

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

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<https://naiconline.sharepoint.com/:w:/r/sites/NAICSupportStaffHub/Member%20Meetings/Fall%202021/Cmte/C/Contents.docx?d=w5783b3615b684142b638c2bff76f462d&csf=1&web=1&e=fm35BW>

Draft Pending Adoption

Draft: 12/28/21

Property and Casualty Insurance (C) Committee
San Diego, California
December 15, 2021

The Property and Casualty Insurance (C) Committee met in San Diego, CA, Dec. 15, 2021. The following Committee members participated: Vicki Schmidt, Chair (KS); Mike Chaney, Vice Chair (MS); Jim L. Ridling (AL); Ricardo Lara (CA); Andrew N. Mais and George Bradner (CT); Colin M. Hayashida (HI); Amy L. Beard (IN); James J. Donelon and Tom Travis (LA); Kathleen A. Birrane represented by Greg Derwart (MD); Grace Arnold and Julia Dreier (MN); Larry D. Deiter (SD); Tregenza A. Roach (VI); Michael S. Pieciak represented by Kevin Gaffney (VT); Mike Kreidler (WA); and Allan L. McVey (WV). Also participating were: Anoush Brangaccio (FL); and Don Beatty (VA).

1. Adopted its Nov. 10 Minutes

Commissioner Mais made a motion, seconded by Commissioner McVey, to adopt the Committee's Nov. 10 minutes (Attachment One). The motion passed unanimously.

2. Adopted the Reports of its Task Forces and Working Groups

a. Casualty Actuarial and Statistical (C) Task Force

Ms. Dreier reported that the Casualty Actuarial and Statistical (C) Task Force assisted the Blanks (E) Working Group in evaluating a proposal (2021-11BWG) submitted by the Center for Economic Justice (CEJ). The proposal was to add data reported on policy writings for private passenger auto (PPA) and homeowners insurance to the Property/Casualty (P/C) Annual and Quarterly Statements. Ms. Dreier said the Task Force never took a vote on whether to support the Blanks proposal; however, the Task Force sent state-by-state feedback on the proposal and sent the Statistical Data (C) Working Group's research on how much earlier statistical agents could provide premium and exposure data similar to the Blanks proposal. The Blanks (E) Working Group ultimately rejected this Blanks proposal.

Ms. Dreier said the Task Force was charged to evaluate whether P/C Appointed Actuaries were maintaining competence in years after passing exams. The Casualty Actuarial Society (CAS) conducted a study and found no issues with continuing education (CE) of Appointed Actuaries, so the Task Force deemed that charge completed with no further action regarding maintaining competence. With the charge complete, the Task Force will remove some temporary reporting requirements needed to conduct the CE study, which will be for 2023.

Ms. Dreier said the Task Force also drafted a response letter to the American Academy of Actuaries' (Academy's) second exposure draft for U.S. qualification standards. The Academy has adopted these standards, and the Task Force is going to follow up with the Academy to discuss why some changes were not made to better align with state insurance regulators' requirements for the P/C Appointed Actuaries. A proposed response in answer to the referral Project #2019-49: Retroactive Reinsurance Exception is now exposed for a 45-day public comment period ending Jan. 20, 2022.

Ms. Dreier also said a regulatory review of random forest models has been exposed for a 60-day public comment period ending Feb. 4, 2022. The proposal takes the appendix of generalized linear model (GLM) information items from the adopted *Regulatory Review of Predictive Models* white paper and modifies it to apply to the review of random forest models. A proposed glossary of random forest model terminology was also exposed.

b. Surplus Lines (C) Task Force

Mr. Travis said the Surplus Lines (C) Task Force has been working on modernizing the *Nonadmitted Insurance Model Act* (#870). A drafting group was formed and has met four times since the Summer National Meeting, and it is hoping to have a draft for the Task Force in early 2022. The Task Force has also adopted revisions to the *Trust Agreement for Alien Excess or Surplus Lines Insurers* that update the trust language and allow for a more streamlined approach after an insurer has left the *Quarterly Listing of Alien Insurers*. The Task Force has also adopted changes to the *Quarterly Listing of Alien Insurers* that will allow state insurance regulators access to alien insurer contact information. In 2022, the Task Force is planning to make improvements and updates to the International Insurers Department (IID) Plan of Operation.

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c. Title Insurance (C) Task Force

Ms. Brangaccio said the Title Insurance (C) Task Force met Oct. 19 to: 1) discuss proposed charges; 2) hear a presentation from Demotech on observed and reported impacts of defalcations and escrow theft on the title industry; and 3) hear a presentation from the American Land Title Association (ALTA) on its new forms of Commitment, Owner's Policy, and Loan Policy, effective July 1. Ms. Brangaccio said the Task Force also met Nov. 16 to: 1) hear a presentation from AM Best on how the robust housing market has driven historic title industry performance and a presentation from ALTA on key changes to the homeowners policy of title insurance and ALTA endorsements; and 2) adopt its 2022 charges. She said revisions reflect removing outdated or completed charges and minor editorial changes for clarification of intent. She said late submissions by the CEJ were deferred and subsequently submitted to the Committee for consideration.

d. Workers' Compensation (C) Task Force

Commissioner Schmidt said the Workers' Compensation (C) Task Force has not met since the Summer National Meeting.

e. Cannabis Insurance (C) Working Group

Commissioner Lara said the Cannabis Insurance (C) Working Group met Oct. 21 to discuss the draft outline for an appendix to the *Understanding the Market for Cannabis Insurance* white paper. The appendix will provide an update on the regulatory issues related to insurance in the cannabis industry that have occurred since the white paper's adoption in July 2019. The appendix is anticipated to be adopted by the 2022 Summer National Meeting. The Working Group also discussed its 2022 charges, including a recommendation to collaborate with the Producer Licensing (D) Task Force to study whether cannabis-related convictions in states where cannabis is legalized for medical and/or recreational use are preventing individuals from being licensed as an agent or broker.

Commissioner Lara said the Working Group met Dec. 1 to hear a presentation from the University of Colorado on emerging scientific issues in the cannabis space. The Working Group learned the landscape of legality and received information that shows commercial cannabis products are constantly changing, with minor tetrahydrocannabinol (THC)-like cannabinoids (such as Delta-8 and Delta-10) able to be synthesized from legal hemp, thereby creating new legal, science, and health-related questions. The Working Group heard a presentation from the Cannabis Regulators Association (CANNRA) on cannabis policy and regulation trends. The Working Group learned there is now a broader focus on how policy is made, with an increased focus and prioritization of social equity, restorative justice, and public health and safety issues. The Working Group discussed the potential for information from the Task Force and its related NAIC databases that can assist the Working Group in assessing whether equity concerns exist. Commissioner Lara said the drafting group met several times to develop the outline and begin drafting an appendix for the *Understanding the Market for Cannabis Insurance* white paper.

f. Catastrophe Insurance (C) Working Group

Commissioner Chaney said the Catastrophe Insurance (C) Working Group met jointly with the NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group Dec. 12 to hear from David Maurstad (FEMA) on the implementation of the new National Flood Insurance Program (NFIP) rating methodology known as Risk Rating 2.0, which is meant to more accurately match individual rates with risk. Commissioner Chaney said state insurance regulators appreciate their partnership with FEMA, and FEMA staff have been available with training and other assistance in helping consumers understand the rollout of these new rates. The Working Group and Advisory Group also heard from Edie Lohmann (FEMA), who reviewed the FEMA regions, regional flood insurance specialists, and how FEMA can engage with state insurance regulators on outreach, education, and training; technical assistance; NFIP claims, underwriting, and coverage; pre- and post-disaster support; and public awareness events and activities.

Commissioner Chaney said the Working Group and Advisory Group heard an update regarding the NAIC Catastrophe Resource Center. This website has information about NAIC and state resources, and it has recently been updated to include FEMA regional information and FEMA contact information. Louisiana provided a report on Hurricane Ida, including the department's response to the hurricane in assisting consumers and collecting claims data. Commissioner Chaney said an update was provided on a state survey that will help the Working Group in updating the *Catastrophe Modeling Handbook*. He said any states not yet completing the survey should reach out to the NAIC. The drafting group plans to meet in January to further discuss the survey and the drafting process. Commissioner Chaney said upcoming events involving FEMA include an NAIC/FEMA workshop for FEMA Region 6 tentatively planned for early 2022; an earthquake event to be hosted by the Missouri Department of Insurance (DOI) in May 2022; and the Cascadia Rising 2022 National Level Exercise.

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g. Pet Insurance (C) Working Group

Mr. Beatty said the Pet Insurance (C) Working Group met three times to finalize edits to the Pet Insurance Model Act, with the Working Group adopting the model on Oct. 21. Following the adoption of the model, the Working Group met Dec. 1 to discuss the issue of the collection of pet insurance data, which arose as a topic of discussion during the development of the model. Because the only 2021 charge for the Working Group was the development of the model, the Working Group voted to ask the Committee to make the proper referrals to the Blanks (E) Working Group for the collection of data on the financial annual statement, as well as forwarding drafted referrals to the Market Analysis Procedures (D) Working Group to collect Market Conduct Annual Statement (MCAS) data and the Market Information Systems Research and Development (D) Working Group to collect complaint data.

h. Terrorism Insurance Implementation (C) Working Group

Commissioner Schmidt said the Terrorism Insurance Implementation (C) Working Group has not met since the Summer National Meeting.

i. Transparency and Readability of Consumer Information (C) Working Group

Mr. Bradner said the Transparency and Readability of Consumer Information (C) Working Group met Nov. 17 and has been working on best practices documents regarding disclosures for premium increases. These best practices documents include a disclosure document to be sent from insurers to consumers regarding premium increases (both capped and uncapped) and reasons for the premium increase; a rate/rule filing checklist that can be used by DOIs to ensure appropriate information is provided to the DOI regarding rate filings; and consumer education regarding ratemaking, rating factors, and premium discounts for both homeowners and auto insurance. Mr. Bradner said the disclosure document and the rate/rule filing checklist will be exposed for 30 days before the Working Group votes on adoption. He also said the Working Group has a proposed charge to study and evaluate ways to engage DOI communication to more diverse populations, such as rural communities. He said the Working Group plans to begin discussing this topic in January.

Commissioner Chaney made a motion, seconded by Commissioner Mais, to adopt the following task force and working group reports: Casualty Actuarial and Statistical (C) Task Force; Surplus Lines (C) Task Force; Title Insurance (C) Task Force; Workers' Compensation (C) Task Force; Cannabis Insurance (C) Working Group (Attachment Two); Catastrophe Insurance (C) Working Group (Attachment Three); Pet Insurance (C) Working Group (Attachment Four); Terrorism Insurance Implementation (C) Working Group; and Transparency and Readability of Consumer Information (C) Working Group (Attachment Five). The motion passed unanimously.

3. Heard Presentations Related to Auto Insurance Premium Refunds Resulting from the Pandemic

Commissioner Schmidt said the Consumer Federation of America (CFA) requested to speak about auto insurance premium refunds resulting from reduced driving due to the pandemic.

Doug Heller (CFA) said the CFA believes there was a duty to get more refunds to drivers over the past year and a half, and it is still not too late to do so. He said commissioners went to great lengths when the pandemic started to make sure the insurance market could function effectively, including granting premium payment extensions and cancellation moratoria. He said insurers were granted new means by which they could comply with a variety of statutory and regulatory requirements, and DOIs figured out how to work from home.

Mr. Heller said the CFA urged insurance departments to act to create a mandate and mechanism for insurers to return the excess premium they would collect as a result of the pandemic. He said insurers finally did give back premium, but it was not enough. He said insurance departments need to do more to prevent the excessive rates that data now documents. He said commissioners should revisit the question of pandemic premium refunds for drivers in their states and develop a plan for a systematic response should a similar situation happen in the future.

Mr. Heller said premiums were about the same in 2020 as they were in 2019 even with the premium refunds. He noted that incurred losses for 2020 fell dramatically. He said insurers claimed that severity has increased, but the volume of claims has fallen dramatically. The drop in auto claims led to a historically low industry-wide loss ratio for 2020. The 2020 loss ratio was more than 10 points lower than the average over the prior four years. Mr. Heller said rate decreases did not come close to offsetting the excessive prices consumers were being charged.

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Mr. Heller noted that insurers have been telling investors their profits increased in 2020. He said AM Best identified that \$12.9 billion was given back to policyholders. State Farm paid more than \$44 million in bonuses to its top executives in 2020, dramatically higher than prior years, and spent \$400 million to buy a nonstandard insurer. Geico increased its auto insurance underwriting income by 128% over 2019. Progressive paid investors \$2.6 billion in January 2021 through its largest ever annual dividend to shareholders. Allstate paid its largest dividend ever and spent \$4 billion to acquire another insurer. Mr. Heller said insurers are currently requesting rate hikes by saying claim histories from the pandemic should not apply. He said his research shows there is \$29 billion that should still be returned from insurers' windfall profits. He said DOIs should consider conducting their own investigation and data call.

Rich Gibson (Academy) said the Academy will not weigh in on whether additional refunds are appropriate. He said rates are set on a prospective basis, estimating future costs. He said the pandemic added to the usual uncertainty. He noted that when insurers underestimate the needed rate, there is no recourse to recoup the shortfalls. Actuaries have practice and procedures for making these future cost estimates that are embodied in Actuarial Standards of Practice (ASOPs). Mr. Gibson noted that the Academy has published a paper titled *Considerations for Handling Auto Insurance Data in the Era of COVID-19*.

Mr. Gibson said the loss and loss adjustment expense ratio for 2020 was the best year over the last 10 years. He said generally, the auto insurance industry has not made an underwriting profit for auto liability for the nine years before 2020. These figures do not consider the investment income earned by the industry. Mr. Gibson also noted that industry aggregate data and averages may not be the best way to judge the appropriateness of refunds. State insurance regulators and others should look at company specific and state specific data. Mr. Gibson said insurers should continue to monitor their individual results and adjust rates as appropriate.

David F. Snyder (American Property Casualty Insurance Association—APCIA) said the APCIA is releasing a comprehensive report titled *U.S. Auto Insurance Market Still Struggling*. He said insurers and state insurance regulators quickly moved in-person operations to virtual to better serve consumers. He said state insurance regulators offered flexibility to insurers who in turn offered flexibility to customers in areas such as grace periods for late payments and waiving delivery exclusions.

Mr. Snyder said insurers provided more than \$14 billion in premium relief and credits, reflecting the sudden and dramatic downturn in driving activity and losses. As the pandemic continued, the APCIA warned against mandating more premiums reductions as traffic speeds increased, as did serious accidents and eventually miles driven. Mr. Snyder said fatalities in 2020 increased by 7.2% over 2019, and 2020 fatalities were the highest in the last 10 years. He also said the first half of 2021 has seen an 18.4% increase in fatalities over 2020. He said rising insured losses are being driven by the intersection of more dangerous driving behavior, return of mileage, and rapid inflation affecting the cost of products and services covered by auto insurance. He said rising claims costs reflect the cost to repair and replace motor vehicles being seen in increased inflation.

Mr. Snyder said loss ratios dropped dramatically in 2020 but recovered in the last half of 2020, and they are rising throughout 2021, thus offsetting the short-term gains from 2020. He said state insurance regulators should maintain the long-term stability and solvency of the insurance markets. He asked whether premiums should be lowered in the short term and raised when losses rise, moving toward a rating system where consumers would get refunds or surcharges every month. He said such a system does not provide stability and solvency. He urged cooperation between state insurance regulators and industry to ramp up highway safety measures and a recognition of the dramatic inflation in the cost of products and services covered by auto insurance. He said state insurance regulators should avoid the temptation to grant short-term relief if the reality of that has been overtaken by losses that have occurred since. He said a short-term approach would lead to instability and potential solvency issues.

Commissioner Lara said the APCIA indicated that insurers should not be mandated to provide premium reductions based on short-term fluctuations in losses. He said 2020 was not just a fluctuation, as it resulted in consumers overpaying premiums by billions of dollars. Mr. Snyder said losses went down but then climbed back up, and the industry is advocating for a long-term strategy. He said insurers should not bill consumers midterm when losses increase. He said the long-term trends differ from short-term trends. Commissioner Lara said 2020 should not be ignored. He said the industry does not say wildfire losses over the past few years in California are just an anomaly. He said the industry raises rates when they see losses increase, but they do not give back premium when losses decrease dramatically. Mr. Snyder said if there is a demand of refunds based on short-term development, then there should be midterm increases when inflation takes over, but the industry believes in a long-term approach.

Commissioner Kreidler said insurers are keeping short-term gains to keep insurers above water. He said Washington received testimony from small businesses indicating their insurance was not covering business interruption, and those businesses could use help. He said state insurance regulators should be asking how much the auto insurance industry actually refunded. Mr.

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Snyder said insurance companies operate in the long term, factoring in losses and working with state insurance regulators to ensure solvency is not at risk.

Tony Cotto (National Association of Mutual Insurance Companies—NAMIC) said rates are prospective, complex, and take time to develop. He said rates are designed to adjust to behavioral and experience patterns over years. He said in early 2020, vehicle miles traveled decreased dramatically at the onset of temporary closures due to the pandemic, but by summer 2020, miles driven were back within 10% of 2019. He said in acknowledgement of the overall reduction and driving during spring 2020, insurers returned more than \$14 billion in premium to consumers.

Mr. Cotto said anyone advocating for additional rebates for 2020 should also advocate for additional premium charges to consumers for the years from 2010 to 2019. He said the important discussion should be on the fact that most costs involved in providing auto insurance are driven by external forces outside the control of auto insurance. He said highways are seeing more distracted and impaired driving; vehicles are becoming much more expensive to repair, as auto parts and labor costs are skyrocketing; and insurers are seeing more expensive medical care and more extreme weather events.

Mr. Cotto said NAMIC supports consumer choice, data privacy, and sound underwriting. He said the industry wants to join state insurance regulators to find effective ways to combat riskier roads and higher prices.

Commissioner Lara asked if 2020 was an extraordinarily profitable year for insurance companies. Mr. Cotto said the cost of providing auto coverage is increasing. He said \$14 billion in premium refunds was returned to consumers in 2020, but death rates rose even though miles driven fell. Commissioner Lara said it was a record profitable year in 2020 for auto insurers.

Commissioner Kreidler said the industry is saying there were unanticipated gains but then also unanticipated losses, so the industry wants to keep the money. He said the industry is fighting state insurance regulators in providing data about these issues. He said if insurers make unanticipated gains, they have a responsibility to their policyholders. He asked why NAMIC is resisting providing data to state insurance regulators. Mr. Cotto said NAMIC would be happy to speak with individual state departments.

Birny Birnbaum (CEJ) said the pandemic led to such reduced driving that claim payments declined by 20% from expected levels, and rates became excessive by over \$40 billion in 2020. He said traditional actuarial ratemaking methods and traditional regulatory rate filing approaches were not suited to the problem. He said rates in effect at the beginning of March 2020 anticipated \$175 billion of claims out of the expected \$260 billion in premium. The reported claims in 2020 were about \$35 billion, 20% less than expected. Mr. Birnbaum said after insurer relief, there is about a \$30 billion windfall profit for the industry, which is about \$125 per insured vehicle or 10% of total premium.

Mr. Birnbaum said any increase in claims severity in 2020 was dwarfed by the reduction in claim frequency. He said loss ratios have returned to normal in 2021, but insurers are not losing money. He said Progressive reported \$3 billion in profits year-to-date (YTD). He also said insurers are seeking rate increases. The 20% reduction in claims was not offset by losses in 2021. Mr. Birnbaum said windfall profits were given to investors or management. He noted that insurer rate filings are claiming 2020 was an anomaly and should be ignored. He noted that the 2020 loss ratio was over 10 points lower than historical results. He said state insurance regulators should learn that more timely data collection is needed to better monitor the market and move to a monthly premium relief program during an emergency.

Erica Eversman (Automotive Education & Policy Institute—AEPI) said if there is no state insurance regulator requirement, insurers do as they see fit. She said the National Highway Traffic Safety Administration (NHTSA) does not collect the appropriate universe of data to determine what causes vehicle fatalities. She said obtaining prior claims information from auto insurers about whether a vehicle had been previously damaged and repaired would be valuable information. She said the industry should not use fatalities as justification for not refunding premiums to consumers. She said part of the reason the number of vehicle fatalities is growing is because insurers have increasing control over vehicle repairs in terms of dictating repair procedures. She said insurers should voluntarily provide the NHTSA with auto claims data.

