginia Union University, Winston-Salem State University, and Howard University.

The Workstream will schedule a panel presentation with FARE members and invite other workstreams to participate. The goal is to present state insurance regulators and the NAIC with practical strategies and opportunities for better meeting the needs of underserved communities.

The Workstream will begin holding open meetings and have significant progress to report to the Special (EX) Committee on Race and Insurance at the Summer National Meeting.

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6. Received a Status Report on Workstream Five

Commissioner Birrane provided the Workstream Five report and highlighted the Workstream's work to date and plans for the next few months.

Since the Workstream's last update to the Special (EX) Committee on Race and Insurance at the 2021 Fall National Meeting, the Workstream met in open session in December 2021 and adopted its draft Principles for Data Collection document.

Commissioner Arnold and Commissioner Birrane stepped into the co-chair positions in January. Commissioner Birrane thanked previous co-chairs, Commissioner Lara and Commissioner Altman, for the foundational work they led from the inception of the Special Committee. Commissioner Birrane said she and Commissioner Arnold discussed with the previous co-chairs the work they envisioned for the Workstream in 2022.

The Workstream then met in regulator-only session to discuss its focus and full work plan for 2022. The Workstream agreed that its focus should center on: 1) identifying demographic-based barriers to the acquisition and use of health insurance and creating strategies for mitigating or removing such barriers; and 2) understanding the role health insurance can play in addressing inequities in health outcomes and social determinates of health.

The Workstream also agreed on a framework for executing those objectives, including the specific topics the Workstream will focus on this year: 1) benefit design, including examining provider network design and benefit structures; and 2) consumer empowerment and engagement.

The first topic is foundational, as it is critically important that products are inclusive in design and carriers consider the actual health needs of certain communities (e.g., whether formularies are designed to ensure that medications that treat conditions more prevalent among certain demographic groups are offered with no or minimal co-pays, what preventative services look like, and how wellness programs are designed and promoted). Scales and Fitbits may be great incentives for some people to focus on their health, but nutritional support and transportation may be far more important for people whose health is affected by their environment. Likewise, what the network looks like, not only in the traditional sense of the availability of appointments, but the impact of the kind of provider and the cultural competency of providers on the willingness and ability of people to utilize services, must be considered. The model of picking up the phone or going online to navigate physician appointment systems is not familiar or comfortable for everyone, so how carriers are ensuring that their networks take into consideration how care is sought must also be considered.

With respect to the second topic, consumer engagement and empowerment, the Workstream will look at successful strategies for enrollments and facilitating consumer understanding of how to access care through insurance and how to navigate claims issues.

The Workstream also discussed what its end work product should be with respect to these topics and is looking at the development of a guide for state insurance regulators that compiles information about barriers and presents potential tools and strategies for state insurance regulators to use to address these barriers.

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The Workstream is mapping out a schedule for completing its work on these topics before the end of the year, and it hopes to meet at least monthly to hear from various stakeholders, such as consumer groups, academics, and industry on the topics it has identified as its focus for this year; i.e., benefit design and consumer empowerment.

With respect to the second objective, the Workstream discussed holding listening sessions, potentially in conjunction with Zone meetings, with community-based individuals and organizations who work with various disadvantaged and historically underserved and underrepresented populations to facilitate a ground zero understanding of how insurance can impact the health outcomes and social determinants of health.

Acting Commissioner Humphreys noted that Pennsylvania looks forward to supporting the Workstream and the document on data principles in the collection of race and ethnicity data. Pennsylvania is moving forward with a statement of policy, which is a statement that Pennsylvania will not enforce existing guidance that prohibits insurers on an application from asking for race and ethnicity information on a voluntary basis and subject to privacy and other protections.

7. Discussed the Innovation, Cybersecurity, and Technology (H) Committee Collaboration Forum – Detecting and Addressing Unfair Bias

Commissioner Birrane provided an update on the Collaboration Forum that has been established within the Innovation, Cybersecurity, and Technology (H) Committee and the work on algorithmic bias that will be the first project of the Forum.

