

EXECUTIVE (EX) COMMITTEE

Executive (EX) Committee, Aug. 14, 2023, Minutes

Executive (EX) Committee Interim Meeting Report (Attachment One)

Executive (EX) Committee Task Force Reports (Attachment Two)

Report of Model Law Development Requests (Attachment Three)

Draft Pending Adoption

Draft: 8/28/23

Executive (EX) Committee
Seattle, Washington
August 14, 2023

The Executive (EX) Committee met in Seattle, WA, Aug. 14, 2023. The following Committee members participated: Chlora Lindley-Myers, Chair (MO); Andrew N. Mais, Vice Chair (CT); Jon Godfread, Vice President (ND); Scott A. White, Secretary-Treasurer (VA); Dean L. Cameron, Most Recent Past President (ID); Lori K. Wing-Heier (AK); Michael Conway (CO); Trinidad Navarro (DE); Doug Ommen (IA); Sharon P. Clark (KY); James J. Donelon (LA); Kathleen A. Birrane (MD); Anita G. Fox (MI); Andrew R. Stolfi (OR); Carter Lawrence (TN); and Kevin Gaffney (VT).

1. Adopted the Aug. 13 Report of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee

Director Lindley-Myers reported that the Executive (EX) Committee and Internal Administration (EX1) Subcommittee met Aug. 13, 2023, in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC) and paragraph 6 (consultations with NAIC staff members related to NAIC technical guidance) of the NAIC Policy Statement on Open Meetings.

During this meeting, the Committee and Subcommittee adopted its July 11, March 25, and March 22 minutes, which included the following action: 1) approved the termination of the defined benefit pension plan; 2) approved the fiscal for an additional full-time employee in Regulatory Services; 3) approved a second round of grant funding from the Robert Wood Johnson Foundation (RWJF); 4) approved changing the dates of the 2024 Summer National Meeting in Chicago, IL; 5) received a May year-to-date (YTD) financial update and overview of the preliminary 2024 budget; 6) approved the release of a request for proposal (RFP) to hire an executive search firm; 7) heard an update on the *State Connected* strategic plan; and 8) approved the Succession Planning and Organization Design fiscal.

The Committee and Subcommittee adopted the Executive (EX) Committee's May 23 and March 31 minutes, which included the following action: 1) approved Commissioner White to serve on the International Association of Insurance Supervisors (IAIS) Executive Committee; and 2) approved the following 2027 National Meeting locations: a) the 2027 Spring National Meeting will be in Kansas City, MO; b) the 2027 Summer National Meeting will be in New York City, NY; and c) the 2027 Fall National Meeting will be in Nashville, TN.

The Committee and Subcommittee adopted the report of the Audit Committee, including its Aug. 3 and May 24 minutes. During these meetings, the Committee took the following action: 1) received the June 30 financial update; 2) heard an overview of proposed 2024 revenues; 3) reappointed RubinBrown as the financial audit firm to conduct the 2023 audit; 4) affirmed the 2024 Audit Committee charter; 5) discussed Grant and Zone financials, including the following potential changes: a) allowing a one-time allocation of up to \$75,000 from technical training funds to general use; and b) allowing allocations from general funds to the New Avenues to Insurance Careers (N.A.I.C.) Foundation, pending funds balance; 6) heard an update on the Enterprise Resource Planning (ERP) project; 7) heard an update on the 2024 budget calendar; 8) received the 2022/2023 Service Organization Control (SOC) 1 and SOC 2 Audit reports; and 9) heard a presentation on the 2023 operating reserve analysis.

The Committee and Subcommittee adopted the report of the Internal Administration (EX1) Subcommittee, including its June 6 minutes. During this meeting, the Subcommittee took the following action: 1) received the March 31 Long-Term Investment Portfolio report; and 2) received the March 31 Defined Benefit Portfolio report.

