

NAIC | NATIONAL MEETING SUMMER 2022

*2022 Summer National Meeting
Portland, Oregon*

BIG DATA AND ARTIFICIAL INTELLIGENCE (H) WORKING GROUP

Wednesday, August 10, 2022

8:30 – 9:30 a.m.

Meeting Summary Report

The Big Data and Artificial Intelligence (H) Working Group met Aug. 10, 2022. During this meeting, the Working Group:

1. Adopted its July 14 minutes, which included the following action:
 - A. Adopted its Spring National Meeting minutes.
 - B. Received reports on its four workstreams. The first workstream is focusing on artificial intelligence (AI)/machine learning (ML) surveys. The second workstream is focusing on third-party data and model vendors. The third workstream is evaluating tools and resources for monitoring industry's use of data and AI/ML. The fourth workstream is focusing on the broader regulatory framework and governance; it is evaluating how best to implement the expectations outlined in the NAIC AI Principles, and it will provide suggestions on next steps for developing a regulatory framework.
2. Held a Collaboration Forum on Algorithmic Bias.
 - A. Scott Kosnoff (Faegre Drinker Biddle & Reath LLP) discussed different perspectives on AI risk management and governance. His presentation recommended that an insurance company's risk management efforts should be proportional to the potential harm and its likelihood of occurring. The framework should cover every stage of the AI life cycle: 1) pre-design: data collection, curation, or selection; problem formulation; and stakeholder discussions; 2) design and development: data analysis, data cleaning, model training, and requirement analysis; 3) test and evaluation: technical validation and verification; and 4) deployment: user feedback and override, post deployment monitoring, and decommissioning.
 - B. Eric Krafcheck (Milliman) discussed bias detection methods and tools. His presentation set forth a suggested process for evaluating bias in models, which includes identifying the scope of analysis, selecting fairness measures, collecting necessary data, conducting tests to detect bias, and mitigating bias, if necessary. The presentation outlined the following key questions to answer: 1) whether the model/variable is being used as a proxy for a protected class; 2) whether the predictive effect is consistent across protected classes; 3) whether the model disproportionately affects risks that are the same in every other way except for their protected class and the evaluated variable; and 4) whether the inclusion of the variable significantly improves the model's ability to predict across protected classes.

3. Received reports from Workstreams One and Two, which held calls since the Working Group's July 14 meeting.
 - A. Workstream One is focusing on AI/ML surveys. Commissioner Kevin Gaffney (VT) reported that the workstream did not receive comments on the draft AI/ML Homeowners survey, which had a comment deadline of Aug. 1. Outreach to pilot companies has concluded, and the pilot companies provided substantive assistance to improve the definitions of the survey. The draft Homeowners survey will be updated, and the 10 states under which the survey data is being collected will issue their examination call letter with an expected response time of 30 days. The AI/ML Life Insurance survey is in the development phase and should be circulated for public comment by the end of August.
 - B. Workstream Two is focusing on third-party data and model vendors. The workstream is determining the appropriate regulatory evaluation of third-party data and model vendors, and it will provide recommendations on the appropriate regulatory framework for monitoring and overseeing industry's use of third-party data and model vendors. Commissioner Doug Ommen (IA) reported that recent discussions of the workstream members have included several potential initial steps for enhanced regulatory oversight of third-party vendors and models. One potential initial approach discussed was state insurance regulators requiring contracting insurance companies to obtain verification from their third-party vendor that an actuary/other professional has reviewed a model prior to using the model certifying its compliance with AI standards. Another initial regulatory option discussed was the concept that state insurance regulators create a library of third-party vendors, classified by line of insurance and operational area.