4. Adopted its 2022 Proposed Charges

Jennifer Garder (NAIC) said the Committee's 2022 proposed charges were posted and distributed on Nov. 19. She said the Committee received comments from the CEJ on Dec. 9. Leadership of the Casualty Actuarial and Statistical (C) Task Force and the Title Insurance (C) Task Force discussed those comments, and they are recommending two additional charges. For the Statistical Data (C) Working Group, a proposed third charge would read, “[i]mplement the expedited reporting and publication of average auto and average homeowners premium portions of the annual Auto Insurance Database and Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner’s Insurance.”

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For the Title Insurance (C) Task Force, a proposed fifth charge would read, “[r]eview current rate regulation practices.”

The Committee had no additional discussion on the two recommended revisions. Commissioner Lara made a motion, seconded by Mr. Travis, to adopt the Committee’s 2022 proposed charges with the two additions (Attachment Six).

5. Heard a Report on Federal Activities

Brooke Stringer (NAIC) said the federal Infrastructure Investment and Jobs Act has been signed into law and includes such items as \$5 billion for FEMA flood mitigation assistance and pre-disaster hazard mitigation grants, as well as a provision requiring that auto manufacturers install impaired-driving technology in new vehicles. She said the U.S. House of Representatives (House) passed a \$1.7 trillion reconciliation bill in November that includes policy priorities on climate, jobs, and health care into one massive bill. This bill has not yet passed the U.S. Senate (Senate). The proposed bill forgives the NFIP’s \$20 billion debt, provides funding for flood mapping and a means-tested affordability program, provides \$145 million to FEMA for updating and enforcing hazard resistant codes and standards and grants to state and local governments, and provides \$121 million to the U.S. Department of Labor’s (DOL’s) Office of Workers’ Compensation Programs (OWCP) for activities of the OWCP; but it does not include a specific reference to oversight of state workers’ compensation programs that were included in previous versions and raised concerns from the industry.

Ms. Stringer said the NFIP was extended as part of a short-term funding bill through Feb. 18, 2022. The NAIC continues to reiterate its support for a long-term reauthorization and urging prompt action before the program expires. Ms. Stringer noted that there is a bipartisan/bicameral five-year reauthorization bill (S. 3128/H.R. 5082) from U.S. Sen. Bob Menendez (D-NJ), U.S. Sen. Bill Cassidy (R-LA), U.S. Congressman Frank Pallone (D-NJ), and U.S. Congressman Clay Higgins (R-LA). The NAIC does not have a position on this bill, but it does support U.S. Sen. Rick Scott (R-FL) and U.S. Rep. Kathy Castor’s (D-FL) bill, the Flood Insurance Consumer Choice Act of 2021 (S. 2915/H.R. 4669), which would clarify that a flood insurance policy purchased in the private market can count as “continuous coverage” under the terms of the NFIP, and policyholders could return to the NFIP without losing any previous subsidy.

Ms. Stringer said FEMA began implementing its new NFIP pricing methodology, Risk Rating 2.0, in October. She said a bipartisan group of coastal senators tried unsuccessfully to urge FEMA to postpone Risk Rating 2.0, warning about the impact of premium hikes, and introduced legislation to try to delay it. Risk Rating 2.0 will remain a key issue for NFIP reauthorization, particularly with phase two rolling out in April 2022.

Ms. Stringer reported that U.S. Congresswoman Carolyn Maloney (D-NY) reintroduced the Pandemic Risk Insurance Act of 2021 (PRIA) (H.R. 5823), which would establish a federal backstop for pandemic risk. PRIA would require that insurers make available in all their P/C insurance policies coverage for insured losses due to covered public health emergencies. The NAIC is monitoring this legislation.

Ms. Stringer said the U.S. Congress (Congress) has also focused on legislation regarding access to financial services for legitimate cannabis businesses, which has garnered bipartisan support. The House has passed the Secure and Fair Enforcement (SAFE) Banking Act (H.R. 1996/S. 910) several times, which would provide a safe harbor from violations of federal law for those engaged in the business of insurance participating in cannabis industry activity that is permissible under state law. There were recent efforts to add the bill to the annual defense authorization bill, but ultimately, they were not successful, as some Democrats wanted to include broader cannabis policy reforms. The NAIC supports the SAFE Banking Act, as well as the Clarifying Law Around Insurance of Marijuana (CLAIM) Act (S. 862), which ensures that legal marijuana and related businesses have access to comprehensive insurance coverage.

Ms. Stringer said NAIC staff received a Congressional inquiry regarding a problem one of their constituents had with renters insurance/military housing. NAIC staff previously circulated a news article to Committee members. There was a military family with a renters insurance policy that had a claim denied because the rented house was through a public-private venture and not “government controlled” as the policy specified. A Congressional office is exploring federal legislative solutions to prevent this from happening in the future. Ms. Stringer said NAIC staff plan to reach out to industry to understand if it is common practice that a renters policy differentiates between government housing and private housing in terms of coverages on military bases.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

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Draft: 11/30/21

Property and Casualty Insurance (C) Committee
Virtual Meeting
November 10, 2021

The Property and Casualty Insurance (C) Committee met via conference call, Nov. 10, 2021. The following Committee members participated: Vicki Schmidt, Chair (KS); Mike Chaney, Vice Chair (MS); Jim L. Ridling and Mark Fowler (AL); Ricardo Lara represented by Ken Allen (CA); Andrew N. Mais (CT); Colin M. Hayashida (HI); James J. Donelon represented by Warren Byrd (LA); Grace Arnold represented by Julia Dreier (MN); Larry D. Deiter (SD); and Mike Kreidler (WA). Also participating were: Matt Gendron (RI); and Don Beatty (VA).

1. Adopted its Summer National Meeting Minutes

Director Deiter made a motion, seconded by Commissioner Kreidler, to adopt the Committee's Aug. 16 minutes (*see NAIC Proceedings – Summer 2021, Property and Casualty Insurance (C) Committee*). The motion passed unanimously.

2. Adopted the Pet Insurance Model Act

Mr. Beatty said after the Pet Insurance (C) Working Group released *A Regulator's Guide to Pet Insurance*, it adopted a Request for NAIC Model Law Development on June 27, 2019, which was adopted by the Executive (EX) Committee and Plenary on Aug. 6, 2019. He said the Working Group held 24 open meetings to draft the model, with active participation from industry, consumer representatives, producers, and veterinarian groups. Mr. Beatty noted the model covers required definitions and disclosures, as well as regulations for policy conditions, sales practices for wellness programs, and producer training. He said the Working Group had extensive discussions on the following major issues: preexisting conditions, waiting periods, free-look periods, policy renewals, wellness programs, and licensing. While the Working Group did decide that this model was not the appropriate place to decide the type of license required to sell pet insurance, state insurance regulators wanted to make sure producers are trained on the specific features of pet insurance products before selling those products.

Mr. Beatty noted that the Working Group is aware that industry does have issues with the waiting periods and wellness programs language in the adopted version, but state insurance regulators thought this language was necessary to include in this model. He also said during the course of discussing the model, the Working Group has considered the need for specific data collection on the pet insurance line of business and would like to continue those discussions in order to craft referrals to the proper NAIC working groups.

Mr. Beatty said the Pet Insurance Model Act was initially adopted by the Pet Insurance (C) Working Group on Aug. 4, but after a review by the NAIC Legal Division, members of the Working Group suggested edits, and the Working Group requested the Committee allow further meetings of the Pet Insurance (C) Working Group to address these suggestions. The Working Group met Oct. 21, Oct. 7, and Sept. 8. During these meetings, the Working Group considered the suggested changes from the NAIC Legal Division, as well as new suggested changes to the "Sales Practices for Wellness Programs" section and a new section titled "Insurance Producer Training." Mr. Beatty said the NAIC Legal Division has further reviewed the model and made some small, non-substantive changes to the formatting of the model. These changes include moving the "Violations" section to the end of the model and reordering two subsections in Section 4 – Disclosures.

Cari Lee (North American Pet Health Insurance Association—NAPHIA) said NAPHIA appreciates the work of the Working Group but has two objections to the model. She said NAPHIA believes waiting periods should be allowed in order to prevent adverse selection. She said disclosures and an option to waive waiting periods should be sufficient, and without waiting periods, insurers may have to increase premiums. She also said NAPHIA objects to the language in the model related to wellness products. She said the Working Group earlier included language regarding the marketing and sales of wellness products, but later it adopted language that prohibits the marketing of non-insurance wellness products sold during the sale, solicitation, or negotiation of pet insurance. She said consumers want to purchase wellness plans at the same time as insurance.

Birny Birnbaum (Center for Economic Justice—CEJ) said he supports the Committee's adoption of the model but would offer two additional comments. He supports a prohibition on waiting period provisions as industry has offered no credible rationale or evidence for issuing policies with both a preexisting condition clause and waiting periods that delay coverage. He said the broad and extensive waiting periods advocated for by industry will lead to consumer confusion and harm. Purchasers who buy

pet insurance will expect to receive insurance coverage that begins when they pay the insurer and sign the policy contract. However, under NAPHIA's proposal, consumers could actually purchase policies that provide no coverage until a future date, even though the insurer has already taken their premium dollars. He said the potential harm far outweighs any anti-fraud benefit that would be gained from instituting these broad waiting periods, particularly when the preexisting condition exclusion already offers the exact same protection. He noted that while the Working Group ultimately decided to permit a waiting period provision, that provision in the model law is more limited and far less open-ended than the industry proposal and includes some key consumer protections. He said the Working Group's proposal strikes a reasonable balance between consumer and insurer concerns.

Mr. Birnbaum said that regarding wellness, the model appropriately eliminates the ability of insurers to arbitrage insurance versus non-insurance products. He also noted that significantly different approaches were taken in the recently adopted travel insurance model and the pet insurance model. He said both travel and pet insurance are hybrid insurance products with a combination of coverages from health insurance to property/casualty (P/C) insurance. Both are typically sold either online or through retailers, and both are often sold in connection with non-insurance services. He said the model laws for travel and pet insurance take significantly divergent approaches, such as the travel insurance model specifically addressing producer licensing and retailers and the pet insurance model prohibiting the marketing of non-insurance services at the same time as the sale of pet insurance. Mr. Birnbaum urged state insurance regulators to closely monitor insurer and producer behavior and consumer outcomes in these two markets to determine which approach better produces the outcomes sought by state insurance regulators, insurers, and consumers.

Commissioner Chaney asked whether there was separate continuing education training required for producers in the model. Mr. Gendron said a compromise was reached where the model does not have specific requirements of major line producers beyond their standard continuing education, but for limited lines producers, in states where that is allowed, the model requires 10 hours of continuing education.

Mr. Byrd made a motion, seconded by Mr. Allen, to adopt the Pet Insurance Model Act. The motion passed unanimously.

3. Discussed Other Matters

Commissioner Schmidt said the Committee's 2022 proposed charges would be posted within the next week. She also noted that the Committee's meeting at the Fall National Meeting will consist of presentations from various parties related to auto insurance refunds that were granted in response to reduced driving during the pandemic.

Having no further business, the Property and Casualty Insurance (C) Committee adjourned.

https://naiconline.sharepoint.com/:w:/r/sites/NAICSupportStaffHub/Member%20Meetings/Fall%202021/Cmte/C/11-10%20Cmte_min.docx?d=wb5db09da87e347d988c295d63352f7b6&csf=1&web=1&e=0hUYGb

Draft: 12/13/21

Cannabis Insurance (C) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Fall National Meeting*)
December 1, 2021

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Dec. 1, 2021. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael and Camilo Pizarro (CA); Michael Conway, Vice Chair, represented by Peg Brown (CO); Austin Childs (AK); Jimmy Harris (AR); Angela King (DC); Christina Miller (DE); C.J. Metcalf (IL); Robert Barron (MD); Marlene Caride represented by Randall Currier (NJ); Gennady Stolyarov (NV); Ashley Scott (OK); Brian Fordham (OR); Elizabeth Kelleher Dwyer (RI); Karla Nuissl (VT); and Michael Walker (WA). Also participating was: Larry D. Deiter (SD).

1. Adopted its Oct. 21 Minutes

The Working Group met Oct. 21 and took the following action: 1) adopted its Summer National Meeting minutes; and 2) discussed the outline for the appendix to the *Understanding the Market for Cannabis Insurance* white paper; and 3) discussed its 2022 proposed charges.

Ms. Brown made a motion, seconded by Mr. Barron, to adopt the Working Group's Oct. 21 (Attachment Two-A) minutes. The motion passed unanimously.

2. Heard an Update on the Drafting of the *Understanding the Market for Cannabis Insurance* White Paper Appendix

Ms. Michael said the Working Group reviewed the appendix outline during its last meeting on Oct. 16. The appendix will provide an update on the regulatory issues related to insurance in the cannabis industry that have occurred since the white paper's adoption in July 2019. The appendix draws from information gained during the Working Group's two-day hearing and the presentations received today. The drafting group met Nov. 10 to review the outline and assign the drafting of sections of the appendix to drafting participants. A draft of Section II c. *Cannabis Insurance Market Segments and Insurance Players* has been submitted for review from the drafting group. This section covers the impact from the lack of admitted insurers, seed to sale needs for each segment, and vertically integrated and niche players. The drafting group will meet again on Dec. 8 to review progress made on assigned sections.

Mr. Walker asked if drafts should be provided ahead of the Dec. 8 drafting meeting. Ms. Michael stated it would be preferred that drafts be sent to NAIC staff ahead of the meeting so they can be compiled and shared.

3. Discussed the Potential to Collaborate with the Producer Licensing (D) Task Force

Ms. Michael said she and Ms. Brown reached out on Nov. 18 to the co-chairs of the Producer Licensing (D) Task Force to gain their thoughts on potentially collaborating with the Working Group to study, in states where cannabis is legalized for medical and/or recreational use, whether cannabis-related convictions are preventing individuals from being licensed as an agent or broker. Superintendent Dwyer and Director Deiter stated they would review their database to see if they have information that they can share with the Working Group. Information and next steps will be shared with the Working Group once the data is received.

4. Heard a Presentation from the University of Colorado on Emerging Scientific Issues in the Cannabis Space

Cinnamon Bidwell (University of Colorado Boulder) stated the landscape of legality and products is constantly changing in the cannabis space, with minor tetrahydrocannabinol (THC)-like cannabinoids able to be synthesized from legal hemp. Despite that all but two states have adopted some form of legalized cannabis, federal prohibitions limit the scientific research that can contribute to these policy changes. Nearly all human work involving cannabis administration has had to rely on government grown research grade cannabis, which bears little resemblance to products in the real world. Participants say it is dry and tasteless and, until very recently, came as rolled marijuana cigarettes. Testing was done with a controlled puffing procedure of the participants consuming the entire cannabis cigarette in 12 puffs over five minutes to regulate dose and timing. This is not consistent with the way people consume cannabis in today's world. It is difficult to draw conclusions from prior work because

of these differences in product type and potency, as well as these administration procedures that happen in the lab. However, there are a couple of clear takeaways from the literature at this point. First, a wealth of lab research supports the fact that acute exposure to cannabis disrupts cognitive processing, resulting in cognitive impairment immediately after use. There may also be impacted mood and psychiatric functions for either short or long periods of time. Early and persistent use, especially prior to age, 16, worsens these cognitive and psychiatric effects. However, there is still almost no data on the impact of legal market cannabis on these same outcomes. There is a huge range of products available on the legal market that have never touched a research lab. The current body of evidence is the oversimplifications of cannabis. There is a huge diversity of reported effects from euphoria to paranoia and extreme anxiety. In addition, cannabis consists of a few primary cannabinoids and hundreds of minor cannabinoids and terpenes, many still being discovered. However, research studies primarily focus on the Delta component. There is also a huge variation in potency across strains. Different products have different levels of the major and minor cannabinoids, and each looks distinct. For these reasons, the study of cannabis is unlike the study of other drugs where one is pretty much focused on a dose dependent effect of a single pharmacological agent.

Delta-9, THC and cannabidiol (CBD) are present at the highest levels across most forms of cannabis. Each interacts differently with the human body. Delta-9 interacts with certain receptors in the brain and body to produce a drug reward and intoxication effect. They may also increase anxiety, have an inflammatory effect, and reduce pain. CBD has the opposite pharmacology, which means it may reduce anxiety and has stronger anti-inflammatory properties, but it is not intoxicating. Delta-8 is a minor cannabinoid that can be chemically characterized as a Delta-9 sibling. This chemical similarity means it may cause intoxication like Delta-9. As such, it is often referred to as a “light high.” Delta-8 exists in a legal gray area because it can be easily synthesized from hemp-derived CBD. Hemp-derived CBD became legal with the federal Agriculture Improvement Act of 2018. There are other minor cannabinoids that exist in the same legal limbo, such as Delta-10. Thus, the landscape of legal cannabis and the resulting market is constantly shifting. In particular, highly potent products are gaining market share. Federal prohibitions and discrepancy between federal and state law continue to create barriers to rigorous research on many of these new and emerging products.

There are three primary forms of cannabis: 1) flower; 2) edibles; and 3) concentrates. Sales of concentrates, which are highly potent, have risen substantially in Colorado and other states. Market names for concentrates include bubble, hash, and hash oil wax, and they typically come in a range of potencies. The low end for a concentrate is 65%, and the high-end is 95%. Concentrates are often consumed by “dabbing” or inhaling a small, but very potent, quantity of the drug. Correlational data suggests that these higher potency forms are likely to come with additional risks, such as a use disorder, mood problems, or psychiatric problems. Although research results are mixed, they suggest that concentrates and high potency products may increase risk over and above just very frequent use of cannabis. Although these products are widely available and used on state markets, there is no empirical or preclinical data on the impact of these highly potent forms due to federal illegality. As other states look to legalize recreational cannabis and federal policy changes are being considered, it is imperative that consumers and policymakers are well-informed about the health effects of these products.

Ms. Bidwell stated she created a regular rigorous, federally compliant research program that provides relevant research on the potential harms and benefits of commercially available cannabis products. Academic researchers who must be compliant with federal law are unable to bring these legal market forms into their laboratories. So instead, researchers at the University of Colorado Boulder worked closely with its administration to bring the lab to the people. This mobile pharmacology lab allows researchers to conduct observational cannabis research in a mobile environment. Participants self-administer legal market cannabis in their homes, and researcher then test them in the mobile lab before and after they use. The mobile lab is outfitted with the full range of assessments found in a typical laboratory setting. The goal of the project was to assess the acute effects of “dabbing” high potency forms of cannabis. Prior to this study, little was known about the acute effects of consuming concentrates. The study included 75 regular cannabis users who completed a comprehensive health assessment in the mobile lab. They were then randomly assigned to either a 70% or 90% concentrated oil that they would personally purchase from a partner dispensary with their own funds. Participants use their product as they naturally would in their home and then come to the mobile lab to collect data on intoxication and impairment.

Published research results show that THC levels peak immediately after use and then go down about an hour later. There were no blood level differences between the 70% and 90% concentrate groups. This suggests that individuals are maybe titrating up to a particular level of high regardless of potency or that participants are hitting an upper limit with very high potency products. The blood levels after a concentrated user are about three times higher than after a typical flower or bud use. Even the regular cannabis users before they use that day are not falling under the legal definition of intoxication. To establish impairment, the researchers took measures of subjective ratings of intoxication and objective measures of cognitive and psycho motor impairment after very high exposure. Despite the large differences in blood levels between the flower and concentrated users, the subjective impairment ratings were similar. This suggests that concentrated users develop a strong tolerance.

Objective tests of delayed memory recall also showed that concentrate users are more tolerant to the acutely, cognitively impaired effects of cannabis. It is complicated to establish if people are getting more intoxicated with higher potency concentrates. The subjective high and cognitive measures do not track with one another, potentially due to self-titrating or greater tolerance in regular users of concentrates. However, balance is the only function that gets worse immediately after use, but then it recovers quickly within the hour. This suggests that balance measures may not show the same tolerance effects and that measures of balance and motor control may be good candidates for acute use, even in very heavy users. This has huge relevance to public safety initiatives. There currently is not a valid biological or behavioral measure or breathalyzer that can allow officers to accurately detect recent cannabis use in drivers. Follow-up is needed on the possible long-term, clinical, and neurological consequences of chronically high THC exposure.