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The Committee and Subcommittee also: 1) heard a Cybersecurity report; and 2) heard the Acting Chief Executive Officer (CEO) report.

Director Wing-Heier made a motion, seconded by Commissioner Godfread, to adopt the Aug. 13 report of the joint meeting of the Executive (EX) Committee and the Internal Administration (EX1) Subcommittee. The motion passed unanimously.

2. Adopted its May 23 and March 31 Interim Meeting Report

Commissioner Godfread made a motion, seconded by Commissioner Mais, to adopt the Executive (EX) Committee's May 23 and March 31 interim meeting report (Attachment One). The motion passed unanimously.

3. Adopted the Reports of its Task Forces

Director Wing-Heier made a motion, seconded by Director Fox, to adopt the reports of the: 1) Climate and Resiliency (EX) Task Force; 2) Government Relations (EX) Leadership Council; 3) Long-Term Care Insurance (EX) Task Force; and 4) Special (EX) Committee on Race and Insurance (Attachment Two). The motion passed unanimously.

4. Received a Status Report on the Implementation of *State Connected*

Director Lindley-Myers provided an update on *State Connected* implementation efforts. The NAIC unveiled its strategic plan, *State Connected*, during the Spring National Meeting. The strategic focus areas are Member Connectivity; Training, Expertise, and Technology; Data and Analytics; Consumer Education, Outreach, and Advocacy; Committee Governance and Management; and NAIC Operations. The NAIC management team is diligently working on plans for implementation, including budget and resource issues. The Executive (EX) Committee will meet to discuss implementation plans in the coming months.

5. Received a Report on Model Law Development Efforts

Director Lindley-Myers presented a written report on the progress of ongoing model law development efforts (Attachment Three).

6. Heard a Report from the NIPR Board of Directors

Director Deiter reported that the National Insurance Producer Registry (NIPR) Board of Directors met Aug. 12 to discuss strategic planning for 2024 through 2026. The final strategic plan is expected to be adopted at the end of the year.

NIPR's revenues through the end of June remain strong. Total revenues are \$1.9 million, 5.7% above budget through June and 10% above the prior year. Most credentialing and reporting products exceeded budget. On a YTD basis, net assets have increased by \$6.9 million, which is \$5.1 million above budget.

NIPR is continuing to work with New York and Washington to implement those states on all remaining NIPR major products. Once complete, all states will be fully utilizing NIPR for major lines, products, and services.

NIPR continues to implement the Contact Change Request (CCR) application for business entities. The CCR allows business entities the ability to change their contact information easily through *NIPR.com*. The CCR for Business Entities is available in 34 states. NIPR will continue expanding its services to allow electronic solutions for states and industry to process additional licensee updates, including name changes and designated responsible licensed

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producer (DRLP) changes. NIPR is now offering electronic “Name Change” for the following states: Connecticut, Missouri, North Dakota, Rhode Island, and Vermont. During the first week of August, NIPR released Connecticut as the pilot state for the DRLP changes.

Due to the volume of NIPR transactions and expected increases once New York and Washington are complete, the NIPR Board recently approved adding additional team members to NIPR’s customer service center. These NIPR team members provide a valuable service to state insurance regulators by answering producer licensing-related questions for all states and territories, helping to reduce the administrative burden on individual state insurance departments.

7. Heard a Report from the Compact

Commissioner Birrane reported that the Interstate Insurance Product Regulation Commission (Compact) will meet Aug. 15. During this meeting, the Compact will welcome Commissioner Godfread and North Dakota as the newest member of the Compact. Gov. Doug Burgum (R-ND) signed U.S. Senate Bill 2172 on April 6, and the law took effect Aug. 1. North Dakota brings the membership in the Compact up to 47, which includes Washington, DC and Puerto Rico.