NATIONAL MEETING SUMMER 2022

*Virtual Meeting
(in lieu of meeting at the 2022 Summer National Meeting)*

CYBERSECURITY (H) WORKING GROUP

Thursday, July 14, 2022

3:00 – 2:00 p.m. ET / 2:00 – 3:00 p.m. CT / 1:00 – 2:00 p.m. MT / 12:00 – 1:00 p.m. PT

Meeting Summary Report

The Cybersecurity (H) Working Group met July 14, 2022. During this meeting, the Working Group:

1. Received an update on its work plan. The newly revised work plan includes the following projects:
 - A. The Working Group will develop a state insurance regulator cybersecurity survey to better understand cybersecurity policies, procedures, and resources in place at each department of insurance (DOI).
 - B. The Working Group will consider the development of a cybersecurity response plan to aid state insurance regulators in situations where cybersecurity events take place within the insurance industry.
 - C. The Working Group will advise NAIC staff on training that would be beneficial to state insurance regulators.
 - D. The Working Group will monitor state, federal, and international cybersecurity efforts.
2. Received an update on the implementation of the *Insurance Data Security Model Law* (#668). Model #668 has now been adopted by 21 states, representing more than 80% of the market by gross written premiums. Additional states are expected to take action to adopt Model #668 in 2022 and 2023.
3. Received an update on federal activity related to cybersecurity as follows:
 - A. The U.S. Department of Treasury (Treasury Department) has been leading an effort, as a member of the Financial and Banking Information Infrastructure Committee (FBIIC), to understand concentration risks potentially posed by cloud service providers and the impact to the insurance industry's resilience.
 - B. The Cyber Incident Reporting for Critical Infrastructure Act of 2022 (CIRCIA) was signed into law, requiring that owners and operators of critical infrastructure report cybersecurity incidents to the U.S. Department of Homeland Security (DHS) and the Cybersecurity and Infrastructure Security Agency (CISA).

4. Received an Update on the NAIC's cybersecurity tabletop exercises. The NAIC is planning to host a tabletop session with the Maryland in November 2022 and Ohio in May 2023.
5. Received an update on state insurance regulator cybersecurity tools. NAIC staff prepared a memorandum summarizing cybersecurity tools available to state insurance regulators as a resource for regulators new to cybersecurity discussions at the NAIC. The document was exposed for a public comment period ending Aug. 16.

Draft: 8/5/22

Innovation in Technology and Regulation (H) Working Group
Virtual Meeting
May 25, 2022

The Innovation in Technology and Regulation (H) Working Group of the Innovation, Cybersecurity, and Technology (H) Committee met May 25, 2022. The following Working Group members participated: Evan G. Daniels, Chair (AZ); Dana Popish Severinghaus, Co-Vice Chair, and C.J. Metcalf (IL); Judith L. French, Co-Vice Chair (OH); Lori K. Wing-Heier (AK); Lucy Jabourian (CA); Karima M. Woods and Dana Sheppard (DC); Tim Li (DE); Colin M. Hayashida and Martha Im (HI); Weston Trexler (ID); Brenda Johnson, Shannon Lloyd, and Tate Flott (KS); Abigail Gall (KY); Cara Toomey (MA); Kathleen A. Birrane (MD); Leah Piatt (ME); Chlora Lindley-Myers and Cynthia Amann (MO); Ryan Blakeney (MS); Chris Aufenthie and Colton Schulz (ND); Connie Van Slyke (NE); Christian Citarella (NH); Tim Simon (NM); Cassie Soucy (OR); Shannen Logue (PA); Luke Bellsnyder (TX); Eric Lowe (VA); Ned Gaines (WA); Nathan Houdek, Richard Wicka, and Rebecca Rebholz (WI); and Juanita Wimmer (WV).

1. Reviewed and Discussed its Charges

Director Daniels reviewed the Working Group's charges. He said he welcomes any feedback or input regarding how to educate state insurance regulators and stakeholders as to the many ways innovation and technology is affecting insurance. He said the Working Group will focus on three aspects of innovation and technology in 2022, including this meeting on how different states have addressed facilitating innovation. He said the second meeting will be more outward focused, and different stakeholders will be invited to discuss regulatory barriers to innovation and how they have navigated those challenges. He said the third meeting will focus on taking a deeper dive into something new that is affecting insurance now and expected to into the future. He said there are also plans to do more at the NAIC Insurance Summit, and there will be more on that in the days ahead.