Mr. Currier asked for examples and citations of jurisdictions that use intoxication standards. Ms. Bidwell stated Colorado is among the states that uses them. The citation for this information is as follows:

Governors Highway Safety Association. (2020). *Drug impaired driving: marijuana drug-impaired driving laws*. <https://www.ghsa.org/state-laws/issues/drug%20impaired%20driving>

Arkell, T. R., Spindle, T. R., Kevin, R. C., Vandrey, R., McGregor, I. S. (2021.) The failings of per se limits to detect cannabis-induced driving impairment: Results from a simulated driving study. *Traffic Injury Prevention*, 22(2): 102–107.

Ms. Michael asked if CBD used for anti-inflammatory benefits has the same negative health risks as NSAIDS and if access to CBD is age restricted. Ms. Bidwell stated the risks with CBD are dose-dependent, and it could have similar risks in very high doses. CBD has been found to be helpful for treating childhood epilepsy and anxiety at certain doses. Age restrictions vary widely across states, mostly 18, 21 or no restrictions. However, they are likely not strongly enforced as states did not receive additional funding for enforcement around hemp legalization. Some states, such as Oregon, Michigan, and Nevada, are tightening their hemp policies to place the novel cannabinoids under cannabis regulations. However, it will likely take federal engagement to address online sales to minors. The FDA recently released a plan to collect data on hemp-derived products but has not taken regulatory action.

5. Heard a Presentation from CANNRA on Cannabis Policy and Regulation Trends

Gillian Schauer (Cannabis Regulators Association—CANNRA) said there is now a broader focus on how policy is made with increased parity in regulations across the use of cannabis. Social equity, restorative justice, and public health and safety are priorities. The patchwork in policy can present challenges to harmonization, particularly given how and when policy was made. There is a lag time of 12–24 months between when cannabis became legalized and when the marketplace was opened. Arizona holds the record for the quickest market opening at 12 months. There is currently a new wave of cannabis legalization coming across states. There is much more legislative policymaking than what occurred in 2018, when Vermont legalized adult-use without a marketplace. Illinois did the same in 2019. But in 2021, there have been four states legalized legislatively. This expansion allows for more discussion and more detailed statutes to evolve. Washington’s statute was 16 pages when it legalized cannabis in 2012. Now legislation around cannabis legalization is in the hundreds of pages with much detail. Although there is a benefit to having this detail in the front-end, it can also present challenges to harmonize down the road. In addition to seeing this change in how policies are made, there is also a broader policy focus than what occurred in the Cole Memorandum era shortly after Colorado and Washington legalized cannabis. The Cole Memorandum effectively said the U.S. Department of Justice (DOJ) would not challenge state authority as long as it followed certain public safety measures. It was rescinded under former President Donald Trump.

Currently, states have less fear of having federal agencies shutting everything down because of how many states have legalized cannabis. This has given states and policymakers the space to focus on the potential for federal engagement, social equity, public health, and consumer safety. There is also an increased desire to focus on getting more parity across cannabis regulations. So, states may have three entities regulated for cannabis—one for the operations, one for medical use, and one for adult use. There is a trend for a similar regulatory framework to be used because it is all from the same plant, and there have been some regulatory lines established.

In regard to the increased emphasis on equity and restorative justice, past criminalization of cannabis has not happened equally and has affected some communities much more than others. In the past, the focus has been on getting equity in the marketplace by ensuring diversity in licenses. Attention now is shifting to include automatic and easily obtainable expungements (having

criminal records involving now legalized cannabis to be cleaned) and community reinvestment. Illinois and California have been leaders in the community reinvestment areas, but some of the states that recently passed legislation have also focused on this. New York and New Jersey will be reinvesting in communities that have been disproportionately affected by the war on drugs in the past criminalization of cannabis. This focus includes job retraining, mental health, and substance abuse treatments in some states.

Youth prevention and consumer safety are two of the biggest areas being focused on with this increased emphasis on public health and safety. The amount of cannabis that can be held legally has increased in some states, which is of potential concern for public health and safety. Generally, states are legalizing 1 ounce of cannabis. Maine and Michigan have legalized 2.5 ounces, and New York just legalized 3 ounces. There has not been a shift in the types of products that are legal. However, there have been a few states (California, Michigan, and Washington) that have had restrictions that only allow shelf stable edibles. The primary reason for this is due to food inspection because cannabis is still a Schedule 1 substance federally. These restrictions lessen the complications in getting a federally funded food inspection program set up. The policy solution for the potential health impacts from concentrates that has been advocated for across a number of states in the last legislative session is to cap them. For example, in Vermont, a vape cartridge cannot have more than 60% in it. Connecticut will also have a cap. Vape cartridges will be potentially exempt from that cap. Homegrown cannabis is legal in many states with the exception of a few states. Illinois, New Jersey, and Washington do not allow homegrown cannabis for adult use. There is much concern about homegrown cannabis resulting in diversion. Additionally, homegrown products are not subjected to any regulatory oversight and, thus, are not tested for contaminants.

Packaging and labeling are also variables of concern for youth prevention, public health, and consumer safety. There has been increased focus, especially in medical-use states, on using plain, uniform, and opaque packaging like Canada. Studies of tobacco packaging demonstrate the package can have inherent appeal to youth and that plain packaging can greatly reduce this appeal. There is also discussion among standards organizations about implementing a universal symbol. There is some federal engagement around the challenges to making those changes in states. The inclusion of a poison center phone number, drug information, pertinent websites, and amount of THC are also beginning to be used in labeling. The level of THC is important for communicating with consumers about what the potential impairing properties are of the product they will consume. However, despite every adult-use state having a statute or regulation stating packaging should not appeal to children, they still exist. To help rectify this, these statutes and regulations should also state what packaging cannot include, such as cartoons and bright colors, to reduce the opportunity for interpretation. States that only allow plain or uniform packaging are not seeing packaging that appeal to children. On small packages, the challenge is getting the print large enough to be seen by consumers. Additionally, warning labels on cannabis products read similar to a legal disclaimer, which is not effective in communicating with consumers about the risks.

Advertising is another variable that has a lot of importance for educating consumers and for preventing youth consumption. States have increased their focus on audience restrictions by leveraging a provision that the alcohol industry developed to monitor its own advertising content and, thus, avoid federal engagement. However, under the alcohol industry's interpretation, almost 30% of the viewership for an advertisement could be underage. Recently, there has been movement to close this age gap. Connecticut's statute states that 90% or more of the audience has to be 21 years old or older. New Jersey uses a sliding scale of 80%-90% based on the type of advertising.

One of the challenges is in establishing what the legal age is for consumers of adult-use cannabis. An increasing number of states are banning advertising in or around transit, such as bus advertisements, and restricting advertisement content to what is included on packaging. For example, in some states, advertisements should not contain a pot leaf or a person consuming the product. States are also beginning to add warnings on advertisements. However, there still tends to be a lot of information in very small print. Social media advertisements on sites accessible to underage individuals are a challenge. It is important for states to focus on policy around social media for youth prevention.

In the wake of the lung injury from vaping outbreak, regulators took a much more careful look at product ingredients, devices used to vape, and processes in place for recalling products. This resulted in more regulatory authority over additives and ingredients to prevent future safety issues. A number of states have banned potentially harmful additives and focused on establishing a safety bar for other additives. Many states require the additive to be pharmaceutical grade or Federal Drug Administration (FDA) approved for the intended method of use. There has been more regulatory authority over vaping devices, especially in medical-use states. For example, there are provisions that devices have temperature controls and heating elements made of certain materials. Ohio has a provision that liquids should not touch the coil to address findings that some devices can overheat, causing a change in structure and potential health risks. The batteries and coils can also leak heavy metals, causing a risk to consumer safety. Regulating vaping devices can be challenging because the devices are not just used for cannabis.

Broader oversight that includes other substances is needed so that there is a coordinated approach to tracking and tracing ingredients and quickly recalling if a safety risk arises. The lack of safety profiles on additives makes policymaking difficult.

Emerging policies on cannabis concentrates that place caps on concentrates (such as 60%) are likely creating unintended consequences. The safest products are the purest in terms of cannabinoids. Adding additives, such as to aerosolize a cannabis product, introduces substances not well-studied and, thus, raises potential consumer safety concerns.

Cannabis testing is done in third-party labs licensed by the state. There have been documented occurrences of lab shopping. To improve quality assurance, there has been an increase in states working towards setting up reference labs. This requires novel approaches because cannabis is still illegal at the federal level. Colorado was the first state to do this successfully. The approach to testing varies by state. Several groups, including CANNRA, are working on a method to increase standardization in this area. The removal of federal illegality would be helpful to getting better consistency across lab testing.

Where cannabis can be consumed is another important safety consideration. There is a trend towards states allowing on-site consumption or allowing cannabis consumption establishments. California and Illinois defer to local authorities, and Alaska, Colorado, Michigan, and Nevada have statewide licensing in this area. Studies show second-hand tobacco smoke is harmful. Although second-hand cannabis smoke in animals has been found to have some of the same effects, there is no human-level data to document the extent of it. Enforcement in this area can be challenging since it is hard to know if someone is smoking tobacco or cannabis. The policies that currently allow for more widespread public consumption of cannabis, particularly inside, may regress the gains from limiting second-hand tobacco smoke exposure. Future policy design protecting consumer safety from second-hand smoke is an important consideration.

Regulators are facing challenges related to novel cannabinoids from hemp. This includes not just Delta-8 and Delta-10, but acetate, which is derived in a lab environment. There is no human data on acetate, so humans are effectively the test subjects. In most states, hemp is not subject to the same packaging, labeling, testing, and other regulations as cannabis because it is regulated by a different entity. There are reports that the Delta-8 labeled products actually have high levels of Delta-9. The manufacturing process for these cannabinoids can also potentially leave unknown and untested byproducts. Additionally, many of these products are impairing, and they are widely available anywhere hemp products are sold and online where youth can easily order a product. Consumers may be purchasing these products thinking they are not impairing, like CBD. The Centers for Disease Control and Prevention (CDC) and Federal Drug Administration (FDA) have issued warnings on this based on reports from poison control, many requiring hospitalization.

CANNRA has posted a document on its website summarizing concerns and recommendations it proposes be considered with federal legalization. It recommends that a floor, rather than a ceiling, should be set. Additionally, states should be able to continue responding nimbly to issues without waiting for federal action. Protecting consumer safety and promoting equity should be priorities. Minimum standards are needed for lab testing for ingredients and additives. Federal engagement for packaging, labeling, and research would be helpful. Revenue generation from cannabis taxes at the federal level should focus on investment and research and data monitoring. Incentives to promote equity and revenue generation should be reserved for states. Finally, more coordination is needed between hemp and cannabis regulations.

Ms. Michael asked if states that legalized cannabis by legislation have had fewer challenges than others that did so by ballot measures with regards to labeling that is not attractive to minors. Ms. Schauer stated it remains to be seen what the markets will look like in many of the states that legalized legislatively because they just did so in the last session. There have been two different approaches. For instance, New York gave authority to their new Office of Cannabis Management but did not prescribe anything. Thus, the details of how the market will be regulated will come from rule-making versus statute. Conversely, Connecticut prescribed extensively in statute and will have rules overlay these to an extent. Consumer safety protections should be in statute. But other issues must be a balancing act because changes to legislation are cumbersome. The eastern states that just legalized cannabis have used new approaches.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

<https://naiconline.sharepoint.com/:w:/r/sites/NAICSupportStaffHub/Member%20Meetings/Fall%202021/Cmte/C/CannabisWG/Dec.%201-Fall%20NM/11-CannabisWG.docx?d=wa1e044d082234e6db0482af04cd96d59&csf=1&web=1&e=6cc3JG>

Draft: 10/27/21

Cannabis Insurance (C) Working Group
Virtual Meeting
October 21, 2021

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Oct. 21, 2021. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael and Camilo Pizarro (CA); Michael Conway, Vice Chair, represented by Peg Brown and Bobbie Baca (CO); Jimmy Harris (AR); Christina Miller (DE); C.J. Metcalf and July Mottar (IL); Marlene Caride represented by Randall Currier (NJ); Gennady Stolyarov (NV); Cuc Nguyen (OK); Elizabeth Kelleher Dwyer (RI); Karla Nuissl (VT); and Michael Walker (WA).

1. Adopted its May 27 and Summer National Meeting Minutes

The Working Group met May 27 as well as July 19 and July 27 in lieu of the Summer National Meeting. During its May 27 meeting, the Working Group took the following action: 1) adopted its April 27 Minutes; 2) discussed sending a memo to the Government Relations (EX) Leadership Council recommending that it consider supporting the Secure and Fair Enforcement (SAFE) Banking Act of 2019 (H.R. 1996/S. 910) and the Clarifying Law Around Insurance of Marijuana (CLAIM) Act (H.R. 2068/S. 862); 3) discussed the draft agenda for its hearing on market barriers for cannabis insurance; and 4) discussed objectives for the appendix to the *Understanding the Market for Cannabis Insurance* white paper. During its July 19 and July 27 meetings, the Working Group held its hearing on market barriers for cannabis insurance.

Ms. Brown made a motion, seconded by Mr. Harris, to adopt the Working Group's May 27 (Attachment Two-A1) and July 19 and July 27 (*see NAIC Proceedings – Summer 2021, Property and Casualty Insurance (C) Committee, Attachment Two*) minutes. The motion passed unanimously.

2. Discussed the Draft Outline for the *Understanding the Market for Cannabis Insurance* White Paper Appendix

Ms. Michael said the appendix to the *Understanding the Market for Cannabis Insurance* white paper will provide an update on the regulatory issues related to insurance in the cannabis industry that have occurred since the white paper's adoption in July 2019. The working outline discussed on the drafting group's first call on Sept. 22 parallels the agenda from the Working Group's two-day hearing. It begins by summarizing the hearing and its findings. The outline then moves to providing an overview of the geographical expansion of states legalizing cannabis and the current federal bills. The cannabis business regulatory and licensing framework, market segments and players, insurance product availability, actual and perceived risks, policy forms, and product availability and affordability are discussed next. The barriers to coverage availability and affordability section will cover coverage obstacles, challenges, gaps, coverage risks, and alternative arrangements. The next steps section will discuss the role of the state insurance regulator in helping the admitted market evolve and emerging issues. The drafting group proposes adding additional research into public versus private sector implications, jurisdictional differences, and cannabidiol (CBD) issues to the appendix content. The current drafting members include California, Colorado, Oregon, and Washington.

Ms. Nuissl and Mr. Metcalf offered to join the drafting group to provide feedback and insights on the content.

Ms. Michael asked that feedback on the working outline or additional offers to join the drafting group be sent to NAIC staff.

3. Discussed the Drafting Timeline for the *Understanding the Market for Cannabis Insurance* White Paper Appendix

Ms. Michael said given the length of the appendix outline, the drafting should be completed by or before the 2022 Summer National Meeting. However, the target timeline is to complete the first draft in December, complete the final draft in January 2022, and adopt the appendix at the 2022 Spring National Meeting.

4. Discussed its 2022 Proposed Charges

Ms. Michael said the Working Group should request that the Property and Casualty Insurance (C) Committee remove the charge to "[c]ollect aggregated insurance availability and coverage gap information...to then publicly share in a released report by the end of 2021." The Working Group decided at the beginning of 2021 that reliable data for this charge was not available.

Ms. Michael also recommended that the Working Group propose charges to develop an appendix by the 2022 Summer National Meeting and collaborate with the Producer Licensing (D) Task Force on equity concerns, which includes drafting a memo requesting that the Task Force look into potential related issues. Both of these are work products that the Working Group initiated in 2021 but will be continued into 2022.

Mr. Metcalf said he is comfortable with the 2022 proposed charges. Mr. Walker said he supports the additional charges and the timeline of drafting the appendix by the 2022 Summer National Meeting.

Ms. Brown made a motion, seconded by Mr. Metcalf, for a vote of consensus on requesting the Property and Casualty Insurance (C) Committee revision to the Working Group's 2022 proposed charges. The motion passed unanimously.

5. Discussed Other Matters

Ms. Michael said the Working Group will be meeting on Dec. 13 at the Fall National Meeting in San Diego, CA.

Ms. Brown said she would send NAIC staff the agenda for the Business Insurance Cannabis Conference on Oct. 13–14, 2021, to share with the Working Group as it considers additional presenters to invite to the Fall National Meeting. The National Cannabis Industry Association (NCIA) and Cannabis Regulators Association (CANNRA) have had leadership changes that the Working Group may want to apprise itself of.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

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Draft: 6/1/21

Cannabis Insurance (C) Working Group
Virtual Meeting
May 27, 2021

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met May 27, 2021. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael (CA); Michael Conway, Vice Chair, represented by Peg Brown (CO); Lori K. Wing-Heier represented by Austin Childs (AK); Jimmy Harris (AR); C.J. Metcalf (IL); Marlene Caride represented by Randall Currier (NJ); Gennady Stolyarov (NV); Andrew R. Stolfi represented by Jan Vitus (OR); John Lacek (PA); Elizabeth Kelleher Dwyer and Beth Vollucci (RI); Christina Rouleau (VT); and Michael Walker (WA). Also participating was: Sandra Darby (ME).

1. Adopted its April 27 Minutes

The Working Group met April 27 and took the following actions: 1) adopted its March 11 minutes; and 2) held a panel discussion on cannabis insurance-related legislation.

Ms. Brown made a motion, seconded by Mr. Lacek, to adopt the Working Group's April 27 minutes (Attachment Two-A1a). The motion passed unanimously.

2. Discussed a Draft Memo to the Government Relations (EX) Leadership Council

Ms. Michael stated that the memo satisfies the Working Group's first and second work plan items for 2021. It is important to note that this is a draft memo from the Working Group to the Government Relations (EX) Leadership Council, and it does not represent the NAIC's position. All NAIC policy positions go through and are determined by the Leadership Council.

The Working Group is aiming to send the recommendations expeditiously to the Leadership Council. The memo is from the Working Group to the Leadership Council recommending that the Leadership Council consider supporting the Secure and Fair Enforcement (SAFE) Banking Act of 2019 (H.R. 1996/S. 910) and the Clarifying Law Around Insurance of Marijuana (CLAIM) Act (H.R. 2068/S. 862). These bills would help remove federal barriers for insurers to conduct business with any state legalized cannabis-related businesses, thereby helping to provide insurance coverage options for these commercial policyholders that will mitigate their business risks. These protections can improve insurance availability by supporting the growth of the cannabis business-related admitted market. Additionally, given that the Cole Memorandum was rescinded in 2018, the Working Group recommends to the Leadership Council that the NAIC support and advocate for the U.S. Department of Justice (DOJ) to release an updated memo or similar policy of discretionary enforcement. If legislation is not enacted this year, a newly issued memo or policy could provide some minimal level of assurance to insurers, leading to an increase in coverage provided in the admitted insurance market for cannabis businesses.

Mr. Walker asked whether this is an internal memo and if it is common to ask for interested parties to comment. Brooke Stringer (NAIC) stated that it is an internal memo, and although interested parties are being invited to comment on this memo, they are usually not invited to comment.

Lisa Brown (American Property Casualty Insurance Association—APCIA) recommended placing the SAFE Banking Act and the CLAIM Act paragraphs before the Cole Memorandum paragraph to indicate that those are a higher priority. Ms. Brown replied that reorganizing the paragraphs is not necessary since it is an internal memo, and the recommendations are clear.

Ms. Brown made a motion, seconded by Mr. Childs, to send the memo to the Leadership Council (Attachment Two-A1b). The motion passed unanimously.

3. Discussed a Draft Agenda for a Hearing on Market Barriers for Cannabis Insurance

Ms. Michael stated that the hearing is anticipated to be four to five hours in total, and it will be held virtually over multiple days in August. The hearing addresses the Working Group's third work plan item for 2021. The Working Group felt that the hearing is important because the need and demand for cannabis insurance will only continue to increase as more states legalize cannabis. The hearing is aimed at providing the Working Group with feedback from insurers on what state insurance regulators can do to help remove the barriers insurers are experiencing in offering coverage.