The Compact will receive a briefing on *Actuarial Guideline LIV—Nonforfeiture Requirements for Index-Linked Variable Annuity Products* (AG 54), which puts parameters around certain values in index-linked variable annuities (ILVAs). ILVAs have only been in the marketplace since 2010 and do not cleanly fit as a variable or non-variable annuity under the statutory framework. AG 54 attempts to address the calculation of the interim value when a withdrawal, surrender, or death occurs. A subgroup of the Compact’s Product Standards Committee is working on new uniform standards for ILVAs. Applying AG 54 is likely to be a public policy issue for members.

The Compact will discuss planning and releasing an Accomplishments Report of its current strategic plan. It will also get consensus on whether to continue with the three existing strategic priorities: 1) the Uniform Standards States Support and Companies Willingly Use; 2) the Nationally Recognized Regulatory Review Process; and 3) the resource for Compacting States, Regulated Entities, and Consumers.

The Compact will hear reports from its committees, including the Adjunct Services Committee. The Committee is chaired by Commissioner Barbara D. Richardson (AZ) and vice chaired by Commissioner Michael Humphreys (PA). The goal of the Committee is to take feedback from Compact Roundtables and consider proposals for what Compact 2.0 should look like in terms of providing adjunct services to members.

The Compact conducted three Roundtables in 2023, including the most recent one on May 17 in Washington, DC. Discussion at the Roundtables included a variety of topics ranging from speeding up the standards development process to positioning the Compact to provide advisory services. A Compact Roundtable will be held in Omaha, NE, Oct. 25, immediately following InsurTech on the Silicon Prairie.

The Compact will receive two recommendations for public rulemaking: 1) Uniform Standards for a new product line—group whole life insurance for employer groups; and 2) an amendment to the Rulemaking Rule to address incorporation by reference, especially when the incorporated material is amended, so there is a period for input before the amendment becomes effective.

The Compact will recognize Don Beatty (VA), who will retire Dec. 1. Mr. Beatty is the most recent recipient of the Dineen Award, and he has given his time and expertise to building the foundations of the Compact, as well as supporting its ongoing development.

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The Compact is in a healthy cash position of just under \$1.5 million. Through the end of June, the Compact is within 3% of budgeted revenues, with actual revenues being a little over \$2.4 million. Expenses are well managed and under budget by 10%, with the actual being \$1.45 million.

The Compact is seeing strong annual registration revenue, which means more companies than anticipated are using the Compact platform as of the end of June. So far this year, the Compact has collected and remitted more than \$1.4 million in state filing fees to its members.

The Compact has made another payment to the NAIC in the amount of \$275,000 in service of the debt to the NAIC for its line of credit during the Compact's early years. To date, the Compact has made four annual payments totaling \$1.1 million dollars, and it has six annual payments remaining.

Having no further business, the Executive (EX) Committee adjourned.

SharePoint/NAIC Support Staff Hub/Committees

Virtual Meetings

EXECUTIVE (EX) COMMITTEE

May 23, 2023 / March 31, 2023

Summary Report

The Executive (EX) Committee met May 23 and March 31, 2023, in regulator-to-regulator session, pursuant to paragraph 4 (internal or administrative matters of the NAIC or any NAIC member) of the NAIC Policy Statement on Open Meetings. During these meetings, the Committee:

1. Appointed Commissioner Scott A. White (VA) to serve on the International Association of Insurance Supervisors (IAIS) Executive Committee.
2. Approved the 2027 national meeting site locations: Spring National Meeting, Kansas City, MO; Summer National Meeting, New York, NY; and Fall National Meeting, Nashville, TN.

Draft: 8/10/23

REPORT OF THE EXECUTIVE (EX) COMMITTEE TASK FORCES

Climate and Resiliency (EX) Task Force—The Climate and Resiliency (EX) Task Force will meet Aug. 15 and anticipates the following action: 1) adopting its Spring National Meeting minutes; 2) hearing an update from the Solvency Workstream; 3) hearing a presentation from the Bermuda Institute for Ocean Sciences (BIOS) on rising sea levels; 4) hearing from Ceres on inclusive insurance; 5) hearing from Munich Re on coral reef insurance; and 6) hearing from California on atmospheric rivers.

