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Market Conduct Regulation Modernization (D) Working Group
Virtual Meeting
July 7, 2026

The Market Conduct Regulation Modernization (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 7, 2026. The following Working Group members participated: Ann Gillespie, Chair (IL); Angela L. Nelson, Vice Chair (MO); Heather Carpenter (AK); Jimmy Harris (AR); Pam O'Connel and Don McKinley (CA): Sheryl Parker (FL); Tia Nichols (ID); Lisa Fullington (LA); Timothy N. Schott (ME); Danielle Torres (MI); Martin Swanson (NE); Yewande Jordan (NH); Hermoliva Abejar (NV); Avani Shah (NY); Todd Oberholtzer (OH); Ashley Scott (OK); Dave Buono (PA); Elizabeth Kelleher Dwyer and Matt Gendron (RI); Travis Jordan (SD); Tanji J. Northrup (UT); Andrea Baytop and Julie Fairbanks (VA); Karla Nuissl (VT); Sandy Ray (WA); Jamie Adams (WI); and Joylynn Fix (WV).

1. Adopted its June 9 Minutes

The Working Group met June 9. During this meeting, it took the following action: 1) adopted its May 26 minutes; and 2) heard comments from life insurance industry representatives.

Director Nelson made a motion, seconded by Director Dwyer, to adopt the Working Group's June 9 minutes (Attachment XX). The motion passed unanimously.

2. Received Comments from NAIC Consumer Liaison Representatives

Commissioner Gillespie welcomed the NAIC consumer liaison representatives, coordinated by Harold M. Ting (Individual Health Care Consumer Advocate), for the Working Group's fourth listening session. Representatives presented comments across several themes.

A. Data Collection and Infrastructure

Eric Ellsworth (Checkbook Health/Center for the Study of Services—CSS) offered recommendations on data collection and infrastructure, noting the broader trend across the insurance industry toward storing data in data lakes and warehouses. Ellsworth recommended orientation toward centralized data lake architectures for market conduct data, which would allow regulators to collect and review more granular data. He encouraged state insurance regulators to have insurers send large-scale data uploads directly to regulatory infrastructure, rather than the current submission methods, which include filing PDFs or spreadsheets. Ellsworth said this would be similar to the data exchanges insurers already conduct with third parties.

Ellsworth suggested using standardized application programming interfaces (APIs) across insurance lines of business, which is commonly used between health insurers and third parties. Ellsworth further suggested increased public release of data similar to what the federal government releases. Ellsworth said state insurance regulators would also benefit from asking insurers to write into contracts with third parties contractual provisions granting regulators access to the third-party vendor platform.

Ellsworth then suggested using automated monitoring tools to detect patterns, such as dark patterns on insurer websites. Ellsworth said new artificial intelligence (AI) tools, such as large language models (LLMs), make it possible to build an application to observe company behavior.

 

B. Company-Level Performance Metrics

Ting recommended that states collect and publish company-level performance metrics that are valuable to consumers. For property/casualty (P/C) insurance, Ting suggested regulators publish the average time to settle claims, dispute rates, and policy cancellation rates. For health insurance, Ting suggested regulators publish prior authorization denial rates, medical necessity denial rates, and appeal reversal rates.

Ting said states should use a different regulatory authority to collect Market Conduct Annual Statement (MCAS) data to enable public disclosure. Director Gillespie asked if this information would be aggregated or company-specific. Ting said the data should be reported at the company level and added that additional recommendations on publishing prior authorization data would be provided.

Carl Schmid (HIV+Hepatitis Policy Institute) supported additional granular public reporting, including plan-level and claim-level data, particularly in the health care sector. Schmid referenced public reporting in California as an example of information that assists consumers in deciding which health care plan is best for them. Schmid noted that the NAIC currently releases only aggregated, national health care MCAS ratios and requested that the NAIC release state and company-level health care MCAS ratios.

C. Public Reporting of Exam Findings

Wayne Turner (National Health Law Program—NHeLP) cited the Oregon Division of Financial Regulation as a model for public reporting of market conduct findings under the Reproductive Health Equity Act. Oregon publishes plan-level findings, carrier responses, and next steps on a public website. Turner acknowledged the importance of regulators examining companies' practices but said that, similarly, public reporting of information is important for consumers.