The draft agenda includes four parts. The first section is to provide a foundation of understanding and an overview. It begins by having a legal expert, such as Ian Stewart (Wilson Elser) who presented at the Working Group's panel discussion, review what states have legalized cannabis, the impact of increasing legalization by states, and federal regulations. It then progresses to having an organization like CANN-RA discuss the regulatory landscape. It concludes with a discussion on underwriting and risk. Potential speakers for this include someone from the Insurance Services Office (ISO) and an academic from East Carolina University. The second section focuses on insurance product availability, including identifying insurance needs, current offerings and gaps. Potential speakers include Summer Jenkins from the National Cannabis Industry Association (NCIA) and Cannasure, Keri Kish from the Wholesale & Specialty Insurance Association (WSIA), and possibly another speaker from an organization similar to the NCIA. The third section addresses barriers to offering coverage. It includes federal versus state legalization differences and interstate considerations, potentially presented by a legal expert like Mr. Stewart. It also includes discussion on crop insurance and reinsurance considerations. Potential presenter suggestions are needed on these. The fourth section includes a panel question and answer (Q&A) style discussion on what is on the horizon and how state insurance regulators can help. Potential panelists include Mr. Stewart, Ms. Jenkins, the Golden Bear General Counsel, and another admitted insurer. It also includes a discussion by the Working Group on how to collaborate better.

Ms. Brown stated that CANN-RA is a new organization that is somewhat similar to the NAIC. Its members are the state regulatory agencies overseeing cannabis in states that have legalized cannabis for medical and/or recreational use. The NCIA is a trade group of organizations involved in the cannabis industry.

David Kodama (Surplus Lines Association of California) asked if the hearing would be virtual, in-person or hybrid. Ms. Michael stated that the hearing would be virtual.

Ms. Darby asked when the hearing would be held. Ms. Michael stated that the hearing would be held in segments over multiple days in August, likely in connection with the NAIC Summer National Meeting.

Ms. Brown made a motion, seconded by Mr. Childs, to proceed with implementing the hearing agenda. The motion passed unanimously.

4. Discussed Objectives on an Appendix to the NAIC *Understanding the Market for Cannabis Insurance* White Paper

Ms. Michael stated that the Working Group adopted the NAIC *Understanding the Market for Cannabis Insurance* white paper in July 2019. The white paper explored regulatory issues related to insurance in the cannabis industry, including how insurance rates are set; legal and regulatory authority at the federal, state and local levels; cannabis operations; and best practices. Much has happened in this space since the white paper's adoption in 2019. As such, the Working Group determined during its work plan discussion that it should consider updating the white paper through the addition of an appendix. Drafting sessions on the appendix will begin shortly after the hearing. Ms. Michael invited Working Group members to notify Anne Obersteadt (NAIC) at aobersteadt@naic.org by June 10 if they want to participate in the drafting group. The appendix objectives include providing an update on the legalization of cannabis and how the industry is being insured. They also include taking a closer look at hemp and crop insurance, directors' and officers' coverage, reinsurance requirements, and interstate transportation issues. Discussion on innovations and emerging products, barriers to the admitted market, and how state insurance regulators can assist in this area are also proposed topics.

Mr. Stolyarov asked for clarification on what the objectives represent. Ms. Michael stated that they represent the goals of what the appendix should include.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

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Draft: 5/6/21

Cannabis Insurance (C) Working Group
Virtual Meeting
April 27, 2021

The Cannabis Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met April 27, 2021. The following Working Group members participated: Ricardo Lara, Chair, represented by Melerie Michael and Camilo Pizarro (CA); Michael Conway, Vice Chair, represented by Peg Brown (CO); Lori K. Wing-Heier represented by Austin Childs (AK); Angel King (DC); Michael Gould (DE); C.J. Metcalf (IL); Marlene Caride represented by Randall Currier (NJ); Gennady Stolyarov and Mark Garratt (NV); Cuc Nguyen (OK); Andrew R. Stolfi represented by TK Keen (OR); Mike McKenney (PA); Elizabeth Kelleher Dwyer and Beth Vollucci (RI); Christina Rouleau (VT); and Michael Walker (WA).

1. Adopted its March 11 Minutes

The Working Group met March 11 and discussed its 2021 work plan.

Ms. Brown made a motion, seconded by Mr. McKenney, to adopt the Working Group's March 11 minutes (*see NAIC Proceedings – Spring 2021, Property and Casualty Insurance (C) Committee, Attachment One*) with the correction to remove the extra “Brown” typo throughout the document. The motion passed unanimously.

2. Held a Panel Discussion on Cannabis Insurance-Related Legislation

Ian Stewart (Wilson Elser) stated that there is public support for broad legalization. Almost seven in 10 adults surveyed by Quinnipiac University in April said marijuana use should be legal, regardless of political party affiliation. A September Gallup poll found that 68% of people favored the legalization of marijuana, including majorities of most demographic subgroups. However, there is considerable variation in the level of support within each group, as men, younger adults, college graduates and wealthier households are more likely to favor legalization. An April Pew Research Center survey found support for legal marijuana for medical and recreational use at 60% and for medical use only at 31%. An April CBS poll found that most adults support legalizing the recreational use of marijuana in their states. 59% of respondents supported expunging the criminal records of those with past marijuana convictions. 54% of respondents felt that legalized marijuana has no effect on crime. However, 53% disagree that consuming openly is socially acceptable.

Thirty-five states have medical marijuana programs, and 15 states and Washington, DC permit adult use of cannabis. Every state except Idaho (legislation is currently pending) permits hemp cultivation under either the Agricultural Act of 2014 or the 2018 Farm Bill. For the 2021 growing season, five states (Arizona, New Jersey, Mississippi, Montana and South Dakota) will operate under the 2018 Farm Bill; 20 states will continue to operate under the Agricultural Act of 2014; and 23 states will operate under the ballot initiatives to legalize adult-use and medical marijuana. New York and New Mexico passed adult-use legislation in early April. Virginia will allow personal possession of small amounts of cannabis on July 1, with adult-use retail sales set to begin Jan 1, 2024. Adult-use legislation is currently being considered in Connecticut, Minnesota, Pennsylvania, Rhode Island and Wisconsin. Adult-use ballot initiatives in 2022 are expected in Arkansas, Florida, Missouri, Ohio and Oklahoma.

Under federal law, marijuana is still a Schedule I illegal substance. U.S. Senate Majority Leader Chuck Schumer (D-NY) has made marijuana reform a top priority. In April, the U.S. House of Representatives (House) passed the Secure and Fair Enforcement (SAFE) Banking Act of 2021. The SAFE Banking Act creates a “safe harbor” to protect federal depository institutions and credit unions from federal prosecution if they work with marijuana-related businesses and ancillary companies in legal states. The Clarifying Law Around Insurance of Marijuana (CLAIM) Act was reintroduced in mid-March to coincide with the reintroduction of the SAFE Banking Act. It will “create a safe harbor for insurers engaging in the business of insurance in connection with a cannabis-related legitimate business, and for other purposes.”

The Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2019 would decriminalize cannabis by de-scheduling cannabis from the Controlled Substances Act (CSA) and enacting various criminal and social justice reforms related to cannabis, including the expungement of prior marijuana-related convictions. U.S. Sen. Cory Booker (D-NJ), U.S. Sen. Ron Wyden (D-OR), and U.S. Senate Majority Leader Schumer (D-NY) will introduce new legislation (MORE 2.0) to legalize cannabis. The bill will propose some combination of decriminalizing cannabis, giving states more authority to independently regulate cannabis, and allowing states to import and export cannabis to or from neighboring states. However, passage is

unlikely, as the bill lacks sufficient Republican support in the U.S. Senate (Senate).

There is political maneuvering right now at the federal level around the use of the terms “decriminalization” and “legalization.” Decriminalizing marijuana means that individuals possessing or using marijuana will be subject to lesser punishment, such as a criminal record and possible jail time. Legalization would mean that one may possess or use the drug according to the guidelines and limitations governing marijuana use. President Biden’s administration has communicated that it is in favor of re-scheduling, rather than de-scheduling, marijuana. This is the prescription drug model, and it is not consistent with either the additional or adult-use markets.

Unresolved issues include determining what federal agencies will regulate legalized marijuana if the U.S. Food and Drug Administration (FDA) will regulate some but not all cannabinoids and how state regulations and interstate commerce will be handled. Additionally, accurately measuring intoxication remains an issue affecting road and workplace safety. Hemp-derived cannabinoids, such as Delta-8 THC, are another concern. Delta-8 THC is an analogue of THC that contains neuroprotective properties that can increase appetite and reduce nausea, anxiety and pain. It produces some psychotropic effects that are less potent than Delta-9, the primary form of THC found in cannabis. Industry stakeholders disagree over if it is federally legal and whether it presents a market opportunity for hemp and cannabis businesses. There is also potential for toxic tort and environment exposures. It is currently an uninsured risk, and insurers are pivoting in a similar way as they did after the vape crises. There has not been much bodily injury product litigation yet because the long-term exposures are not yet fully known. However, the American College of Cardiology put out a warning to its members last year about the risks of vascular incidents, even in young people, who are exposed to high levels. Studies are showing epigenetic issues and other issues involving gender differences and age differences with marijuana. State insurance regulators should be aware of the possibility for large, potentially uninsured risk and exposure five or 10 years from now.

Mona Dooley (American Property Casualty Insurance Association—APCIA) and Jon Bergner (National Association of Mutual Insurance Companies—NAMIC) stated that despite state legalization and court decisions mandating medical marijuana reimbursement, cannabis is illegal at the federal level. Participating in any way opens insurers to federal criminal and civil liability (aiding and abetting under the CSA and the Racketeer Influenced and Corrupt Organizations Act [RICO]). For example, under RICO statute, a private citizen can bring a civil case against an illegal operation and all those involved, including the insurer. The 2018 Farm Bill legalized industrial hemp, defined as containing no more than 0.3% THC. The Final Rule published Jan. 19 raised the acceptable hemp THC level threshold from 0.5% to 1%. The challenge for insurers is differentiating between cannabis and hemp in underwriting. None of the past federal actions have resolved the conflict between state and federal law. Further, Executive Action by the president is not enough; legislation is needed.

The SAFE Banking Act provides legal safe harbor for banks providing services to cannabis-related legitimate businesses, but it does not apply to other financial services like insurance. The last U.S. Congress (Congress) worked to include insurance into the SAFE Banking Act, but the Committee’s success in doing so was not done well. The insurance industry helped to craft the CLAIM Act to provide standalone legislation to create a safe harbor for insurers engaging in business with cannabis-related businesses. The strategy was to add CLAIM Act language to the SAFE Banking Act when it was brought to the House floor. The SAFE Banking Act passed the House with CLAIM Act-based language. However, it was combined with “criminal justice reform” and collapsed under its own weight. The SAFE Banking Act was reintroduced in the House and Senate in March with insurance language and passed by the House on April 19. Conventional wisdom would indicate that the current political environment is favorable to passing cannabis-related legislation. However, this is tempered with the likely push for other provisions in Congress, which could lead to it again collapsing under its own weight.

The data is starting to come in showing that increased marijuana use affects public safety. A recent American Auto Association (AAA) Foundation for Traffic Safety survey found that an estimated 14.8 million drivers reported driving within one hour of using marijuana in the past 30 days, and nearly 70% of Americans in the same survey believe it is unlikely that a driver will be caught by the police while high on marijuana. Additionally, a 2018 Insurance Institute for Highway Safety (IIHS)/Highway Loss Data Institute (HLDI) study found that roadway crashes increased by approximately 6% in four states that legalized marijuana, as compared to neighboring states that have not legalized marijuana for recreational use. Driving under the influence of any drug, including marijuana, remains illegal in all 50 states and Washington, DC. However, there is no standard or reliable methodology to determine marijuana impairment. Regardless of whether one supports or opposes legalizing marijuana, most believe it is critical to prevent marijuana-impaired driving. An APCIA online national survey conducted on Sept. 6, 2019, found strong public support for the development of an impairment standard.

Federal restrictions on scientific research into marijuana’s effects has resulted in a lack of effort into the development of a meaningful impairment standard and related testing technology. The National Highway Traffic Safety Administration’s (NHTSA’s) 2017 Marijuana-Impaired Driving Report to Congress recommended continued research to

enable the development of an impairment standard for driving under the influence of cannabis. Given the number of federal agencies involved, easing the restrictions on marijuana research involves several different Congressional committees, and efforts to date have not been successful. However, legislation advanced much farther in the last Congress, and the momentum continues to grow. The Drug Enforcement Administration (DEA) issued a final rule in December 2020, “Controls to Enhance the Cultivation of Marijuana for Research in the United States.” Sec. 3014 of the America’s Transportation Infrastructure Act of 2019 (H.R. 2 from 116th Congress) directs the U.S. Department of Transportation (DOT) to coordinate with the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS) to produce a report and recommendations on how to allow for expanded research into marijuana impaired driving. The Medical Marijuana Research Act (H.R. 3797 from 116th Congress) would allow scientists to access cannabis from state legal dispensaries so that they can study products that are available to consumers in commercial markets. The Cannabidiol and Marijuana Research Expansion Act (S. 2032 from the 116th Congress) requires further study of marijuana impairment and provides safe harbor for universities conducting marijuana research.

Michael Correia (National Cannabis Industry Association—NCIA) stated that Congress is lagging in public support of cannabis-related legislative reform by six to 10 years. There is an ongoing debate on whether reform should be done incrementally or comprehensively, especially considering the large number of states that have passed cannabis-related legislation. Unfortunately, there is currently not enough republican support to pass comprehensive legislation. The SAFE Banking Act has passed the House, and it has a chance of passing the Senate with enough republican and moderate democrat support. The SAFE Banking Act is not a cannabis bill; it is a safe banking bill, which helps avoid all the controversies that arise with a cannabis reform bill. However, the MORE 2.0 bill is not likely to garner enough bipartisan support. Delta-8 will be a major policy issue, and the NCIA will be discussing it in its meeting tomorrow.

Ms. Brown asked what the support is for addressing the issue in incremental pieces. Mr. Correia stated that there is support for incremental reform; however, it is being held back by some of the left-leaning democrats who fear incremental reform will diminish the energy for comprehensive reform. He believes it is a better course to take incremental reform now and then focus on comprehensive reform. Mr. Bergner stated that he agrees and noted that the prior Congress boxed themselves in when they stated that it was unfair to help banks and insurers and not the average person. Ms. Dooley also concurred and added that there is the potential for a medical marijuana research bill to pass both sides of Congress if every democrat were to be in favor of it.

Mr. Gould asked the panelists via email after the Working Group call for their impressions of whether and how issues surrounding compensation insurance, particularly with respect to increased costs for employers, are having an impact on the support for political reform. He also asked what the political views are on the impact of broader reforms on premiums or, alternatively, of marijuana therapy on driving down claims costs and absences as compared to opioid therapy. Mr. Bergner stated that he does not believe workers’ compensation insurance or the issues surrounding it are having any impact on the political debate (outside of the underlying justification for insurance being included in SAFE Banking Act because carriers are being compelled to participate in legalized cannabis regimes in various states). ‘However, workers compensation carriers are looking at studies very closely and trying to understand whether cannabis is indeed a preferable alternative to opioids. While there is hope that this bears out, it is tempered with the understanding that there is not a lot of understanding about long-term cannabis use. Mr. Stewart stated that he agrees and noted that workers’ compensation is based on state law that varies widely from state to state and is affected very little at the federal level. He believes federal reform should facilitate further research on medical cannabis and the endocannabinoid system more generally.

Having no further business, the Cannabis Insurance (C) Working Group adjourned.

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To: Government Relations (EX) Leadership Council

From: Members of the Cannabis Insurance (C) Working Group

Date: May 21, 2021

Re: Position Recommendation for the Cole Memo, SAFE Banking Act, and CLAIM Act

STATEMENT OF ISSUE:

Legalization of cannabis has been debated for decades. Cannabis was once prohibited nationwide; however, some states have passed laws legalizing the use of cannabis for either medical and/or recreational use. This creates an issue as cannabis is still illegal federally because it is listed as a prohibited substance on the federal Controlled Substance Act (CSA) ¹. Since cannabis is listed under the CSA, three main federal criminal laws are triggered when individuals are engaging in transactions involving cannabis or proceeds from cannabis. The three criminal laws are as follows.

1. The federal Bank Secrecy Act (BSA)² which requires “financial institutions” to report to the Treasury Department any transactions over \$5,000 that the institution knows, or has reason to know, involve assets derived from illegal sources;
2. The federal money laundering statute³ which makes it a felony for any person to engage in a financial transaction that the individual knows involves the proceeds of an unlawful activity; and,
3. The federal unlicensed money transmitter statute⁴ which states that it is a felony to engage in an unlicensed money transmitting business.

“Financial institution” is defined broadly and includes banks, credit unions, broker-dealers, insurance companies, pawnbrokers, travel agencies, and a host of other institutions that may come into contact with assets derived from illegal sources.⁵ The federal laws create an obstacle for admitted market insurers to participate in providing coverage to cannabis-related businesses.

¹ Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, Title II, 84 Stat. 1236, 1242 (codified as amended at 21 U.S.C. §§ 801–904) (enacting the CSA).

² Titles I and II of Pub. L. No. 91-508, including the Currency and Foreign Transactions Reporting Act, Pub. L. No. 91-508, Title II, 84 Stat. 1114, 1118–24 (1970) (as amended and codified at 12 U.S.C. §§ 1829b, 1951–59; 31 U.S.C. §§ 5311–32).

³ 18 U.S.C. §§ 1956–7.

⁴ 18 U.S.C. § 1960

⁵ 31 U.S.C. 5312(a)(2)

Enforcement of the Federal Laws

Cole Memo: In August 2013⁶, then U.S. Deputy Attorney General James Cole issued a memorandum that announced guidance to U.S. Department of Justice (DOJ) attorneys on the Obama administration’s priorities in the prosecution of cannabis-related federal crimes. The memo concluded that, with some exceptions, the federal government would exercise discretion in its enforcement determinations in jurisdictions that had implemented strong, effective regulatory and enforcement systems to control cultivation, distribution, sale, and possession of cannabis for industrial or recreational use. The memo indicated that the DOJ would not actively seek to prosecute cannabis transactions that are legal under state law. In February 2014, U.S. Deputy Attorney General James Cole issued another memo that further reinforced the 2013 enforcement priorities, specifically as they relate to the prosecution of marijuana-related financial crimes.⁷

In January 2018, former Attorney General Jeff Sessions rescinded the Cole Memorandum by way of his own memorandum⁸ that emphasized the DOJ’s “well-established principles” with regard to the prosecution of cannabis crimes. This action left financial institutions that accept money from cannabis-related businesses potentially exposed to violations of federal law, including money laundering statutes. In 2019, Attorney General William Barr indicated he would not pursue cannabis businesses that are operating legally within their state jurisdiction. This declaration, however, does not provide insurers or other entities engaging with cannabis businesses any assurance that the forbearance extends to financial institutions.

Attorney General Merrick Garland was confirmed in March 2021. During his nomination hearing, Garland was asked about whether he would reinstate a Cole Memo and in response, Garland suggested a return to a Cole-like prioritization. Garland said he believes that with DOJ’s limited resources, it would not be a good use of limited resources to be pursuing prosecution in states that have legalized, and that are regulating the use of marijuana, either medically or otherwise. There has yet to be an official memo released. When the NAIC Cannabis Insurance (C) Working Group heard from a panel of experts from the insurance and cannabis industry on April 27, 2021, it was noted that it is likely an updated memo will come in 2021; however, experts from the panel also speculated that Attorney General Garland may be giving time to the Congress to pass legislation first. The experts also noted that while an updated memo would be appreciated, it will not provide the same protections as legislation since the memo will be subject to change in subsequent administrations.

Secure and Fair Enforcement (SAFE) Banking Act (H.R. 1996/S. 910): The SAFE Banking Act by Representative Perlmutter (D-CO) and Senator Merkley (D-OR) is one of two pending measures in Congress that would provide a “safe harbor” from violations of federal law for financial institutions, including insurers, that provide financial services to cannabis-related businesses that are permissible under state law. The House passed H.R. 1996 in April 2021 by a bipartisan vote of 321-101. The Senate companion bill, S. 910, has been introduced but has not yet been acted upon. In the last Congress, the

⁶ U.S. Department of Justice, 2013. “Guidance Regarding Marijuana enforcement,” accessed at: <https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>

⁷ U.S. Department of Justice, 2014. “Guidance Regarding Marijuana Related Financial Crimes,” accessed at www.justice.gov/sites/default/files/usao-wdwa/legacy/2014/02/14/DAG%20Memo%20-%20Guidance%20Regarding%20Marijuana%20Related%20Financial%20Crimes%202%2014%2014%20%282%29.pdf.