Government Relations (EX) Leadership Council—The Government Relations (EX) Leadership Council did not meet at the Summer National Meeting. The Leadership Council meets weekly in regulator-to-regulator session, pursuant to paragraph 8 (consideration of strategic planning issues) of the NAIC Policy Statement on Open Meetings, to discuss federal legislative and regulatory developments affecting insurance regulation.

Long-Term Care Insurance (EX) Task Force—The Long-Term Care Insurance (EX) Task Force conducted an e-vote that concluded Aug. 9, in lieu of the Summer National Meeting, and took the following action: 1) adopted its Spring National Meeting minutes. The Task Force also met May 16 in regulator-to-regulator session, pursuant to paragraph 3 (specific companies, entities, or individuals) of the NAIC Policy Statement on Open Meetings, to continue work on its goals.

Special (EX) Committee on Race and Insurance—The Special (EX) Committee on Race and Insurance will meet Aug. 14 and anticipates the following action: 1) adopting its Spring National Meeting minutes; 2) hearing an update on health equity; 3) hearing an update on the Member Diversity Leadership Forum; and 4) receiving a status report from its workstreams. At the end of last year, the Special Committee voted to disband Workstream One and Workstream Two (focused on diversity within the insurance industry, the insurance regulatory community, and the NAIC) and rename its remaining workstreams by product line—property/casualty (P/C), life, and health.

- **Property/Casualty (P/C) Workstream**—The P/C Workstream of the Special Committee has been looking at potential bias in marketing, access to insurance, underwriting, rating, and claims handling. The Workstream recently met with industry representatives to focus on underwriting and rating, having previously met to focus on marketing issues. These discussions help to inform the workstream as it looks at potential algorithmic bias and explores industry best practices.
- **Life Workstream**—The Life Workstream of the Special Committee met July 20 to discuss its next steps. The Workstream plans to continue its focus on “marketing, distribution, and access to life insurance products in minority communities, including the role that financial literacy plays” by developing a resource guide for regulators. The guide is intended to be a resource for information helpful to all insurance departments looking to take action to improve access and understanding in underserved communities. The Workstream plans to work in cooperation with the NAIC Diversity, Equity, and Inclusion (DE&I) Division and the State Diversity Leaders. A list of questions was distributed during the State Diversity Leaders Forum on July 24 to start to catalog state activity. The Workstream also plans to hear additional presentations. There are stakeholders interested in sharing resources and information for possible inclusion in the resource guide. The Workstream anticipates hearing a presentation from Colorado, as well as hearing presentations from consumer representatives and industry stakeholders that expressed an interest in presenting.

- **Health Workstream**—The Health Workstream of the Special Committee met in regulator-to-regulator session after the Spring National Meeting to consider its activities and initiatives for 2023. During that meeting, the Workstream decided to hold at least three meetings to continue its education on benefit design relating to preventive care and mental health coverage (beyond pure parity). The Health Workstream also plans to meet about the evolution of the federal Affordable Care Act (ACA) Section 1332 waivers. Additionally, it is considering additional meetings to hear about innovative programs and initiatives that states are doing that are designed to promote health equity. The Workstream is also working to finalize a collaborative space on NAIC Connect to provide a platform in which Workstream members can share with other NAIC members the information it has captured during its meetings on removing barriers to health insurance for historically disadvantaged communities. The thought is that the Workstream’s NAIC Connect page would be a living resource for the NAIC membership, and the Workstream can continue to build content and other tools for the states on this site. In addition, the Workstream hopes that this site could also serve as a platform for discussion and conversations related to health equity and other related topics.

