

Draft Pending Adoption

Attachment One

Draft: 6/2/20

Producer Licensing (D) Task Force Conference Call May 6, 2020

The Producer Licensing (D) Task Force met via conference call May 6, 2020. The following Task Force members participated: Larry D. Deiter, Co-Chair (SD); Elizabeth Kelleher Dwyer, Co-Chair (RI); Lori K. Wing-Heier represented by Chris Murray (AK); Jim L. Ridling represented by Jimmy Gunn, Antwionne Dunklin, Reyn Norman and William Rodgers (AL); Alan McClain (AR); Ricardo Lara represented by Charlene Ferguson and Tyler McKinney (CA); Trinidad Navarro represented by Stacy Washburn (DE); David Altmaier represented by Matt Guy (FL); Doug Ommen (IA); Vicki Schmidt (KS); Sharon P. Clark (KY); James J. Donelon represented by Lorie Gasior (LA); Anita G. Fox represented by Jill Huisken, Paige McCully, Leslie Page and Michele Riddering (MI); Chlora Lindley-Myers (MO); Mike Causey represented by Angela Hatchell and Teresa Knowles (NC); Jon Godfread represented by Stephanie Butz (ND); Bruce R. Ramge represented by Kevin Schlautman (NE); Marlene Caride represented by Joe McDougal (NJ); John Godfread represented by John Arnold (ND); Jillian Froment represented by Tynesia Dorsey and Karen Vourvopoulos (OH); Glen Mulready (OK); Andrew R. Stolfi represented by Kirsten Anderson and Carol Ruda (OR); Jessica K. Altman represented by Adriane Force and Christopher Monahan (PA); Raymond G. Farmer represented by Andrea Bourgoïn and (SC); Kent Sullivan represented by Rachel Cloyd, Randall Evans and Chris Herrick (TX); Todd E. Kiser represented by Randy Overstreet (UT); Scott A. White represented by Pat Murray (VA); Mike Kreidler represented by Jeff Baughman (WA); and James A. Dodrill represented by Greg Elam (WV). Also participating was Christina Rouleau (VT).

1. Adopted its 2019 Fall National Meeting Minutes

The Task Force met Dec. 7, 2019, and took the following action: 1) adopted revisions to the NAIC *State Licensing Handbook*; 2) adopted the 2019 Continuing Education Reciprocity (CER) Agreement; 3) adopted the report of the Producer Licensing Uniformity (D) Working Group; 4) adopted the report of the Uniform Education (D) Working Group; 5) discussed the Surplus Lines (C) Task Force request to consider whether the requirement of a resident producer to hold underlying property/casualty (P/C) licenses before a surplus lines license is issued should be expanded to permit an accident and health (A&H) license to fulfill this requirement; 6) heard a report from the National Insurance Producer Registry (NIPR) Board of Directors.

Superintendent Dwyer made a motion, seconded by Commissioner Schmidt, to adopt its Dec. 7, 2019, minutes (*see NAIC Proceedings – Fall 2019, Producer Licensing (D) Task Force*). The motion passed unanimously.

2. Discuss Producer Licensing Issues Arising from the COVID-19 Crisis

In response to industry representatives requesting regulatory relief for the onboarding of new producers and the state issuance of bulletins on temporary licenses, Director Deiter said he and Superintendent Dwyer worked with NAIC and NIPR staff to develop a list of best practices and a template bulletin to assist the states wanting to implement temporary licenses without requiring an examination or fingerprinting applicants. He said they did this in their capacity as co-chairs of the Task Force and leadership roles on the NIPR Board; however, the documents did not go through the Task Force, as each state needs to make its own policy determination on how best to respond to the closure of examination centers. These documents were distributed to the NAIC members and state producer licensing directors on April 17. Director Deiter said 29 jurisdictions have issued bulletins on temporary licenses. Some common provisions among the states, which were incorporated into the template bulletin, include the following:

- A Temporary Producer License automatically expires (*insert appropriate timeframe*) days after a State of Emergency is lifted by the Governor and examinations and background check services are available.
- A Temporary Insurance Producer License shall not exceed 180 days from the date of issue.
- A Temporary Insurance Producer License is not renewable.
- A Temporary Insurance Producer License allows the producer to operate only as a resident temporary producer. Temporary producers are not eligible for non-resident licenses in other states.
- An insurer or responsible license producer must assume responsibility for all acts of a Temporary Insurance Producer.