⁸ U.S. Department of Justice, 2018. “Marijuana Enforcement,” accessed at <https://www.justice.gov/opa/press-release/file/1022196/download>

SAFE Banking Act passed the House several times, but the Senate did not take it up. Some of the expert panelists that the Working Group heard from in April indicated that there was a desire to add other provisions to this bill essentially transforming it into a cannabis legalization bill, rather than a banking bill. The expert panel noted that if this bill remains a banking bill, there is a good chance that this bill could be taken up in the Senate and be signed into law. It is unclear, however, if the situation this year will be different. It has been stated that 2021 is a different climate given the change in the Administration and the Senate. It is important to note that Representative Perlmutter has actively sought the NAIC's public support of his measure.

Clarifying Law Around Insurance of Marijuana (CLAIM) Act (H.R. 2068/S. 862): The CLAIM Act by Senator Menendez (D-NJ) and Representative Velazquez (D-NY) is broader than the SAFE Banking Act from an insurance perspective and would provide specific protections for those engaged in the business of insurance with policyholders that either directly or indirectly participate in cannabis industry activity that is permissible under state law. Members of the expert panel characterized the CLAIM Act as a bill largely introduced to use as leverage to include insurers within the SAFE Banking Act and to keep insurers as one of the included financial service industries. According to the experts on our panel, it is unlikely that this bill alone will move through the Congress.

RECOMMENDATION FOR GRLC:

Members of the Cannabis Insurance (C) Working Group recommend to the Government Relations (EX) Leadership Council (GRLC) that the GRLC membership issue letters in support and advocate for the passage of the SAFE Banking Act and CLAIM Act (Attachment A). The proposed bills will expand insurance coverage options for businesses and remove federal barriers for insurers to conduct business with cannabis-related businesses that are legal in their respective states. Since both bills may move through the legislative process, it is best to support both as they provide the protections to the insurance industry. With these protections, we can see an increase in the admitted market for insurance availability in relation to cannabis businesses.

Additionally, the members of the Cannabis Working Group recommend to GRLC that the NAIC support and advocate for the Department of Justice to release an updated memo or similar policy of discretionary enforcement. If legislation is not enacted this year, a newly-issued memo or policy could provide some minimal level of assurance to insurers, leading to an increase in coverage provided in the admitted insurance market for cannabis businesses.

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Draft: 12/16/2021

Joint Meeting of the Catastrophe Insurance (C) Working Group
and the NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group
San Diego, California
December 12, 2021

The Catastrophe Insurance (C) Working Group and the NAIC/FEMA (C) Advisory Group of the Property and Casualty Insurance (C) Committee met in joint session Dec. 12, 2021. The following Working Group and Advisory Group members participated: Mike Chaney, Chair (MS); Katie Hegland (AK); Jimmy Harris (AR); Ken Allen (CA); George Bradner and Wanchin Chou (CT); Susanne Murphy (FL); Martha Im (HI); Doug Ommen (IA); Susan Berry (IL); Heather Droge (KS); Warren Byrd (LA); Joy Hatchette (MD); Jo LeDuc (MO); Tracy Biehn (NC); Tom Botsko (OH); TK Keen (OR); David Buono (PA); Megan Mihara (RI); Mark Worman (TX); Trey Hancock (TN); David Forte (WA); and Allan L. McVey (WV).

1. Adopted the Catastrophe Insurance (C) Working Group's Summer National Meeting Minutes

Mr. Byrd made a motion, seconded by Mr. McVey to adopt the Catastrophe Insurance (C) Working Group's July 22 minutes (see *NAIC Proceedings – Summer 2021, Property and Casualty Insurance (C) Committee, Attachment Three*). The motion passed unanimously.

2. Adopted the NAIC/FEMA (C) Advisory Group's Nov. 15 Minutes

Ms. LeDuc made a motion, seconded by Commissioner Ommen, to adopt the NAIC/FEMA (C) Advisory Group's Nov. 15 (Attachment Three-A) minutes. The motion passed unanimously.

3. Heard a Report from FEMA on Risk Rating 2.0

David Maurstad (FEMA) said more frequent and intense flooding events are occurring due to changing weather patterns. He said the Risk Rating 2.0 rating system is fair, equitable, and designed to adapt to the changing weather patterns.

The National Flood Insurance Program (NFIP) recognizes there are still concerns about Risk Rating 2.0. It is important to note that under the legacy NFIP pricing scheme, all policyholders have seen an average increase of 11% per year over the past number of years and would have continued to see increases year after year had Risk Rating 2.0 not been implemented. Risk Rating 2.0 takes an individual property's unique flood risk into consideration.

With the use of advanced technological and mapping capabilities, Risk Rating 2.0 will provide a property's true flood risk and equip property owners with the information they need to make informed decisions about mitigation actions. The new rating methodology has also exposed long-standing inequities in the pricing of flood insurance. Under the legacy rating system, people in lower value homes were paying more than they should have been paying, and people with higher value homes were paying less than they should have been paying. Risk Rating 2.0 will correct these inequities.

Two-thirds of the oldest Pre-Flood Insurance Rate Map (Pre-FIRM) homes have some of the highest flood insurance rates in the NFIP today. The implementation of Risk Rating 2.0 will correct this problem, and approximately one-fourth, or a little more than 1 million, of NFIP policyholders will see a decrease in their insurance costs. There will also be comparable premium increases for some policyholders. In the case of premium increases, a premium will not increase more than 18% per year.

The NFIP has taken a phased approach to the implementation of Risk Rating 2.0. Phase I began by allowing existing NFIP policyholders to take advantage of premium decreases on their renewal date, beginning Oct. 1. Additionally, new policies began being sold on Oct. 1. The premiums for new policies will no longer be subsidized by the NFIP, and the full-risk rate will be paid. Premiums will increase 18% per year until the full-risk rate has been achieved.

As of Dec. 5, the NFIP has sold more than 52,500 new policies under Risk Rating 2.0, and 4,800 NFIP policyholders have renewed their coverage. Under Risk Rating 2.0, 81% of renewals have seen a decrease in premium as compared to their prior NFIP premium, which reflects an average savings of \$1,600 per year, or \$139 per month. For those seeing a price increase, the increase is an average of \$139 per year, or \$13 per month, and the median cost for single-family homes with maximum coverage is \$764.

Phase II of Risk Rating 2.0 will begin April 1, 2022. Under Phase II, all NFIP policies will be written under Risk Rating 2.0 on their renewal date. This phase will end on March 31, 2023, allowing policyholders extra time to prepare.

Risk Rating 2.0 includes the capability and tools to incorporate flood risk variables, such as multiple flood frequencies beyond the 1% annual chance events. These events include: 1) river overflow; 2) storm surge; 3) coastal erosion; and 4) heavy rainfall. Risk Rating 2.0 also takes a property's characteristics into account, such as distance to a water source and the cost to rebuild.

Risk Rating 2.0 incorporates private sector data sets, catastrophe modeling, and evolving actuarial science. FEMA mapping in conjunction with NFIP policy and claims data is used in Risk Rating 2.0. Data obtained from the National Oceanic and Atmospheric Administration (NOAA), the United States Geological Survey (USGS), and the U.S. Army Corps of Engineers is also used, as well as additional third-party commercially available structural and replacement cost data.

The NFIP is upholding the statutory limits of 18% increases per year. Things that will not change with Risk Rating 2.0 include: 1) flood plain management; and 2) premium discounts for Pre-FIRM subsidized and newly mapped properties. Additionally, policyholders will still be able to transfer their rate discount to a new owner by assigning the flood insurance policy when the property ownership changes.

Discounts from 5% to 45% for policyholders in communities that participate in the Community Rating System (CRS) will continue. However, the discount will be applied uniformly to all policies throughout the participating community regardless of whether the structure is inside or outside the Special Flood Hazard Area (SFHA).

Mr. Maurstad said one misconception under the old rating system is that insurance rates are not subject to regular increases. He said rates increased every year for all policyholders prior to Risk Rating 2.0. Last year, the NFIP premiums increased by an average of 11.3%, which is approximately \$8 per month.

Mr. Maurstad said under the new pricing structure, two-thirds of the policyholders will see a \$0 to \$10 per month increase in their flood insurance premiums. Seven percent of NFIP policyholders will see an increase of \$10 to \$20 per month. Four percent of the NFIP policyholders will see a \$20 or more increase in their flood insurance premium per month. The \$20 or more increases are for higher valued homes and homes in high-risk areas; this is also true under the NFIP legacy rating system.

Under the legacy rating system, 35,000 single-family policyholders have been seeing increases of more than \$100 per month. The single-family homeowners in this group have an average replacement cost of \$399,643. Under Risk Rating 2.0 only 3,246 single-family policyholders will see premium increases of more than \$100 per month. However, the single-family homeowners in this group have a replacement cost value of more than \$1 million. Currently, 3,000 single-family policyholders pay a premium between \$12,000 and \$45,000. Risk Rating 2.0 has an upper bound that limits cost on the highest end of the spectrum. Under Risk Rating 2.0, policyholders will pay no more than \$12,125 for their policies.

Mr. Maurstad said stakeholders have weighed in on the impact that Risk Rating 2.0 will have on communities and policyholders. The National Association of Realtors (NAR), representing 1.4 million policyholders, backs the new pricing methodology and acknowledges that Risk Rating 2.0 will help ensure that NFIP policyholders pay premiums proportionate to their property's risk.

Mr. Maurstad said affordability was an issue under the NFIP legacy rating system and will continue to be a concern under Risk Rating 2.0. He said the NFIP believes that the affordability framework released in 2018 will continue to be a valuable resource. President Joe Biden's budget for fiscal year 2022 includes a legislative proposal, which, if approved, would establish a target means tested assistance program offering low- and moderate-income policyholders a graduated premium discount benefit. FEMA would implement the program so that the eligible low to moderate income policyholders see both the full-risk price and the means-tested assistance they receive so that they understand their full risk. The NFIP will continue to work with the administration's team and the U.S. Congress on ways to reduce barriers to flood insurance and address mitigation options to achieve resiliencies for all communities.

Mr. Bradner asked how the gap can be fixed that many people fall into with not having the appropriate coverage, as it is important for consumers to know what their risk is. He said originally there was a scoring methodology to help people understand their risk and make an informed decision.

Mr. Maurstad said part of the unintended consequences originally associated with establishing the mandatory purchase area was that if a homeowner's property was in that area, then they had flood risk and were required to buy flood insurance; if a homeowner's property was outside that area, they had no risk and were not required to buy flood insurance. Risk Rating 2.0 recognizes a graduated risk throughout a community, and the pricing of the premium reflects this risk.

Mr. Maurstad reminded Working Group and Advisory Group members that the NFIP not only provided flood insurance, but also it was responsible for flood plain management, mitigation assistance grants, and flood risk mitigation. He said the NFIP is also making changes in the way it communicates flood risk. The NFIP is working with Congress through the reauthorization process on communication changes.

Mr. Maurstad said he believes Risk Rating 2.0 promotes mitigation in a different way than it has in the past. As people better understand their flood risk, especially those outside the high-risk area, homeowners will be encouraged to take mitigation actions to make their property safer and more resilient to flood events, to protect their property, and to protect their family from the devastating impacts of flood risk. Some areas will see less of an impact on premiums due to mitigation efforts.

Mr. Byrd said it was his understanding that an elevation certificate was no longer needed, but NFIP charts indicate first-floor elevation. He asked how this will be determined. Mr. Maurstad said the elevation certificate will no longer be required because the NFIP is getting first-floor data from a commercial vendor. He said if someone already has an elevation certificate, or if someone believes that an elevation certificate makes sense for them, the NFIP will use the information on their elevation certificate if it is to their benefit.

Mr. Byrd asked if there were any conditions on the transfer of flood insurance rate to a new homeowner if the property is sold. Mr. Maurstad said there were no conditions.

Mr. Chou asked about the catastrophe model evaluation process. Mr. Maurstad said the NFIP takes the catastrophe models and evaluates each individual model for its strengths and differences. Each model is evaluated against the known flood risk data. Mr. Maurstad said he will FEMA's actuaries follow-up with more detailed information.

4. Heard a Report from FEMA on FEMA Structure and Regional Flood Insurance Specialists

Edith Lohmann (FEMA) said FEMA's headquarters are in Washington, DC. However, there are 10 regional offices across the country broken down by state. There is at least one flood insurance specialist assigned to each FEMA region. Each of the regional offices acts as a liaison to FEMA headquarters and work in concert with the headquarter teams. The FEMA regional offices give FEMA the opportunity to have a local presence where they can customize and tailor their activities and outreach to their customers and partners in the various states.

Ms. Lohmann said regional flood insurance specialists work with consumers regarding questions and problems related to flood insurance. Flood insurance specialists also work with their partners, such as the NAIC and the departments of insurance (DOIs), as well as property owners, renters, real estate agents, lenders, appraisers, local insurance agents, surveyors, engineers, builders, or anyone else who is interested in flood insurance as a mitigation option to reduce disaster suffering.

Ms. Lohmann said flood insurance specialists are instrumental in assisting and facilitating the implementation of the NFIP's program changes, such as Risk Rating 2.0, flood map changes, flood mitigation projects, or a new development that is being built in a particular community. Flood insurance specialists work closely with their federal, state, local, tribal partners, and DOIs.

Ms. Lohmann said flood insurance specialists do a lot of outreach and education and training. She said they also provide technical assistance to individuals or groups of consumers in public settings. Ms. Lohmann said flood insurance specialists can provide clarity on any types of claims, underwriting, or policy coverage questions or issues that arise. She said flood insurance specialists are available to provide support before, during, and after disasters. Ms. Lohmann said flood insurance specialists participate in public awareness events and all types of activities. She encouraged state insurance regulators to reach out to their regional flood insurance specialist.

5. Received an Update on the NAIC Catastrophe Resource Center

Jennifer Gardner (NAIC) showed the location of the Catastrophe Resource Center. She highlighted the catastrophe contact list and asked states that were not on this list to reach out to NAIC staff to provide this information. Ms. Gardner explained each of the tabs located on the page, as well as the information available.

6. Heard an Update on Hurricane Ida

Mr. Byrd said Hurricane Ida struck on the 16th anniversary of Hurricane Katrina. Hurricane Ida was close to being a Category 5 hurricane. He said AIR Worldwide's original insured losses to onshore property were somewhere between \$17 billion and \$25 billion. These estimates include physical damage to residential, industrial, and commercial properties, as well as automobile losses. The estimates do not include flood damage and are based on the current higher material costs. AIR Worldwide estimates an additional cost to insurers of \$2.5 billion to \$5 billion for inland flood losses.

Karen Clark & Company (KCC) estimated insured losses to be nearly \$18 billion, with only \$40 million of these costs for losses in the Caribbean and the rest for losses in the U.S. These estimates include physical damage to residential, industrial, and commercial properties, as well as automobile losses.

Temporary adjusters were hired to help after the disaster, and Louisiana has issued or reinstated licenses to 14,625 adjusters to help in this effort. Four thousand three hundred and seventy-five of these licenses are for catastrophe adjuster registrations, which is not a full license, but an insurer can advise the state if it is bringing on additional catastrophe adjusters.

As of Nov. 15, Louisiana had a total of 116,112 actively licensed claims adjusters, which is an increase of approximately 12,000 adjusters in a two-and-a-half-month period. One-thousand five hundred and eighty licenses per month are being issued.

Mr. Byrd said Commissioner James J. Donelon (LA) issued Emergency Rule 47 for the 25 parishes that were affected by Hurricane Ida. Emergency Rule 47 provided for the suspension of certain statutes related to all types of insurance and all types of insurers doing business in Louisiana. However, reinsurers were not included. The statutes suspended included: 1) inability to cancel; 2) inability to terminate; 3) non-renewal; and 4) non-reinstate. Emergency Rule 47 protected policyholders from cancellation for non-payment of premium until after the emergency rule expired on Oct. 24; insurance could also not be cancelled solely due to filing a claim because of Hurricane Ida.

Bulletin number 2021-07 was also issued to address the issue of the civil authority loss of use. This is typically in effect for a maximum of 14 days and allows for extra expenses. One insurer took the DOI to task on this and is awaiting a final judgement. Commissioner Donelon issued Directive 218, telling insurers to honor reasonable expenses incurred for evacuation.

Bulletin 2021-08 and Bulletin 2021-09 were also issued. These bulletins reminded insurers to be careful of how they adjusted claims with the policyholder, including to treat the policyholder with respect throughout the adjusting process. Louisiana has a policyholder Bill of Rights set forth in their insurance code, and the bulletins called attention to the bill of rights. The bill of rights requires an adjuster's report to be given to the policyholder if the policyholder requests the report.

Louisiana has a provision in its law stating a claim is to be initiated in 14 days. However, if a catastrophe occurs that changes to 30 days, the commissioner can extend it an additional 30 more days. This was done in Emergency Rule 47 and was extended to 60 days. Hurricane Ida could not be used for cancellation and non-renewal and could not be used as a material change in a policyholder's risk.

Mr. Byrd said Louisiana did allow insurers in first-party claims to deduct any unpaid premium when they adjusted the claim. He said they cautioned insurers that there are two statutes on the books in Louisiana that require insurers to pay any undisputed portion of a claim within 30 days from satisfactory proof of loss. The insurers were cautioned that they would be exposing themselves to time-and-a-half damages plus attorney fees if this time frame was not met.

Mr. Byrd said Louisiana issued a data call to insurers. This is referenced in Bulletin 2021-10. The first report is due in January 2022. As of Nov. 28, the total NFIP claims paid totaled \$869 million. The highest number of claims were filed in Louisiana; Louisiana had 14,230 claims.

Mr. Byrd said complaints totaled 3,003. Most of the complaints encompassed: 1) adjusters not calling policyholders back; 2) changes in adjustment; and 3) not having any payment whatsoever for what the policyholder deemed to be undisputed portions of their claim.

7. Received a Report on the Update of the *Catastrophe Modeling Handbook*

Ms. Gardner said the Catastrophe Insurance (C) Working Group met virtually in November to discuss the directive it received from the Climate and Resiliency (EX) Task Force to update the *Catastrophe Modeling Handbook*. The Working Group directed NAIC staff to send a survey to all states to obtain information regarding how the current *Catastrophe Modeling Handbook* is being used and what needs to be updated. NAIC staff received responses from 20 states.

The survey results indicated the sections regarding “General Overview of Catastrophe Models,” “Model Input Provided by Company,” “Model Output,” and “Model Validation and Update” were all sections of the handbook that are helpful to state insurance regulators.

The survey additionally asked if a state used the questions included in the handbook regarding evaluation of models. These questions include items a state insurance regulator would ask of the catastrophe model vendor and of an insurer that was using the model. The responses showed that eight states use the questions currently. Eight states do not use the questions, and four states indicated they used some of the questions.

The survey also asked if it would be helpful to include questions specific to other perils and asked members to name the perils they would like to see included. The most common responses were for flood and wildfire followed by severe convective storm.

These results represent a small sample of the information received in the surveys. NAIC staff are analyzing the results and putting together a summary for the drafting group to consider as it works through the updates to the handbook.

Ms. Gardner said a few regulators offered to participate in a drafting group to review the survey responses and work on the handbook revisions. She said if anyone would like to join that drafting group, contact Aaron Brandenburg or Sara Robben. The first drafting group meeting will take place in January 2022.

8. Discussed Future Engagements with FEMA

The Advisory Group plans to work with FEMA on future events. These events include a FEMA meeting for FEMA Region 6. This event will be hosted by Oklahoma sometime in the first quarter of 2022. If any other regions would like to hold a similar event, please let Commissioner Glen Mulready (OK) know.

The Missouri DOI will be hosting an earthquake event May 23–May 25, 2022. This event will be held in St. Louis, MO.

The Advisory Group will hear an update regarding the Cascadia Rising 2022 national event during a future meeting.

Future topics for discussion and presentation include: 1) the NFIP CRS and how state insurance regulators can work with their communities in improving those CRS ratings; 2) the latest data on the private flood insurance market and the NFIP; and 3) a report from the National Insurance Crime Bureau (NICB) about the geospatial insurance consortium and how state insurance regulators might be able to use this technology during disasters.