Draft: 8/9/23

Model Law Development Report

Amendments to the *Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act (#171)*—Amendments to Model #171 are required for consistency with the federal Affordable Care Act (ACA) and the revisions to its companion model act, the *Supplementary and Short-Term Health Insurance Minimum Standards Model Act (#170)*. The Accident and Sickness Insurance Minimum Standards (B) Subgroup completed the revisions to Model #170 in late 2018, which the Executive (EX) Committee and Plenary adopted in February 2019. Therefore, they did not require approval of a Request for NAIC Model Law Development by the Executive (EX) Committee.

Soon after completing its work on Model #170, the Subgroup began considering revisions to Model #171. The Subgroup met every two weeks until it lost one of its co-chairs in December 2019. After a long hiatus since late 2019 because of the loss of a co-chair and the COVID-19 pandemic, as well as other resource issues, the Subgroup resumed its meetings in June 2021. The Subgroup has been meeting on a regular basis to discuss the comments received on Model #171. During the last few months of 2022, the Subgroup's discussions focused on Section 8—Supplementary and Short-Term Health Minimum Standards for Benefits. This section establishes minimum standards for benefits for the products subject to the model, including accident-only coverage, hospital indemnity or other fixed indemnity coverage, and disability income protection coverage. The revisions also include a new section establishing minimum benefits for short-term, limited-duration (STLD) plans. The Subgroup completed its discussions of Section 8 in December 2022, including developing a new subsection establishing minimum benefit standards for STLD plans.

The Subgroup resumed its meetings in February 2023 and plans to continue meeting on a regular basis to continue its discussions and plans to work on the following Model #171 sections in this order: 1) the remainder of Section 8, including revisiting the proposed new subsection on STLD plans to discuss the Feb. 24 comments received on that section; 2) Section 7—Prohibited Policy Provisions; 3) revisit Section 5—Definitions and Section 6—Policy Definitions to reconcile any inconsistencies that may have arisen after the Subgroup's review of the substantive provisions of Model #171; and 4) Section 9—Required Disclosure Provisions. The Subgroup is completing work on Section 9—Required Disclosure Provisions. The Subgroup hopes to finish its work to develop an initial draft of comments on Model #171 for public comment by the end of the year.

Amendments to the *Property and Casualty Insurance Guaranty Association Model Act (#540)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #540 during the 2022 Summer National Meeting. The amendments will address the continuity of guaranty fund coverage when a policy is transferred from one insurer to another. The Executive (EX) Committee also approved a Request for NAIC Model Law Development for additional amendments to Model #540 during the 2023 Spring National Meeting. The amendments will address guaranty association coverage of cybersecurity insurance. The Receivership Law (E) Working Group adopted draft revisions on July 24 that address both requests. On Aug. 14, the Receivership and Insolvency (E) Task Force exposed the draft revisions and a few edits subsequent to the Working Group's adoption for a 30-day public comment period ending Sept. 14.

Amendments to the *Mortgage Guaranty Insurance Model Act (#630)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #630 during the 2013 Summer National Meeting. The Mortgage Guaranty Insurance (E) Working Group has developed proposed changes to the model, which the Financial Condition (E) Committee adopted on July 19, 2023. The full membership will consider adoption of the revised model during the Summer National Meeting.

Amendments to the *Nonadmitted Insurance Model Act (#870)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #870 during the 2021 Spring National Meeting. The amendments will modernize the model and bring it into alignment with the federal Nonadmitted and Reinsurance Reform Act (NRRRA). The Surplus Lines (C) Task Force met May 23, 2022, to discuss amendments to Model #870 and expose Model #870 for a 60-day public comment period ending July 21, 2022. It met Oct. 17, 2022, to hear a summary of comments received on the draft exposure and actions taken by the drafting group to address the comments. The Task Force exposed Model #870 for a 30-day public comment period ending Nov. 17, 2022. It discussed the comments received on the draft exposure during an open meeting on Dec. 12, 2022. On Jan. 23, 2023, the Task Force exposed a draft of Model #870 for a 14-day public comment period. The Task Force and the Property and Casualty Insurance (C) Committee adopted Model #870 during the Spring National Meeting. The Executive (EX) Committee and Plenary will consider adoption of the model during the Summer National Meeting.