Director Deiter said two states in the process of rescinding temporary producer license orders and testing sites are beginning to reopen. In response to Director Deiter's request for an update from NIPR, Laurie Wolf (NIPR) said NIPR added a COVID-19 resource center to the NIPR website where all state bulletins regarding producer licensing are available. Ms. Wolf said 33

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jurisdictions have issued bulletins on the extension of license renewals and continuing education (CE) compliance, and 29 jurisdictions have issued bulletins on the issuance of temporary licenses. A total of 47 jurisdictions have issued producer licensing related bulletins. Ms. Wolf said NIPR is processing temporary licenses for Arizona, Rhode Island, South Carolina, and Tennessee, and it is working with Mississippi, New Jersey and North Carolina.

Commissioner Schmidt said Kansas has been fully operational with their examination vendor, Pearson VUE, since April 16. She said the Kansas Department of Insurance (DOI) made a video to explain how applicants can take fingerprints and submit them for licensure. She said Kansas has not had issues with the availability of examinations due to social distancing requirements, but she said the examination centers are serving people on a first-come-first-serve basis and operating at a reduced capacity.

Director Deiter asked if the states are implementing remote, proctored examinations. Mr. Baughman said Washington has had online, proctored exams available since October 2019 through PSI, its examination vendor. He said Washington had administered over 200 online, proctored examinations since the middle of March. He said examination sites have also remained open, and Washington has not seen any disruption in the availability of examinations. Ms. Riddering said Michigan has had 400 applications for temporary licenses, and its examination centers opened on May 1. She said there have been problems finding proctors to monitor examination centers. Ms. Ferguson said California exam centers are open, but close to 40% of individuals who register to take an examination do not show up. Mr. Herrick said Texas issues a temporary license bulletin on March 22, and it has had 4,500 individuals apply for a temporary license. He said Texas contracts with Pearson VUE, and it has 3,000 exams for permanent licenses scheduled in May.

Superintendent Dwyer said she spoke with the three examination vendors. Based on these discussions, she thinks remote, proctored examinations will be available in June. Mr. Arnold said North Dakota contracts with Prometric as its examination vendor, and Prometric has been offering remote, proctored exams for the past two weeks. He said applicants can schedule the exam and take it within two days to a week. Ms. Rouleau said Vermont contracts with Prometric, and it was told remote testing will not be available in Vermont until July or August. Mr. Schlautman said Nebraska contracts with Prometric, and it has had remote testing available since April 17. Mr. Overstreet said Utah contracts with Prometric, but it has not been administering producer examinations because digital fingerprinting is not available. Mr. Arnold said applicants can get fingerprints elsewhere and submit hard copy fingerprints to the DOI. Mr. Baughman said applicants in Washington usually facilitate their fingerprints somewhere else other than the examination center. Ms. Ruda said Oregon contracts with PSI and facilitates the capture of fingerprints at the examination centers, which open on May 1. She said Oregon has not received any complaints about the availability of examinations, and Oregon is hoping to offer remote, proctored examinations by the middle of July. She said Oregon never saw a market need for the issuance of temporary licenses.

David Leifer (American Council of Life Insurers—ACLI) said the members of the ACLI appreciate the work of state insurance departments, but he said he has heard of exam availability in some states. Because of this, he requested that the states keep temporary licenses in place until any backlog on the availability of examination for permanent licenses is resolved. He said the ACLI supports the use of remote, proctored exams, and he stated that the Task Force might develop a white paper on the best practices for the use of remote, proctored examinations.

Wes Bissett (Independent Insurance Agents and Brokers of America—IIABA) said he thinks the NAIC template bulletin for temporary licenses is written from a company-centric view, which presents a problem for independent insurance producers. He said the states should permit either an insurer or a responsible licensed producer to assume responsibility for the acts of a temporary license.

Kristy Croushore (Fidelity Investments) said her company has been working with the Financial Industry Regulatory Authority (FINRA) on remote, proctored exams, and FINRA is making remote, proctored exams available to all broker/dealers by the end of May. She said allowing a temporary licensee to be appointed to one carrier limits Fidelity Investments' ability to offer the best recommendations to clients. She said limiting a temporary license to resident states also limits the ability of a Fidelity Investments associate to serve all the needs of a client. She said Fidelity Investments is hiring 2,000 associates in the coming weeks, and it wants to make sure the best services are available to clients.

Mr. Dunklin said Alabama issued temporary licenses prior to the COVID-19 crisis, and it requires oversight of a licensed insurer. He said Alabama experienced an increase in improper activity when this requirement was not in place.