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Draft: 12/1/21

NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group
Virtual Meeting
November 15, 2021

The NAIC/Federal Emergency Management Agency (FEMA) (C) Advisory Group of the Catastrophe Insurance (C) Working Group met Nov. 15, 2021. The following Working Group members participated: Glen Mulready, Chair (OK); Carter Lawrence, Vice Chair (TN); Brian Powell (AL); Lucy Jabourian (CA); George Bradner (CT); Travis Grassel (IA); Sharil Sivertson (KS); Warren Byrd (LA); Joy Hatchette (MD); Jo LeDuc (MO); Beth Vollucci (RI); Maggie Dell (SD); and Matt Stoutenburg (WA).

1. Heard an Update on Risk Rating 2.0 From FEMA

David Maurstad (Federal Emergency Management Agency—FEMA) said FEMA began using the Risk Rating 2.0 rating system Oct. 1. Risk Rating 2.0 is equitable, easy to understand and designed to adapt to the increasing perils of the changing climate. Mr. Maurstad said equity in action was developed with the uniqueness of each state and locality in mind. The increasing of dramatic weather events calls for action.

Mr. Maurstad said FEMA has taken a phased approach to the implementation of Risk Rating 2.0. Phase I of Risk Rating 2.0 kicked off with existing National Flood Insurance Program (NFIP) policyholders being able to take advantage of decreases on their policy renewal date. The NFIP also began selling new flood insurance policies on Oct. 1. Risk Rating 2.0 requires new policyholders, for any structure type located across the community, to pay full risk rates. New policies are no longer subsidized or discounted under the NFIP.

Mr. Maurstad said some of the initial reactions the NFIP has seen regarding the Risk Rating 2.0 rollout include: 1) the NFIP sold more than 28,000 new flood policies as of Nov. 7; 2) more than 2,100 current policyholders have renewed their flood insurance policies; 3) 82% of the policyholders renewing their flood insurance policies have seen a decrease in their premium; 4) policyholders renewing their NFIP policy have seen an average savings of \$1,500 per year; and 5) policyholders renewing their NFIP policies that are seeing an increase are seeing an average increase in premium of \$125 per year. He said the NFIP believes Risk Rating 2.0 will help to close the insurance gap.

Mr. Maurstad said as of April 1, 2022, the NFIP will use Risk Rating 2.0 to rate existing NFIP policies. Risk Rating 2.0 uses a broader range of variables, such as multiple flood frequencies beyond the 1% annual chance event and including river overflow, coastal erosion, storm surge, and heavy rainfall. The Risk Rating 2.0 variables also include a property's characteristics such as distance to a water source, elevation, and the cost to rebuild.

Mr. Maurstad said with improved technology, the NFIP can help people to understand a single property's flood risk profile. He said the NFIP is using its years of investment in flood hazard information, incorporating private sector data sets, using catastrophe models, and evolving actuarial science. Data sets incorporated into the Risk Rating 2.0 methodology include: 1) NFIP mapping and claims data; 2) United States Geological Survey (USGS) data; 3) National Oceanic and Atmospheric Administration (NOAA) data; and 4) data from the U.S. Army Corps of Engineers. The NFIP also uses third-party commercial structural data and replacement cost data.

Mr. Maurstad said under FEMA's legacy rating system, flood insurance rates were subject to regular annual increases. He said NFIP flood insurance policies saw an average increase of 11.3% last year; this is equivalent to approximately \$8 per month. Mr. Maurstad said premiums will decrease for over 1 million or 23% of the NFIP policyholders under the Risk Rating 2.0 rating system. Some NFIP policyholders will see increases, which include: 1) 66% of the NFIP policyholders will see a \$0 to \$10 increase in their premiums; 2) 7% of the NFIP policyholders will see an increase of \$10 to \$20 in their premiums; and 3) 4% of the NFIP policyholders will see an increase of \$20 or more in their monthly premiums.

Mr. Maurstad said three catastrophe models were licensed for use by the NFIP. These models include AIR, KatRisk, and CoreLogic. FEMA also developed two additional models based on government data.

Mr. Maurstad said the affordability of flood insurance was an issue under FEMA's legacy rating model. He said the affordability framework FEMA delivered to the U.S. Congress in 2018 will continue to be a valuable resource as the discussion regarding affordability of flood insurance continues. There is currently a budget proposal which, if passed by Congress, would establish

a targeted means tested assistance program. The proposal would offer low to moderate income NFIP policyholders a graduated risk premium discount benefit.

Mr. Maurstad said there are things individuals and communities can do to lower flood insurance premiums. The NFIP offers incentives to policyholders who take actions to mitigate their flood threats. This includes premium discounts to people who elevate expensive items such as heating, ventilating, and air conditioning (HVAC) units, hot water heaters, etc. Communities can receive discounts for their policyholders by participating in the Community Rating System (CRS), as well as taking local actions that enhance flood protection.

Mr. Byrd said under the new infrastructure bill, there will be money available for levy improvements. He asked if FEMA would evaluate levy improvements under the Risk Rating 2.0 methodology if these improvements are made, so there would possibly be some decrease in flood insurance premiums. Mr. Maurstad said the NFIP is involving the analysis of levies in Risk Rating 2.0, more so than they were evaluated in the legacy rating methodology. Partial credits are allowed if a levy is providing partial protection, i.e., is not fully accredited but in the levy database. Levies that provide protection beyond the federal standard provide extra credit in the new pricing methodology. Mr. Maurstad said when there are changes in conditions, they will be reflected in the rates. He said FEMA will coordinate closely with the U.S. Army Corps of Engineers.

Mr. Bradner asked how Risk Rating 2.0 will reflect actuarially soundness. He said being actuarially sound may not be affordable and asked how rates are going to be reflective of the true risk of the exposure. Andy Neal (FEMA) said the NFIP's legacy rating plan lacked the ability to reflect risk at a state level, much less a local or property-specific level. He said the glide path to full actuarial rates will help. Currently, the NFIP needs to collect 50% more premium for rates to be actuarially sound, and it will take more than 10 years for this to happen. Mr. Neal said most policyholders will be on an 18% glide path. He said policyholders getting decreases are getting them immediately. Therefore, the NFIP will be collecting less premium in year one than it has been collecting, so there is a slow trajectory. Mr. Neal said historical data is also used in conjunction with the models.

Commissioner Donelon asked if there are any plans in place for the residual market to provide for the people who do not have access to affordable flood insurance. Mr. Maurstad said under the legacy rating system, there were low-value homes that low-to-moderate income people lived in who were on a glide path that was beyond their full-risk. This is evident by the large reduction in premiums that many NFIP policyholders are seeing. The NFIP believes that Risk Rating 2.0 helps to relieve some of the affordability issue. Mr. Maurstad said the NFIP does not have a new program in the works for a residual market for their program. He believes one could already consider the NFIP a residual market.

Mr. Maurstad there are three things he believes can help close the insurance gap and make the NFIP sustainable. These items include product, price, and distribution. Currently, the NFIP has new policy forms that are going through the rulemaking process. Additionally, the Risk Rating 2.0 engine and application are easier for insurance agents to use, which should help with distribution.

Mr. Bradner said it was his understanding that Risk Rating 2.0 was going to weight the X zones according to a risk scale. He asked about the intent behind this weighting and asked if the NFIP was hoping that banks would begin looking at this factor and determining whether the property had a higher risk of loss based upon the weighting.

Mr. Neal said the NFIP elected not to use scores as part of the rating process. He said there is a more traditional plan with rating variables, territory factors, and various things that create a multiplicative rating model. Risk Rating 2.0 reflects a much fuller view of risk. The zones in the legacy rating system were based on a single scenario. Risk Rating 2.0 considers where a property sits outside the Special Flood Hazard Area (SFHA), as the resulting flooding can be very different based on the property's location. The NFIP is hopeful that property owners will maintain their flood insurance policy by seeing their full risk.

Mr. Bradner said if property owners are in an X zone, most of the time they are told they are not required to purchase flood insurance and may never see their full-risk or what they would be required to pay for flood insurance. Mr. Maurstad said there is still the issue of how to get property owners to fully appreciate their flood risk, so there will be the need to continue looking for ways to get this message out. He said part of the process is getting agents and lenders to look at this differently from how flood risk has been looked at in the past.

2. Heard About Risk Rating 2.0 Training Opportunities From FEMA

Liana Kang (FEMA) said FEMA has a variety training programs in place for Risk Rating 2.0. FEMA offers a two-part “Key Fundamentals of Flood Insurance for Agents” training course for agents that is offered year-round. The course is not geared toward Risk Rating 2.0 but has been updated to reflect the new rating changes.

Ms. Kang said FEMA offers a “Risk Rating 2.0 – Equity in Action” webinar that is geared toward Risk Rating 2.0. This two-hour webinar provides the latest information on Risk Rating 2.0 and covers key topics including: 1) what is Risk Rating 2.0; 2) what led to the NFIP transformation; 3) what is changing and not changing in Risk Rating 2.0; and 4) the transition of current policies.

Ms. Kang said FEMA offers a “Webinar Wednesdays” training series that provides information on: 1) Risk Rating 2.0 fundamentals; 2) premium calculation; 3) mitigation credits; and 4) transition of policies and use cases. There are four sessions, each lasting approximately two hours. These sessions include a live question-and-answer (Q&A) forum.

Ms. Kang said FEMA additionally offers regionally led methodology workshops. This training is done as needed throughout the FEMA regions. The length of these trainings depends on the need of the stakeholders and can run from two hours to six hours. This training includes much of what is covered in “Webinar Wednesdays” but offers a more interactive experience with the instructor. Ms. Kang said Region 5 is providing some of these trainings in November and December.

3. Heard About Joint Messaging Opportunities From FEMA

Butch Kinerny (FEMA) said FEMA has done a lot of outreach in 2021. He said FEMA has worked with a lot of states on flood awareness weeks and is currently working on a digital engagement strategy. FEMA wants to ensure that when customers or stakeholders ask a question, they get a quick consistent and correct answer. Mr. Kinerny said FEMA is also improving its social media space and has kicked off a new LinkedIn space. Content is updated two or three times a week, and FEMA is open to sharing its information.

FEMA provides education through traditional earned media, which includes press releases, blogs, op-eds, and webinars. It also uses the following to educate consumers: its direct-to-consumer website (*FloodSmart.gov*); social media; paid search; paid digital marketing; out of home; broadcast; direct mail; digital radio; advocates, agents, and infomediaries; and updated publications and graphics.

FEMA conducts regional marketing campaigns, such as urban flooding, flood risks behind dams, hurricanes, agent outreach, flood after fire, and atmospheric rivers. Its marketing campaigns are pushed through ads for websites and apps if a particular event is occurring or likely to occur in an area, such as a hurricane, flooding, or storms. FEMA has also produced videos specific to various regions of the country.

Additionally, the *NFIP Desk Reference Guide for State Insurance Commissioners and Others* is going to be updated in the near future.

4. Discussed Other Matters

Commissioner Mulready said the Advisory Group members may want to facilitate training sessions in their regions. He said he would be interested in facilitating a training for FEMA Region 6 in Oklahoma. Commissioner Mulready asked any other members of the Advisory Group to let NAIC staff know if they are interested in facilitating a training session in their FEMA region.

Having no further business, the Advisory Group adjourned.

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Draft: 12/9/21

Pet Insurance (C) Working Group
E-Vote
December 8, 2021

The Pet Insurance (C) Working Group conducted an e-vote that concluded December 8, 2021. The following Working Group members participated: Don Beatty, Chair (VA); Kendra Zoller, Vice Chair (CA); George Bradner (CT); Sheri Cullen (MA); Shirley Corbin (MD); Jo LeDuc (MO); Erin Summers (NV); Michael McKenney (PA); Matt Gendron (RI); and Kathy Stajduhar (UT).

1. Adopted its Dec. 1, 2021, Meeting Minutes

The Working Group considered adoption of its Dec. 1, 2021, meeting minutes. During its Dec. 1, 2021, meeting, the Working Group took the following action: 1) discussed data collection for pet insurance; 2) voted to move forward referrals to the Market Analysis Procedures (D) Working Group and the Market Information Systems Research and Development (D) Working Group; and 3) voted to ask the Property and Casualty Insurance (C) Committee to make the appropriate referrals to collect pet insurance data on the financial annual statement.

A majority of the Task Force members voted in favor of adopting the Task Force's Dec. 1, 2021 minutes (Attachment Four-A). The motion passed.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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Draft: 12/6/21

Pet Insurance (C) Working Group
Virtual Meeting
December 1, 2021

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Dec. 1, 2021. The following Working Group members participated: Don Beatty, Chair (VA); Kendra Zoller, Vice Chair (CA); Colin Corsetti (AK); Charles Hansberry (LA); Sheri Cullen (MA); Linas Glemza (MD); Jo LeDuc, Lockey Travis, and Marjorie Thompson (MO); Michael McKenney (PA); Matt Gendron and Beth Vollucci (RI); Kathy Stajduhar (UT); Jamie Gile and Anna Van Fleet (VT); and John Haworth (WA). Also participating were: Linda Grant (IN); Tate Flott and Brenda Johnson (KS); Brock Bubar (ME); Joseph Sullivan (MI); Chris Aufenthie (ND); Maggie Dell (SD); and Jody Ullman (WI).

1. Adopted its Oct. 21 Minutes

The Working Group met Oct. 21 and took the following action: 1) discussed language related to wellness plans and producer training in the draft Pet Insurance Model Act; and 2) adopted the Pet Insurance Model Act

Mr. Gendron made a motion, seconded by Ms. Zoller, to adopt the Working Group's Oct. 21 minutes (Attachment Four-A1). The motion passed unanimously.

2. Discussed Collection of Pet Insurance Data

Mr. Beatty said the Working Group had previously discussed data collection for pet insurance in early 2020. He said the group had adopted a referral to the Market Conduct Annual Statement Blanks (D) Working Group, but it was determined that the referral should actually be sent to the Market Analysis Procedures (D) Working Group. He said this referral was to consider adding pet insurance as a line of business reported on the Market Conduct Annual Statement (MCAS). He said the Working Group also previously adopted a referral to the Market Information Systems Research and Development (D) Working Group to collect complaint data on pet insurance. Mr. Beatty said due to a large gap in meetings in 2020, the referrals were not sent at that time. He said if the Working Group still thinks it is necessary to collect this data, the referrals will be forwarded to the appropriate groups at this time.

Ms. Van Fleet said Vermont supports the referrals for data collection.

Birny Birnbaum (Center for Economic Justice—CEJ) said he is supportive of both referrals. He said the Market Analysis Procedures (D) Working Group has a specific set of procedures in order to consider a new line of business. Mr. Birnbaum said that while the Market Information Systems (MIS) data is public, the MCAS data that is collected is not public. He said he would like to see pet insurance data collected on the financial annual statement in order to have publicly available data. He said this will allow consumers to compare pet insurers.

Ms. LeDuc said the Market Information Systems Research and Development (D) Working Group had already considered adding a pet insurance complaint code. She said the Working Group should ensure that the complaint code has not already been added before sending the referral.

Mr. Gendron made a motion, seconded by Ms. Van Fleet, to move the proposals forward, with the understanding that the Market Information Systems Research and Development (D) Working Group referral should not move forward if the pet insurance complaint code already exists. The motion passed unanimously.

Mr. Beatty said the Working Group had previously discussed developing a supplement to the financial annual statement to collect pet insurance data. He said pet insurance data should be collected separately from the inland marine line of business because it is a growing line of business, and state insurance regulators should be able to see how much pet insurance business is being written.

Mr. Gendron said MCAS ratios are publicly available on dashboards. He asked if the MCAS data collection could also include premiums by state. Mr. Birnbaum said dashboards contain state aggregate information, not individual company information. He said the dashboards only include selected ratios and do not provide premium data, even if that data is collected. He said this MCAS data is also collected later in the year, whereas the financial annual statement data is collected in April.

Brendan Bridgeland (Center for Insurance Research—CIR) said data from the financial annual statement is vitally important for public users such as consumers and academics.

Ms. Van Fleet made a motion, seconded by Mr. Gendron, to ask the Property and Casualty Insurance (C) Committee to make the appropriate referrals to collect pet insurance data on the financial annual statement.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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Draft: 11/9/21

Pet Insurance (C) Working Group
Virtual Meeting
October 21, 2021

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Oct. 21, 2021. The following Working Group members participated: Don Beatty, Chair (VA); Kendra Zoller, Vice Chair, Tyler McKinney, and Charlene Ferguson (CA); Austin Childs (AK); Jimmy Harris (AR); George Bradner and Kristin Fabian (CT); Warren Byrd (LA); Sheri Cullen (MA); Shirley Corbin (MD); Jo LeDuc and Jeana Thomas (MO); Erin Summers (NV); Michael McKenney (PA); Matt Gendron and Beth Vollucci (RI); Kathy Stajduhar (UT); Mary Block and Anna Van Fleet (VT); and David Forte, John Haworth, and Eric Slavich (WA). Also participating were: Linda Grant (IN); Heather Droge, Tate Flott, Brenda Johnson, and Vicki Schmidt (KS); Brock Bubar and Sandra Darby (ME); Joseph Sullivan (MI); Christine Peters (MN); Chris Aufenthie (ND); Cuc Nguyen (OK); Colette Hittner (OR); and Maggie Dell (SD).

1. Adopted its Oct. 7 Minutes

The Working Group met Oct. 7 to discuss language related to wellness plans and producer training in the draft Pet Insurance Model Act.

Mr. Byrd made a motion, seconded by Mr. Forte, to adopt the Working Group's Oct. 7 minutes (Attachment Four-A1a). The motion passed unanimously.

2. Discussed Comments on the Revised Draft Pet Insurance Model Act

Mr. Beatty said during its Oct. 7 meeting, the Working Group discussed a proposal from California on revisions to the wellness programs language and a proposal from Rhode Island on adding language about producer training requirements. He said both proposals had been revised based on comments heard during that meeting.

Ms. Zoller said there were quite a few concerns about how to regulate not allowing the insurance policies and wellness programs to be advertised together. She said the language was changed to reflect that a "pet insurer shall not market a wellness program as pet insurance or during the transaction of pet insurance." She said there was also issue with whether to use the term "coverage" or "product," so language was changed to include both terms. Mr. Byrd asked if the language in Section 7A should be reworded to be clearer. He said he agrees with the purpose of the language but does not think it is reading the way the language is meant to be read. Mr. Gendron clarified that the goal of the language in Section 7A is to be read as two separate points.

Birny Birnbaum (Center for Economic Justice—CEJ) said insurance policies are sold with a wellness component built into the policy or added as an endorsement to the policy. He said the Working Group should consider adding language to clarify that the requirements in in Section 7A do not apply to insurance coverage, described as wellness benefits, that is included in the policy contract. Mr. McKenney agreed with the language that Mr. Birnbaum proposed.

Lisa Brown (American Property Casualty Insurance Association—APCIA) asked if the term "transaction" referred to the moment the policy was issued. She said the word could be interpreted as any time the insured used pet insurance after it is purchased. Ms. Zoller clarified that the marketing of the wellness products should be separate from the transaction of purchasing a pet insurance policy. Ms. Zoller said it may be best to instead use the term "sell, solicit, or negotiate." Mr. Byrd agreed that it would be better to use "sell, solicit, or negotiate."

Mr. Birnbaum asked if this language in Section 7A would prohibit an insurer from offering a wellness program for purchase until after an insurance policy has already been purchased. Ms. Zoller said that is the goal of the language.

Cari Lee (North American Pet Health Insurance Association—NAPHIA) asked if an insurer can sell a wellness program that is part of the insurance coverage. Ms. Birnbaum said this language would not apply to those policies and that the issue would be clarified by the additional language he submitted.

Ms. Zoller made a motion, seconded by Mr. Gendron, to adopt the changes to the wellness language in Section 3 and Section 7. The motion passed unanimously.

Mr. Gendron said the first provision in his proposed Section 9 – Insurance Producer Training says that a producer must be appropriately licensed and complete the required training before the sale, solicitation, or negotiation of pet insurance. He said the next provision applies to those producers with a major lines license and would require them to be appropriately trained on the features of the pet insurance product. He said this would be in-house training that would not require approval from the state insurance department but would be subject to market conduct examination. Mr. Gendron said the third provision deals with limited lines license holders. He said the original proposal required 10 credits at initial licensing and 10 credits of continuing education (CE) every two years. He said that after conversations with other states and producers, that requirement was changed to 10 credits at initial licensing and four credits of CE every two years. Mr. Gendron said the final part of his proposal outlines the required covered topics for in-house training and licensing education courses.