Amendments to the *Unfair Trade Practices Act (#880)*—The Executive (EX) Committee approved a Request for NAIC Model Law Development for amendments to Model #880 during the 2023 Spring National Meeting. The amendments will address the use of lead generators for sales of health insurance products and identify models and guidelines that need to be updated or developed to address current marketplace activities. The Improper Marketing of Health Insurance (D) Working Group distributed the initial draft on Aug. 31, 2022, for a public comment period ending Sept. 30, 2022. The Working Group met Nov. 3, 2022, to hear a summary of comments received on the draft exposure and actions taken by the Working Group to address the comments. The Working Group exposed revised amendments to Model #880 for a public comment period ending Nov. 18, 2022. The Working Group discussed the draft exposure and comments received during an open meeting on Dec. 3, 2022, during the Fall National Meeting. The Working group extended the review period for draft amendments to Model #880.

The Working Group met March 23, 2023, during the Spring National Meeting to hear a summary of comments on the draft exposure and actions the Working Group took to address the comments. The Working Group created a subject matter expert (SME) group to meet and finalize the draft amendments to Model #880. On July 10, the Working Group distributed the revised draft amendments for a public comment period ending July 21. The Working Group met July 27 to hear a summary of comments received on the draft exposure and action the Working Group took to address comments. The Working Group distributed revised amendments on Aug. 9, to be discussed at the Summer National Meeting for consideration of adoption.

New Model: *Insurance Consumer Privacy Protection Model Law*—During the 2022 Summer National Meeting, the Executive (EX) Committee approved a Request for NAIC Model Law Development for a new model that would replace existing models in order to enhance consumer protections and corresponding obligations of entities licensed by insurance departments to reflect the extensive innovations that have been made in communications and technology. The Privacy Protections (H) Working Group approved this request on Aug. 2. The drafting group met in regulator-to-regulator session Aug. 31, Sept. 15, Sept. 29, Oct. 4, Oct. 13, Dec. 1, and Dec. 5. The drafting group also met with companies privately to discuss current consumer data practices on Nov. 17, Nov. 29, Nov. 30, Dec. 5, Dec. 6, and Dec. 8. The Working Group met in open session Dec. 12 to hear presentations from an industry and a consumer perspective on general market practices regarding the use of personal information during the insurance process followed by an open discussion of these insights.

The Working Group exposed its initial draft of the new model (Model #674) Feb. 1, 2023, for a 60-day public comment period ending April 3. The drafting group met in regulator-to-regulator session Jan. 23 and March 15. The drafting group continued its meetings with companies privately to discuss current consumer data practices

on Feb. 16, March 1, March 2, March 7, March 8, March 9, March 14, April 5, April 12, and April 13. The Working Group discussed comments received and engaged with the public to continue to revise the privacy model law's language at the Spring National Meeting; during open Working Group meetings April 18, May 2, and May 16; and during the in-person, two-day interim meeting in Kansas City, MO, June 5–6.

The Working Group exposed the second draft of the new model (Model #674, version 1.2) July 11 for a public comment period ending July 28 because the new version was based on changes that were discussed at the interim meeting. The drafting group met in regulator-to-regulator session June 22, June 23, June 26, June 29, June 30, July 7, July 10, and July 20. The drafting group continued its meetings with companies privately to discuss current consumer data practices on July 28 with additional meetings scheduled for Aug. 2, Aug. 7, and Aug. 9. The Working Group met in open session July 25 to discuss comments received and to engage with the public to continue to revise the privacy model law's language. It will also meet in regulator-to-regulator and open sessions at the Summer National Meeting to discuss key topics noted in the comments received and to discuss an extension to continue to engage with interested parties in improving the model law's language, as appropriate to the model law's purpose.