D. National Public Exam Report Portal

Brendan Bridgeland (Center for Insurance Research—CIR) provided his views on what he hears about the insurance industry's reputation and said he is concerned about the depiction of the insurance industry on social media. Bridgeland said public access to insurance records, market conduct, and financial information needs to be improved. He recommended that the NAIC collect closed market conduct exam reports from each state and create a public, searchable electronic repository. Bridgeland said obtaining access to such records currently requires extensive Freedom of Information Act (FOIA) requests and website searches for consumers, consumer advocates, and academics. Bridgeland requested a formal Market Regulation and Consumer Affairs (D) Committee charge to develop such a repository, noting that an earlier initiative to do so was not completed.

E. AI and Telematics Data

Chuck Bell (Consumer Reports) raised concerns about the sale of manufacturer-collected telematics data and mobile-app data to insurers without meaningful consumer disclosure. He cited investigations involving General Motors, LexisNexis, Verisk, Allstate, and Arity, and referenced the Texas Attorney General's lawsuit against Allstate and Arity for violating Texas privacy and insurance laws. Bell referenced the NAIC *Model Bulletin on the Use of Artificial Intelligence Systems by Insurers'* notice and access provisions and recommended regulatory investigation of insurers' receipt and use of such data.

 

F. P/C Market Conduct Exam Practices

Erica Eversman (Automotive Education & Policy Institute—AEPI) raised concerns regarding insurers' responses to market conduct exam questions that rely on proprietary or branded terminology. She characterized this behavior as "intentional obtuseness" and asked regulators not to accept it. Eversman also raised concerns about the limitations of random sampling in identifying systemic issues and the proportionality of sanctions imposed on insurers compared with those imposed on service providers subject to consumer protection laws. Eversman also recommended greater public access to complete market conduct exam reports.

G. Structural Critique

Birny Birnbaum (Center for Economic Justice—CEJ) offered a critique of market conduct regulation, suggesting the ongoing regulatory discussion focuses on costs to insurers and minor changes in other areas, but does not address structural issues or gaps in consumer protection.

Birnbaum cited delayed monitoring of consumer market outcomes (noting that MCAS data is analyzed 18 to 20 months after the beginning of the experience period); slow enforcement actions after violations occur; limited publicly available data to consumers to evaluate insurer practices; limited publicly available data for academic and consumer research (contrasted with Home Mortgage Disclosure Act data); the absence of a defined disparate impact testing standard; the lack of rigorous consumer testing of consumer education and disclosure tools; unaddressed antitrust and collusion risks associated with third-party data and model vendors; and insufficient resources for market regulation relative to financial regulation.

Birnbaum advocated for transaction-level data collection through statistical agents, citing Texas' 1995 implementation and workers' compensation reporting as precedents. Birnbaum said that granular transaction-level data would not typically be used by individual consumers, but it would support summary reporting for state insurance regulators, consumer groups, and academics. Birnbaum said the use of the transaction-level data could be modeled on how Home Mortgage Disclosure Act data has supported research and analysis in the lending market.

H. Claims Handling Transparency

Ken Klein (California Western School of Law) emphasized the information asymmetry between insurers and consumers, particularly in claims handling. He described claims handling as the point at which consumer protection concerns most concretely arise and noted that litigation is currently the primary consumer remedy in the absence of regulator intervention. Klein recommended a more extensive public-market conduct examination of claims-handling practices.

I. Market Actions (D) Working Group Collaboration

Buono, chair of the Market Actions (D) Working Group, offered to coordinate ongoing efforts with consumer representatives. Schmid acknowledged the standing offer and reiterated his interest in formalizing the mechanism allowing consumer representatives to present on those patterns of company conduct to the Working Group.

 

3. Discussed Other Matters

Director Gillespie said the Working Group would conduct additional deep-dive discussions in late summer and early fall. Tim Mullen (NAIC) said the next Working Group meeting will occur at the Summer National Meeting and will focus on third-party oversight. Mullen said regulator-only meetings will occur on July 21 to discuss interstate collaboration and Aug. 4 to discuss the *Market Regulation Handbook*.

Having no further business, the Market Conduct Regulation Modernization (D) Working Group adjourned.

 