Mr. Byrd asked if the required credits are in addition to the requirements already in place. Mr. Gendron said this proposal does not add any credit requirements for major lines license holders. He said limited lines license holders do not currently have a required number of credits to obtain a license.

Ms. Zoller said she would like to add a provision to require a certificate of completion for the training for state insurance regulators to track the completed training. Mr. Gendron said he would expect the company to keep track of the course list and who was at the training, but he would not expect the producer to provide that information. Mr. Beatty said the insurer would keep track of this, and it would be checked during a market conduct exam.

Mr. Harris said he is concerned about placing CE requirements on a limited lines licensee, and he asked if there are other limited lines where there are continuous requirements. Mr. Gendron said there is a lot more to selling pet insurance than other limited lines products, and the CE requirements would make sense for this line of business.

Mr. Birnbaum said Section 9B(1)(i) should clarify that both the producer and the insurer shall ensure that the producer has been appropriately trained on the product. Mr. Gendron agreed that the subsection should read: “Both the producer and the insurer shall ensure that its producers have been appropriately trained on the features of its products.”

Isham Jones (American Veterinary Medical Association—AVMA) asked who would be providing the training on medical conditions. Mr. Gendron said for major lines license holders, the insurer would provide training on the specifics of pet insurance, and for limited lines license holders, the training would come from training providers that are required to register with the state department of insurance (DOI).

Wes Bissett (Independent Insurance Agents & Brokers of America—IIABA) said Section 8 – Regulations should be moved to the end of the model. He said in Section 9B(2)(iii), the term “limited lines” should be added before “insurance producer” for clarification.

Mr. Gendron made a motion, seconded by Mr. Byrd, to adopt Insurance Producer Training as Section 8 into the model, with the suggested edits in Section 8B(2)(iii) from Mr. Bissett and Section 8B(1)I from Mr. Birnbaum, and to move Regulations to Section 9. The motion passed unanimously.

3. Adopted the Pet Insurance Model Act

Mr. Gendron made a motion, seconded by Mr. McKenney, to adopt the Pet Insurance Model Act as drafted. The motion passed unanimously.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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Draft: 10/15/21

Pet Insurance (C) Working Group
Virtual Meeting
October 7, 2021

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Oct. 7, 2021. The following Working Group members participated: Don Beatty, Chair, and Jessica Baggarley (VA); Kendra Zoller, Vice Chair (CA); Katie Hegland and Colin Corsetti (AK); Jimmy Harris (AR); Kristin Fabian (CT); Angela King (DC); Warren Byrd (LA); Sheri Cullen (MA); Shirley Corbin (MD); Cynthia Amann and Jo LeDuc (MO); Michael McKenney and Dennis Sloand (PA); Elizabeth Kelleher Dwyer, Matt Gendron, and Beth Vollucci (RI); Kathy Stajduhar (UT); Chris Antoine, Jamie Gile, and Anna Van Fleet (VT); and David Forte and John Haworth (WA). Also participating were: Michele Mackenzie (ID); Linda Grant (IN); Heather Droge (KS); Brock Bubar and Sandra Darby (ME); Sandra Anderson and Christine Peters (MN); Chris Aufenthie and Janelle Middlestead (ND); Maggie Dell (SD); Jody Ullman (WI); and JoAnne DeBella (WY).

1. Adopted its Sept. 8 Minutes

The Working Group met Sept. 8 to discuss language related to wellness plans in the draft Pet Insurance Model Act.

Mr. Forte made a motion, seconded by Mr. Byrd, to adopt the Working Group's Sept. 8 minutes (Attachment Four-A1a1). The motion passed unanimously.

2. Discussed Comments on the Revised Draft Pet Insurance Model Act

Mr. Beatty said the Working Group received new comments from both state insurance regulators and industry since the last meeting.

Ms. Zoller said she submitted comments that address some changes to the language in Section 3—Definition and Section 7—Sales Practices for Wellness Programs. She said the changes include using the terms “shall and shall not” instead of “may,” removing blood tests from the activities covered under wellness programs in the definition, and using clear language that wellness programs should not be marketed with insurance products. Mr. Byrd said he agrees that there should be separation between the wellness products and insurance products, including separate billing and contract forms. Mr. McKenney said the term “products” in Section 7(4) should be changed to “coverages.” Mr. Forte agreed with this change. Birny Birnbaum (Center for Economic Justice—CEJ) said the term “products” should be used when talking about wellness programs, and the term “coverage” should be used when talking about insurance. Ms. Zoller agreed with this change.

Cari Lee (North American Pet Health Insurance Association—NAPHIA) asked whether products would be exempt from premium tax if wellness products are separated from the insurance policy. Mr. Forte said if wellness benefits are made a part of the insurance policy, then they are considered insurance. Ms. Lee asked for clarification of what separate marketing would be if the products are combined. Ms. Zoller agreed with Mr. Forte that if it is part of the policy, it is considered insurance, but currently some wellness plans that are sold as add-ons to an insurance policy do not make it clear to the consumer that the wellness program is not insurance. Ms. Mackenzie said there are insurance policies that pay for veterinary wellness visits, and she asked for clarification on the types of policies being addressed by this language. Mr. Gendron said he knows of four companies that sell a wellness product that they do not consider to be insurance, but the way these products are sold looks like how other companies sell endorsements to their pet insurance policies for wellness, which would be considered insurance. Mr. Birnbaum asked how something could be considered insurance because it is included in the policy, but the same services are not considered insurance if they are sold separately. Mr. Beatty said if a wellness program is included in the insurance policy and has been appropriately filed and approved in a state, then state insurance regulators have jurisdiction over that product. He said the Working Group is trying to separate out those products from the ones not sold as insurance, making it clear to the consumer that those products are not insurance and would not provide coverage that they may expect.

Ms. Lee said proposed Section 7(C)(1) reads “pet insurance and wellness programs should not be advertised together to avoid consumer confusion.” She asked if the intention is to not allow those products to be sold on the same website. Ms. Zoller said the language is not preventing the products from being on the same website, but the products need to be clearly distinct. She said right now added on wellness products only have fine print indicating that it is not insurance. She said the websites should not allow customers to purchase an insurance policy with the wellness product already added on if that wellness product is not considered insurance and not a part of the policy. Ms. Lee said NAPHIA proposed that this should be addressed with clear

disclosures to the consumer. Mr. Birnbaum said he thinks the purpose of the language is that the purchase of a wellness program cannot be tied to the purchase of an insurance policy, and vice versa.

Mr. Forte said the purpose of the proposal is to change the language from permissive to restrictive and further clarify that pet insurance and wellness programs need to be clearly delineated as unique products, and they should not be contingent.

Mr. Forte said the adopted definition of wellness program says it is a subscription or reimbursement-based program that is separate from an insurance policy and provides services to promote general health, safety, and well-being. He said pet insurance policies are property policies, and anything that is for general health, safety, and well-being is not considered insurance and an insurable item.

Mr. Byrd asked where the differences are in how wellness programs are handled in health insurance as opposed to how they are handled in pet insurance. Mr. Birnbaum said consumers have come to understand that wellness programs are a part of health insurance policies. He said he does not see how consumers are supposed to know that wellness programs for pets would not be a part of the pet insurance policy. He said there has been a push in property/casualty (P/C) policies to include loss mitigation and resilience activities into the policies, and those activities are analogous to wellness programs in health insurance.

Mr. Beatty suggested that the proposal should be re-drafted after considering the comments made during the meeting and re-submitting them for viewing before the Working Group votes on adopting the new language.

Mr. Gendron said the Working Group previously discussed the issue of producer licensing and determined that the decision on what type of license was needed to sell pet insurance should not be made in this group. He said based on discussions in the Producer Licensing (D) Task Force, this Working Group would be the appropriate place to address what is required to obtain the license to sell pet insurance and what kind of training should be required to maintain that license. He said both the *Long-Term Care Insurance Model Act* (#640) and the *Suitability in Annuity Transactions Model Regulation* (#275) require initial training, and Model #640 requires ongoing training. He said because of the innovations in the industry that have been discussed in the Working Group's meetings, it is a good idea to have ongoing training requirements in addition to the initial training requirements. He proposed requiring four credits of pet insurance specific training for those that hold a major lines license before they can market and sell pet insurance, plus four credits of training at license renewal. He proposed 10 credits of pet insurance specific training for those that hold a limited lines license, plus 10 credits of training at license renewal.

Mr. McKenney asked how the proposed training requirements compare to other lines of insurance. Mr. Gendron said he is not aware of specific training in other lines of business, but pet insurance is a unique coverage type because it is more like health insurance than other property lines of business. Mr. McKenney said he does not want to create requirements for producers that would cause pet insurance to only be sold direct.

Jack Chaskey (Westmont Associates) asked if the education requirements are additive or if they are intended to be part of the qualifying education requirements. Mr. Gendron said the intent of the proposal is that these requirements would not be additive. Mr. Byrd asked if these training requirements should be addressed in state code provisions or in the draft Pet Insurance Model Act. Mr. Gendron said the *Producer Licensing Model Act* (#218) sets standard training, but this provision would require four of those credits to be specifically focused on pet insurance education for anyone that is selling pet insurance. He said because this is a unique line of business and there is a lot of innovation in the pet insurance industry, it is important to require specific training. Superintendent Dwyer said continuing education (CE) is not currently tracked by subject matter. She said this is a good way to confirm that P/C producers that are selling pet insurance are staying informed on that subject. Mr. Birnbaum said he would support the proposal to address producers training in the draft Pet Insurance Model Act.

Mr. Beatty asked if NAPHIA would still recommend their proposed drafting note that addresses producer licensing requirements and compliance with the Uniform Licensing Standards.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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Draft: 9/16/21

Pet Insurance (C) Working Group
Virtual Meeting
September 8, 2021

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met Sept. 8, 2021. The following Working Group members participated: Don Beatty, Chair (VA); Kendra Zoller, Vice Chair (CA); Katie Hegland (AK); Jimmy Harris (AR); Angela King (DC); Warren Byrd (LA); Shirley Corbin (MD); LeeAnn Cox and Jo LeDuc (MO); Dennis Sloand (PA); Matt Gendron and Beth Vollucci (RI); Kathy Stajduhar (UT); Mary Block and Jamie Gile (VT); and David Forte, John Haworth, and Eric Slavich (WA). Also participating were: Lucretia Prince (DE); Linda Grant (IN); Heather Droge, Brenda Johnson, and Tate Flott (KS); Brock Bubar (ME); Joseph Sullivan (MI); Christine Peters (MN); Chris Aufenthie (ND); Maggie Dell (SD); and Jody Ullman (WI).

1. Discussed the Definition of “Wellness Plans” in the Draft Pet Insurance Model Act

Mr. Beatty said during its Aug. 4 meeting, the Working Group adopted the Pet Insurance Model Act. He said following that meeting, there were suggested edits to some elements of the model.

Mr. Beatty said the first suggested change was to remove the word “internet” and make “website” one word throughout the model. Mr. Gendron made a motion, seconded by Mr. Forte, to make this change throughout the model. The motion passed unanimously.

Mr. Beatty said the next suggested change was to make “preexisting” consistent throughout the model. He said the Working Group should decide whether to use “pre-existing” or “preexisting.” Mr. Gendron made a motion, seconded by Mr. Forte, to use “preexisting” throughout the model. The motion passed unanimously.

Mr. Beatty said the next suggested change was to insert language in Section 4–Disclosures, titled Right of Return, that addresses the free look period. Mr. Sloand said in the adopted version of the model, there was a statement indicating that a claim must have been paid in order to negate the free look period. Brendan Bridegland (Center for Insurance Research—CIR) said he agrees with Mr. Sloand’s point. He said the substantive sections of the model should stay intact and these issues should not all be addressed in the disclosure section. Cari Lee (North American Pet Health Association—NAPHIA) said NAPHIA’s submitted comments suggest adding language to the Right of Return section that clarifies that a policy cannot be returned if the insured has filed a claim. Mr. Byrd said whether or not a claim has been paid, when an insured makes a claim, he or she is making a demand of the policy. Mr. Beatty said it is unlikely that an insured would make a claim under the policy and then try to return it. He said the paid language is not necessary. Mr. Gendron said it is unlikely that a claim would even be paid or denied within the first 15 days of the policy.

Mr. Gendron made a motion, seconded by Mr. Byrd, to add Section 4D–Right to Examine and Return the Policy, with the following language:

(1)Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate or rider to the company or an agent/insurance producer of the company within fifteen (15) days of its receipt and to have the premium refunded, after examination of the policy, certificate or rider, the applicant is not satisfied for any reason,

(2)Pet insurance policies, certificates and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free look statement or language substantially similar shall be included:

“You have 15 days from the day you receive this policy, certificate or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent/insurance producer that you bought it from as long as you have not filed a claim. You must return it within 15 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate or rider will be void as if it had never been issued.”

The motion passed, with Pennsylvania voting against.

Mr. Beatty said the next suggested change is to remove repetitious language in Section 6(B)(4) and instead address this language in Section 4—Disclosures. Mr. Forte said this language should be moved to Section 4 because it does relate to a disclosure to the insured. Mr. Forte made a motion, seconded by Mr. Byrd to move the language in Section 6(B)(4) to Section 4. The motion passed unanimously.

Mr. Byrd said any mention of “insurer” in the model should be changes to “pet insurer” for clarification. Mr. Byrd made a motion, seconded by Mr. Forte, to change “insurer” to “pet insurer” throughout the model. The motion passed unanimously.

Mr. Beatty said the next suggested change was removing the reference to the *Unfair Trade Practices Act* (#880) and replacing it with a reference that each state can change to include its own unfair trade practice law. Mr. Byrd made a motion, seconded by Mr. Gendron, to adopt this change. The motion passed unanimously.

Mr. Beatty said the next suggested change was to change Section 4(E) to read: “An insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a pet insurance policy within the policy itself, prior to policy issuance and through a clear and conspicuous link on the main page of the insurer or insurer’s program administrator’s website.” Mr. Gendron said he had never seen the word “itself” inserted after referring to a policy and said the change was not necessary.

Mr. Beatty said the next suggested change was to insert a drafting note in Section 4(H) to refer to the specific insurance department in each state. There was no objection to this change.

Mr. Beatty said the next suggested change was to move the definition of “preexisting condition” from Section 3 to Section 4. Mr. Forte said the definitions guide the policy, and they should not only be a part of the disclosures. There was no motion to make this change.

Mr. Beatty said there were a few more suggestions of moving language from Section 6 to Section 4. There was no motion to make those changes.

Mr. Forte said the Working Group had previously voted that there should not be waiting periods for accidents. He said the current language in Section 6 is ambiguous if waiting periods for accidents are prohibited. Ms. Lee said that prohibiting waiting periods for accidents could allow for insurance fraud since a consumer could purchase and immediately use the insurance to cover his or her pet after an accident has already occurred. Mr. Forte said state insurance regulators do not want insurance fraud to occur. Mr. Bridgeland said that if the accident occurred before coverage, that would be considered a preexisting condition. Ms. Lee said the insurer would not know it is a preexisting condition if the consumer does not disclose the accident. Mr. Byrd said a waiting period of three days for accidents should mean that the policy is not effective until that waiting period is over. Ms. Lee said these policies have different waiting periods for different coverages, so only the accident coverage would not be effective during that period. Mr. Bridgeland said it is problematic to charge a consumer for a 365-day policy with only 362 days of coverage.

Mr. Forte made a motion, seconded by Mr. Gendron, to change the language in Section 6B to: “A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.”

Ms. Zoller said state insurance regulators do not have authority over non-insurance products, and she said Section 7 and language relating to wellness programs should not be included in the model. Mr. Forte said the language says “by a licensed insurance entity” to refer to products sold by licensed pet insurers.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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Draft: 11/29/21

Transparency and Readability of Consumer Information (C) Working Group
Virtual Meeting (*in lieu of meeting at the 2021 Fall National Meeting*)
November 17, 2021

The Transparency and Readability of Consumer Information (C) Working Group of the Property and Casualty Insurance (C) Committee met Nov. 17, 2021. The following Working Group members participated: Joy Hatchette, Chair (MD); Willard Smith (AL); Ken Allen (CA); Bobbie Baca (CO); Angela King (DC); Patrice Dziire, Julie Rachford, and Robert Rapp (IL); Heather Droge and Brenda Johnson (KS); Cynthia Amann, Jo LeDuc, and Jeana Thomas (MO); Kathy Shortt (NC); Chris Aufenthie (ND); Dave Buono and Shannen Logue (PA); Elizabeth Kelleher-Dwyer and Brett Bache (RI); Jennifer Ramcharan (TN); and Marianne Baker and Cassandra Enoch Brown (TX). Also participating were: Kate Kixmiller (IN); Renee Campbell (MI); Denise Lamy (NH); Tynesia Dorsey and Jana Jarrett (OH); Tricia Goldsmith and Glenda Villamar (OR); Marcia Violette (VT); Josh Martinsen and Manabu Mizushima (WA); Diane Dambach and Darcy Paskey (WI); and Kristi Alma Jose and Bill Cole (WY).

1. Adopted its Summer National Meeting minutes

Ms. Droge made a motion, seconded by Mr. Aufenthie, to adopt the Working Group's July 20 minutes (*see NAIC Proceedings – Summer 2021, Property and Casualty Insurance (C) Committee, Attachment Five*). The motion passed.

2. Adopted the Report of the Consumer Education Drafting Group

Ms. Hatchette said the work on the rate and rule filing checklist and the disclosures for premium increases for both capped and uncapped premium has been completed by their perspective drafting groups. She said Brenda J. Cude (University of Georgia) will do a readability review on the consumer language in the document. Ms. Hatchette said several states have indicated that they would like to start using these documents. She said once Ms. Cude has reviewed the documents, they will be sent out to the Working Group to vote on exposing the document. Once the document has been exposed for 30 days, the Working Group will consider adoption of the documents and will then send them to the Property and Casualty Insurance (C) Committee for consideration of adoption. The Working Group was in agreement.

Ms. Shortt said the consumer education drafting group was divided into three areas: 1) ratemaking; 2) rating factors; and 3) premium discounts. The ratemaking and premium discounts drafting for auto insurance has been completed. The rating factors drafting is nearing completion. Drafting groups will begin working on ratemaking and rating factors for homeowners' insurance once the rating factors for auto insurance is complete. The drafting group working on homeowners' discounts has started drafting this document. The drafting groups have been meeting every couple of weeks to complete the work.

Ms. Rachford made a motion, seconded by Mr. Buono, to adopt the report of the Consumer Education Drafting Group. The motion passed.

3. Heard a Presentation Regarding Disparities in Insurance Access

Ms. Hatchette said some of the Working Group members may have seen the report *Disparities in Insurance Access: A Report Detailing Findings From a Survey of Grassroots Consumer Organizations*. She said some states have begun to hold discussions regarding the information in this report to address this issue. Ms. Hatchette said Maryland has been discussing ways in which they can address the concerns and issues included in this report.

Ms. Cude said the information presented in the report is based on a survey the consumer representatives conducted earlier this year. She said the information she is presenting today is based on new data that has not yet been reported to anyone at the NAIC. Ms. Cude said the primary goal of the survey was to look at disparities and inequities in the insurance system; this was done in the lens of community organizations.

Ms. Cude said the survey respondents included 72 unique individuals who were leaders or senior employees of consumer organizations. Approximately half of the respondents of this survey worked in organizations that they defined as working statewide. Fifteen of the respondents worked nationally, and seven of the respondents said their primary work was in a specific city. The survey was intended to reach across a number of product lines, and although the majority of the respondents worked in health, they worked in other product lines too. The three areas most relevant to the Working Group include auto; property;

and flood, earthquake, or wind. Forty-four percent of the respondents' constituents included all ethnic groups. However, there was a focus on Black or African American and Hispanic or Latino populations. The majority of respondents said their primary constituency served included racial and ethnic groups. However, there was representation in other groups as well, such as senior citizens, rural residents, veterans, etc.