2. Discussed State Approaches to Innovation

A. Innovation Sandbox

Director Daniels said he has experience with a sandbox, as he set up the nation's first FinTech Sandbox in Arizona when he was in the Attorney General's office. He said it originally included insurance, but that was removed in the legislative process. He said even though it was removed, a lot of the same principles still apply. He said the District of Columbia recently passed sandbox legislation that includes insurance, but a sandbox is not the only way to facilitate innovation; and two other states will be presenting on how they are approaching this. He said the goal of the sandbox in Arizona was not only to facilitate innovation but also to send the signal that the state insurance regulator is not someone who should be feared but be considered a part of the greater ecosystem. He said the Arizona Sandbox admitted 10 entities during his tenure, but it is not the only way to facilitate innovation. He said the states presenting will demonstrate the diversity of perspectives that can be brought to this area.

B. Other State Insurance Department Approaches to Innovation

Mr. Metcalf said the Illinois Department of Insurance (DOI) has an independent innovation department, which was created in 2018 with the mission to provide innovative insurance/regulatory solutions to all stakeholders. He provided background on the department, its successes, and himself, as well as how important cross divisional knowledge, experience, and relationships help to get others in the department involved and get their buy-in. He explained the process and how to have a productive conversation with the company about the innovation. He talked about how important it is for leadership to encourage innovation and make it an important priority. He said

he plays the role of the facilitator and liaison between the company and the department staff, pulling together the right people and expertise to have the conversation. He said Illinois has some sandbox-related legislation, but even though it did not pass the general assembly, he believes Illinois has had a lot of success without a sandbox. He said his job is to ask why not, while at the same time keeping consumer protections and financial solvency at the forefront, as all those principles are interwoven into good oversight. He said where Illinois runs across regulatory barriers that might be very old, it considers changes; but for the most part, the current statutory frameworks have served well and not been a problem. Director Daniels asked if Mr. Metcalf's group has a working definition of the types of products that come to it that fall into the category of innovation and therefore go through this process. Mr. Metcalf said it does not have a hard and fast definition for that, but the group comes to him either because of seeing his name on the NAIC website or from the product filing review team. He reviewed some examples of the types of technologies represented in the products he reviews, as well as industry seminars and events the group participates in. He said about 90% of the products he has seen come through the process are property/casualty (P/C). He also reviewed the advantages of having a team dedicated to this work.

Director Daniels said Wisconsin does not have a sandbox, but it does have some interesting sandbox-like features in its legislation that affords the opportunity to do some interesting things to encourage and facilitate insurance innovation and technology products. He asked Commissioner Houdek and his staff to explain it to the Working Group. Commissioner Houdek said because of that flexibility in legislation, Wisconsin does not need sandbox legislation and does not have a specific innovation division. He asked Mr. Wicka to provide more information. Mr. Wicka said Wisconsin has legislation that gives the commissioner the ability to issue an order relaxing restrictions in insurance statutes. He said while this is broad authority, there are some limitations, such as there needing to be a public hearing that is noticed via the state's newspaper of record and the commissioner not being able to relax any statutes that would endanger insurance creditors or the public. He said one of the use cases related to a product targeting low-income individuals, looking at benefit designs and price points that would garner interest and be at a price point they could afford. He said the rate and form filing process was creating a bit of a barrier, so Wisconsin ended up relaxing some of the requirements to allow this to get to market, but it was replaced with a stipulation, an order, and some guardrails to ensure there would be no harm, including getting an agreement that anyone who did not have a claim at the end of the test would get their premium back. He said during the process, Wisconsin came up with some guidelines when considering these innovative products. He said throughout the process, no substantive market conduct regulations have been waived because it did not want to test market a product that was never going to be able to exit the sandbox absent some change in the law. He said Wisconsin also wants to be sure no one gets any type of unfair advantage in the market because of this. Mr. Wicka said Wisconsin always asks at the start what regulation is creating a barrier, because often, once the conversation is had, it is found that there is not one.