3. Discuss Licensing for Independent Adjusters

Superintendent Dwyer said a priority for the NAIC members in 2020 is improving licensing uniformity and reciprocity for independent adjuster licensing. Before discussing these broader policy issues, she asked if there were any immediate market access and consumer protection issues arising from the COVID-19 crisis. She did not hear any comments, but she said Rhode Island is looking at both remote, proctored exams for both producer and independent adjusters. David Farber (King & Spalding), representing the Association of Claims Professionals (ACP), asked the states to extend COVID-19 bulletins issued for insurance producers to independent adjusters.

Mr. Farber discussed the broader policy issues regarding independent adjuster licensing. He said 34 of the 50 states license independent adjusters, and the average independent adjuster holds eight to 12 licenses. He said the lack of uniformity and reciprocity negatively affects consumers. For example, he said an independent adjuster who misses a license renewal date must refer his/her clients to another adjuster. He said it would also be better to have an ample number of adjusters licensed prior to a catastrophe rather than trying to process license applications after a catastrophe.

Mr. Farber said the issue of licensing is a process issue and not a substantive licensing issue. He said he does not expect all states to immediately adopt identical laws and regulations, but he suggested that administrative changes could be accomplished very quickly. For example, he said the states could use a uniform application and have uniform license renewal dates. He said the ACP looks forward to working with the states to implement changes, and he believes that taking small steps to change administrative processes can lead to greater uniformity and reciprocity across the states.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said she supports the efforts of the ACP, and she said the same issues that apply to independent adjusters also apply to company adjusters. Superintendent Dwyer agreed with this from a licensing perspective, and she said she would work to address uniformity and reciprocal licensing issues for both independent adjusters and company adjusters.

Having no further business, the Producer Licensing (D) Task Force adjourned.

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Insurance Licensing & Remote Exams

Bill Johnson, President, Fidelity Investment Life Insurance

Doug Wheeler, Senior Vice President, New York Life

COVID19 Impact on Licensing Exams

- COVID19 has led to a significant increase in customer demand for support.
 - Firms are experiencing record customer demand for guidance and advice
- Industry hiring plans have been disrupted by test center closures and delays
 - Closures and capacity restrictions are causing backlog
- Health and safety is paramount
 - Remote testing mitigates risks associated with in-person exams
 - Significant delays and backlogs because of increasing risks and uncertainty

Remote Exams – The best long-term solution

- Temporary licensing was a helpful short-term fix but not a permanent solution
 - Not optimal for consumer choice
 - Possible surge later this year emphasizes need for remote strategy
- Remote testing is safe and efficient
 - In states without remote exams, significant delays
 - Firms have been able to resolve FINRA Series 7 exam backlog
- Integrity of tests will be protected
 - Protocols ensure remote exams are secure
 - FINRA Series 7 data shows consistent pass / fail rates between online and brick and mortar sites
 - Early success in states that have adopted remote exam option

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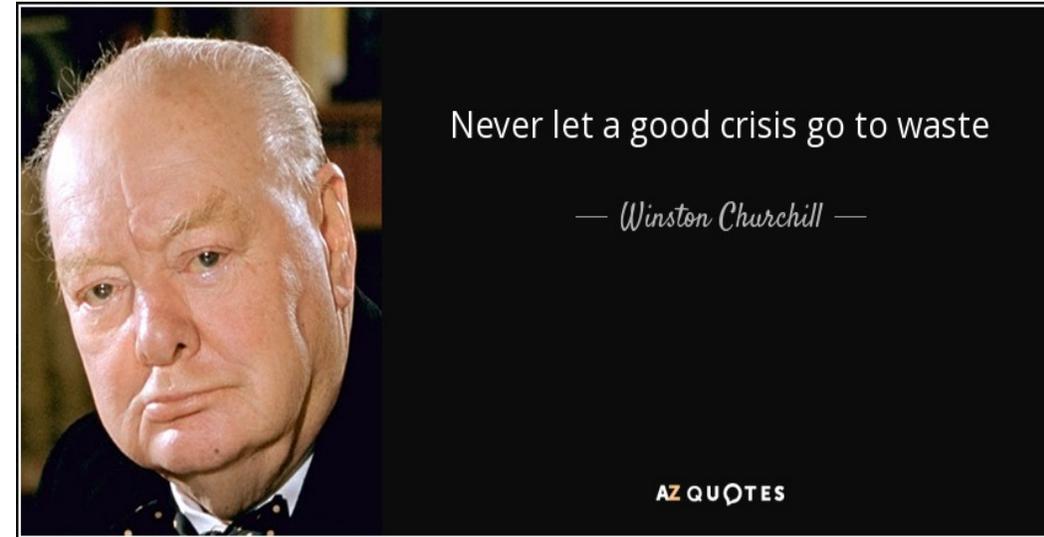
July and August 2020

