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Producer Licensing Uniformity (D) Working Group

Conference Call

# June 6, 2018

The Producer Licensing Uniformity (D) Working Group of the Producer Licensing (D) Task Force met via conference call June 6, 2018. The following Working Group members participated: Chris Murray, Chair (AK); Karen Vourvopoulos, Vice Chair (OH); Charlene Ferguson (CA); Matthew Guy (FL); Lisa Tordjman (ID); Kevin Schlautman (NE); Lorinda Martinez (NM); Barbara D. Richardson and Stephanie McGee (NV); Rachel Chester (RI); Randy Overstreet (UT); Richard Tozer (VA); and Melody Esquivel (WI).

1. Reviewed the Individual Initial Application

Mr. Murray said, on the May 9 conference call, the Working Group completed its review of the Uniform Application for Individual Producer License/Registration (Individual Initial Application), except for the comments submitted to the NAIC Legal Division for review. Mr. Murray said the NAIC Legal Division has completed its review and provided feedback. Mr. Murray said most of the comments received from the NAIC Legal Division indicated that changes to the uniform applications would be completed at the regulators’ preference; i.e., the suggestions submitted would not cause any legal issues.

a. Discussed Section 38, Question 8

Mr. Murray said, before moving into the questions reviewed by the NAIC Legal Division, he would like to address Section 38, question 8. Mr. Murray said during the May 9 conference call, the Working Group and the National Insurance Producer Registry (NIPR) discussed revising the language to ensure it is up-to-date and clear to applicants. Mr. Murray said language discussed on the last conference call was distributed to the Working Group for review. The Working Group discussed and advised that the language listing the information in a bullet-point format would be easier for applicants to understand. Mr. Murry said the Working Group agreed to the following language:

Note: You are not required to associate or link Attachment Warehouse documents if:

* You recently submitted an application and already uploaded the documents to the Attachment Warehouse;
* The application recently submitted is the same type of application (i.e. non-resident, but to a different state) that you are submitting; and
* You answered “yes” to the same background questions.

The state(s) identified on this application will receive an alert that your supporting documents were previously loaded and are available at the Attachment Warehouse.

If you have not previously loaded your supporting documents, you may do so after you have successfully completed your application. You will be provided a link to the Attachment Warehouse instructions upon completion.

The Working Group discussed the attachment process in relation to the new language submitted. Mr. Murray said the new version would be sent to NIPR for final review and input. Ms. Wolf said NIPR staff would review the suggested language and provide the necessary revisions to ensure it matches the behavior of the electronic application process. Mr. Murray said the new language would then be added to the revised draft.

b. Discussed Feedback from the NAIC Legal Division

Mr. Murray said the last areas for the Working Group to review on the Individual Initial Application are the suggestions that were sent to the NAIC Legal Division for review.

Mr. Murray said the first suggestion is found in Section 38, question 1a. Mr. Murray said Oklahoma’s suggestion is to expand or explain why such offenses as public intoxication and misdemeanors for minor drug possession are not excluded. Mr. Murray said Oklahoma suggests that those types of charges be excluded, as well. Mr. Murray said the NAIC Legal Division advised that this would be a state preference; however, if the Working Group begins expanding this list, then it would have potential to never end due to all the difference types of offenses and the differences in state laws. Mr. Murray said the Working Group could either expand the list, change to accept all misdemeanors or leave this language as-is. The Working Group discussed and agreed that the questions would be kept as-is.

Mr. Murray said the next suggestion is from California concerning Section 38, question 1a, question 1b and question 1c; specifically, the language found below question 1c addressing the definition of “Convicted.” Mr. Murray said California’s suggestion is to remove the phrase, “or having been given probation, a suspended sentence, or a fine.” Mr. Murray said, in California, courts cannot impose a criminal sanction without a plea or verdict. Mr. Murray said the NAIC Legal Division advised there would be no issue with this change if the Working Group agrees. The Working Group discussed and agreed to make the change.

Mr. Murray said the next suggestion is also from California concerning Section 38, question 1a and question 1b. Mr. Murray said California suggests deleting the language “offenses where you were adjudicated delinquent in a juvenile court.” Mr. Murray said the NAIC Legal Division advised that it would not cause any issues to remove the language, but the Working Group should keep in mind that it does provide further clarification for the applicant. The Working Group discussed and agreed to leave this language as-is.

Mr. Murray said Idaho provided a suggestion to Section 38, question 1a, adding the words “deferred or continued without finding.” Mr. Murray said the NAIC Legal Division advised that state laws will vary, and the addition of this language could cause legal issues due to a language change. The Working Group discussed and agreed to keep question as-is.

Mr. Murray said the Securities and Insurance Licensing Association (SILA) provided a suggestion concerning Section 38, specifically the language concerning “Convicted,” which has been moved above question 1a, question 1b and question 1c. Mr. Murray said SILA states that with the increasing number of courts issuing first-offender dispositions (First Offender Program, Deferred Adjudication, Accelerated Rehabilitative Disposition and so forth), the defendant “must enter a plea of guilty” and often “receives a period of supervision” (probation) with possible monetary penalty. Both during and after the program completion, it is not considered a “conviction” under applicable state law. SILA suggests—in order to limit confusion to the applicant, administrator and regulator in terms of how to handle lower level offenses or infractions—the definition of “convicted” be changed. Mr. Murray said the NAIC Legal Division response is that while the above definition of “convicted” is qualified and its exclusions are comprehensive, the definition may not meet the legal definition within all states. The NAIC Legal Division does not oppose this definition for the purposes of the application; however, the state definitions do vary. The Working Group discussed and agreed to leave the language as-is.

Mr. Murray said the Working Group will next meet June 13 via conference call. The Working Group will continue its review of the Individual Initial Application and the Individual Renewal Application, with hopes of completing its review of both applications by the end of the conference call.

# Having no further business, the Producer Licensing Uniformity (D) Working Group adjourned.

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