Ms. Rebholz said Wisconsin looks at it from a legal standpoint and from the standpoint of the market regulation division. She said the division has set up an ad hoc group to review these products made up of the various departments within the division, and it has developed a set of questions for the review with the company. She provided examples of those questions that fall in the categories of general company background, financial background, and how the product is being marketed, including questions about marketing materials and whether artificial intelligence (AI) or machine learning (ML) are being used to process claims. The questions also ask if the claims are partially or totally digital. The ad hoc group then meets again, determines if there is anything that violates state law and how it will be marketed in Wisconsin, and provides a summary back to the division. Ms. Rebholz said throughout the entire process, it works closely with the legal and financial units to ensure it has not missed anything.

Mr. Sheppard said the District of Columbia is still in the midst of its legislative process regarding its sandbox. He said it had a public hearing in March, but the legislation is still in committee. He said the District of Columbia is optimistic it will become law in the fall. He said in addition to insurance, it also has banks and non-bank money

service businesses, broker dealers, investment advisors, and others, so it covers a wide range of financial services entities. He said the District of Columbia is trying to achieve four broad based objectives: 1) satisfy customers' demand and improve customers' experience; 2) serve unserved or underserved segments of the financial services markets; 3) advance District of Columbia values, such as equity and inclusion; and 4) accomplish the first three objectives while ensuring consumer protection. He said the District of Columbia sees the sandbox as part of an overall technology strategy. In addition to sandbox, the DOI is standing up a technology advisory group made up of industry, consumer, and government representatives, and it intends to establish an Office of Innovation in the coming fiscal year. He said the District of Columbia is also reviewing its laws and regulations to ensure it is keeping pace with current developments and considers things like digital currency and assets, blockchain, and other technologies.

Mr. Sheppard reviewed examples of innovative insurance products and services the District of Columbia is hearing about, such as:

- Simplified small face life insurance policies, microinsurance products, and on demand and parametric insurance products.
- Use of telematics and AI that do not use socioeconomic factors, such as credit scores, educational attainment, and occupation to predict risk in private passenger auto (PPA) and homeowners insurance.
- Wearables and other biosensor technology that monitor key health indicators and encourage wellness behaviors.
- AI and sensor technology to speed claims settlements and detect fraudulent activity.
- Embedded insurance products, chatbot technology, and mobile applications.
- Blockchain and smart contracts for contract execution, financial reporting, compliance, and audits.
- Alternative marketing and distribution channels, such as social media platforms, auto manufacturers, smart home service providers, health care providers, etc.
- Peer-to-peer insurance and other forms of decentralized insurance.

He said all these considerations raise questions around what type of skillsets the DOI will need in the future, so it wants to be thinking about that.

Director Daniels thanked Mr. Sheppard for his presentation, and he said sandbox is not a silver bullet, but it certainly sends a signal. He said there are a lot of ways to address, facilitate, and work with innovators in the industry and the consumer side. He reminded the states that the Innovation and Technology State Contacts list still exists and is on the NAIC website. He said if the states have not looked at it recently, they should do so and be sure it is up to date.

3. Heard from Interested Parties on State Innovation Approaches

Director Daniels said he would like to hear from interested parties in the future as to how these methods and the State Innovation and Technology Contacts process has benefited them.

Having no further business, the Innovation in Technology and Regulation (H) Working Group adjourned.



**NATIONAL MEETING
SUMMER 2022**

*2022 Summer National Meeting
Portland, Oregon*

PRIVACY PROTECTIONS (H) WORKING GROUP

Tuesday, August 9, 2022
12:30 – 1:30 p.m.

Meeting Summary Report

The Privacy Protections (H) Working Group met Aug. 9, 2022. During this meeting, the Working Group:

1. Adopted its Aug. 2 minutes, which included the following action:
 - A. Adopted its June 15 minutes, which included updates on state and federal privacy legislation and a discussion of the Working Group's initial work plan for 2022.
 - B. Adopted the Request for NAIC Model Law Development replacing the *NAIC Insurance Information and Privacy Protection Model Act* (#670) and the *Privacy of Consumer Financial and Health Information Regulation* (#672) with one new model.
 - C. Discussed its revised workplan.
2. Heard updates on state and federal privacy legislation.
3. Discussed next steps on the *Consumer Data Ownership and Use* white paper drafting efforts.