For context, an important and foundational charge of the Committee is facilitating coordination and collaboration among NAIC work groups, also called related groups, that are addressing issues that concern innovative technologies, cybersecurity, and privacy. The Committee leadership met with the leadership of all other letter committees and other relevant groups, such as the Special (EX) Committee on Race and Insurance Workstreams Three, Four, and Five, to establish a framework for interface between the Committee and those related groups. The Collaboration Forum has been established within the Committee for coordination and collaboration among related groups on innovation, cybersecurity, and technology topics that are of broad impact to ensure foundational matters are addressed and decided with the full complement of SMEs and disciplines involved. There are very few things within the industry that are not affected by innovation, cybersecurity, and technology issues, and when those issues are being addressed by multiple working groups, it is important that to consider where a common framework is necessary and ensure that that common framework is established through consensus so each group can move forward with confidence from that firm foundation as they address the application of the pertinent issues within the scope of their charges.

When an innovation, cybersecurity, and technology related topic being addressed by multiple NAIC working groups is identified and it is agreed that collaboration and coordination is important, a project will be established within the Collaboration Forum. The members of the project will be the leadership of each NAIC working group that is working on the topic and any other state that wishes to join. There will be a chair and vice chairs, as necessary, for each project, and the project members will identify the scope of their collaborative work, like what common elements are to be determined, what the deliverable is, and what the work plan and time frame are. Projects will operate like any other NAIC working group, meetings will generally be open, and the work will be inclusive and transparent with opportunity for stakeholder input.

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The first project of the Collaboration Forum is the Algorithmic Bias Project. Algorithmic bias describes systematic errors in AI/ML driven computing systems that result in discriminatory outcomes. Insurers make important decisions about marketing, underwriting, pricing, claim processing, and fraud detection using predictive models that are developed through the application of ML supported computing to data. All are aware that unfair bias can and does creep into AI/ML driven decisional systems and complex predictive models, resulting in unfair discrimination. Therefore, it is important that state insurance regulators are well educated and informed about algorithmic bias, how to address it both with respect to governance frameworks and best practices designed to eliminate or mitigate the risk of such bias and methods for detecting such bias.

There are many NAIC workstreams that are focused on algorithmic bias, including the Casualty Actuarial and Statistical (C) Task Force, the Big Data and Artificial Intelligence (H) Working Group, the Antifraud Technology (D) Working Group, the Accelerated Underwriting (A) Working Group, and the Special (EX) Committee on Race and Insurance's Workstream Two. Director Wing-Heier and Commissioner Richardson, co-chairs of the Workstream, recognized the need for coordination for the purposes of both consistency and efficiency, and they called a joint meeting, which then blossomed into the Algorithmic Bias Project.

This project will be focused on methods that can be used or relied upon by state insurance regulators in evaluating models used by insurers for unfair bias. A series of educational sessions will be hosted with the objective of developing a practical guide for state insurance regulators that identifies the concerns and provides viable options and tools for state insurance regulators to use.

The next step is to bring together the full complement of related groups and solidify the scope of the Special Committee's work, which includes looking at: 1) where along the continuum of activity from data creation to model application the Project should focus; 2) with respect to any such activity, what the foundational concepts, definitions, and elements are that underlie each group's work in this area; and 3) what the necessary common framework is that each group should respect and work from in carrying out their specific charges. All expected deliverables, work plans, and time frames will be made public.

This project will enable NAIC members to come together to address this important topic in a coordinated, efficient, and collaborative manner; it will also be a test case for the Collaboration Forum and what will necessarily be the iterative process of standing up this function.

8. Heard an Update on the State Diversity Leaders Forum

Ms. Boswell provided an update on behalf of Workstream Two on the State Diversity Leaders Forum. Looking at the charges of the Workstream, the State Diversity Leaders Forum determined that its mission is to create a communication forum for best practices in DE&I in which each jurisdiction's insurance department has access to education, guidance, and collaboration with stakeholders; can share and learn ideas to incorporate in their organizations; offers feedback for regulatory training coursework that will be provided by the NAIC; and enables the NAIC and its regulated entities to fully fulfill their mission. A regulator-only website is being created where NAIC members can access the best practices and resources identified by the forum. The forum started with about a dozen state insurance regulators and now has over 20 members. States are encouraged to send their contacts to Ms. Boswell to be included in the forum.

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

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