Ms. Cude said the challenges of the constituents that the respondents' organizations worked with include: 1) the belief that insurance products are unaffordable; 2) difficulty understanding coverage; 3) difficulty understanding costs; 4) the belief that available insurance products do not provide sufficient coverage; 5) the belief that insurance claims are not paid; 6) the belief that filing insurance claims is difficult; 7) difficulty in applying for insurance; 8) language barriers; 9) the belief that consumer education/information is not written or available for constituents; and 10) the belief that the state insurance department is not helpful. She said this Working Group might want to consider drafting consumer education pieces addressing understanding coverage and costs, reasons insurance claims are not paid, and education regarding the filing of insurance claims. Ms. Cude said about 20% of the respondents said that consumer education is not available and written for their constituents. While consumer education information is available, it is important to understand why the educational pieces are not making their way to the community organizations.

Ms. Cude said respondents were asked questions about state insurance department contact with the respondents' constituents. The questions asked included asking if state insurance departments: 1) provide education about insurance; 2) increase awareness about insurance; 3) ask about opportunities to learn about respondents' organizations; 4) discuss the department of insurance's (DOI's) services; and 5) ask about ways to hear about respondents' constituents' insurance issues. She said barely one-fourth of the respondents answered "yes" regarding education and increasing awareness about insurance. Ms. Cude said the consumer representatives believe the community organizations are saying it is a one-way conversation. She said less than 20% of the respondents said that the DOIs contacted or discussed the services offered by the DOI with their organizations. Only 17% of the respondents said that they had been asked about ways to learn about the constituents' insurance issues.

Ms. Cude said recommendations relevant to the DOIs include: 1) developing more expansive partnership networks with community organizations, especially those serving low-income communities and communities of color; and 2) embracing active, ongoing engagement with community partners and developing relationships that go beyond passive information sharing. She said recommendations for the NAIC to consider include: 1) identifying, promoting, and replicating best practices across states; and 2) creating minimum community engagement standards.

Ms. Cude said there are large sections of states where there are not the types of community-based organizations that the Working Group has been discussing. She said smaller communities do have community-based organizations. However, these organizations are not always the typical traditional community-based organizations. Ms. Cude said community-based organizations in small, rural communities might be churches, a cooperative extension service, a public library, civic organizations, a Chamber of Commerce, or elected county officials.

Ms. Hatchette said when the report was released, they decided to reach out to the grassroots organizations in Maryland to see what they could do better. She said they reached out in a variety of ways, such as sending emails and making phone calls. Ms. Hatchette said they received responses from only 10% of those they contacted. She asked Ms. Cude for a good way to get these conversations started. Ms. Cude said many community organizations are understaffed and under-resourced, so they may not have time to respond without knowing why they are being contacted. She said this is where the standards about what it means to have and build community engagement come into play. Ms. Cude said it is important to think about and discuss ways to work with some of the community-based organizations. She said creating a best practices document that provides items that have worked for the various states would be valuable.

Ms. Ramcharan said the DOI sent employees to the rural areas that flooded in Tennessee following the flood event. She said they have found senior centers to be an excellent resource in rural communities. Ms. Ramcharan said the senior centers are usually open to the DOI visiting to talk with them and to provide materials and brochures.

Mr. Allen said the California DOI has a community relations and outreach branch. He said this group holds forums, roundtables, or outreach events virtually or in person in every county in California. Mr. Allen said they use community centers, businesses, chambers of commerce, and other nontraditional areas to try to get information out to consumers. He said he was going to share the report and information presented today with the community relations and outreach branch. Ms. Cude said this is helpful, as one of the first steps is to collect best practices.

Ms. Baker said Texas has a program for their coastal wind pool that does outreach to consumers. She said this program was created by statute. The program has one dedicated employee who spends a great deal of time attending meetings on the coast, attending city council meetings, and attending meetings at the libraries. Ms. Baker said this person also provides outreach when there is a storm, as well as fielding complaints. She said she would share this information with the Working Group.

Karrol Kitt (University of Texas at Austin) said that while communicating information following disasters is important, consumers also need information to help them with protecting their assets. Ms. Cude said once contact is made with the community-based organizations, it would be helpful to ask the organization what it needs to know to better serve its constituents. She said it might be a train-the-trainer model that works.

Bonnie Burns (California Health Advocates) said most people do not understand their insurance policy until they have to use it. She suggested that DOIs could teach people how to read policies of various types.

Having no further business, the Transparency and Readability of Consumer Information (C) Working Group adjourned.

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Draft: 12/15/21

Adopted by the Executive (EX) Committee and Plenary, TBD

Adopted by the Property and Casualty Insurance (C) Committee, Dec. 15, 2021

2022 Proposed Charges

PROPERTY AND CASUALTY INSURANCE (C) COMMITTEE

The mission of the Property and Casualty Insurance (C) Committee is to: 1) monitor and respond to problems associated with the products, delivery, and cost in the property/casualty (P/C) insurance market and the surplus lines market as they operate with respect to individual persons and businesses; 2) monitor and respond to problems associated with financial reporting matters for P/C insurers that are of interest to regulatory actuaries and analysts; and 3) monitor and respond to problems associated with the financial aspects of the surplus lines market.

Ongoing Support of NAIC Programs, Products or Services

1. The **Property and Casualty Insurance (C) Committee** will:
 - A. Discuss issues arising and make recommendations with respect to advisory organization and insurer filings for personal and commercial lines, as needed. Report yearly.
 - B. Monitor the activities of the Casualty Actuarial and Statistical (C) Task Force.
 - C. Monitor the activities of the Surplus Lines (C) Task Force.
 - D. Monitor the activities of the Title Insurance (C) Task Force.
 - E. Monitor the activities of the Workers' Compensation (C) Task Force.
 - F. Provide an impartial forum for considering appeals of adverse decisions involving alien insurers delisted or rejected for listing to the *Quarterly Listing of Alien Insurers*. Appeal procedures are described in the International Insurers Department (IID) Plan of Operation.
 - G. Monitor and review developments in case law and rehabilitation proceedings related to risk retention groups (RRGs). If warranted, make appropriate changes to the *Risk Retention and Purchasing Group Handbook*.
 - H. Monitor the activities of the Federal Crop Insurance Corporation (FCIC) that affect state insurance regulators:
 1. Serve as a forum for discussing issues related to the interaction of federal crop insurance programs with state insurance regulation.
 2. Review law changes and court decisions and, if warranted, make appropriate changes to the *Federal Crop Insurance Program Handbook: A Guide for Insurance Regulators*.
 3. Monitor the regulatory information exchanges between the FCIC and state insurance regulators, as well as the FCIC and the NAIC, and make recommendations for improvements or revisions, as needed.
 - I. Report on the cyber insurance market, including data reported within the Cybersecurity Insurance and Identity Theft Coverage Supplement.
 - J. Monitor regulatory issues that arise with the development of autonomous vehicles. Study and, if necessary, develop recommendations for changes needed to the state-based insurance regulatory framework.
 - K. Provide a forum for discussing issues related to parametric insurance and consider the development of a white paper or regulatory guidance.
2. The **Cannabis Insurance (C) Working Group** will:
 - A. Assess and periodically report on the status of federal legislation that would protect financial institutions from liability associated with providing services to cannabis businesses operating legally under state law.
 - B. Encourage admitted insurers to ensure coverage adequacy in states where cannabis, including hemp, is legal.
 - C. Provide insurance resources to stakeholders and keep up with new products and innovative ideas that may shape insurance in this space.
 - D. Develop an appendix to the *Understanding the Market for Cannabis Insurance* white paper, providing updated information on cannabis-related insurance issues for adoption by the 2022 Summer National Meeting.
 - E. Collaborate with the Producer Licensing (D) Task Force to study whether cannabis-related convictions in states where cannabis is legalized for medical and/or recreational use are preventing individuals from being licensed as an agent or broker.
3. The **Catastrophe Insurance (C) Working Group** will:
 - A. Monitor and recommend measures to improve the availability and affordability of insurance and reinsurance related to catastrophe perils for personal and commercial lines.

- B. Evaluate potential state, regional, and national programs to increase capacity for insurance and reinsurance related to catastrophe perils.
 - C. Monitor and assess proposals that address disaster insurance issues at the federal and state levels. Assess concentration-of-risk issues and whether a regulatory solution is needed.
 - D. Provide a forum for discussing issues and recommending solutions related to insuring for catastrophe risk, including terrorism, war, and natural disasters.
 - E. Consider revisions to the *Catastrophe Computer Modeling Handbook*.
 - F. Investigate and recommend ways the NAIC can assist states in responding to disasters by continuing to build the NAIC's Catastrophe Resource Center for state insurance regulators to better prepare for disasters.
 - G. Continue to monitor the growth of the private flood insurance market and assess the actions taken by individual states to facilitate growth. Update the Considerations for Private Flood Insurance appendix to include new ways states are growing the private flood insurance market.
 - H. Study, in coordination with other NAIC task forces and working groups, earthquake matters of concern to state insurance regulators. Consider various innovative earthquake insurance coverage options aimed at improving take-up rates.
4. The **NAIC/Federal Emergency Management Agency (FEMA) (C) Working Group** will:
- A. Assist state insurance regulators in engaging and collaborating with FEMA on an ongoing basis by establishing a process for the oversight, prioritization, and reporting of disaster-related regional workshops and other exercises to improve disaster preparation and resilience.
5. The **Terrorism Insurance Implementation (C) Working Group** will:
- A. Coordinate the NAIC's efforts to address insurance coverage for acts of terrorism. Work with the U.S. Department of the Treasury's (Treasury Department's) Terrorism Risk Insurance Program (TRIP) Office on matters of mutual concern. Discuss long-term solutions to address the risk of loss from acts of terrorism.
 - B. Review and report on data collection related to insurance coverage for acts of terrorism.
6. The **Transparency and Readability of Consumer Information (C) Working Group** will:
- A. Facilitate consumers' capacity to understand the content of insurance policies and assess differences in insurers' policy forms.
 - B. Assist other groups with drafting language included within consumer-facing documents.
 - C. Complete the drafting of regulatory best practices that serve to inform consumers of the reasons for significant premium increases related to P/C insurance products.
 - D. Update and develop web page and mobile content for *A Shopping Tool for Homeowners Insurance* and *A Shopping Tool for Automobile Insurance*.
 - E. Study and evaluate ways to engage department of insurance (DOI) communication to more diverse populations, such as rural communities.

NAIC Support Staff: Aaron Brandenburg/Jennifer Gardner

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Draft: 12/15/21

Adopted by the Executive (EX) Committee and Plenary, **TBD**

Adopted by the Property and Casualty Insurance (C) Committee, Dec. 15, 2021

Adopted by the Casualty Actuarial and Statistical (C) Task Force, Nov. 9, 2021

2022 Proposed Charges

CASUALTY ACTUARIAL AND STATISTICAL (C) TASK FORCE

The mission of the Casualty Actuarial and Statistical (C) Task Force is to identify, investigate, and develop solutions to actuarial problems and statistical issues in the property/casualty (P/C) insurance industry. The Task Force's goals are to assist state insurance regulators with maintaining the financial health of P/C insurers; ensure that P/C insurance rates are not excessive, inadequate, or unfairly discriminatory; and ensure that appropriate data regarding P/C insurance markets are available.

Ongoing Support of NAIC Programs, Products or Services

1. The **Casualty Actuarial and Statistical (C) Task Force** will:
 - A. Provide reserving, pricing, ratemaking, statistical, and other actuarial support to NAIC committees, task forces, and/or working groups. Propose changes to the appropriate work products (with the most common work products noted below) and present comments on proposals submitted by others relating to casualty actuarial and statistical matters. Monitor the activities, including the development of financial services regulations and statistical (including disaster) reporting, regarding casualty actuarial issues.
 1. Property and Casualty Insurance (C) Committee – ratemaking, reserving, or data issues.
 2. Blanks (E) Working Group – P/C annual financial statement, including Schedule P; P/C quarterly financial statement; P/C quarterly and annual financial statement instructions, including Statement of Actuarial Opinion (SAO) and Actuarial Opinion Summary Supplement.
 3. Capital Adequacy (E) Task Force – P/C risk-based capital (RBC) report.
 4. Group Solvency Issues (E) Working Group and Own Risk and Solvency Assessment (ORSA) Implementation (E) Subgroup – ORSA.
 5. Statutory Accounting Principles (E) Working Group – *Accounting Practices and Procedures Manual* (AP&P Manual), and review and provide comments on statutory accounting issues being considered under *Statement of Statutory Accounting Principles (SSAP) No. 65—Property and Casualty Contracts*.
 6. Speed to Market (EX) Working Group – P/C actuarial sections of the *Product Filing Review Handbook*.
 - B. Monitor national casualty actuarial developments and consider regulatory implications.
 1. Casualty Actuarial Society (CAS) – *Statements of Principles and Syllabus of Basic Education*.
 2. American Academy of Actuaries (Academy) – Standards of Practices, Council on Professionalism, and Casualty Practice Council.
 3. Society of Actuaries (SOA) – general insurance track's basic education.
 4. Federal legislation.
 - C. Facilitate discussion among state insurance regulators regarding rate filing issues of common interest across the states through the scheduling of regulator-only conference calls.
 - D. Conduct the following predictive analytics work:
 1. Facilitate training and the sharing of expertise through predictive analytics webinars (Book Club).
 2. Review the completed work on artificial intelligence (AI) from other committee groups. Coordinate with the Innovation, Cybersecurity, and Technology (H) Committee on the tracking of new uses of AI, auditing algorithms, product development, and other emerging regulatory issues in as far as these issues contain a Task Force component.
 3. With NAIC staff assistance, discuss guidance for the regulatory review of tree-based models and generalized additive models (GAM) used in rate filings.

2. The **Actuarial Opinion (C) Working Group** will:
 - A. Propose revisions to the following, as needed, especially to improve actuarial opinions, actuarial opinion summaries, and actuarial reports, as well as the regulatory analysis of these actuarial documents and loss and premium reserves:
 1. *Financial Analysis Handbook*.
 2. *Financial Condition Examiners Handbook*.
 3. *Annual Statement Instructions—Property/Casualty*.
 4. Regulatory guidance to appointed actuaries and companies.
 5. Other financial blanks and instructions, as needed.

3. The **Statistical Data (C) Working Group** will:
 - A. Consider updates and changes to the *Statistical Handbook of Data Available to Insurance Regulators*.
 - B. Consider updates and developments, provide technical assistance, and oversee the production of the following reports and databases. Periodically evaluate the demand and utility versus the costs of production of each product.
 1. *Dwelling Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance*.
 2. *Auto Insurance Database*.
 3. *Competition Database Report*.
 4. *Report on Profitability by Line by State*.
 - C. Implement the expedited reporting and publication of average auto and average homeowners premium portions of the annual *Auto Insurance Database* and *Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance*.

NAIC Support Staff: Kris DeFrain/Jennifer Gardner/Libby Crews

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Draft: 12/15/21

Adopted by the Executive (EX) Committee and Plenary, **TBD**

Adopted by the Property and Casualty Insurance (C) Committee, Dec. 15, 2021

Adopted by the Surplus Lines (C) Task Force, Aug. 5, 2021

2022 Proposed Charges

SURPLUS LINES (C) TASK FORCE

The mission of the Surplus Lines (C) Task Force is to: 1) monitor the surplus lines market and regulation, including the activity and financial condition of U.S. and alien surplus lines insurers by providing a forum for discussion of issues; and 2) develop or amend relevant NAIC model laws, regulations, and/or guidelines.

Ongoing Support of NAIC Programs, Products or Services

1. The **Surplus Lines (C) Task Force** will:
 - A. Provide a forum for discussion of current and emerging surplus lines-related issues and topics of public policy and determine appropriate regulatory response and action.
 - B. Review and analyze quantitative and qualitative data on U.S. domestic and alien surplus lines industry results and trends.
 - C. Monitor federal legislation related to the surplus lines market and ensure all interested parties remain apprised.
 - D. Develop or amend relevant NAIC model laws, regulations, and/or guidelines.
 - E. Oversee the activities of the Surplus Lines (C) Working Group.
2. The **Surplus Lines (C) Working Group** will:
 - A. Operate in regulator-to-regulator session pursuant to paragraph 3 (specific companies, entities or individuals) of the NAIC Policy Statement on Open Meetings and operate in open session when discussing surplus lines topics and policy issues, such as amendments to the International Insurers Department (IID) Plan of Operation.
 - B. Maintain and draft new guidance within the IID Plan of Operation regarding standards for admittance and continued inclusion on the NAIC *Quarterly Listing of Alien Insurers*.
 - C. Review and consider appropriate decisions regarding applications for admittance to the NAIC *Quarterly Listing of Alien Insurers*.
 - D. Analyze renewal applications of alien surplus lines insurers on the NAIC *Quarterly Listing of Alien Insurers* and ensure solvency and compliance per the IID Plan of Operation guidelines for continued listing.
 - E. Provide a forum for surplus lines-related discussion among jurisdictions.

NAIC Support Staff: Andy Daleo

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Draft: 12/15/21

Adopted by the Executive (EX) Committee and Plenary, TBD

Adopted by the Property and Casualty Insurance (C) Committee, Dec. 15, 2021

Adopted by the Title Insurance (C) Task Force, Nov. 16, 2021

2022 Proposed Charges

TITLE INSURANCE (C) TASK FORCE

The mission of the Title Insurance (C) Task Force is to study issues related to title insurers and title insurance producers.

Ongoing Support of NAIC Programs, Products or Services

1. The **Title Insurance (C) Task Force** will:
 - A. Discuss and/or monitor issues and developments affecting the title insurance industry, and provide support and expertise to other NAIC committees, task forces, and/or working groups, or outside entities, as appropriate.
 - B. Review and assist various regulatory bodies in combating fraudulent and/or unfair real estate settlement activities. Such efforts could include working with the Antifraud (D) Task Force and other NAIC committees, task forces, and/or working groups to combat mortgage fraud and mitigating title agent defalcations through the promotion of closing protection letters (CPLs) and other remedies.
 - C. Consult with the Consumer Financial Protection Bureau (CFPB) and other agencies responsible for information; education; and disclosure for mortgage lending, closing, and settlement services about the role of title insurance in the real estate transaction process.
 - D. Evaluate CPLs to ensure compliance with state regulation and requirements, consumer protection offered and excluded, and potential alternatives for coverage.
 - E. Review current rate regulation practices.

NAIC Support Staff: Anne Obersteadt

<https://naiconline.sharepoint.com/:w:/r/sites/NAICSupportStaffHub/Member%20Meetings/Fall%202021/TF/Title/Nov.%2016%20Meeting/Proposed%202022%20Charges.docx?d=w40b22c151ba24ff995bb976ab4a50742&csf=1&web=1&e=KrBztm>

Draft: 12/15/21

Adopted by the Executive (EX) Committee and Plenary, TBD

Adopted by the Property and Casualty Insurance (C) Committee, Dec. 15, 2021

Adopted by the Workers' Compensation (C) Task Force, Nov. 11, 2021

2022 Proposed Charges

WORKERS' COMPENSATION (C) TASK FORCE

The mission of the Workers' Compensation (C) Task Force is to study the nature and effectiveness of state approaches to workers' compensation and related issues, including, but not limited to: 1) assigned risk plans; 2) safety in the workplace; 3) treatment of investment income in rating; 4) occupational disease; 5) cost containment; and 6) the relevance of adopted NAIC model laws, regulations, and/or guidelines pertaining to workers' compensation.

Ongoing Support of NAIC Programs, Products or Services

1. The **Workers' Compensation (C) Task Force** will:
 - A. Oversee the activities of the NAIC/International Association of Industrial Accident Boards and Commissions (IAIABC) Joint (C) Working Group.
 - B. Discuss issues with respect to advisory organizations, rating organizations, statistical agents, and insurance companies in the workers' compensation arena.
 - C. Monitor the movement of business from the standard markets to the assigned risk pools. Alert state insurance department representatives if the growth of assigned risk pools changes dramatically.
 - D. Follow workers' compensation issues regarding cannabis in coordination with the Cannabis Insurance (C) Working Group.
 - E. Discuss workers' compensation issues related to COVID-19.
2. The **NAIC/IAIABC Joint (C) Working Group** will:
 - A. Study issues of mutual concern to state insurance regulators and the IAIABC. Review relevant IAIABC model laws and white papers and consider possible charges in light of the Working Group's recommendations.

NAIC Support Staff: Sara Robben/Aaron Brandenburg

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