Bradley M. Burd
General Counsel

COVID-19 Has Highlighted Areas Where Improvements Can Be Made With Licensing

Challenges Faced:

- Most states' vendors that provide testing and fingerprinting services shut down for several weeks
- Currently, some states still have backlogs where applicants cannot either take exams or get fingerprints taken
- Many of the state vendors have inadequate resources to address social distancing or the increased volume presented due to the backlogs
- Some states have processes and rules that require in person certifications prior to taking the exam, which places additional reliance on other vendors



The Goal:

Use time now to study what can be done to improve the licensing process in order to create best practices that state Departments can use as a reference to evaluate whether their processes and their vendors' processes are commensurate with other states' practices

Examples of COVID-Related Licensing Issues

- During the height of the pandemic, consumer demand for licensed insurance agents to assist with enrollments, plan changes, and basic insurance consultation increased significantly, particularly among senior citizens
- To meet the demand, insurance employers looked to hire new health insurance agents who require extensive training, licensing, and background checks
 - In one state, the vendor that provided the state with fingerprinting and testing services was unable to provide services for 2 ½ months.
 - In another state, even after an applicant passes the test, fingerprinting in certain areas may take 6 weeks to get scheduled due to vendor resources and backlogs
 - In yet another state, there was a requirement for in-person certification prior to applicants taking the licensing exam. Vendors providing this certification were only able to provide the certification virtually.
- As a result, new jobs that would have helped mitigate the historic unemployment rates went unfilled and resources did not keep up with increased consumer demand for a certain period of time

Proposed Solutions To Be Studied

State Departments did an amazing job assisting in finding short-term resolutions; however, it is in the best interest of all to ensure the issues do not reoccur

Proposed Solutions To Be Looked At

- Ensuring vendor test capacity is adequate (identifying facilities that vendors can use to quickly resolve backlogs)
- Remote proctored exam capability
- Virtual certifications prior to exam (where applicable)
- Vendors to have mobile fingerprinting, or alternatively, no exclusivity for vendors if vendors' resources are constrained so applicants can get their own fingerprints
- Require vendors to modernize technology for fingerprinting
- Allow agents that have employer sponsors that meet certain requirements (E&O coverage, recording capabilities, training standards, etc) and who have conducted background checks to have 30 day grace period to complete fingerprinting

Other Solutions That Continue To Have Issues

- Temporary licenses do not adequately solve the problem
 - Many carriers will not appoint agents with temporary licenses
 - States will not issue non-resident licenses based on temporary license
 - In order to have a bigger impact, temporary licenses would need a more standardized process by and between the states

**Vincent Ryan**

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July 29, 2020

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Dear Director Deiter & Superintendent Dwyer:

On behalf of ACLI and its members, we appreciate the extraordinary leadership that you as insurance regulators have shown to recognize the unique problems created by the COVID-19 pandemic, and to implement creative solutions in response. We have and continue to support these accommodations. We understand that online-remote proctored testing will be a subject of consideration at the next meeting of the NAIC Producer Licensing Task Force (the “Task Force”) on Monday, August 3. We are very grateful for the time and attention the NAIC is devoting to this important topic, and we are sending these comments for your consideration as you discuss what best practices might be adopted during these unprecedented times.

On many fronts, the COVID-19 pandemic unsettled the insurance ecosystem, requiring regulators to adopt various extenuations and modifications. The closing of testing and fingerprinting centers due to social distancing protocols, for example, effectively halted new producers coming into the system. Fortunately, several states established processes so that individuals could obtain temporary producer licenses to serve consumers and also to attain employment. These states approached the temporary license as an emergency, stopgap measure and a bridge to a permanent license once testing and fingerprinting operations resumed, or these services become available remotely. Many states with these programs, however, only allow for temporary licenses to remain in effect for a limited period of time. Now, several months since the onset of the pandemic, testing centers are beginning to reopen, albeit at significantly reduced capacity. While this is welcomed news, the majority of states still require applicants to take exams in-person at the

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

testing centers under the supervision of an on-site proctor. This, on top of reduced capacity, means that testing centers need to work through large backlogs of testing requests for multiple different industry licenses, first before entertaining new requests. Moreover, candidates are not able to sit for their exams for several weeks or even months. We request that already in-force provisional licenses remain in effect until the applicant(s) are able to sit for their exam, satisfy all fingerprinting obligations, and are issued the permanent credential.

While temporary license programs have helped to bridge a gap during this time, online remote testing is a viable solution in both the short term and in the long term as an important component of insurance regulatory modernization to come out of this experience. As it currently stands, 14 states have implemented online remote testing as an offering through their respective testing vendors. In doing so, license applicants in these states are able to take advantage of a safe and secure way of taking their exam and securing their permanence license. Based on conversations with NIPR, NAIC and testing vendors, it is our understanding that many other states are exploring adoption of online testing. We likewise urge regulators to issue a recommendation and a series of best practices, if necessary, for all states to adopt online remote testing.

We therefore urge the Task Force to express its support for the implementation of proctored online testing as a goal for all states to meet. We are not aware of any adverse outcomes from online producer testing, and to the contrary see only benefits for states, testing providers, companies, prospective producers and consumers. It is our understanding that the obstacles to wider adoption of online testing stem from state contractual limitations and other technical challenges. But, if needed, the Uniform Education Working Group could be charged with developing a set of best practices for online proctored exams. However accomplished, Task Force support for online proctored exams will be important to the rapid adoption of this innovation. ACLI and our member companies will of course lend our support to the Task Force efforts to promote online testing.

Thank you for your consideration. As always, we are available to discuss.

Respectfully submitted,



Vincent Ryan
Legislative Director



David Leifer
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Cc: NAIC Producer Licensing Task Force
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July 31, 2020

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Dear Director Deiter & Superintendent Dwyer:

On behalf of my client Primerica, I am writing today in advance of the Producer Licensing Working Group Virtual Summer Meeting. My client has been working with a coalition of companies throughout the COVID-19 crisis and they have a number of thoughts relevant to the committee's upcoming agenda that they would like to share for consideration.

First, however, all of us would like to pause and recognize the leadership being shown by you and other members of the Working Group during this national emergency. The COVID-19 pandemic has thrown a number of obstacles into the paths of regulators, and we appreciate the creative solutions adopted to keep licensing open as testing, fingerprints and in-person pre-licensing classes were all disrupted.

The Working Group's agenda for next month's meeting calls for a discussion of "*Producer Licensing Issues Arising from the COVID-19 Crisis*," including temporary licenses and exam testing. As an ad hoc coalition that has formed to discuss these same issues over the last few months, we wanted to share a few observations and recommendations that we hope the committee will consider.

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First, we would ask the Working Group to make a formal recommendation that all states move to quickly implement online Remote Testing, a safe, secure test delivery system that is now offered by all three major testing vendors and used by at least one state-run program.

The COVID-19 crisis revealed a vulnerability in the producer licensing process. The shutdown of physical testing centers threatened to grind licensing to a halt. While temporary licenses have proven to be an important remedy, it is critical that states take steps today to ensure permanent licenses can be issued should physical testing sites ever have to close again.

Wide-spread adoption of online Remote Testing will better position the licensing system to withstand a future event that requires the closure of testing sites, whether that event comes next week, next month or years from now. As members of industry, we are very pleased to see that 14 states have adopted online proctored licensing exams. We are also encouraged to know that at least a handful of other states are now engaged in serious conversations with their vendors to get the technology live in their states. It is important that other states follow suit as soon as possible.

Second, we would ask the Working Group to formally communicate to states the need to be thoughtful in how they unwind their emergency regulations. While testing and fingerprinting centers are open in all 50 states, there are still many jurisdictions where it can take four weeks or more to get a testing slot. In these states, temporary license provisions continue to serve as a bridge for individuals who want to a permanent license but cannot yet access the necessary services. We would ask states to give careful consideration to circumstances on the ground before doing away with this bridge. Similarly, emergency rules waiving in-person requirements for pre-licensing and continuing education should be given thoughtful consideration before they are lifted.

As a third and final point, we would ask that all states keep in mind the need for increased communication with stakeholders. The more notice states can give regarding rule changes, bulletin expirations and other matters, the more industry, the pre-licensing community and other stakeholders can prepare. We recognize that these are difficult times and that information can change quickly from week-to-week. Any and all efforts made at increasing transparency are greatly appreciated.

Larry Dieter
Elizabeth Dwyer
July 31, 2020
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In closing, let me once again extend the thanks of everyone on this letter to the members of the Working Group for their leadership. As a former commissioner, I can appreciate the enormous pressure each of you faces. It is my hope the Working Group finds the points raised in this letter useful. Should you have any questions for me or the companies on this letter, please let me know.

Very truly yours,

GREENBERG TRAURIG, LLP

Julie Mix McPeak

Julie Mix McPeak